As Filed with the Securities and Exchange Commission on August 1, 2013

Registration No. 001-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10

GENERAL FORM FOR REGISTRATION OF SECURITIES
Pursuant to Section 12(b) or 12(g) of the Securities Exchange Act of 1934

Theravance Biopharma, Inc.

(Exact name of registrant as specified in its charter)

Cayman Islands	**Not Applicable**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
Ugland House, South Church Street George Town, Grand Cayman, Cayman Islands	
(Address of principal executive offices)	**KY1-1104** (Zip Code)

(650) 808-6000
(Registrant's telephone number, including area code)

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

Title of Each Class to be so Registered	**Name of Each Exchange on Which Each Class is to be Registered**
Common Share, par value $0.00001 per share	The NASDAQ Stock Market LLC

Securities to be registered pursuant to Section 12(g) of the Act **None**

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

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

We are an "emerging growth company" as defined under the federal securities laws. For implications of our status as an emerging growth company, please see "Risk Factors" in Item 1A and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Item 2 of this registration statement.

INFORMATION REQUIRED IN REGISTRATION STATEMENT

CROSS-REFERENCE SHEET BETWEEN INFORMATION STATEMENT AND ITEMS OF FORM 10

Our information statement is filed as Exhibit 99.1 to this Form 10. For your convenience, we have provided below a cross-reference sheet identifying where the items required by Form 10 can be found in the information statement.

Item No.	Caption	Location in Information Statement
1.	Business	"Summary", "Risk Factors", "The Spin-Off", "Our Business", "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Where to Obtain More Information"
1A.	Risk Factors	"Risk Factors"
2.	Financial Information	"Historical Selected Financial Data", "Unaudited Pro Forma Combined Balance Sheet", "Capitalization" and "Management's Discussion and Analysis of Financial Condition and Results of Operations"
3.	Properties	"Our Business" and "Our Relationship with Theravance, Inc. after the Spin-Off"
4.	Security Ownership of Certain Beneficial Owners and Management	"Security Ownership of Certain Beneficial Owners and Management"
5.	Directors and Executive Officers	"Management" and "Board of Directors"
6.	Executive Compensation	"Compensation of Non-Employee Directors", and "Compensation of Named Executive Officers"
7.	Certain Relationships and Related Transactions and Director Independence	"Security Ownership of Certain Beneficial Owners and Management", "Related Person Transactions", "Our Relationship with Theravance, Inc. after the Spin-Off" and "Board of Directors"
8.	Legal Proceedings	"Our Business"
9.	Market Price of Dividends on Registrant's Common Equity and Related Stockholder Matters	"The Spin-Off," "Dividend Policy", "Description of Share Capital", "Compensation of Non-Employee Directors" and "Compensation of Named Executive Officers"
10.	Recent Sales of Unregistered Securities	Not Applicable
11.	Description of Registrant's Securities to be Registered	"The Spin-Off", "Dividend Policy" and "Description of Share Capital"
12.	Indemnification of Directors and Officers	"Indemnification of Directors and Officers"
13.	Financial Statements and Supplementary Data	"Historical Selected Financial Data" and "Unaudited Pro Forma Combined Balance Sheet"

Item No.	Caption	Location in Information Statement
14.	Changes in and Disagreements with Accountants on Accounting and Financial Disclosure	Not Applicable
15.	Financial Statements and Exhibits	See "Index to Combined Financial Statements" and the statements referenced therein

(a) ***Financial Statements***

The information required by this item is contained in the "Unaudited Pro Forma Balance Sheet" and "Index to Financial Statements" and the statements referenced therein and is incorporated herein by reference.

(b) ***Exhibits***

The following documents are filed as exhibits hereto:

Exhibit No.	Exhibit
2.1	Form of Separation and Distribution Agreement by and between Theravance Biopharma, Inc. and Theravance, Inc.**
3.1	Amended and Restated Memorandum and Articles of Association of Theravance Biopharma, Inc.**
4.1	Specimen Stock Certificate of Theravance Biopharma, Inc.**
10.1	Form of Transition Services Agreement by and between Theravance Biopharma, Inc. and Theravance, Inc.**
10.2	Form of Tax Sharing and Indemnification Agreement by and between Theravance Biopharma, Inc. and Theravance, Inc.**
10.3	Form of Employee Matters Agreement**
*10.4	2013 Equity Incentive Plan**
*10.5	Form of Notice of Grant of Stock Option and Stock Option Agreement under the 2013 Equity Incentive Plan**
*10.6	Theravance Biopharma, Inc. 2013 Employee Stock Purchase Plan**
*10.7	Theravance Biopharma, Inc. Change in Control Severance Plan**
*10.8	Form of Offer Letter with Executive Officers**
*10.9	Theravance Biopharma, Inc. Cash Bonus Program**
*10.10	Form of Indemnity Agreement**
10.11	Amended and Restated Lease Agreement, 951 Gateway Boulevard, between Theravance, Inc. and HMS Gateway Office L.P., dated January 1, 2001
10.12	First Amendment to Lease for 951 Gateway Boulevard effective as of June 1, 2010 between Theravance, Inc. and ARE-901/951 Gateway Boulevard, LLC
10.13	Lease Agreement, 901 Gateway Boulevard, between Theravance, Inc. and HMS Gateway Office L.P., dated January 1, 2001
10.14	First Amendment to Lease for 901 Gateway Boulevard effective as of June 1, 2010 between Theravance, Inc. and ARE-901/951 Gateway Boulevard, LLC

Exhibit No.	Exhibit
10.15	Theravance Respiratory Company LLC Operating Agreement**
10.16	Technology Transfer and Supply Agreement, dated as of May 22, 2012 between Theravance, Inc. and Hospira Worldwide, Inc.**
10.17	Commercialization Agreement between Theravance, Inc. and Clinigen Group plc dated March 8, 2013**
10.18	License Agreement between Theravance, Inc. and Janssen Pharmaceutica, dated as of May 14, 2002**
21.1	Subsidiaries of Theravance Biopharma, Inc.**
99.1	Preliminary Information Statement of Theravance Biopharma, Inc., dated August 1, 2013

* Management contract or compensatory plan or arrangement.

** To be filed by amendment.

SIGNATURES

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, as amended, the registrant caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized.

Theravance Biopharma, Inc.

Date: August 1, 2013

By: /s/ RICK E WINNINGHAM

Rick E Winningham
Chief Executive Officer

INDEX TO EXHIBITS

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QuickLinks

Exhibit 10.11

AMENDED AND RESTATED LEASE AGREEMENT

BY AND BETWEEN

HMS GATEWAY OFFICE L.P., a Delaware limited partnership
AS LANDLORD

and

ADVANCED MEDICINE, INC.,
a Delaware corporation

AS TENANT

DATED January 1, 2001

TABLE OF CONTENTS

Exhibit

AMENDED AND RESTATED LEASE AGREEMENT

BASIC LEASE INFORMATION

Lease Date:	January 1, 2001
Landlord:	HMS Gateway Office, L.P. a Delaware limited partnership
Landlord's Address:	c/o Hines 101 California Street, Suite 1000 San Francisco, California 94111-5848 Attention: Tom Kruggel *All notices sent to Landlord under this Lease shall be sent to the above address, with copies to:* Hines 651 Gateway Boulevard, Suite 1140 South San Francisco, California 94080 Attention: Catherine Fogelman
Tenant:	Advanced Medicine, Inc., a Delaware corporation
Tenant's Contact Person:	Marty Glick
Tenant's Address:	901 Gateway Boulevard South San Francisco, California 94080
Premises Square Footage:	Sixty thousand (60,000) square feet, subject to final determination by Landlord's Architect upon the commencement of the Term, such measurement to be made in accordance with BOMA standard definition of gross square footage.
Premises Address:	951 Gateway Boulevard South San Francisco, California
Project:	Parcel B as shown on the Final Parcel Map 99-095 dated March 2000, prepared by Kier & Wright, together with all improvements constructed thereon.
Building (if not the same as the Project):	951 Gateway Boulevard South San Francisco, California
Tenant's Proportionate Share of Project:	100%
Tenant's Proportionate Share of Building:	100%
Commencement Date:	November 1, 2001
Expiration Date:	March 31, 2012
Monthly Base Rent:	1. Monthly Base Rent for the period commencing on the Commencement Date and ending March 31, 2002 shall be $159,168.41 2. Monthly Base Rent for the period commencing April 1, 2002 and ending March 31, 2003 shall be $163,231.76;

3. Monthly Base Rent for the period commencing April 1, 2003 and ending March 31, 2004 shall be $167,417.01;

4. Monthly Base Rent for the period commencing April 1, 2004 and ending March 31, 2005 shall be $171,727.82;

5. Monthly Base Rent for the period commencing April 1, 2005 and ending March 31, 2006 shall be $176,167.95;

6. Monthly Base Rent for the period commencing April 1, 2006 and ending March 31, 2007 shall be $180,741.28;

7. Monthly Base Rent for the period commencing April 1, 2007 and ending March 31, 2008 shall be $185,451.82;

8. Monthly Base Rent for the period commencing April 1, 2008 and ending March 31, 2009 shall be $190,303.67;

9. Monthly Base Rent for the period commencing April 1, 2009 and ending March 31, 2010 shall be $195,301.08;

10. Monthly Base Rent for the period commencing April 1, 2010 through March 31, 2011 shall be $200,448.41;

11. Monthly Base Rent for the period commencing April 1, 2011 and ending March 31, 2012 shall be $205,750.16.

The above monthly Base Rent calculations are subject to change after final determination of the Premises square footage by Landlord's Architect and any such adjustment shall be based on a monthly base rate calculated from time to time by dividing the applicable monthly Base Rent specified above by 60,000, and multiplying such monthly base rate by the actual square footage of the Premises.

Permitted Use: General office and research and development activities associated with biotechnology/pharmaceutical services. All uses must be in accordance with all applicable Laws.

Unreserved Parking Spaces: One hundred sixty (160) non-exclusive and undesignated parking spaces.

Except as otherwise provided in this Lease to the contrary, the foregoing parking calculation shall remain fixed and shall not be adjusted based upon the final determination of the Premises gross square footage.

Tenant Improvement Allowance: Four Million Three Hundred Fifty-Eight Thousand Four Hundred Dollars ($4,358,400.00) (*viz.*, $72.64 per square foot), subject to adjustment following the final determination of the Premises square footage by Landlord's Architect upon the commencement of the Term, and any such adjustment shall be based on an amount equal to $72.64 multiplied by the applicable number of square feet involved.

Deferred Allowance:	Up to Nine Hundred Thousand Dollars ($900,000.00) (*viz.*, $15.00 per square foot), subject to adjustment upon the final determination of the Premises square footage by Landlord's Architect. Subject to the right of Tenant to prepay the Deferred Allowance in accordance with and to the extent provided in Section D of ***Exhibit B***, the Deferred Allowance shall be amortized over the initial Term and repaid, together with accrued interest thereon, in accordance with said Section D of ***Exhibit B***. Interest shall accrue on the initial Four Hundred Fifty Thousand Dollars ($450,000.00) disbursed by Landlord at the per annum rate of 14% and on the second Four Hundred Fifty Thousand Dollars ($450,000.00) disbursed by Landlord at the per annum rate of 15%.

x

AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT is made and entered into by and between Landlord and Tenant as of the Lease Date.

R E C I T A L S

A. Landlord and Tenant are parties to that certain Lease Agreement, dated July 11, 2000 ("**Original 951 Lease**") pursuant to which Landlord agreed to lease to Tenant, and Tenant agreed to lease from Landlord, the Premises which was contemplated to be comprised of a 50,000 square foot building to be constructed on the Project.

B. Tenant has requested that Landlord construct a larger Premises consisting of an approximately 60,000 square foot building.

C. Landlord and Tenant now wish to amend and restate the Original 951 Lease to accommodate Tenant's request for an enlarged Premises, to make corresponding adjustments to the Tenant Improvement Allowance and Rent and to amend other matters as set forth herein.

The defined terms used in this Amended and Restated Lease Agreement which are defined in the Basic Lease Information attached to this Amended and Restated Lease Agreement ("**Basic Lease Information**") shall have the meaning and definition given them in the Basic Lease Information. The Basic Lease Information, the exhibits, the addendum or addenda described in the Basic Lease Information, and this Amended and Restated Lease Agreement are and shall be construed as a single instrument and are referred to herein as the "**Lease**".

OPERATIVE PROVISIONS

1. AMENDMENT, RESTATEMENT, SUPERSESSION AND DEMISE

This Lease shall amend and restate the Original 951 Lease in its entirety and shall supersede all provisions thereof. Landlord and Tenant hereby acknowledge and agree that from and after the date of this Lease, the Original 951 Lease is hereby null, void and of no further force or affect.

In consideration for the rents and all other charges and payments payable by Tenant, and for the agreements, terms and conditions to be performed by Tenant in this Lease, LANDLORD DOES HEREBY LEASE TO TENANT, AND TENANT DOES HEREBY HIRE AND TAKE FROM LANDLORD, the Premises described below (the "**Premises**"), upon the agreements, terms and conditions of this Lease for the Term hereinafter stated.

2. PREMISES

2.1 Definition of Premises, Building, Project, Parking Areas, Common Areas

The "Premises" demised by this Lease consist of that certain building (the "**Building**") to be constructed in accordance with the provisions hereof in the area shown on the Site Plan attached hereto as ***Exhibit A-2***, which Building is to be located in that certain real estate development (the "**Project**") specified in the Basic Lease Information. Subject to the provisions of this Lease, Landlord shall have the right to revise the definition of "Project" from time to time as Landlord develops and improves the Project and surrounding real property now or hereafter owned by Landlord or its Affiliates (as hereinafter defined), or sells to third parties portions of the Project or such adjacent properties. If at any time during the Term, Tenant is leasing, in accordance with the terms and conditions of this Lease, less than the entire Building, the "Premises" shall be deemed to include only that portion of the Building then leased by Tenant pursuant to this Lease. Tenant shall have the non-exclusive right (in common with the other tenants, Landlord and any other person granted use by

Landlord) to use the Common Areas (as hereinafter defined), except that, with respect to the Project's parking areas (the "**Parking Areas**"), Tenant shall have only the rights set forth in Paragraph 50 below. No easement for light or air is incorporated in the Premises. For purposes of this Lease, the term "**Common Areas**" shall mean all areas and facilities (i) outside the Premises and outside other buildings occupied or intended to be occupied by tenants, and (ii) either within the exterior boundary line of the Project or within the exterior boundary lines of properties abutting the Project, which areas and facilities are from time to time provided and designated by Landlord for the non-exclusive use of Landlord, Tenant and other tenants of the Project or of the properties abutting the Project and their respective employees, guests and invitees, including, without limitation, the Parking Areas.

2.2 Construction of Base Building Improvements and Tenant Improvements; Special Provisions Relating to Expansion Approvals

(a) Landlord shall cause the construction of the Base Building Improvements in accordance with the terms and conditions of the Base Building Construction Agreement attached hereto as ***Exhibit A***. The Base Building Improvements are generally described on ***Exhibit A-1*** hereto. Additionally, Tenant shall cause the construction of certain tenant improvements in the interior of the Premises in accordance with the terms and conditions of the Premises Construction Agreement attached hereto as ***Exhibit B***.

(b) Notwithstanding anything to the contrary contained in this Lease or the Exhibits hereto, Tenant shall be solely responsible for all costs and expenses incurred by Landlord in connection with the increase in the square footage of the Premises from approximately 50,000 square feet (as contemplated under the Original 951 Lease) to approximately 60,000 square feet (as provided for hereunder) (the "**Additional Expansion Costs**"), excluding, however, the costs of constructing the Base Building Improvements to be paid by Landlord pursuant to ***Exhibit A*** hereto. The "Additional Expansion Costs" shall include, without limitation, all architectural and engineering fees and expenses incurred by Landlord in connection with the expansion of the Premises (including, without limitation, all costs of preparing the Base Building Plans and Specifications (as defined within ***Exhibit A*** attached hereto)), all permitting fees, levies, assessments and other fees imposed by the City, the costs and expenses of preparing all submissions required to be made to the City, all costs of preparing and implementing any transportation demand management plan, and all other fees, costs and expenses incurred in connection with the obtaining of the Expansion Approvals. The Additional Expansion Costs shall be deemed "Additional Rent" hereunder and shall be due and payable by Tenant to Landlord within ten (10) days following demand.

(c) Without limiting the terms of Paragraph 2.2(b) above, Tenant shall be solely responsible for performing all obligations required by the City to be performed by Landlord or Tenant prior to or during the Term under the Revised Conditions of Approval (as hereinafter defined), all to the extent that such obligations were not imposed by the Original Conditions of Approval (as hereinafter defined). Without limiting the generality of the foregoing, Tenant shall (i) implement the Transportation Demand Management Program, dated December 4, 2000, prepared by Sequoia Solutions Consulting (the "**TDM**"), including, without limitation, conducting quarterly employee surveys, preparing and submitting to the City an annual TDM Report and, if necessary, cooperating with the City and the Peninsula Congestion Relief Alliance in identifying and implementing changes to the TDM Program from time to time, all as required by Section A.4 of the Revised Conditions of Approval, (ii) pay all costs associated with the TDM, including, without limitation, the actual costs of preparing the TDM and the costs of installing an electric vehicle charging station and designated and protected motorcycle parking, and (iii) pay any additional Oyster Point Overpass fees assessed by the City in connection with the issuance of the Expansion Approvals, including, without limitation, Oyster Point Overpass fees assessed pursuant to Section B.3 of the Revised Conditions of Approval. Tenant shall pay all costs due under this Paragraph 2.2(c) directly to the party or parties to whom said amounts are owed. In the event that

Landlord shall pay any such amounts, then said sums shall be deemed Additional Rent hereunder and shall be paid to Landlord within ten (10) days of demand. As used herein, "**Original Conditions of Approval**" means the "Proposed Conditions of Approval," PP-97-063/Mod 1; Neg. Dec. No. ND-97-063/Mod 1, adopted at the September 9, 1998 Redevelopment Agency meeting, and "**Revised Conditions of Approval**" means the "Proposed Conditions of Approval," PP-97-063/Mod 3 & V-97-063/Mod 3, adopted at the December 13, 2000 Redevelopment Agency meeting.

2.3 Changes to Common Area

(a) Landlord has the right, in its sole and absolute discretion, from time to time, to: (i) make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces (provided, however, that Landlord shall not have the right, except as otherwise provided herein, to reduce the total number of parking spaces below the number allocated to Tenant in the Basic Lease Information), Parking Areas, ingress, egress, direction of driveways, entrances, corridors and walkways; (ii) close temporarily any of the Common Areas for maintenance or construction purposes so long as reasonable access to the Premises remains available; (iii) add additional buildings and improvements to the Common Areas or remove existing buildings or improvements therefrom; (iv) use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project or any portion thereof so long as reasonable access to the Premises and the loading area serving the Premises remains available; and (v) do and perform any other acts or make any other changes in, to or with respect to the Common Areas and the Project as Landlord may, in its sole and absolute discretion, deem to be appropriate.

(b) Notwithstanding the terms of Paragraph 2.3 (a) above, Tenant understands and acknowledges that Landlord will during the Term be developing the Project and other lands owned by Landlord for Tenant and other tenants or occupants and that from time to time, whether during periods of construction or otherwise, Landlord may be unable to provide the full number of parking spaces allocated to Tenant under this Lease in the Parking Areas. During such periods, Landlord shall have the right to provide parking to Tenant on properties reasonably proximate to the Project (the "**Adjacent Properties**") or through the use of valets or parking attendants on the Parking Areas or the Adjacent Properties, provided only that Tenant shall at all times have parking for the number of automobiles contemplated under this Lease.

3. TERM

3.1 Commencement Date

The term of this Lease (the "**Term**") shall commence on November 1, 2001 (the "**Commencement Date**") and shall expire on March 31, 2012 (the "**Expiration Date**").

4. RENT

4.1 Monthly Base Rent

Commencing on the Commencement Date Tenant shall pay to Landlord, in advance on the first day of each month, without further notice or demand and without offset or deduction, the monthly installments of rent specified in the Basic Lease Information (the "**Monthly Base Rent**"). If the actual expiration or termination of the Term of this Lease is not the last day of a calendar month, a prorated installment of Rent based on a per diem calculation shall be paid for the fractional calendar month during which the Rent commences or the Term expires or terminates.

4.2 Additional Rent

This Lease is intended to be a triple-net Lease with respect to Landlord; and subject to Paragraph 13.2 below, the Base Rent owing hereunder is (1) to be paid by Tenant absolutely net of all costs and expenses relating to Landlord's ownership and operation of the Project and the Building, and (2) not to be reduced, offset or diminished, directly or indirectly, by any cost, charge or expense payable hereunder by Tenant or by others in connection with the Premises, the Building and/or the Project or any part thereof. The provisions of this Paragraph 4.2 for the payment of Tenant's Proportionate Share(s) of Expenses (as hereinafter defined) are intended to pass on to Tenant its share of all such costs and expenses. In addition to the Base Rent, Tenant shall pay to Landlord, in accordance with this Paragraph 4, Tenant's Proportionate Share(s) of all costs and expenses paid or incurred by Landlord in connection with the ownership, operation, maintenance, management and repair of the Premises, the Building and/or the Project or any part thereof (collectively, the "**Expenses**"), including, without limitation, all the following items (the "**Additional Rent**"):

1. *Taxes and Assessments.* All real estate taxes and assessments, which shall include any form of tax, assessment, fee, license fee, business license fee, levy, penalty (if a result of Tenant's delinquency), or tax (other than net income, estate, succession, inheritance, transfer or franchise taxes), imposed by any authority having the direct or indirect power to tax, or by any city, county, state or federal government or any improvement or other district or division thereof, whether such tax is (i) determined by the area of the Premises, the Building and/or the Project or any part thereof, or the Rent and other sums payable hereunder by Tenant or by other tenants, including, but not limited to, any gross income or excise tax levied by any of the foregoing authorities with respect to receipt of Rent and/or other sums due under this Lease; (ii) upon any legal or equitable interest of Landlord in the Premises, the Building and/or the Project or any part thereof; (iii) upon this transaction or any document to which Tenant is a party creating or transferring any interest in the Premises, the Building and/or the Project; (iv) levied or assessed in lieu of, in substitution for, or in addition to, existing or additional taxes against the Premises, the Building and/or the Project, whether or not now customary or within the contemplation of the parties; or (v) surcharged against the parking area. Tenant and Landlord acknowledge that Proposition 13 was adopted by the voters of the State of California in the June, 1978 election and that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such purposes as fire protection, street, sidewalk, road, utility construction and maintenance, refuse removal and for other governmental services which may formerly have been provided without charge to property owners or occupants. It is the intention of the parties that all new and increased assessments, taxes, fees, levies and charges due to any cause whatsoever are to be included within the definition of real property taxes for purposes of this Lease. "Taxes and assessments" shall also include legal and consultants' fees, costs and disbursements incurred in connection with proceedings to contest, determine or reduce taxes, Landlord specifically reserving the right, but not the obligation, to contest by appropriate legal proceedings the amount or validity of any taxes. In the event Landlord elects not to contest the real property taxes and assessments levied against the Building with respect to any calendar year during the Term, and if Tenant demonstrates to Landlord's reasonable satisfaction that such a contest would likely result in a reduction of such taxes and assessments, then Tenant shall have the right to retain a consultant to prosecute such contest, subject to Landlord's reasonable approval of the identity of such consultant. Such contest shall be conducted at Tenant's sole cost and expense, provided that if Tenant prevails in such contest, the reasonable fees and costs of Tenant's consultants shall, to the extent of any actual savings resulting from such contest, be equitably shared by Tenant and other tenant(s) who receive the benefit of such savings. Tenant shall have the right to deduct from its payments of Additional Rent the shares of such fees and costs to be charged to other tenants, as reasonably determined by Landlord, and Landlord shall cause such amounts to be billed or charged to the other benefited tenant(s).

2. *Insurance.* All insurance premiums for the Building and/or the Project or, subject to clause (i) of the paragraph immediately following Paragraph 4.2(8) below, any part thereof, including premiums for "all risk" fire and extended coverage insurance, commercial general liability insurance, rent loss or abatement insurance, earthquake insurance, flood or surface water coverage, and other insurance as Landlord deems necessary in its sole discretion, and any deductibles paid under policies of any such insurance.

3. *Utilities.* The cost of all Utilities (as hereinafter defined) serving the Premises, the Building and the Common Areas that are not separately metered to Tenant, any assessments or charges for Utilities or similar purposes included within any tax bill for the Building or the Common Areas, including, without limitation, entitlement fees, allocation unit fees, and/or any similar fees or charges and any penalties (if a result of Tenant's delinquency) related thereto, and any amounts, taxes, charges, surcharges, assessments or impositions levied, assessed or imposed upon the Building or the Common Areas, or any part thereof, or upon Tenant's use and occupancy thereof, as a result of any rationing of Utility services or restriction on Utility use affecting the Building and/or the Common Areas, as contemplated in Paragraph 5 below (collectively, "**Utility Expenses**").

4. *Common Area Expenses.* All costs to operate, maintain, repair, replace, supervise, insure and administer the Common Areas, including supplies, materials, labor and equipment used in or related to the operation and maintenance of the Common Areas, including parking areas (including, without limitation, all costs of resurfacing and restriping parking areas), signs and directories on the Building and/or the Project, landscaping (including maintenance contracts and fees payable to landscaping consultants), amenities, sprinkler systems, sidewalks, walkways, driveways, curbs, lighting systems and security services, if any, provided by Landlord for the Common Areas.

5. *Parking Charges.* Any parking charges or other costs levied, assessed or imposed by, or at the direction of, or resulting from statutes or regulations, or interpretations thereof, promulgated by any governmental authority or insurer in connection with the use or occupancy of the Building or the Project.

6. *Maintenance and Repair Costs.* Except for costs which are the responsibility of Landlord pursuant to Paragraph 13.2 below, all costs to maintain, repair, and replace the Premises, the Building and/or the Common Areas or any part thereof, including, without limitation, (i) all costs paid under maintenance, management and service agreements such as contracts for janitorial, security and refuse removal, (ii) all costs to maintain, repair and replace the roof coverings of the Building, (iii) all costs to maintain, repair and replace the heating, ventilating, air conditioning, plumbing, sewer, drainage, electrical, fire protection, life safety and security systems and other mechanical and electrical systems and equipment serving the Premises, the Building and/or the Common Areas or any part thereof (collectively, the "Systems"), all to the extent that Landlord or Landlord's Agents perform such tasks.

7. *Life Safety Costs.* All costs to install, maintain, repair and replace all life safety systems, including, without limitation, all fire alarm systems, serving the Premises, the Building and/or the Common Areas or any part thereof (including all maintenance contracts and fees payable to life safety consultants) whether such systems are or shall be required by Landlord's insurance carriers, Laws (as hereinafter defined) or otherwise, all to the extent that Landlord or Landlord's Agents perform such tasks.

8. *Management and Administration.* All costs for management and administration of the Premises, the Building and/or the Project or any part thereof, including, without limitation, a property management fee equal to two percent (2%) of the annual Rent derived from the Building, accounting, auditing, billing, postage, legal and accounting costs and fees for licenses and

permits related to the ownership and operation of the Project (but specifically excluding any salaries and benefits of employees of Landlord or the property manager of the Building).

9. *Operational Fees Related To Expansion Approvals.* Any charges or other costs which are paid or incurred by Landlord during the Term in relation to, as a result of, or as a condition to obtaining the Expansion Approvals (as defined in ***Exhibit A*** attached hereto), including, without limitation, (i) any fees, levies or assessments charged by the City, (ii) the salaries of any parking administrators or managers and all other employees or independent contractors who have been hired in response to any condition or obligation imposed in connection with the issuance of the Expansion Approvals, (iii) the costs and expenses incurred in the establishment, management and administration of any transportation demand management plan, (iv) the costs and expenses incurred in the management, administration and operation of any shuttle service, and (v) any similar costs and expenses incurred in relation to any program instituted as a result of, or as a condition to, obtaining the Expansion Approvals, whether or not such charges, costs and/or expenses relate solely to the Project.

10. *Gateway Operational Expenses.* All charges, assessments, costs or fees levied by any association or entity of which the Project or any part thereof is a member or to which the Project or any part thereof is subject (including, without limitation, the Gateway Property Owners' Association), or levied under or imposed by any reciprocal easement agreement, joint operating agreement or other document, instrument or agreement to which the Project or any part thereof is subject.

Notwithstanding anything in this Paragraph 4.2 to the contrary, (i) Tenant shall not be responsible for the payment of any Expenses which relate to or benefit solely another building within the Project occupied or intended to be occupied by tenants or for which Landlord receives full reimbursement from other tenants, and (ii) with respect to all sums payable by Tenant as Additional Rent under this Paragraph 4.2 for the replacement of any item or the construction of any new item in connection with the physical operation of the Premises, the Building or the Project (i.e., HVAC, roof membrane or coverings and parking area) which is a capital item the replacement of which would be capitalized under generally accepted accounting principles consistently applied, Tenant shall be required to pay only the prorata share of the cost of the item falling due within the Term (including any Renewal Term) based upon the amortization of the same over the useful life of such item, as reasonably determined by Landlord. Such share shall be paid by Tenant on a monthly basis throughout the Term (rather than in a lump sum when incurred by Landlord).

4.3 Adjustment to Additional Rent

Notwithstanding any other provision herein to the contrary, if the Building is not fully occupied during any year of the Term, an adjustment shall be made in computing Additional Rent for such year so that Additional Rent shall be computed as though the Building had been fully occupied during such year; provided, however, that in no event shall Landlord collect in total, from Tenant and all other tenants of the Building, an amount greater than one hundred percent (100%) of the actual Expenses during any year of the Term.

4.4 Payment of Additional Rent

4.4.1 Expense Statement

Upon the Commencement Date, Landlord shall submit to Tenant an estimate of monthly Additional Rent for the period between the Commencement Date and the following December 31 and Tenant shall pay such estimated Additional Rent on a monthly basis, in advance, on the first day of each month. Tenant shall continue to make said monthly payments until notified by Landlord of a change therein. By April 1 of each calendar year, Landlord shall endeavor to provide to Tenant a statement (the "**Expense Statement**") showing the actual Additional Rent due to Landlord for the prior

calendar year, to be prorated during the first year from the Commencement Date. If the total of the monthly payments of Additional Rent that Tenant has made for the prior calendar year is less than the actual Additional Rent chargeable to Tenant for such prior calendar year, then Tenant shall pay the difference in a lump sum within ten (10) days after receipt of such statement from Landlord. Any overpayment by Tenant of Additional Rent for the prior calendar year shall be credited towards the Additional Rent next due.

4.4.2 Calculation of Additional Rent

Landlord's then-current annual operating and capital budgets for the Building and the Project shall be used for purposes of calculating Tenant's monthly payment of estimated Additional Rent for the current year. Landlord shall make the final determination of Additional Rent for the year in which this Lease terminates as soon as possible after termination of such year. Even though the Term has expired and Tenant has vacated the Premises, Tenant shall remain liable for payment of any amount due to Landlord in excess of the estimated Additional Rent previously paid by Tenant, and, conversely, Landlord shall promptly return to Tenant any overpayment. Failure of Landlord to submit statements as called for herein shall not be deemed a waiver of Tenant's obligation to pay Additional Rent as herein provided.

4.4.3 Tenant's Proportionate Share(s)

With respect to Expenses which Landlord allocates to the Building, Tenant's "**Proportionate Share**" shall be the percentage set forth in the Basic Lease Information as Tenant's Proportionate Share of the Building, as adjusted by Landlord from time to time for a remeasurement of or changes in the physical size of the Premises or the Building. With respect to Expenses which Landlord allocates to the Project, Tenant's "**Proportionate Share**" shall be the percentage set forth in the Basic Lease Information as Tenant's Proportionate Share of the Project as adjusted by Landlord from time to time in connection with the construction of additional buildings within the Project or a remeasurement of or changes in the physical size of the Premises or the Project, whether such changes in size are due to an addition to or a sale or conveyance of a portion of the Project or otherwise. Notwithstanding the foregoing, Landlord may equitably adjust Tenant's Proportionate Share(s) for all or part of any item of expense or cost reimbursable by Tenant that relates to a repair, replacement, or service that benefits only the Premises or only a portion of the Building and/or the Project or that varies with the occupancy of the Building and/or the Project; provided, however, that Tenant's prorata allocation of any such Expense shall not be disproportionate to any other tenant's prorata allocation of such Expense.

4.4.4 Tenant's Audit Rights

Provided that Tenant is not in Default under the terms of this Lease, Tenant, at its sole cost and expense, shall have the right within sixty (60) days after the delivery of each Expense Statement to review and audit Landlord's books and records regarding such Expense Statement for the sole purpose of determining the accuracy of such Expense Statement. Such review or audit shall be performed by a nationally recognized accounting firm that calculates its fees with respect to hours actually worked and that does not discount its time or rate (as opposed to a calculation based upon percentage of recoveries or other incentive arrangement), shall take place during normal business hours in the office of Landlord or Landlord's property manager and shall be completed within three (3) business days after the commencement thereof. If Tenant does not so review or audit Landlord's books and records, Landlord's Expense Statement shall be final and binding upon Tenant. In the event that Tenant determines on the basis of its review of Landlord's books and records that the amount of Expenses paid by Tenant pursuant to this Paragraph 4 for the period covered by such Expense Statement is less than or greater than the actual amount properly payable by Tenant under the terms of this Lease, Tenant shall promptly pay any deficiency to Landlord or, if Landlord concurs with the results of Tenant's audit, Landlord shall promptly refund any excess payment to Tenant, as the case may be.

Landlord shall pay for any reasonable audit expenses if such excess payment exceeds the aggregate Expenses in Landlord's Expense Statement by seven percent (7%).

4.5 General Payment Terms

The Base Rent, Additional Rent and all other sums payable by Tenant to Landlord hereunder, including, without limitation, any Late Charges, as defined below, assessed pursuant to Paragraph 6 below, any interest assessed pursuant to Paragraph 44 below, and any repayments of the Deferred Allowance, are referred to collectively as the "**Rent**." All Rent shall be paid without deduction, offset or abatement (except as specifically provided in this Lease) in lawful money of the United States of America. Checks are to be made payable to HMS Gateway Office, L.P. and shall be mailed: c/o Hines, 101 California Street, Suite 1000, San Francisco, California 94111-5848, Attention: Tom Kruggel, or to such other person or place as Landlord may, from time to time, designate to Tenant in writing. The Rent for any fractional part of a calendar month at the commencement or termination of the Lease term shall be a prorated amount of the Rent for a full calendar month based upon the number of days in the month of the commencement or termination of the Lease term, as applicable.

4.6 Special Provisions regarding Bridge

Notwithstanding anything in this Section 4 to the contrary, Tenant shall not be required to pay Base Rent or Additional Rent on the Bridge (as defined in ***Exhibit A*** hereto), if any, and the square footage of the Bridge shall not be taken into account in determining Tenant's Proportionate Shares of the Building and the Project.

5. UTILITY EXPENSES

5.1 Tenant's Obligation to Pay

Tenant shall pay the cost of all water, sewer use, sewer discharge fees, gas, heat, electricity, refuse pick-up, janitorial service (including, without limitation, exterior and interior window washing), telephone, cable T.V., telecommunications facilities and all materials and services or other utilities (collectively, "**Utilities**") billed or metered separately to the Premises and/or Tenant, together with all taxes, assessments, charges and penalties added to or included within such cost. Tenant acknowledges that the Premises, the Building and/or the Project may become subject to the rationing of Utility services or restrictions on Utility use as required by a public utility company, governmental agency or other similar entity having jurisdiction thereof. Tenant acknowledges and agrees that its tenancy and occupancy hereunder shall be subject to such rationing or restrictions as may be imposed upon Landlord, Tenant, the Premises, the Building and/or the Project, and Tenant shall in no event be excused or relieved from any covenant or obligation to be kept or performed by Tenant by reason of any such rationing or restrictions. Tenant agrees to comply with energy conservation programs implemented by Landlord by reason of rationing, restrictions or Laws.

5.2 Limitation of Landlord's Liability for Interruption of Utilities

(a) Landlord shall not be liable for any loss, injury or damage to property caused by or resulting from any variation, interruption, or failure of Utilities due to any cause whatsoever, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations, improvements, or due to accident, strike, or conditions or other events shall be deemed an eviction of Tenant or relieve Tenant from any of its obligations hereunder; provided, however, that Landlord shall give Tenant not less than forty-eight (48) hours' notice of any interruption of Utilities planned in advance by Landlord. Landlord shall also use reasonable efforts to notify Tenant of any planned interruption of Utilities by any Utility service provider, provided that Landlord obtains actual knowledge of such planned interruption. In no event shall Landlord be liable to Tenant for any damage to the Premises or for any loss, damage or injury to any property therein or thereon occasioned by

bursting, rupture, leakage, failure or overflow of any plumbing or other pipes (including, without limitation, water, steam, and/or refrigerant lines), sprinklers, tanks, drains, drinking fountains or washstands, or other similar cause in, above, upon or about the Premises, the Building or the Project.

(b) Notwithstanding the provisions of Paragraph 5.2(a) above, if any Utility Services to the Premises are interrupted or interfered with as the result of the negligence or willful misconduct of any contractors engaged by Landlord to perform services at the Project, then Landlord shall use commercially reasonable efforts to pursue any claims for compensation or reimbursement available to Landlord against such contractors to the extent of any losses suffered by Tenant and shall make any monies received available to Tenant after allowance for Landlord's costs of collection. In addition to the foregoing, if any policy of insurance maintained by Landlord with respect to the Premises provides coverage for losses incurred due to the failure of Utilities, then Landlord shall make a claim under such policy to the extent of any losses suffered by Tenant, and shall make the proceeds received, if any, available to Tenant after allowance for Landlord's costs of collection.

6. LATE CHARGE

Notwithstanding any other provision of this Lease, Tenant hereby acknowledges that late payment to Landlord of Rent, or other amounts due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. If any Rent or other sums due from Tenant are not received by Landlord or by Landlord's designated agent when due, and if Tenant does not cure such failure within five (5) days after the due date (the "**Grace Period**"), then Tenant shall pay to Landlord a late charge equal to five percent (5%) of such overdue amount (the "**Late Charge**"), plus any costs and reasonable attorneys' fees incurred by Landlord by reason of Tenant's failure to pay Rent and/or other charges when due hereunder; provided, however, that Tenant shall have the right to pay Rent during the Grace Period only five (5) times during the Term and, after Tenant has paid Rent during the Grace Period an aggregate of five (5) times, Tenant shall pay to Landlord a Late Charge on any Rent or other sums due hereunder that are not received by Landlord or Landlord's designated agent when due. Notwithstanding the foregoing, if Tenant establishes and maintains throughout the Term a direct payment or debit arrangement with a bank or financial institution pursuant to which the Rent due hereunder is automatically paid to Landlord by electronic transfer on the first day of each month, and if Tenant provides Landlord with evidence of such arrangement, then Landlord shall provide Tenant with notice of any late payment of Rent prior to the imposition of a Late Charge. Landlord and Tenant hereby agree that such Late Charge represent a fair and reasonable estimate of the cost that Landlord will incur by reason of Tenant's late payment and shall not be construed as a penalty. Landlord's acceptance of such Late Charge shall not constitute a waiver of Tenant's default with respect to such overdue amount or estop Landlord from exercising any of the other rights and remedies granted under this Lease.

INITIALS: _____ _____

Landlord Tenant

7. LETTER OF CREDIT

(a) *Delivery of Letter of Credit.* Tenant has previously delivered to Landlord the letter of credit (the "**Letter of Credit**") in the amount of Three Million Seven Hundred Fifty Thousand Dollars ($3,750,000.00) described in the 901 Gateway Lease (as hereinafter defined). As more particularly described in the 901 Gateway Lease, the Letter of Credit serves as security for the full and faithful performance of Tenant's covenants and obligations under the 901 Gateway Lease and this Lease. Landlord shall have the right to draw upon the Letter of Credit and use the proceeds therefrom for the purposes specified in the 901 Gateway Lease. The rights and obligations of the parties with respect to the Letter of Credit shall be as set forth in the 901 Gateway Lease. As used herein, the "**901 Gateway Lease**" means the Lease Agreement by and between Landlord and Tenant, dated as of January 1, 2001, relating to certain premises (the "901 Gateway Premises") commonly known as 901 Gateway Boulevard, South San Francisco, California, as more particularly described therein.

(b) *Bifurcation of Letter of Credit.* Notwithstanding anything to the contrary contained herein or in the 901 Gateway Lease, if requested by Landlord at any time following the date of this Lease, Tenant shall cause the LC Issuing Bank (as defined in the 901 Gateway Lease) to bifurcate the Letter of Credit into two separate letters of credit, one securing Tenant's obligations under the 901 Gateway Lease and the other securing Tenant's obligations under this Lease. Such bifurcated letters of credit shall each be in an amount specified by Landlord, provided that the aggregate amount of such letters of credit shall equal the amount of the Letter of Credit immediately prior to such bifurcation. Concurrently with the bifurcation of the Letter of Credit, Landlord and Tenant shall enter into a modification of the 901 Gateway Lease and a modification of this Lease, which modifications shall amend Paragraph 7 of the 901 Gateway Lease and this Paragraph 7 to provide for separate, stand-alone letter of credit provisions in the 901 Gateway Lease and this Lease.

8. POSSESSION

8.1 Tenant's Right of Possession

Subject to Paragraph 8.2, Tenant shall be entitled to possession of the Premises upon the substantial completion of the Base Building Improvements.

For the purposes of this Lease, the Base Building Improvements shall be deemed to be "substantially completed" when Landlord's Architect and Contractor have both certified in writing that the Base Building Improvements have been substantially completed in accordance with the plans and specifications therefor, subject only to items of a "punch-list" nature which do not materially affect the use or functionality of the space.

8.2 Delay in Performance of Covenants Related to Base Building Improvements

Except as expressly provided in Paragraph 8.3 below, if for any reason whatsoever Landlord cannot perform any covenant contained in this Lease or in any exhibit hereto relating to the design and construction of the Base Building Improvements, this Lease shall not be void or voidable and shall not entitle Tenant to terminate this Lease, nor shall Landlord, or Landlord's agents, advisors, employees, partners, shareholders, directors, invitees or independent contractors (collectively, "**Landlord's Agents**"), be liable to Tenant for any loss or damage resulting therefrom, nor shall such failure affect the obligations of Tenant under this Lease, including, without limitation, the obligation to pay Rent commencing on the Commencement Date.

8.3 Tenant's Right to Rent Abatement

(a) Subject to Paragraph 8.3(b) below, if for any reason Landlord fails to complete the milestones set forth below (each, a "**Milestone**") on or before the outside date for performance specified below (each, a "**Milestone Date**"), and if as a direct result of such failure, Tenant's Contractor is delayed in the substantial completion of the Tenant Improvements (as defined within ***Exhibit B*** attached hereto) which delay would not have occurred but for Landlord's failure to meet such Milestone Date, then Tenant shall be entitled to an abatement of Monthly Base Rent in an amount equal to the proportionate Monthly Base Rent payable per day, multiplied by a number equal to one day for each day that Tenant's Contractor has been so delayed by Landlord's failure to meet such Milestone Dates. For the purposes herein, the Tenant Improvements shall be deemed to be substantially completed on the earlier date to occur of (i) the date Tenant occupies any portion of the Building, (ii) the date when the Tenant Improvements have been approved by the appropriate governmental agency as being in accordance with its building code and the building permit issued for such improvements, as evidenced by the issuance of a certificate of occupancy or final building inspection approval, as applicable, and (iii) the date that Tenant's Architect and Tenant's Contractor have both certified in writing that the Tenant Improvements have been substantially completed in accordance with the plans and specifications therefor, subject only to

items of a "punch-list" nature which do not materially affect the use or functionality of the space. The Milestones and Milestone Dates are as follows:

Milestone	Milestone Date
Certificate from Landlord's Architect that the foundation of the Building has been completed ("**Initial Milestone**").	September 8, 2001
Concrete for the metal deck located on the top floor of the Building has been poured ("**Secondary Milestone**").	November 22, 2001

(b) Notwithstanding anything to the contrary contained in Paragraph 8.3(a) above, if Landlord is delayed in completing any Milestone due to Tenant Delays or Force Majeure Events (as hereinafter defined), the Milestone Dates shall be extended for a period equal to the length of such delay. As used herein, "**Tenant Delays**" means any delays caused by Tenant or any employee, agent or representative of Tenant, including, without limitation, delays caused by (i) failure to furnish information in accordance with ***Exhibit A*** and/or ***Exhibit B*** of this Lease, whichever is applicable; (ii) Tenant's request for any special, long lead time materials or installations as part of the Tenant Improvements or the Tenant Requested Base Building Improvements (as defined in ***Exhibit A*** hereto); (iii) Tenant's changes in the Approved Plans (as defined in ***Exhibit B*** hereto); (iv) any changes initiated by reason of the disapproval of any plans or drawings or any cost proposals or authorizations resulting in the preparation of revised plans, drawings, cost proposals or authorizations; (v) field changes to construction work; (vi) the delivery, installation or completion of the Tenant Improvements work performed by Contractor (as defined in ***Exhibit B*** hereto); (vii) Tenant's request for any Tenant Requested Base Building Improvements; or (viii) any other act or omission of Tenant. As used herein, "**Force Majeure Events**" means strikes, embargoes, governmental regulations, acts of God, war, civil commotion or other strife, and other events beyond the reasonable control of the party whose performance is affected thereby.

9. USE OF PREMISES

9.1 Permitted Use

(a) The use of the Premises by Tenant and Tenant's agents, advisors, employees, partners, shareholders, directors, invitees and independent contractors (collectively, "**Tenant's Agents**") shall be solely for the Permitted Use specified in the Basic Lease Information and for no other use. Tenant shall not permit any objectionable or unpleasant smoke, dust, gas, noise or vibration to emanate from or near the Premises, and shall use its best efforts to prevent any objectionable odor from emanating from or near the Premises. Tenant shall strictly comply with the measures set forth on ***Exhibit C*** hereto and any additional measures reasonably required by Landlord from time to time to eliminate the emanation of objectionable odors. Tenant shall promptly provide Landlord with copies of all permits issued to Tenant by the Bay Area Air Quality Management District (the "**Air Management District**") and any other governmental agency responsible for or having jurisdiction over matters related to air quality, together with copies of all correspondence between Tenant and the Air Management District or such other agencies. Tenant acknowledges that The Gateway, the real estate development in which the Project is located, is a first-class office and R&D campus and that "objectionable odors" is a subjective standard. Accordingly, Tenant agrees that if odors in the area of the Building lead to complaints from other tenants and occupants of The Gateway, and if Landlord reasonably determines, based upon observation and/or a review of Tenant's records, that such odors emanated from the Premises, Tenant shall promptly use its best efforts to correct the situation at Tenant's sole cost and expense. Such measures to be taken by Tenant shall include, without limitation, the hiring of special consultants and the making of capital improvements to the Premises. Tenant shall make its laboratory records available to Landlord for review in connection with any complaints by tenants or occupants of the Gateway and as otherwise

reasonably requested by Landlord. Any failure of Tenant to comply with its obligations under this Paragraph 9.1(a) shall constitute an immediate Default under this Lease.

(b) The Premises shall not be used to create any nuisance or trespass, for any illegal purpose, for any purpose not permitted by Laws, for any purpose that would invalidate the insurance or increase the premiums for insurance on the Premises, the Building or the Project or for any purpose or in any manner that would unreasonably interfere with other tenants' use or occupancy of the Project. Tenant agrees to pay to Landlord, as Additional Rent, any increases in premiums on policies resulting from Tenant's Permitted Use or any other use or action by Tenant or Tenant's Agents which increases Landlord's premiums or requires additional coverage by Landlord to insure the Premises. Tenant agrees not to overload the floor(s) of the Building.

9.2 Compliance with Governmental Regulations and Private Restrictions

(a) Subject to the terms and conditions of the Lease, Landlord covenants that the Base Building Improvements shall be constructed in compliance with all applicable building code requirements in effect and actively being enforced by the City of South San Francisco (the "**City**") on the date the building permits are issued to the Contractor therefor and substantially in accordance with the Base Building Plans and Specifications. Any claims by Tenant under this Paragraph 9.2 shall be made in writing not later than one (1) year after the Commencement Date of the Lease. In the event Tenant fails to deliver a written claim to Landlord on or before such date, then Landlord shall be conclusively deemed to have satisfied its obligations under this paragraph. The covenants contained in this paragraph are subject to Paragraph 39 below of the Lease and are made specifically and exclusively for the benefit of the original Tenant and any assignee or sublessee under a Permitted Transfer pursuant to Paragraph 23.4 below.

(b) Tenant and Tenant's Agents shall, at Tenant's expense, faithfully observe and comply with (1) all municipal, state and federal laws, statutes, codes, rules, regulations, ordinances, requirements, and orders (collectively, "**Laws**"), now in force or which may hereafter be in force pertaining to the Premises or Tenant's use of the Premises, the Building or the Project, including, without limitation, any Laws requiring installation of fire sprinkler systems, seismic reinforcement and related alterations, whether substantial in cost or otherwise; provided, however, that except as provided in Paragraph 9.3 below, Tenant shall not be required to make or, except as provided in Paragraph 4 above, pay for, structural changes to the Premises or the Building not related to Tenant's specific use of the Premises unless the requirement for such changes is imposed as a result of any improvements or additions made or proposed to be made at Tenant's request; (2) all recorded covenants, conditions and restrictions affecting the Project ("**Private Restrictions**") now in force or which may hereafter be in force, Landlord hereby specifically reserving the right to hereafter adopt such Private Restrictions and to impose the same on the Project or any portion thereof, provided that such Private Restrictions adopted after the date hereof shall not unreasonably impair Tenant's use of the Premises for any Permitted Use; and (3) any and all rules and regulations set forth in ***Exhibit D*** and any other rules and regulations now or hereafter promulgated by Landlord (collectively, the **"Rules and Regulations"**). Without limiting the generality of the foregoing, Tenant hereby covenants and agrees for itself, its successors and assigns, and all persons claiming under or through it, that this Lease is made and accepted upon and subject to the condition that there shall be no discrimination against, or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises herein leased, nor shall Tenant, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein leased. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether Landlord be a party

thereto or not, that Tenant has violated any such Laws or Private Restrictions, shall be conclusive of that fact as between Landlord and Tenant.

9.3 Compliance with Americans with Disabilities Act

Landlord and Tenant hereby agree and acknowledge that the Premises, the Building and/or the Project may be subject to, among other Laws, the requirements of the Americans with Disabilities Act, a federal law codified at 42 U.S.C. 12101 *et seq*., including, but not limited to, Title III thereof, and all regulations and guidelines related thereto, together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, including all requirements of Title 24 of the State of California, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented (collectively, the "**ADA**"). Landlord shall cause the Base Building Improvements to be constructed in compliance with the ADA as currently administered by the City. Any Tenant Improvements to be constructed hereunder or Alterations (as hereinafter defined) made during the Term shall be in compliance with the requirements of the ADA, and all costs incurred for purposes of compliance therewith shall be a part of and included in the costs of the Tenant Improvements or the Alterations, as applicable. Tenant shall be solely responsible for conducting its own independent investigation of this matter and for ensuring that the design of all Tenant Improvements strictly complies with all requirements of the ADA. Subject to reimbursement pursuant to Paragraph 4 above, if any barrier removal work or other work is required to the Building, the Common Areas or the Project under the ADA, then such work shall be the responsibility of Landlord; provided, however, that if such work is required under the ADA as a result of Tenant's use of the Premises or any work or Alteration made to the Premises by or on behalf of Tenant, then such work shall be performed by Landlord at the sole cost and expense of Tenant; and provided, further, that if any such work is required under the ADA as a result of another tenant's specific use of its premises or improvements made by another tenant to its premises, then the cost of such work shall be solely chargeable to such tenant and Tenant shall have no responsibility therefor. Except as otherwise expressly provided in this provision, Tenant shall be responsible at its sole cost and expense for fully and faithfully complying with all applicable requirements of the ADA, including, without limitation, not discriminating against any disabled persons in the operation of Tenant's business in or about the Premises, and offering or otherwise providing auxiliary aids and services as, and when, required by the ADA. Within ten (10) days after receipt, Tenant shall advise Landlord in writing, and provide Landlord with copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises, the Building or the Project; any claims made or threatened orally or in writing regarding noncompliance with the ADA and relating to any portion of the Premises, the Building or the Project; or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises, the Building or the Project. Tenant shall and hereby agrees to protect, defend (with counsel acceptable to Landlord) and hold Landlord and Landlord's Agents harmless and indemnify Landlord and Landlord's Agents from and against all liabilities, damages, claims, losses, penalties, judgments, charges and expenses (including attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, Tenant's or Tenant's Agents' violation or alleged violation of the ADA. Landlord shall and hereby agrees to protect, defend (with counsel acceptable to Tenant) and hold Tenant and Tenant's Agents harmless and indemnify Tenant and Tenant's Agents from and against all liabilities, damages, claims, losses, penalties, judgments, charges and expenses (including attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, Landlord's failure to have the Base Building Improvements constructed in compliance with the ADA as currently administered by the City.

10. ACCEPTANCE OF PREMISES

By taking possession of the Premises hereunder Tenant accepts the Premises as suitable for Tenant's intended use and as being in good and sanitary operating order, condition and repair, AS IS, and without representation or warranty by Landlord as to the condition, use or occupancy which may be made thereof, except for Landlord's express obligations described in Exhibit A, and Landlord's covenant set forth in Paragraph 9.2(a) above. Any exceptions to the foregoing must be by written agreement executed by Landlord and Tenant.

11. SURRENDER

11.1 Surrender at Expiration or Termination

Tenant agrees that on the last day of the Term, or on the sooner termination of this Lease, Tenant shall surrender the Premises to Landlord (i) in good condition and repair (damage by acts of God, fire, and normal wear and tear excepted), but with all interior walls painted or cleaned so they appear painted and, where appropriate, patched, any carpets cleaned, all floors cleaned and waxed, and all plumbing fixtures in good condition and working order and, where appropriate, capped, and (ii) otherwise in accordance with Paragraph 32.9. Normal wear and tear shall not include any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Lease.

11.2 Removal Obligations and Abandonment of Tenant's Property

On or before the expiration or sooner termination of this Lease, Tenant shall, in accordance with this Paragraph 11, and at Tenant's sole cost and expense, remove, and repair any damage caused by such removal, (A) all of Tenant's Property (as hereinafter defined) and Tenant's signage from the Premises, the Building and the Project, and (B) all Tenant Improvements and Alterations required to be removed pursuant to Paragraph 12 below and Section B.5 of ***Exhibit B*** hereto, whichever is applicable. In addition to the foregoing, upon the written request of Landlord, which request may be given at any time prior to the expiration or sooner termination of this Lease, Tenant shall, at its sole cost and expense, on the expiration or sooner termination of this Lease, remove the Bridge, if any, restore the facades of the Building and the 901 Gateway Premises to a condition required by Landlord, and repair any damage caused by such removal and restoration. Any of Tenant's Property not so removed by Tenant as required herein shall be deemed abandoned and may be stored, removed, and disposed of by Landlord at Tenant's expense, and Tenant waives all claims against Landlord for any damages resulting from Landlord's retention and disposition of such property; provided, however, that Tenant shall remain liable to Landlord for all costs incurred in storing and disposing of such abandoned property of Tenant. All Tenant Improvements and Alterations except those which Tenant is required to remove pursuant to Paragraph 12 below hereto shall remain in the Premises as the property of Landlord.

11.3 Indemnification

If the Premises are not surrendered at the end of the Term or sooner termination of this Lease, and in accordance with the provisions of this Paragraph 11 and Paragraph 32.9 below, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all loss or liability resulting from delay by Tenant in so surrendering the Premises including, without limitation, any loss or liability resulting from any claim against Landlord made by any succeeding

tenant or prospective tenant founded on or resulting from such delay and losses to Landlord due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each case, reasonable attorneys' fees and costs.

12. ALTERATIONS AND ADDITIONS

12.1 Landlord's Consent Required

Tenant shall not make, or permit to be made, any alteration, addition or improvement (hereinafter referred to individually as an "**Alteration**" and collectively as the "**Alterations**") to the Premises or any part thereof without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that Landlord shall have the right in its sole and absolute discretion to consent or to withhold its consent to any Alteration which affects the structural portions of the Premises, the Building or the Project or the Systems serving the Premises, the Building and/or the Project or any portion thereof.

12.2 Alterations Permitted Without Landlord's Consent; Removal Requirements

Notwithstanding the foregoing, but subject to the conditions set forth below, Tenant may, without Landlord's consent, make Alterations within the Premises, provided that (i) such Alterations do not affect the structural portions of the Premises, the Building or the Project or the Systems, and (ii) the cost, on an individual project basis, of any Alteration or related series of Alterations is less than Thirty Thousand Dollars ($30,000.00), and all Alterations in the aggregate do not exceed Two Hundred Thirty Thousand Dollars ($230,000.00) over the Term. The Alterations made by Tenant without the consent of Landlord in accordance with this Paragraph 12.2 shall be herein referred to as the "**Permitted Alterations**."

12.3 Alterations at Tenant's Expense

Any Alteration to the Premises shall be at Tenant's sole cost and expense, in compliance with all applicable Laws and all requirements requested by Landlord, including, without limitation, the requirements of any insurer providing coverage for the Premises or the Project or any part thereof, and in accordance with plans and specifications approved in writing by Landlord (except for Permitted Alterations), which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, with respect to Alterations that may be made without Landlord's prior consent as permitted above, Landlord agrees that Tenant shall not be required to submit plans and specifications for prior approval of the Landlord and that Landlord shall not require prior approval of the installing contractor; provided, however, that if Tenant does not obtain the prior approval of plans and specifications for any Alteration, then subject to the terms of Paragraph 12.4(b) below, Landlord may, by notice to Tenant given not later than ninety (90) days prior to the Expiration Date (except in the event of a termination of this Lease prior to the scheduled Expiration Date, in which event no advance notice shall be required), require Tenant, at Tenant's expense, to remove, and repair any damage caused by removal of, any and all such Alterations. If Tenant does not obtain Landlord's prior consent as to the installing contractor, Tenant shall be responsible for maintaining harmonious labor relations with all contractors and service providers servicing the Premises, Building and/or Project. In addition, with respect to any Permitted Alterations made without Landlord's prior consent as permitted above, Tenant agrees to meet with Landlord, at Landlord's request, not more than once in every calendar year, to discuss any such Permitted Alterations that have been made to the Premises (each such meeting being herein referred to as an "**Alterations Meeting**"). Tenant shall provide to Landlord within forty five (45) days after written request as-built plans and specifications for any Alterations (including, without limitation, any Permitted Alterations) made by Tenant to the Premises. Notwithstanding anything in this Lease to the contrary, any approval by Landlord of any drawings, plans or specifications prepared on behalf of Tenant shall not in any way bind Landlord, create any responsibility or liability on the part of Landlord for the completeness of the same, their design sufficiency or compliance with applicable statutes, ordinances or regulations or constitute a representation or warranty by Landlord as to the adequacy or sufficiency of such drawings, plans or specifications, or the improvements to which they relate, but such approval shall merely evidence the consent of Landlord to such drawings, plans or specifications.

12.4 Requirements of Request for Approval

(a) Any Alterations requiring the prior consent of Landlord shall contain a request that Landlord specify in writing to Tenant those Alterations that Tenant will be required to remove in accordance with Paragraph 11.1 upon expiration or sooner termination of this Lease. Upon receipt of such request, Landlord shall make such determination and respond to Tenant within twenty (20) business days of such request. Landlord's failure to respond within such time shall be deemed to mean that Tenant shall not be required to remove such Alterations upon the expiration or sooner termination of this Lease.

(b) In the event Tenant constructs or installs any Permitted Alterations without the consent of Landlord, then Tenant shall have the right at the next succeeding Alterations Meeting to request that Landlord specify in writing whether Tenant will be required to remove all or any portion of such Permitted Alterations upon expiration or sooner termination of this Lease. Upon receipt of such request, Landlord shall make such determination and respond to Tenant within twenty (20) business days of such request. Landlord's failure to respond within such time shall conclusively be deemed to be an irrevocable waiver of Landlord's right to demand their removal.

12.5 Permits Required; Insurance Required

12.5.1 Permits

Before Alterations may begin, valid building permits or other permits or licenses required must be furnished to Landlord, and, once the Alterations begin, Tenant will diligently and continuously pursue their completion. Landlord may monitor construction of the Alterations, either through its own employees or through a construction manager retained by Landlord.

12.5.2 Insurance

Tenant shall maintain during the course of any construction (including, without limitation, during the construction of the Tenant Improvements and any Alterations), at its sole cost and expense, builders' risk insurance for the amount of the completed value of the Alterations and Tenant Improvements on an all-risk non-reporting form covering all improvements under construction, including building materials, and other insurance in amounts and against such risks as Landlord shall reasonably require in connection with the Alterations and Tenant Improvements, including, without limitation, naming Landlord and Landlord's lender as loss payee under any such policy. In addition to and without limitation on the generality of the foregoing, Tenant shall ensure that its contractor(s) procure and maintain in full force and effect during the course of construction a "broad form" commercial general liability and property damage policy of insurance naming Landlord, Tenant and Landlord's lenders as additional insureds. The minimum limit of coverage of the aforesaid policy shall be in the amount of not less than Three Million Dollars ($3,000,000.00) for injury or death of one person in any one accident or occurrence and in the amount of not less than Three Million Dollars ($3,000,000.00) for injury or death of more than one person in any one accident or occurrence, and shall contain a severability of interest clause or a cross liability endorsement. Such insurance shall further insure Landlord and Tenant against liability for property damage of at least One Million Dollars ($1,000,000.00).

12.6 Title to Improvements; Removal Rights; Financing

Except as otherwise expressly stated herein or agreed to in writing between the parties, the Tenant Improvements actually paid for by Tenant and all Alterations, including, but not limited to, heating, lighting, electrical, air conditioning, fixed partitioning, drapery, wall covering and paneling, built-in cabinet work and carpeting installations made by Tenant, together with all property that has become an integral part of the Premises or the Building, shall upon installation become the property of Tenant; provided, however, that title to all such Tenant Improvements, Alterations and property shall

automatically transfer to Landlord upon the expiration of the Term or the sooner termination of this Lease without the payment of any consideration or the execution of any transfer documents. Notwithstanding the foregoing, Tenant shall retain title to and ownership of Tenant's Property at all times. For purposes of this Paragraph 12.6 and Paragraph 49.4.1 below, Landlord shall be deemed to have paid for those Tenant Improvements funded out of the Initial Tenant Improvement Allowance (as hereinafter defined) and Tenant shall be deemed to have paid for the remaining Tenant Improvements, including any Tenant Improvements funded out of the Deferred Allowance. As used herein, "**Initial Tenant Improvement Allowance**" means the initial $46.70 per square foot of the Tenant Improvement Allowance provided by Landlord hereunder.

12.7 Computer, Utility and Telecommunications Equipment

No private telephone systems, utilities and/or other related computer, utility or telecommunications equipment or lines may be installed without Landlord's prior written consent, which consent shall not be unreasonably withheld. If Landlord gives such consent, all equipment must be installed within the Premises and, unless Landlord, at the time of installation, notifies Tenant in writing that removal will be required, left in the Premises and surrendered to Landlord upon the expiration or sooner termination of this Lease.

12.8 Notice and Opportunity to Post Notice of Nonresponsibility

Tenant agrees not to proceed to make any Alterations, notwithstanding consent from Landlord to do so, without fifteen (15) days' prior written notice to Landlord, in order that Landlord may post appropriate notices to avoid any liability to contractors or material suppliers for payment for Tenant's improvements. Tenant will at all times permit such notices to be posted and to remain posted until the completion of work.

13. MAINTENANCE AND REPAIRS OF PREMISES

13.1 Maintenance by Tenant

Subject to the provisions of Paragraph 13.2, 21 and 22 below, throughout the Term, Tenant shall, at its sole expense, (1) keep and maintain in good order and condition the Building and the Premises and repair the Building and the Premises and every part thereof, including interior and exterior glass, windows, window frames and casements, interior and exterior doors and door frames and door closers; interior and exterior lighting (including, without limitation, light bulbs and ballasts), the roof covering; the Systems serving the Premises and the Building; interior and exterior signage, interior demising walls and partitions, equipment, interior painting and interior walls and floors, and the roll-up doors, ramps and dock equipment, including, without limitation, dock bumpers, dock plates, dock seals, dock levelers and dock lights located in or on the Premises (excepting only those portions of the Building or the Project to be maintained by Landlord, as provided in Paragraph 13.2 below), (2) furnish all expendables, including light bulbs, paper goods and soaps, used in the Premises, and (3) keep and maintain in good order and condition and repair and replace all of Tenant's security systems in or about or serving the Premises. Tenant shall not do nor shall Tenant allow Tenant's Agents to do anything to cause any damage, deterioration or unsightliness to the Premises, the Building or the Project. Tenant shall perform its obligations under this Paragraph 13.1 in accordance with maintenance and repair standards adopted by Landlord from time to time for the Project. Tenant shall cause to be furnished to Landlord on not less than a quarterly basis maintenance reports on all Systems and the roof of the Building prepared by a qualified vendor or consultant, and Tenant shall promptly perform any maintenance tasks recommended by such reports or otherwise required by Landlord to cause the Premises and the Systems to comply with Landlord's maintenance and repair standards.

13.2 Maintenance by Landlord

Subject to the provisions of Paragraphs 13.1, 21 and 22, and further subject to Tenant's obligation under Paragraph 4 to reimburse Landlord, in the form of Additional Rent, for Tenant's Proportionate Share(s) of the Project and the Building, as applicable, of the cost and expense of the following items, Landlord agrees to repair and maintain the Common Areas in good order and condition, including, without limitation, the Parking Areas, pavement, landscaping, sprinkler systems, sidewalks, driveways, curbs, and lighting systems in the Common Areas. Subject to the provisions of Paragraphs 13.1, 21 and 22, Landlord, at its own cost and expense, agrees to repair and maintain the following items: the structural portions of the roof (specifically excluding the roof coverings), the foundation, the footings, the floor slab, and the load bearing walls and exterior walls of the Building (excluding any glass and any routine maintenance, including, without limitation, any painting, sealing, patching and waterproofing of such walls).

13.3 Landlord's Right to Perform Tenant's Obligations

Notwithstanding anything in this Paragraph 13 to the contrary, Landlord shall have the right to either repair or to require Tenant to repair any damage to any portion of the Premises, the Building and/or the Project caused by or created due to any act, omission, negligence or willful misconduct of Tenant or Tenant's Agents and to restore the Premises, the Building and/or the Project, as applicable, to the condition existing prior to the occurrence of such damage; provided, however, that in the event Landlord elects to perform such repair and restoration work, Tenant shall reimburse Landlord upon demand for all costs and expenses incurred by Landlord in connection therewith. Landlord's obligation hereunder to repair and maintain is subject to the condition precedent that Landlord shall have received written notice of the need for such repairs and maintenance and a reasonable time to perform such repair and maintenance. Tenant shall promptly report in writing to Landlord any defective condition which Landlord is required to repair, and failure to so report such defects shall make Tenant responsible to Landlord for the costs and expenses of repairing any Preventable Damage occurring after the date Tenant obtains actual knowledge of such defective condition and any liability incurred by Landlord by reason of Tenant's failure to notify Landlord of such defective condition in a timely manner as provided herein. As used herein, "**Preventable Damage**" means any damage or deterioration which could have been prevented had Landlord received timely notice of the defective condition. Nothing contained herein shall be deemed or construed to limit Tenant's obligations under Paragraph 16 below.

13.4 Tenant's Waiver of Rights

Tenant hereby expressly waives all rights to make repairs at the expense of Landlord or to terminate this Lease, as provided for in California Civil Code Sections 1941 and 1942, and 1932(1), respectively, and any similar or successor statute or law in effect or any amendment thereof during the Term.

14. LANDLORD'S INSURANCE

At all times during the Term of this Lease, Landlord shall purchase and keep in force "all risk" property insurance covering the Base Building Improvements, the Tenant Improvements and all Alterations made to the Premises by Tenant in accordance with the terms of Paragraph 12 above, in accordance with Landlord's customary insurance program for comparable properties. Tenant shall provide Landlord with such information as may be requested by Landlord or its insurers concerning the value of the Tenant Improvements or any Alterations. Tenant acknowledges and agrees that Landlord shall have no obligation to maintain property insurance covering any alterations, additions or improvements made to the Premises other than Alterations made in strict accordance with Paragraph 12 (such other alterations, additions or improvements being herein referred to as "**Unpermitted Alterations**"), and Tenant hereby agrees to indemnify and hold harmless Landlord and Landlord's Agents from and against any and all Losses (as hereinafter defined) resulting from or arising out of the making of any such Unpermitted Alterations. Tenant shall, at its sole cost and expense, comply with any and all reasonable requirements pertaining to the Premises, the Building and the Project of any insurer necessary for the maintenance of reasonable property damage and commercial general liability insurance, covering the Building and the Project. Landlord, at Tenant's cost, may maintain "Loss of Rents" insurance, insuring that the Rent will be paid in a timely manner to Landlord for a period of at least twelve (12) months if the Building or any portion thereof are destroyed or rendered unusable or inaccessible by any cause insured against under this Lease.

15. TENANT'S INSURANCE

15.1 Commercial General Liability Insurance

At all times during the Term of this Lease, Tenant shall, at Tenant's expense, secure and keep in force a Commercial General Liability insurance policy covering the Premises, insuring Tenant, and naming Landlord and its lenders as additional insureds, against liability arising out of the ownership, use, occupancy or maintenance of the Premises. The minimum limit of coverage of such policy shall be in the amount of not less than Three Million Dollars ($3,000,000.00) for each occurrence combined single limit for bodily injury and property damage, shall include contractual liability coverage (which shall include coverage for Tenant's indemnification obligations in this Lease, provided that the amount of such coverage shall not be construed to limit Tenant's indemnification obligations hereunder), and shall contain severability of interests and cross liability coverage clauses and/or endorsements. Such insurance shall be endorsed to be primary and non-contributory to any insurance Landlord may carry. Landlord may from time to time require reasonable increases in any such limits if Landlord believes that additional coverage is necessary or desirable. The limit of any insurance shall not limit the liability of Tenant hereunder. No policy maintained by Tenant under this Paragraph 15.1 shall contain a deductible greater than Five Thousand Dollars ($5,000.00). Such policies of insurance shall be issued as primary policies and not contributing with or in excess of coverage that Landlord may carry.

15.2 Property Insurance

At all times during the Term of this Lease, Tenant shall, at Tenant's expense, maintain in full force and effect special form property insurance on all of its personal property, possessions, furniture, furnishings, trade or business fixtures, equipment and such other items listed on ***Exhibit F*** (collectively, "**Tenant's Property**") located on the Premises. Such special form property insurance shall be on a full replacement cost basis and shall be written to cover all risks of direct loss or damage, including, but not be limited to, theft, water damage and sprinkler leakage. No such policy shall contain a deductible greater than Five Thousand Dollars ($5,000.00). During the Term of this Lease the proceeds from any such policy or policies of insurance shall be used for the repair or replacement of Tenant's Property. Landlord shall have no interest in the insurance upon Tenant's Property and will sign all documents

reasonably necessary in connection with the settlement of any claim or loss by Tenant. Landlord will not carry insurance on Tenant's Property.

15.3 Worker's Compensation Insurance; Employer's Liability Insurance

At all times during the Term of this Lease, Tenant shall, at Tenant's expense, maintain in full force and effect worker's compensation insurance with not less than the minimum limits required by Law, and employer's liability insurance with a minimum limit of coverage of One Million Dollars ($1,000,000) per accident.

15.4 Business Interruption Insurance

Tenant shall, at all times during the Term of this Lease, maintain in full force and effect loss of income and extra expense insurance in such amounts as will reimburse Tenant for direct or indirect loss of earnings or extra expenses attributable to or resulting from all perils commonly insured under a special form policy of property insurance.

15.5 Insurance Standards and Evidence of Coverage

All insurance required to be carried by Tenant hereunder shall be maintained with insurance companies authorized to do business in the State of California for the issuance of the applicable type of insurance coverage and rated A:XIII or better in Best's Key Rating Guide. Notwithstanding the foregoing, Landlord hereby approves General Star Indemnity as the carrier of the insurance required under Paragraph 15.1 above, provided that General Star Indemnity shall at all times during the Term maintain a Best's Key Rating of not less than A++:VIII. Tenant shall deliver to Landlord certificates of insurance and true and complete copies of any and all endorsements required herein for all insurance required to be maintained by Tenant hereunder at the time of execution of this Lease by Tenant. Tenant shall, at least thirty (30) days prior to expiration of each policy, furnish Landlord and the other parties named as additional insureds with certificates of renewal or "binders" thereof. Each certificate shall expressly provide that such policies shall not be cancelable except after thirty (30) days' prior written notice to Landlord and the other parties named as additional insureds as required in this Lease (except for cancellation for nonpayment of premium, in which event cancellation shall not take effect until at least ten (10) days' notice has been given to Landlord and the parties named as additional insureds hereunder).

16. INDEMNIFICATION

16.1 Of Landlord

Tenant shall indemnify and hold harmless Landlord and Landlord's advisors, employees, partners, shareholders and directors against and from any and all claims, liabilities, judgments, costs, demands, causes of action and expenses (including, without limitation, reasonable attorneys' fees) (collectively, "**Losses**") arising from (1) the use of the Premises, the Building or the Project by Tenant or Tenant's Agents, or from any activity done, permitted or suffered by Tenant or Tenant's Agents in or about the Premises, the Building or the Project, and (2) any act, neglect, fault, willful misconduct or omission of Tenant or Tenant's Agents, or from any breach or default in the terms of this Lease by Tenant or Tenant's Agents, and (3) any action or. proceeding brought on account of any matter in items (1) or (2); provided, however, that in no event shall Tenant be required to indemnify Landlord against any claims, demands or losses resulting from any failure of Landlord to observe any of the terms and conditions of this Lease, including, without limitation, the covenant set forth in Paragraph 9.2(a) above, in each case to the extent such failure or breach has persisted for an unreasonable period of time after written notice of such failure or breach. If any action or proceeding is brought against Landlord by reason of any such claim, upon notice from Landlord, Tenant shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. As a material part of the consideration to Landlord, Tenant hereby releases Landlord and Landlord's Agents from responsibility for, waives its entire claim

of recovery for and assumes all risk of (i) damage to property or injury to persons in or about the Premises, the Building or the Project from any cause whatsoever (except that which is caused by the gross negligence or willful misconduct of Landlord or Landlord's Agents or by the failure of Landlord to observe any of the terms and conditions of this Lease, if such failure has persisted for an unreasonable period of time after written notice of such failure), or (ii) loss resulting from business interruption or loss of income at the Premises. The obligations of Tenant under this Paragraph 16.1 shall survive the expiration or earlier termination of this Lease.

16.2 Of Tenant

Landlord shall indemnify and hold harmless Tenant and Tenant's employees, partners, shareholders and directors against and from any and all Losses relating to the Project and arising from (1) the gross negligence or willful misconduct of Landlord or Landlord's Agents, (2) the failure of Landlord to observe any of the terms and conditions of this Lease, if such failure has persisted for an unreasonable period of time after written notice of such failure, and (3) any action or proceeding brought on account of any matter in items (1) or (2). If any action or proceeding is brought against Tenant by reason of any such claim, upon notice from Tenant, Landlord shall defend the same at Landlord's expense by counsel reasonably satisfactory to Landlord. The obligations of Landlord under this Paragraph 16.2 shall survive any termination of this Lease.

16.3 No Impairment of Insurance

The foregoing indemnity shall not relieve any insurance carrier of its obligations under any policies required to be carried by either party pursuant to this Lease, to the extent that such policies cover the peril or occurrence that results in the claim that is subject to the foregoing indemnity.

17. SUBROGATION

Landlord and Tenant hereby mutually waive any claim against the other and its Agents for any loss or damage to any of their property located on or about the Premises, the Building or the Project that is caused by or results from perils covered by the property insurance required to be carried by the respective parties in accordance with Paragraphs 14 and 15 of this Lease, whether or not due to the negligence of the other party or its Agents. Because the foregoing waivers will preclude the assignment of any claim by way of subrogation to an insurance company or any other person, each party now agrees to immediately give to its insurer written notice of the terms of these mutual waivers and shall have their insurance policies endorsed to prevent the invalidation of the insurance coverage because of these waivers. Nothing in this Paragraph 17 shall relieve a party of liability to the other for failure to carry insurance required by this Lease.

18. SIGNS

Tenant shall not place or permit to be placed in, upon, or about the Premises, the Building or the Project any exterior lights, decorations, balloons, flags, pennants, banners, advertisements or notices, or erect or install any signs, windows or door lettering, placards, decorations, or advertising media of any type which can be viewed from the exterior of the Premises without obtaining Landlord's prior written consent or without complying with Landlord's signage program, as the same may be modified by Landlord from time to time, and with all applicable Laws, and will not conduct, or permit to be conducted, any sale by auction on the Premises or otherwise on the Project. Tenant shall remove any sign, advertisement or notice placed on the Premises, the Building or the Project by Tenant upon the expiration of the Term or sooner termination of this Lease, and Tenant shall repair any damage or injury to the Premises, the Building or the Project caused thereby, all at Tenant's expense. If any signs are not removed, or necessary repairs not made, Landlord shall have the right to remove the signs and repair any damage or injury to the Premises, the Building or the Project at Tenant's sole cost and expense.

19. FREE FROM LIENS

Tenant shall keep the premises, the Building and the Project free from any liens arising out of any work performed, material furnished or obligations incurred by or for Tenant in accordance with the provisions of this Paragraph 19. In the event that Tenant shall not, within ten (10) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, Landlord shall have in addition to all other remedies provided herein and by law the right but not the obligation to cause same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Landlord by Tenant upon demand. Landlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law or that Landlord shall deem proper for the protection of Landlord, the Premises, the Building and the Project, from mechanics' and materialmen's liens. Tenant agrees not to proceed to perform any repairs or construction on the Premises without fifteen (15) days' prior written notice to Landlord in order that Landlord may post appropriate notices to avoid any liability to contractors or material suppliers for payment for Tenant's work.

20. ENTRY BY LANDLORD

Tenant shall permit Landlord and Landlord's Agents to enter into and upon the Premises at all reasonable times upon twenty-four (24) hours' notice (except in the case of an emergency, in which event no advance notice shall be required) for the purpose of inspecting the same or showing the Premises to prospective purchasers, lenders or tenants or to alter, improve, maintain and repair the Premises or the Building as required or permitted of Landlord under the terms hereof, or for any other reasonable business purpose, without any rebate of Rent and without any liability to Tenant for any loss of occupation or quiet enjoyment of the Premises thereby occasioned; and Tenant shall permit Landlord to post notices of non-responsibility and ordinary "for sale" or "for lease" signs. Notwithstanding the foregoing, Landlord shall only enter the Premises for the purpose of showing the same to prospective tenants during the last ten (10) months of the Term. No such entry shall be construed to be a forcible or unlawful entry into, or a detailer of, the Premises, or an eviction of Tenant from the Premises. Tenant's representatives shall have the right to accompany Landlord on any inspection of the Premises, provided that Tenant's representatives are available at the time of such inspections. Landlord may temporarily close entrances, doors, corridors, elevators or other facilities without liability to Tenant by reason of such closure in the case of an emergency and when Landlord otherwise reasonably deems such closure necessary.

21. DESTRUCTION AND DAMAGE

21.1 Damage Covered by Extended Coverage Insurance

If the Premises are damaged by fire or other perils covered by extended coverage insurance, Landlord shall, at Landlord's option:

21.1.1 Material Damage; Insured Loss

In the event of material damage to the Premises (which shall mean damage or destruction of a nature such that all required permits cannot be reasonably obtained and/or the Premises can not be substantially repaired and restored to the condition existing immediately prior to such damage or destruction within three hundred sixty-five (365) days after the date Landlord obtains actual knowledge of such destruction (the "**Casualty Discovery Date**")), Landlord may elect either to commence promptly to repair and restore the Premises and prosecute the same diligently to completion, in which event this Lease shall remain in full force and effect; or not to repair or restore the Premises, in which event this Lease shall terminate. Landlord shall give Tenant written notice of its intention within sixty (60) days

after the Casualty Discovery Date. If Landlord elects in writing not to restore the Premises, this Lease shall be deemed to have terminated as of the date of such destruction.

21.1.2 Minor Damage; Insured Loss

In the event of minor damage to the Premises (which shall mean damage or destruction of a nature such that all required permits can be reasonably obtained and the Premises may be substantially repaired or restored to the condition existing immediately prior to such damage or destruction within three hundred sixty-five (365) days after the Casualty Discovery Date) for which Landlord will receive insurance proceeds sufficient to cover the cost to repair and restore such partial destruction, Landlord shall commence and proceed diligently with the work of repair and restoration, in which event this Lease shall continue in full force and effect. If the insurance proceeds (plus any amounts Tenant may elect or is obligated to contribute) are not sufficient to cover the cost of such repair and restoration, Landlord may elect either to so repair and restore, in which event this Lease shall continue in full force and effect, or not to repair or restore, in which event this Lease shall terminate. In either case, Landlord shall give written notice to Tenant of its intention within sixty (60) days after the Casualty Discovery Date. If Landlord elects, in writing, not to restore the Premises, this Lease shall be deemed to have terminated as of the date of such partial destruction.

21.1.3 Calculation of Restoration Period

Following the occurrence of any casualty event, Landlord shall obtain from a licensed general contractor selected by Landlord (the "**Restoration Contractor**") an estimate of the time required to obtain all permits and to fully repair and restore the Premises. In the event the Restoration Contractor determines that the work of repair and restoration shall require more than three hundred sixty-five (365) days to complete, Tenant shall have the right to discuss such timing with the Restoration Contractor and, with the approval of Landlord, to discuss modifications to the scope of work in an effort to reduce the repair and restoration time to a period of less than three hundred sixty-five days; provided, however, that in the event of any disagreement between the parties as to the estimated length of the restoration period or the scope of work required, the determination of Landlord and the Restoration Contractor shall control.

21.2 Uninsured Loss

If the Premises are damaged by any peril not covered by Landlord's property insurance, and the cost to repair such damage exceeds any amount Tenant may agree to contribute, Landlord may elect either to commence promptly to repair and restore the Premises and prosecute the same diligently to completion, in which event this Lease shall remain in full force and effect; or not to repair or restore the Premises, in which event this Lease shall terminate. Landlord shall give Tenant written notice of its intention within sixty (60) days after the Casualty Discovery Date. If Landlord elects, in writing, not to restore the Premises, this Lease shall be deemed to have terminated as of the date on which Tenant surrenders possession of the Premises to Landlord.

21.3 Casualty During Last Twelve Months of Term

If fifty percent (50%) or more of the Building is damaged or destroyed during the last twelve (12) months of the Term (unless Tenant has remaining extension options and has previously validly exercised such options or validly exercises such options within ten (10) days after the Casualty Discovery Date), Landlord shall have the option to terminate this Lease, exercisable by notice to Tenant within sixty (60) days after the Casualty Discovery Date.

21.4 Tenant's Right to Terminate Lease

If the Premises is damaged or destroyed to the extent that the Premises cannot be substantially repaired or restored by Landlord within three hundred sixty-five (365) days after the Casualty Discovery Date, Tenant may terminate this Lease immediately upon notice thereof to Landlord, which

notice shall be given, if at all, not later than fifteen (15) days after Landlord notifies Tenant of Landlord's estimate of the period of time required to repair such damage or destruction.

21.5 Rent Abatement

In the event of repair and restoration as herein provided, the monthly installments of Base Rent and Additional Rent shall be abated proportionately to the extent Tenant's use of the Premises is impaired during the period of such repair or restoration, but only to the extent of rental abatement insurance proceeds actually received by Landlord. The number of parking spaces allocated to Tenant hereunder shall be reduced on a proportionate basis in the event any of the parking spaces in the Parking Areas are eliminated as a result of such damage or destruction affecting such Parking Areas. Except as expressly provided above with respect to abatement of Base Rent, Tenant shall have no claim against Landlord for, and hereby releases Landlord and Landlord's Agents from responsibility for and waives its entire claim of recovery for any cost, loss or expense suffered or incurred by Tenant as a result of any damage to or destruction of the Premises, the Building or the Project or the repair or restoration thereof, including, without limitation, any cost, loss or expense resulting from any loss of use of the whole or any part of the Premises, the Building or the Project and/or any inconvenience or annoyance occasioned by such damage, repair or restoration.

21.6 Restoration of Base Building Improvements and Tenant Improvements

If Landlord is obligated to or elects to repair or restore as herein provided, Landlord shall repair or restore only the Base Building Improvements constructed pursuant to the terms of this Lease, substantially to their condition existing immediately prior to the occurrence of the damage or destruction; and Tenant shall promptly repair and restore, at Tenant's expense, the Tenant Improvements and Tenant's Alterations. Landlord shall make available to Tenant to pay Restoration Costs (as hereinafter defined) any insurance proceeds actually collected by Landlord allocable to the Tenant Improvements and Alterations. Such proceeds shall be disbursed by Landlord in accordance with customary construction-lending practices and disbursement procedures (including, without limitation, the creation of a retention). As used herein, "**Restoration Costs**" means costs actually incurred by Tenant in repairing and restoring the Tenant Improvements and any Alterations made by Tenant to the Premises.

21.7 Waiver

Tenant hereby waives the provisions of California Civil Code Section 1932(2) and Section 1933(4) which permit termination of a lease upon destruction of the leased premises, and the provisions of any similar law now or hereinafter in effect, and the provisions of this Paragraph 21 shall govern exclusively in case of such destruction.

22. CONDEMNATION

(a) If twenty-five percent (25%) or more of the Building or fifty percent (50%) or more of the Designated Parking Areas (as hereinafter defined) is taken for any public or quasi-public purpose by any lawful governmental power or authority, by exercise of the right of appropriation, inverse condemnation, condemnation or eminent domain, or sold to prevent such taking (each such event being referred to as a "**Condemnation**"), Landlord may, at its option, terminate this Lease as of the date title vests in the condemning party. If twenty-five percent (25%) or more of the Premises is taken and if the Premises remaining after such Condemnation and any repairs by Landlord would be untenantable for the conduct of Tenant's business operations, Tenant shall have the right to terminate this Lease as of the date title vests in the condemning party. If either party elects to terminate this Lease as provided herein, such election shall be made by written notice to the other party given within thirty (30) days after the nature and extent of such Condemnation have been finally determined. If neither Landlord nor Tenant elects to terminate this Lease to the extent permitted above, Landlord shall promptly

proceed to restore the Premises, to the extent of any Condemnation award received by Landlord, to substantially the same condition as existed prior to such Condemnation, allowing for the reasonable effects of such Condemnation, and a proportionate abatement shall be made to the Base Rent and Additional Rent corresponding to the time during which, and to the portion of the floor area of the Premises (adjusted for any increase thereto resulting from any reconstruction) of which, Tenant is deprived on account of such Condemnation and restoration, as reasonably determined by Landlord. Except as expressly provided in the immediately preceding sentence with respect to abatement of Rent, Tenant shall have no claim against Landlord for, and hereby releases Landlord and Landlord's Agents from responsibility for and waives its entire claim of recovery for any cost, loss or expense suffered or incurred by Tenant as a result of any Condemnation or the repair or restoration of the Premises, the Building, the Project or the Parking Areas following such Condemnation, including, without limitation, any cost, loss or expense resulting from any loss of use of the whole or any part of the Premises, the Building, the Project or the parking areas and/or any inconvenience or annoyance occasioned by such Condemnation, repair or restoration. The provisions of California Code of Civil Procedure Section 1265.130, which allows either party to petition the Superior Court to terminate the Lease in the event of a partial taking of the Premises, the Building or the Project or the parking areas for the Building or the Project, and any other applicable law now or hereafter enacted, are hereby waived by Tenant.

(b) Landlord shall be entitled to any and all compensation, damages, income, rent, awards, or any interest therein whatsoever which may be paid or made in connection with any Condemnation, and Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease or otherwise; provided, however, that Tenant shall be entitled to receive any award separately allocated by the condemning authority to Tenant for Tenant's relocation expenses or the value of Tenant's Property (specifically excluding fixtures, Alterations and other components of the Premises which under this Lease or by law are or at the expiration of the Term will become the property of Landlord), provided that such award does not reduce any award otherwise allocable or payable to Landlord.

23. ASSIGNMENT AND SUBLETTING

23.1 Landlord's Consent Required Except for Permitted Transfers

Except as specifically provided for in Paragraph 23.3 below, Tenant shall not voluntarily or by operation of law, (1) mortgage, pledge, hypothecate or encumber this Lease or any interest herein, (2) assign or transfer this Lease or any interest herein, (3) sublease the Premises or any part thereof, or any right or privilege appurtenant thereto, or (4) allow any other person (the employees and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, provided that Tenant is not then in Default under this Lease nor is any event then occurring which with the giving of notice or the passage of time, or both, would constitute a Default hereunder.

23.2 Requirements of Request for Consent

When Tenant requests Landlord's consent to such assignment or subletting, it shall notify Landlord in writing of the name and address of the proposed assignee or subtenant and the nature and character of the business of the proposed assignee or subtenant and shall provide current and prior financial statements for the proposed assignee or subtenant prepared in accordance with generally accepted accounting principles consistently applied ("**GAAP**"). Tenant shall also provide Landlord with a copy of the proposed sublease or assignment agreement, including all material terms and conditions thereof, and such additional information concerning the proposed assignee or subtenant as Landlord may request. Landlord shall have the option, to be exercised within fifteen (15) days of receipt of the foregoing in the case of a proposed assignment or subletting affecting not more than eleven thousand (11,000) square feet of the Premises, and within thirty (30) days of receipt of the foregoing in the case

of a proposed assignment or subletting affecting more than eleven thousand (11,000) square feet ("**Landlord's Review Period**"), to (1) consent to the proposed assignment or sublease, (2) refuse its consent to the proposed assignment or sublease, providing that such consent shall not be unreasonably withheld, conditioned or delayed so long as Tenant is not then in Default under this Lease or the 901 Gateway Lease, nor is any event then occurring which with the giving of notice or the passage of time, or both, would constitute a Default hereunder or under the 901 Gateway Lease, or (3) sublease or take an assignment, as the case may be, from Tenant of the interest in this Lease and/or the Premises that Tenant proposes to assign or sublease, on the same terms and conditions as stated in the proposed sublet or assignment agreement. Notwithstanding the foregoing, in the event Tenant wishes to assign or sublet all of the Premises for all of the remainder of the Term (except in either event in connection with a Permitted Transfer), then in addition to the options specified in the aforesaid clauses (1), (2) and (3), Landlord shall have the additional right, to be exercised within the aforesaid thirty (30) day period, to terminate this Lease in its entirety. In the event Landlord elects to terminate this Lease or sublease or take an assignment from Tenant of the interest in this Lease and/or the Premises that Tenant proposes to assign or sublease as provided in the foregoing clauses of this Paragraph 23.2, then Landlord shall have the additional right to negotiate directly with Tenant's proposed assignee or subtenant and to enter into a direct lease or occupancy agreement with such party on such terms as shall be acceptable to Landlord in its sole and absolute discretion, and Tenant hereby waives any claims against Landlord related thereto, including, without limitation, any claims for any compensation or profit related to such lease or occupancy agreement.

23.3 Criteria To Be Considered in Connection with Request for Consent

Without otherwise limiting the criteria upon which Landlord may withhold its consent to a proposed assignment or sublease, Landlord shall be entitled to consider all reasonable criteria including, but not limited to, the following: (1) whether or not the proposed subtenant or assignee is engaged in a business which, and the Premises will be used in a manner which, is in keeping with the then character and nature of all other tenancies in the Project, (2) whether the use to be made of the Premises by the proposed subtenant or assignee will conflict with any so-called "exclusive" use then in favor of any other tenant of the Building, the Project, or the Adjacent Properties, and whether such use would be prohibited by any other portion of this Lease, including, but not limited to, any rules and regulations then in effect, or under applicable Laws, and whether such use imposes an unreasonable load upon the Premises and the Building and Project services, (3) the business reputation of the proposed individuals who will be managing and operating the business operations of the assignee or subtenant, and the long-term financial and competitive business prospects of the proposed assignee or subtenant, and (4) the creditworthiness and financial stability of the proposed assignee or subtenant in light of the responsibilities involved. In any event, Landlord may withhold its consent to any assignment or sublease if the actual use proposed to be conducted in the Premises or portion thereof is not a Permitted Use provided for under Paragraph 9 above or a general office use.

23.4 Permitted Transfers

Notwithstanding the foregoing, Tenant may, without Landlord's consent, but upon notice and delivery of evidence documenting such assignment or subletting, assign or sublet to an Affiliate (as defined below) of the original Tenant (such assignment or subletting being referred to as a "**Permitted Transfer**"). In addition, a sale or transfer of the capital stock of Tenant shall be deemed a Permitted Transfer if (1) such sale or transfer occurs in connection with any bona fide financing or capitalization for the benefit of Tenant or (2) occurring through a public trade. For purposes of this Lease, "**Affiliate**" shall mean, as to any Person, any person, firm or corporation (i) which shall be controlled by, under the control of, or under common control with such person, (ii) which results from a merger of, reorganization of, or consolidation with, or (iii) which acquires substantially all of the stock or assets with respect to the business that is conducted in the Premises. "**Person**" means any natural person, corporation, firm, association, government, governmental agency or any other entity, whether acting in

any individual, fiduciary or other capacity. For purposes hereof, "**control**" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, firm or corporation, whether through the ownership of voting securities, by contract or otherwise.

23.5 Excess Rent

If Landlord approves an assignment or subletting as herein provided, Tenant shall pay to Landlord, as Additional Rent, fifty percent (50%) of the Transfer Profits (as hereinafter defined), as evidenced by written records satisfactory to Landlord. As used herein, "Transfer Profits" means the difference, if any, between (1) the Base Rent plus Additional Rent allocable to that part of the Premises affected by such assignment or sublease pursuant to the provisions of this Lease, and (2) the rent and any additional rent payable by the assignee or sublessee to Tenant, less actual leasing commissions and reasonable attorneys' fees, if any, incurred by Tenant in connection with such assignment or sublease, and actual tenant improvement costs paid by Tenant in improving the Premises for the applicable assignee or subtenant up to an aggregate of five dollars ($5.00) per square foot of space subject to the assignment or sublease transaction. The assignment or sublease agreement, as the case may be, after approval by Landlord, shall not be amended without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, shall contain an express assumption by the assignee or subtenant of Tenant's obligations under this Lease and shall contain a provision directing the assignee or subtenant to pay the rent and other sums due thereunder directly to Landlord upon receiving written notice from Landlord that Tenant is in default under this Lease with respect to the payment of Rent. In the event that, notwithstanding the giving of such notice, Tenant collects any rent or other sums from the assignee or subtenant, then Tenant shall hold such sums in trust for the benefit of Landlord and shall immediately forward the same to Landlord. Landlord's collection of such rent and other sums shall not constitute an acceptance by Landlord of attornment by such assignee or subtenant. A consent to one assignment, subletting, occupation or use shall not be deemed to be a consent to any other or subsequent assignment, subletting, occupation or use, and consent to any assignment or subletting shall in no way relieve Tenant of any liability under this Lease. Any assignment or subletting without Landlord's consent shall be void, and shall, at the option of Landlord, constitute a Default under this Lease.

23.6 No Release of Tenant

Notwithstanding any assignment or subletting, including, without limitation, a Permitted Transfer, Tenant shall at all times remain fully responsible and liable for the payment of the Rent and for compliance with all of Tenant's other obligations under this Lease (regardless of whether Landlord's approval has been obtained for any such assignment or subletting).

23.7 Payment of Landlord's Fees

Tenant shall pay Landlord's reasonable fees (including, without limitation, the fees of Landlord's counsel, not to exceed $1,000.00 per transaction), incurred in connection with Landlord's review and processing of documents regarding any proposed assignment or sublease.

23.8 No Consent to Further Assignment

Notwithstanding anything in this Lease to the contrary, in the event Landlord consents to an assignment or subletting by Tenant in accordance with the terms of this Paragraph 23 (specifically excluding any Permitted Transfer), Tenant's assignee or subtenant shall have no right to further assign this Lease or any interest therein or thereunder or to further sublease all or any portion of the Premises.

23.9 Constraints Reasonable

Tenant acknowledges and agrees that the restrictions, conditions and limitations imposed by this Paragraph 23 on Tenant's ability to assign or transfer this Lease or any interest herein, to sublet the Premises or any part thereof, to transfer or assign any right or privilege appurtenant to the Premises, or to allow any other person to occupy or use the Premises or any portion thereof, are, for the purposes of California Civil Code Section 1951.4, as amended from time to time, and for all other purposes, reasonable at the time that the Lease was entered into, and shall be deemed to be reasonable at the time that Tenant seeks to assign or transfer this Lease or any interest herein, to sublet the Premises or any part thereof, to transfer or assign any right or privilege appurtenant to the Premises, or to allow any other person to occupy or use the Premises or any portion thereof.

24. TENANT'S DEFAULT

The occurrence of any one of the following events shall constitute an event of default on the part of Tenant ("**Default**"):

(a) The vacation of the Premises for a consecutive period of sixty (60) days or more, without (i) the intention of retaking possession or occupancy, and (ii) providing for the security of the Building, or the abandonment of the Premises by Tenant or any other vacation which would cause any insurance policy to be invalidated or otherwise lapse;

(b) Failure to pay any installment of Rent or any other monies due and payable hereunder within five (5) days after the date the same are due;

(c) A general assignment by Tenant for the benefit of creditors;

(d) The filing of a voluntary petition in bankruptcy by Tenant, the filing by Tenant of a voluntary petition for an arrangement, the filing by or against Tenant of a petition, voluntary or involuntary, for reorganization, or the filing of an involuntary petition by the creditors of Tenant, said involuntary petition remaining undischarged for a period of sixty (60) days;

(e) Receivership, attachment, or other judicial seizure of substantially all of Tenant's assets on the Premises, such attachment or other seizure remaining undismissed or undischarged for a period of sixty (60) days after the levy thereof;

(f) Death or disability of Tenant, if Tenant is a natural person, or the failure by Tenant to maintain its legal existence, if Tenant is a corporation, partnership, limited liability company, trust or other legal entity;

(g) Failure of Tenant to execute and deliver to Landlord any estoppel certificate, subordination agreement, or lease amendment in the time periods and manner required by Paragraphs 30 or 31 or 42;

(h) An assignment or sublease, or attempted assignment or sublease, of this Lease or the Premises by Tenant contrary to the provisions of Paragraph 23, unless such assignment or sublease is expressly conditioned upon Tenant having received Landlord's consent thereto;

(i) Failure of Tenant to deposit the Letter of Credit with Landlord when required under Paragraph 7, and/or failure of Tenant to restore the Letter of Credit to the amount and within the time period provided in Paragraph 7;

(j) Failure in the performance of any of Tenant's covenants, agreements or obligations hereunder (except those failures specified as events of Default in any other subparagraphs of this Paragraph 24, which shall be governed by such other subparagraphs), which failure continues for thirty (30) days after written notice thereof from Landlord to Tenant, provided that, if Tenant has exercised reasonable diligence to cure such failure and such failure cannot be cured within such

thirty (30) day period despite reasonable diligence, Tenant shall not be in default under this subparagraph so long as Tenant thereafter diligently and continuously prosecutes the cure to completion;

(k) Chronic delinquency by Tenant in the payment of Rent, or any other periodic payments required to be paid by Tenant under this Lease. **"Chronic delinquency"** shall mean failure by Tenant to pay Rent, or any other periodic payments required to be paid by Tenant under this Lease, when due (i) for any three (3) months (consecutive or nonconsecutive) during any period of twelve (12) months or (ii) for any twelve (12) months (consecutive or nonconsecutive) during the Term. In the event of a Chronic Delinquency, in addition to Landlord's other remedies for Default provided in this Lease, at Landlord's option, Landlord shall have the right to require that Rent be paid by Tenant quarterly, in advance;

(l) Chronic overuse by Tenant or Tenant's Agents of the number of undesignated parking spaces set forth in the Basic Lease Information. **"Chronic overuse"** shall mean use by Tenant or Tenant's Agents of a number of parking spaces greater than the number of parking spaces set forth in the Basic Lease Information more than three (3) times during any twelve (12) month period;

(m) Any insurance required to be maintained by Tenant pursuant to this Lease shall be canceled or terminated or shall expire or be reduced or materially changed, except as permitted in this Lease, and shall not have been replaced with substitute insurance satisfying the requirements of this Lease within five (5) business days of Tenant's receipt of notice of such termination, reduction or change;

(n) Any failure by Tenant to discharge any lien or encumbrance placed on the Project or any part thereof in violation of this Lease within ten (10) days after the date such lien or encumbrance is filed or recorded against the Project or any part thereof; and

(o) Any Default (as defined in the 901 Gateway Lease) under the terms of the 901 Gateway Lease.

Tenant agrees that any notice given by Landlord pursuant to Paragraph 24(j) above shall satisfy the requirements for notice under California Code of Civil Procedure Section 1161, and Landlord shall not be required to give any additional notice in order to be entitled to commence an unlawful detainer proceeding.

25. LANDLORD'S REMEDIES

25.1 Termination

In the event of any Default by Tenant, then in addition to any other remedies available to Landlord at law or in equity and under this Lease, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder by giving written notice of such intention to terminate. In the event that Landlord shall elect to so terminate this Lease then Landlord may recover from Tenant:

(1) the worth at the time of award of any unpaid Rent and any other sums due and payable which have been earned at the time of such termination; plus

(2) the worth at the time of award of the amount by which the unpaid Rent and any other sums due and payable which would have been earned after termination until the time of award exceeds the amount of such rental loss Tenant proves could have been reasonably avoided; plus

(3) the worth at the time of award of the amount by which the unpaid Rent and any other sums due and payable for the balance of the term of this Lease after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(4) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course would be likely to result therefrom, including, without limitation, (A) any costs or expenses incurred by Landlord (1) in retaking possession of the Premises; (2) in maintaining, repairing, preserving, restoring, replacing, cleaning, altering, remodeling or rehabilitating the Premises or any affected portions of the Building or the Project, including such, actions undertaken in connection with the reletting or attempted reletting of the Premises to a new tenant or tenants; (3) for leasing commissions, advertising costs and other expenses of resetting the Premises; or (4) in carrying the Premises, including taxes, insurance premiums, utilities and security precautions; (B) any unearned brokerage commissions paid in connection with Tenant's lease of the Premises; (C) reimbursement of any previously waived or abated Base Rent or Additional Rent or any free rent or reduced rental rate granted hereunder; and (D) any concession made or paid by Landlord to the benefit of Tenant in consideration of this Lease including, but not limited to, any moving allowances, contributions, payments or loans by Landlord for tenant improvements or build-out allowances (including, without limitation, any unamortized portion of the Tenant Improvement Allowance (such Tenant Improvement Allowance to be amortized over the Term in the manner reasonably determined by Landlord), if any), and any outstanding portion of the Deferred Allowance (including, without limitation, accrued interest thereon), if any, or assumptions by Landlord of any of Tenant's previous lease obligations; plus

(5) such reasonable attorneys' fees incurred by Landlord as a result of a Default, and costs in the event suit is filed by Landlord to enforce such remedy; and plus

(6) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

As used in subparagraphs (1) and (2) above, the "**worth at the time of award**" is computed by allowing interest at an annual rate equal to twelve percent (12%) per annum or the maximum rate permitted by law, whichever is less. As used in subparagraph (3) above, the "**worth at the time of award**" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%). Tenant waives redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other pertinent present or future Law, in the event Tenant is evicted or Landlord takes possession of the Premises by reason of any Default of Tenant hereunder.

25.2 Continuation of Lease

In the event of any Default by Tenant, then in addition to any other remedies available to Landlord at law or in equity and under this Lease, Landlord shall have the remedy described in California Civil Code Section 1951.4 (Landlord may continue this Lease in effect after Tenant's Default and abandonment and recover Rent as it becomes due, provided that Tenant has the right to sublet or assign, subject only to reasonable limitations). In addition, Landlord shall not be liable in any way whatsoever for its failure or refusal to relet the Premises; provided, however, that the foregoing provision shall not be deemed to relieve Landlord of any duty under applicable law to mitigate Tenant's damages in the event Landlord elects to seek damages for Tenant's breach or default. For purposes of this Paragraph 25.2, the following acts by Landlord will not constitute the termination of Tenant's right to possession of the Premises:

(1) Acts of maintenance or preservation or efforts to relet the Premises, including, but not limited to, alterations, remodeling, redecorating, repairs, replacements and/or painting as Landlord shall consider advisable for the purpose of reletting the Premises or any part thereof; or

(2) The appointment of a receiver upon the initiative of Landlord to protect Landlord's interest under this Lease or in the Premises.

25.3 Re-entry

In the event of any Default by Tenant, Landlord shall also have the right, with or without terminating this Lease, in compliance with applicable law, to re-enter the Premises and remove all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant.

25.4 Reletting

In the event of the abandonment of the Premises by Tenant or in the event that Landlord shall elect to re-enter as provided in Paragraph 25.3 or shall take possession of the Premises pursuant to legal proceeding or pursuant to any notice provided by law, then if Landlord does not elect to terminate this Lease as provided in Paragraph 25.1, Landlord may from time to time, without terminating this Lease, relet the Premises or any part thereof for such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable with the right to make alterations and repairs to the Premises in Landlord's sole discretion. In the event that Landlord shall elect to so relet, then rentals received by Landlord from such reletting shall be applied in the following order: (1) to reasonable attorneys' fees incurred by Landlord as a result of a Default and costs in the event suit is filed by Landlord to enforce such remedies; (2) to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; (3) to the payment of any costs of such reletting; (4) to the payment of the costs of any alterations and repairs to the Premises; (5) to the payment of Rent due and unpaid hereunder; and (6) the residue, if any, shall be held by Landlord and applied in payment of future Rent and other sums payable by Tenant hereunder as the same may become due and payable hereunder. Should that portion of such rentals received from such reletting during any month, which is applied to the. payment of Rent hereunder, be less than the Rent payable during the month by Tenant hereunder, then Tenant shall pay such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. Tenant shall also pay to Landlord, as soon as ascertained, any costs and expenses incurred by Landlord in such reletting or in making such alterations and repairs not covered by the rentals received from such reletting.

25.5 Termination

No re-entry or taking of possession of the Premises by Landlord pursuant to this Paragraph 25 shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any reletting without termination by Landlord because of any Default by Tenant, Landlord may at any time after such reletting elect to terminate this Lease for any such Default.

25.6 Cumulative Remedies

The remedies herein provided are not exclusive and Landlord shall have any and all other remedies provided herein or by law or in equity.

25.7 No Surrender

No act or conduct of Landlord, whether consisting of the acceptance of the keys to the Premises, or otherwise, shall be deemed to be or constitute an acceptance of the surrender of the Premises by Tenant prior to the expiration of the Term, and such acceptance by Landlord of surrender by Tenant shall only flow from and must be evidenced by a written acknowledgment of acceptance of surrender signed by Landlord. The surrender of this Lease by Tenant, voluntarily or otherwise, shall not work a merger unless Landlord elects in writing that such merger take place, but shall operate as an assignment to Landlord of any and all existing subleases, or Landlord may, at its option, elect in writing to treat such surrender as a merger terminating Tenant's estate under this Lease, and thereupon Landlord may terminate any or all such subleases by notifying the sublessee of its election so to do within five (5) days after such surrender.

26. LANDLORD'S RIGHT TO PERFORM TENANT'S OBLIGATIONS

26.1 Landlord's Right to Perform

Without limiting the rights and remedies of Landlord contained in Paragraph 25 above, if Tenant shall be in Default in the performance of any of the terms, provisions, covenants or conditions to be performed or complied with by Tenant pursuant to this Lease, then Landlord may at Landlord's option, without any obligation to do so, and without further notice to Tenant perform any such term, provision, covenant, or condition, or make any such payment and Landlord by reason of so doing shall not be liable or responsible for any loss or damage thereby sustained by Tenant or anyone holding under or through Tenant or any of Tenant's Agents, unless caused by Landlord's gross negligence or willful misconduct.

26.2 In Emergencies

Without limiting the rights of Landlord under Paragraph 25 above, Landlord shall have the right at Landlord's option, without any obligation to do so, to perform any of Tenant's covenants or obligations under this Lease without notice to Tenant in the case of an emergency, as determined by Landlord in its good faith and absolute judgment, or if Landlord otherwise determines in its reasonable discretion that such performance is necessary or desirable for the preservation of the rights and interests or safety of other tenants of the Building or the Project.

26.3 Tenant's Obligation to Reimburse Landlord

If Landlord performs any of Tenant's obligations hereunder in accordance with this Paragraph 26, the full amount of the cost and expense incurred or the payment so made or the amount of the loss so sustained shall immediately be owing by Tenant to Landlord, and Tenant shall promptly pay to Landlord upon demand, as Additional Rent, the full amount thereof with interest thereon from the date of payment by Landlord at the lower of (1) twelve percent (12%) per annum, or (2) the highest rate permitted by applicable law.

27. ATTORNEYS' FEES

27.1 Prevailing Party Entitled to Fees

If either party hereto fails to perform any of its obligations under this Lease or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Lease, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default and/or in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements. Any such attorneys' fees and other expenses incurred by either party in enforcing a judgment in its favor under this Lease shall be recoverable separately from and in addition to any other amount included in such judgment, and such attorneys' fees obligation is intended to be severable from the other provisions of this Lease and to survive and not be merged into any such judgment.

27.2 Costs of Collection

Without limiting the generality of Paragraph 27.1 above, if Landlord utilizes the services of an attorney for the purpose of collecting any Rent due and unpaid by Tenant or in connection with any other breach of this Lease by Tenant, Tenant agrees to pay Landlord reasonable attorneys' fees as determined by Landlord for such services, regardless of the fact that no legal action may be commenced or filed by Landlord.

28. TAXES

Tenant shall be liable for and shall pay, prior to delinquency, all taxes levied against Tenant's Property. If any Alteration or Tenant Improvement installed by Tenant pursuant to Paragraph 12 or any of Tenant's Property is assessed and taxed with the Project or Building, Tenant shall pay such taxes to Landlord, in an amount reasonably determined by Landlord if such taxes are not separately stated in the applicable tax bill, within ten (10) days after delivery to Tenant of a statement therefor.

29. EFFECT OF CONVEYANCE

The term "**Landlord**" as used in this Lease means, from time to time, the then current owner of the Building or the Project containing the Premises, so that, in the event of any sale of the Building or the Project, Landlord shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord arising hereunder from and after the date of such transfer, and it shall be deemed and construed, without further agreement between the parties and the purchaser at any such sale, that the purchaser of the Building or the Project has assumed and agreed to carry out any and all covenants and obligations of Landlord hereunder.

30. TENANT'S ESTOPPEL CERTIFICATE

From time to time, upon written request of Landlord, Tenant shall execute, acknowledge and deliver to Landlord or its designee, a written certificate stating (a) the date this Lease was executed, the Commencement Date of the Term and the date the Term expires; (b) the date Tenant entered into occupancy of the Premises; (c) the amount of Rent and the date to which such Rent has been paid; (d) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way (or, if assigned, modified, supplemented or amended, specifying the date and terms of any agreement so affecting this Lease); (e) that this Lease represents the entire agreement between the parties with respect to Tenant's right to use and occupy the Premises (or specifying such other agreements, if any); (f) that all obligations under this Lease to be performed by Landlord as of the date of such certificate have been satisfied (or specifying those as to which Tenant claims that Landlord has yet to perform); (g) that all required contributions by Landlord to Tenant on account of Tenant's improvements have been received (or stating exceptions thereto); (h) that on such date there exist no defenses or offsets that Tenant has against the enforcement of this Lease by Landlord (or stating exceptions thereto); (i) that no Rent or other sum payable by Tenant hereunder has been paid more than one (1) month in advance (or stating exceptions thereto); (j) that a currently valid Letter of Credit has been deposited with Landlord, stating the original amount thereof and any increases or decreases thereto; and (k) any other matters evidencing the status of this Lease that may be required either by a lender making a loan to Landlord to be secured by a deed of trust covering the Building or the Project or by a purchaser of the Building or the Project. Any such certificate delivered pursuant to this Paragraph 30 may be relied upon by a prospective purchaser of Landlord's interest or a mortgagee of Landlord's interest or assignee of any mortgage upon Landlord's interest in the Premises. If Tenant shall fail to provide such certificate within ten (10) days of receipt by Tenant of a written request by Landlord as herein provided, such failure shall, at Landlord's election, constitute a Default under this Lease, and Tenant shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee.

31. SUBORDINATION

Landlord shall have the right to cause this Lease to be and remain subject and subordinate to any and all mortgages, deeds of trust and ground leases, if any ("**Encumbrances**") that are now or may hereafter be executed covering the Premises, or any renewals, modifications, consolidations, replacements or extensions thereof, for the full amount of all advances made or to be made thereunder

and without regard to the time or character of such advances, together with interest thereon and subject to all the terms and provisions thereof; provided only, and as an express condition precedent to any such subordination of this Lease to an Encumbrance hereafter executed covering the Premises, that the holder of such Encumbrance ("**Holder**") shall agree to recognize Tenant's rights under this Lease upon the foreclosure or termination, as applicable, of such Encumbrance as long as Tenant shall pay the Rent and observe and perform all the provisions of this Lease to be observed and performed by Tenant. Within ten (10) days after Landlord's written request, Tenant shall execute, acknowledge and deliver any and all reasonable documents required by Landlord or the Holder to effectuate such subordination, provided that, concurrently with the execution of such subordination documents, the Holder shall execute a nondisturbance agreement in favor of Tenant consistent with the terms of this Paragraph 31. If Tenant fails to do so, such failure shall constitute a Default by Tenant under this Lease. Notwithstanding anything to the contrary set forth in this Paragraph 31, Tenant hereby attorns and agrees to attorn to any person or entity purchasing or otherwise acquiring the Premises at any sale or other proceeding or pursuant to the exercise of any other rights, powers or remedies under such Encumbrance.

32. ENVIRONMENTAL COVENANTS

32.1 Disclosure Certificate

Prior to executing this Lease, Tenant has completed, executed and delivered to Landlord a Hazardous Materials Disclosure Certificate ("**Initial Disclosure Certificate**"), a fully completed copy of which is attached hereto as ***Exhibit E*** and incorporated herein by this reference. Tenant covenants, represents and warrants to Landlord that the information on the Initial Disclosure Certificate is, to the best of Tenant's knowledge, true and correct and accurately describes the Hazardous Materials which will be treated, used or stored on or about the Premises by Tenant or Tenant's Agents.

32.2 Tenant's Obligation to Update Disclosure Certificate

Tenant shall, on a semi-annual basis, complete, execute and deliver to Landlord an updated Disclosure Certificate (each, an "**Updated Disclosure Certificate**") describing Tenant's then current and proposed future uses of Hazardous Materials on or about the Premises, which Updated Disclosure Certificates shall be in the same format as that which is set forth in ***Exhibit F*** or in such updated format as Landlord may require from time to time. Landlord shall have the right to approve or disapprove such new or additional Hazardous Materials in its sole and absolute discretion. Tenant shall make no use of Hazardous Materials on or about the Premises except as described in the Initial Disclosure Certificate or as otherwise approved by Landlord in writing in accordance with this Paragraph 32.2.

32.3 Definition of Hazardous Materials

As used in this Lease, the term "**Hazardous Materials**" shall mean and include any substance that is or contains (1) any "hazardous substance" as now or hereafter defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("**CERCLA**") (42 U.S.C. § 9601 *et seq*.) or any regulations promulgated under CERCLA; (2) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act, as amended ("**RCRA**") (42 U.S.C. § 6901 *et seq*.) or any regulations promulgated under RCRA; (3) any substance now or hereafter regulated by the Toxic Substances Control Act, as amended ("**TSCA**") (15 U.S.C. § 2601 *et seq*.) or any regulations promulgated under TSCA; (4) petroleum, petroleum by-products, gasoline, diesel fuel, or other petroleum hydrocarbons; (5) asbestos and asbestos-containing material, in any form, whether friable or non-friable; (6) polychlorinated biphenyls; (7) lead and lead-containing materials; or (8) any additional substance, material or waste (A) the presence of which on or about the Premises (i) requires reporting, investigation or remediation under any Environmental Laws (as hereinafter defined), (ii) causes or threatens to cause a nuisance on the

Premises or any adjacent area or property or poses or threatens to pose a hazard to the health or safety of persons on the Premises or any adjacent area or property, or (iii) which, if it emanated or migrated from the Premises, could constitute a trespass, or (B) which is now or is hereafter classified or considered to be hazardous or toxic under any Environmental Laws. Landlord hereby notifies Tenant in accordance with California Health & Safety Code Section 25359.7 that in 1981-82, the Project was the subject of a state-supervised cleanup of hazardous waste disposed of on the site by prior occupants. As part of the cleanup approved by the applicable agencies, some soils containing heavy metals were left in place, covered by clean fill. These soils are managed in accordance with the requirements of the applicable agencies and a Declaration of Covenants, Conditions and Restrictions imposed by Homart Development Co.

32.4 Definition of Environmental Laws

As used in this Lease, the term "**Environmental Laws**" shall mean and include (1) CERCLA, RCRA and TSCA; and (2) any other federal, state or local laws, ordinances, statutes, codes, rules, regulations, orders or decrees now or hereinafter in effect relating to (A) pollution, (B) the protection or regulation of human health, natural resources or the environment, (C) the treatment, storage or disposal of Hazardous Materials, or (D) the emission, discharge, release or threatened release of Hazardous Materials into the environment.

32.5 Tenant's Use of Hazardous Materials

Tenant agrees that during its use and occupancy of the Premises it will (1) not (A) introduce any Hazardous Materials on or about the Premises except in a manner and quantity necessary for the ordinary performance of Tenant's business or (B) release, discharge or dispose of any Hazardous Materials on, in, at, under, or emanating from, the Premises, the Building or the Project; (2) comply with all Environmental Laws relating to Tenant's use of Hazardous Materials in, on or about the Premises and not engage in or permit Tenant's Agents to engage in any activity in, on or about the Premises in violation of any Environmental Laws; and (3) immediately notify Landlord of (A) any inquiry, test, investigation or enforcement proceeding by any governmental agency or authority against Tenant, Landlord or the Premises, Building or Project relating to any Hazardous Materials or under any Environmental Laws or (B) the occurrence of any event or existence of any condition that would cause a breach of any of the covenants set forth in this Paragraph 32.

32.6 Tenant's Remediation Obligations

If Tenant's use of Hazardous Materials on or about the Premises results in a release, discharge or disposal of Hazardous Materials on, in, at, under, or emanating from, the Premises, the Building or the Project, Tenant agrees to investigate, clean up, remove or remediate such Hazardous Materials in full compliance with (1) the requirements of (A) all Environmental Laws and (B) any governmental agency or authority responsible for the enforcement of any Environmental Laws; and (2) any additional requirements of Landlord that are reasonably necessary to protect the value of the Premises, the Building or the Project.

32.7 Landlord's Inspections

Upon twenty-four (24) hours' notice to Tenant (except in the case of an emergency, in which event no advance notice shall be required), Landlord may inspect the Premises and surrounding areas for the purpose of determining whether there exists on or about the Premises any Hazardous Material or other condition or activity that is in violation of the requirements of this Lease or of any Environmental Laws. Such inspections may include, but are not limited to, entering upon the property adjacent to or surrounding the Premises with drill rigs or other machinery for the purpose of obtaining laboratory samples. Landlord shall not be limited in the number of such inspections during the Term of this Lease. In the event (1) such inspections reveal the presence of any such Hazardous Material or other condition or activity caused by Tenant or its Agents in violation of the requirements of this Lease or of

any Environmental Laws, or (2) Tenant or its Agents contribute or knowingly consent to the importation of any Hazardous Materials in, on, under, through or about the Premises, the Building or the Project or, through their actions, exacerbate the condition of or the conditions caused by any Hazardous Materials in, on, under, through or about the Premises, the Building or the Project, Tenant shall reimburse Landlord for the cost of such inspections within ten (10) days of receipt of a written statement therefor. Tenant will supply to Landlord such historical and operational information regarding the Premises and surrounding areas as may be reasonably requested to facilitate any such inspection and will make available for meetings appropriate personnel having knowledge of such matters. In the event Tenant vacates the Premises prior to the Expiration Date, Tenant shall give Landlord at least sixty (60) days' prior notice of its intention to vacate the Premises so that Landlord will have an opportunity to perform such an inspection prior to such vacation. The right granted to Landlord herein to perform inspections shall not create a duty on Landlord's part to inspect the Premises, or liability on the part of Landlord for Tenant's use, storage, treatment or disposal of Hazardous Materials, it being understood that Tenant shall be solely responsible for all liability in connection therewith.

32.8 Landlord's Right to Remediate

Landlord shall have the right, but not the obligation, prior or subsequent to a Default, without in any way limiting Landlord's other rights and remedies under this Lease, to enter upon the Premises, or to take such other actions as it deems necessary or advisable, to investigate, clean up, remove or remediate any Hazardous Materials or contamination by Hazardous Materials present on, in, at, under, or emanating from, the Premises, the Building or the Project in violation of Tenant's obligations under this Lease or under any Environmental Laws. Notwithstanding any other provision of this Lease, Landlord shall also have the right, at its election, in its own name or as Tenant's agent, to negotiate, defend, approve and appeal, at Tenant's expense, any action taken or order issued by any governmental agency or authority with regard to any such Hazardous Materials or contamination by Hazardous Materials. All reasonable costs and expenses paid or incurred by Landlord in the exercise of the rights set forth in this Paragraph 32 shall be payable by Tenant upon demand.

32.9 Condition of Premises Upon Expiration or Termination

Tenant shall surrender the Premises to Landlord upon the expiration or earlier termination of this Lease free of debris, waste or Hazardous Materials placed on, about or near the Premises by Tenant or Tenant's Agents, and in a condition which complies with (i) all Environmental Laws, and (ii) any additional requirements of Landlord that are reasonably necessary to protect the value of the Premises, the Building or the Project, including, without limitation, the obtaining of any closure permits or other governmental permits or approvals related to Tenant's use of Hazardous Materials in or about the Premises. Tenant's obligations and liabilities pursuant to the provisions of this Paragraph 32 shall survive the expiration or earlier termination of this Lease.

32.10 Tenant's Indemnification of Landlord

Tenant agrees to indemnify and hold harmless Landlord from and against any and all claims, losses (including, without limitation, loss in value of the Premises, the Building or the Project and any losses to Landlord due to lost opportunities to lease any portions of the Premises to succeeding tenants due to the failure of Tenant to surrender the Premises upon the expiration or sooner termination of this Lease in accordance with the provisions of Paragraph 32.9 above), liabilities and expenses (including attorneys' fees) sustained by Landlord attributable to (1) any Hazardous Materials placed on or about the Premises, the Building or the Project by Tenant or Tenant's Agents, or (2) Tenant's breach of any provision of this Paragraph 32.

32.11 Landlord's Indemnification of Tenant

Landlord agrees to indemnify and hold harmless Tenant from and against any and all claims, losses, liabilities and expenses (including attorneys' fees, but specifically excluding lost profits and consequential damages) actually sustained by Tenant attributable to any Hazardous Materials placed on or about the Premises, the Building or the Project by Landlord or Landlord's Agents, except to the extent the condition thereof has been exacerbated by Tenant or Tenant's Agents.

32.12 Limitation of Tenant's Liability

Notwithstanding anything in this Lease to the contrary, Tenant shall not be responsible for the clean up or remediation of, and shall not be required to indemnify Landlord against any costs or liabilities attributable to, contamination by Hazardous Materials during the Term caused by third parties or Hazardous Materials place on or about the Premises (i) prior to the Commencement Date by third parties not related to Tenant or Tenant's Agents, or (ii) by Landlord at any time, except in any of the foregoing cases to the extent that Tenant or Tenant's Agents have contributed to or exacerbated the presence of such Hazardous Materials.

32.13 Survival

The provisions of this Paragraph 32 shall survive the expiration or earlier termination of this Lease.

33. NOTICES

All notices and demands which are required or may be permitted to be given to either party by the other hereunder shall be in writing and shall be sent by United States mail, postage prepaid, certified, or by personal delivery or overnight courier, addressed to the addressee at Tenant's Address or Landlord's Address as specified in the Basic Lease Information, or to such other place as either party may from time to time designate in a notice to the other party given as provided herein. Copies of all notices and demands given to Landlord shall additionally be sent to Landlord's property manager at the address specified in the Basic Lease Information or at such other address as Landlord may specify in writing from time to time. Notice shall be deemed given upon actual receipt (or attempted delivery if delivery is refused), if personally delivered, or one (1) business day following deposit with a reputable overnight courier that provides a receipt, or on the third (3rd) day following deposit in the United States mail in the manner described above.

34. WAIVER

The waiver of any breach of any term, covenant or condition of this Lease shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No delay or omission in the exercise of any right or remedy of Landlord in regard to any Default by Tenant shall impair such a right or remedy or be construed as a waiver. Any waiver by Landlord of any Default must be in writing and shall not be a waiver of any other Default concerning the same or any other provisions of this Lease.

35. HOLDING OVER

Any holding over after the expiration of the Term, without the express written consent of Landlord, shall constitute a Default and, without limiting Landlord's remedies provided in this Lease, such holding over shall be construed to be a tenancy at sufferance, at a rental rate equal to the greater of one hundred fifty percent (150%) of (i) the fair market rental value for the Premises as determined

by Landlord or (ii) the Base Rent last due in this Lease, plus Additional Rent, and shall otherwise be on the terms and conditions herein specified, so far as applicable; provided, however, that in no event shall any renewal or extension option or other similar right or option contained in this Lease be deemed applicable to any such tenancy at sufferance. If the Premises are not surrendered at the end of the Term or sooner termination of this Lease, and in accordance with the provisions of Paragraphs 11 and 32.9, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all loss or liability resulting from delay by Tenant in so surrendering the Premises including, without limitation, any loss or liability resulting from any claim against Landlord made by any succeeding tenant or prospective tenant caused by such delay and losses to Landlord due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

36. SUCCESSORS AND ASSIGNS

36.1 Binding on Successors, Etc.

The terms, covenants and conditions of this Lease shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all of the parties hereto. If Tenant shall consist of more than one entity or person, the obligations of Tenant under this Lease shall be joint and several.

36.2 Landlord's Right to Sell

Notwithstanding anything in this Lease to the contrary, Landlord shall have the right to sell, transfer or otherwise convey, either separately or jointly, its interest in the Building and/or the Project, and all of Landlord's related rights and obligations hereunder, to any Person.

37. TIME

Time is of the essence of this Lease and each and every term, condition and provision herein.

38. BROKERS

Landlord and Tenant each represents and warrants to the other that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker except BT Commercial ("Broker") in relation to Tenant's lease of the Premises and/or the negotiating or making of this Lease, and each party agrees to indemnify and hold harmless the other from any claim or claims, and costs and expenses, including attorneys' fees, incurred by the indemnified party in conjunction with any such claim or claims of any other broker or brokers to a commission in connection with this Lease as a result of the actions of the indemnifying party. Landlord has paid or will hereafter pay the brokerage commissions due to BT Commercial in relation to Tenant's lease of the Premises. Nothing contained herein shall restrict Landlord from paying any fees owed by Landlord in connection with Tenant's lease of the Premises and/or the execution of this Lease to any constituent partner of Landlord (or any Affiliate of any such partner) and to any consultants providing services to Landlord in connection with the Project.

39. LIMITATION OF LIABILITY

Tenant agrees that, in the event of any default or breach by Landlord with respect to any of the terms of this Lease to be observed and performed by Landlord or with respect to the enforcement of an indemnity obligation of Landlord under this Lease (1) Tenant shall look solely to the then-current landlord's interest in the Building for the satisfaction of such indemnity obligation of Landlord or for satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord; (2) no other property or assets of Landlord, its partners,

shareholders, officers, directors, employees, investment advisors, or any successor in interest of any of them (collectively, the "**Landlord Parties**") shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies; (3) no personal liability shall at any time be asserted or enforceable against the Landlord Parties; and (4) no judgment will be taken against the Landlord Parties (except for a judgment against Landlord which is enforceable only to the extent of Landlord's interest in the Building). The provisions of this Paragraph shall apply only to the Landlord and the parties herein described, and shall not be for the benefit of any insurer nor any other third party.

40. FINANCIAL STATEMENTS

Within ten (10) days after Landlord's request, Tenant shall deliver to Landlord the then current, or if Tenant is a publicly traded company, the publicly available financial statements of Tenant (including interim periods following the end of the last fiscal year for which annual statements are available), prepared, compiled or reviewed by a certified public accountant, including a balance sheet and profit and loss statement for the most recent prior year, all prepared in accordance with GAAP.

41. RULES AND REGULATIONS

Tenant agrees to comply with such reasonable rules and regulations as Landlord may adopt from time to time for the orderly and proper operation of the Building and the Project. Such rules may include but shall not be limited to the following: (a) restriction of employee parking to a limited, designated area or areas in reasonable proximity to the Building; and (b) regulation of the removal, storage and disposal of Tenant's refuse and other rubbish at the sole cost and expense of Tenant. The then current rules and regulations shall be binding upon Tenant upon delivery of a copy of them to Tenant. Landlord shall not be responsible to Tenant for the failure of any other person to observe and abide by any of said rules and regulations; provided, however, that Landlord shall enforce such rules and regulation in a non-discriminatory manner. Landlord's current rules and regulations are attached to this Lease as ***Exhibit D***.

42. MORTGAGEE PROTECTION

42.1 Modifications for Lender

If, in connection with obtaining financing for the Project or any portion thereof, Landlord's lender shall request reasonable modifications to this Lease as a condition to such financing, Tenant shall not unreasonably withhold, delay or defer its consent to such modifications, provided that such modifications do not materially adversely affect Tenant's rights or increase Tenant's obligations under this Lease.

42.2 Rights to Cure

Tenant agrees to give to any trust deed or mortgage holder ("**Holder**"), by registered mail, at the same time as it is given to Landlord, a copy of any notice of default given to Landlord, provided that prior to such notice Tenant has been notified, in writing, (by way of notice of assignment of rents and leases, or otherwise) of the address of such Holder. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in this Lease, then the Holder shall have an additional twenty (20) days after expiration of such period, or after receipt of such notice from Tenant (if such notice to the Holder is required by this Paragraph 42.2), whichever shall last occur within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary if within such twenty (20) days, any Holder has commenced and is diligently pursuing the remedies necessary to cure such default (including, but not limited to, commencement of foreclosure proceedings, if necessary to effect such cure), in which event there shall be no default under this Lease.

43. ENTIRE AGREEMENT

This Lease, including the Exhibits and any Addenda attached hereto, which are hereby incorporated herein by this reference, contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein or therein, shall be of any force and effect. Without limiting the foregoing, the terms and provisions of that certain Option to Lease Agreement dated as of February 17, 1999, entered into by the parties hereto concurrently with the execution of the 901 Gateway Lease, shall be of no further force or effect and shall be deemed superseded in their entirety by the terms and provisions contained in this Lease.

44. INTEREST

Any installment of Rent and any other sum due from Tenant under this Lease which is not received by Landlord when due shall bear interest from the date such payment was originally due under this Lease until paid at an annual rate equal to the maximum rate of interest permitted by law. Payment of such interest shall not excuse or cure any Default by Tenant. In addition, Tenant shall pay all costs and reasonable attorneys' fees incurred by Landlord in collection of such amounts.

45. INTERPRETATION

This Lease shall be construed and interpreted in accordance with the laws of the State of California. The parties acknowledge and agree that no rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Lease, including the Exhibits and any Addenda attached hereto. All captions in this Lease are for reference only and shall not be used in the interpretation of this Lease. Whenever required by the context of this Lease, the singular shall include the plural, the masculine shall include the feminine, and vice versa. If any provision of this Lease shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect. Unless otherwise specifically stated herein to the contrary, Landlord's consent may be given or withheld in Landlord's sole and absolute discretion.

46. REPRESENTATIONS AND WARRANTIES

46.1 Of Tenant

Tenant hereby makes the following representations and warranties, each of which is material and being relied upon by Landlord, is true in all respects as of the date of this Lease, and shall survive the expiration or termination of the Lease.

(1) If Tenant is an entity, Tenant is duly organized, validly existing and in good standing under the laws of the state of its organization and the persons executing this Lease on behalf of Tenant have the full right and authority to execute this Lease on behalf of Tenant and to bind Tenant without the consent or approval of any other person or entity. Tenant has full power, capacity, authority and legal right to execute and deliver this Lease and to perform all of its obligations hereunder. This Lease is a legal, valid and binding obligation of Tenant, enforceable in accordance with its terms.

(2) Tenant has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by any creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets, (iv) suffered the attachment or other judicial seizure of all or substantially all of its assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

46.2 Of Landlord

Landlord hereby makes the following representations and warranties, each of which is material and being relied upon by Tenant, is true in all respects as of the date of this Lease, and shall survive the expiration or termination of the Lease.

(1) If Landlord is an entity, Landlord is duly organized, validly existing and in good standing under the laws of the state of its organization and the persons executing this Lease on behalf of Landlord have the full right and authority to execute this Lease on behalf of Landlord and to bind Landlord without the consent or approval of any other person or entity. Landlord has full power, capacity, authority and legal right to execute and deliver this Lease and to perform all of its obligations hereunder. This Lease is a legal, valid and binding obligation of Landlord, enforceable in accordance with its terms.

(2) Landlord has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by any creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets, (iv) suffered the attachment or other judicial seizure of all or substantially all of its assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

47. SECURITY

47.1 Landlord Not Obligated to Provide Security

Tenant acknowledges and agrees that, while Landlord may engage security personnel to patrol the Building or the Project, Landlord is not required to provide any security services with respect to the Premises, the Building or the Project and that Landlord shall not be liable to Tenant for, and Tenant waives any claim against Landlord with respect to, any loss by theft or any other damage suffered or incurred by Tenant in connection with any unauthorized entry into the Premises or any other breach of security with respect to the Premises, the Building or the Project.

47.2 Tenant's Obligation to Comply with Security Measures

Tenant hereby agrees to the exercise by Landlord and Landlord's Agents, within their sole discretion, of such security measures as, but not limited to, the evacuation of the Premises, the Building or the Project for cause, suspected cause or for drill purposes, the denial of any access to the Premises, the Building or the Project and other similarly related actions that it deems necessary to prevent any threat of property damage or bodily injury. The exercise of such security measures by Landlord and Landlord's Agents, and the resulting interruption of service and cessation of Tenant's business, if any, shall not be deemed an eviction or disturbance of Tenant's use and possession of the Premises, or any part thereof, or render Landlord or Landlord's Agents liable to Tenant for any resulting damages, or relieve Tenant from Tenant's obligations under this Lease.

48. JURY TRIAL WAIVER

Landlord and Tenant each hereby waive any right to trial by jury with respect to any action or proceeding (i) brought by Landlord, Tenant or any other party, relating to (A) this Lease and/or any understandings or prior dealings between the parties hereto, or (B) the Premises, the Building or the Project or any part thereof, or (ii) to which Landlord is a party. The parties each hereby agree that this Lease constitutes a written consent to waiver of trial by jury pursuant to the provisions of California Code of Civil Procedure Section 631.

49. OPTION TO RENEW

Tenant shall have two (2) options (each a "**Renewal Option**") to extend the Term of this Lease with respect to the entire Premises for successive periods of five (5) years each (each a "**Renewal Term**"). Each Renewal Option shall be effective only if (i) Tenant is not in Default under this Lease and no event has occurred which with the giving of notice or the passage of time, or both, would constitute a Default hereunder, either at the time of exercise of the Renewal Option or the time of commencement of the Renewal Term, and (ii) concurrently with the exercise of each such Renewal Option hereunder, Tenant validly exercises the corresponding renewal option contained in Paragraph 49 of the 901 Gateway Lease.

49.1 Commencement Dates

If Tenant exercises the first Renewal Option in accordance herewith, the first Renewal Term shall commence on the day following the last day of the initial Term and end on the day preceding the fifth anniversary thereof. If Tenant exercises the second Renewal Option, the second Renewal Term shall commence on the day following the last day of the first Renewal Term and end on the day preceding the fifth anniversary thereof. The second Renewal Option may not be exercised unless Tenant has previously exercised the first Renewal Option hereunder and under the 901 Gateway Lease. Each Renewal Term, if properly exercised, shall be upon the same terms and conditions as the Lease except for Monthly Base Rent (which shall be determined as provided in the following provisions of this Paragraph).

49.2 Renewal Option is Personal; Non-Transferable

The Renewal Option shall be personal to Tenant, any transferee under a Permitted Transfer, and any assignee to whom Tenant assigns its entire right, title and interest under, or any sublessee to whom Tenant subleases the entire Premises for the entire remaining Term of, this Lease, and shall not be assignable or otherwise transferable in whole or in part, voluntarily or by operation of law, to any other permitted assignee, subtenant or other third parties and there shall be no further Renewal Option beyond the expiration of the second Renewal Term.

49.3 Tenant's Notice of Exercise

In order to exercise a Renewal Option, Tenant shall give written notice to Landlord of Tenant's exercise of such election ("**Tenant's Notice**") at least ten (10) months prior to expiration of the then current Term and if such notice is not so given, the Renewal Option shall lapse; the Tenant hereby expressly acknowledges and agrees that time is of the essence for purposes of notice of exercise of a Renewal Option and that Tenant's failure to do so by said date will relieve Landlord of any obligation under this Paragraph. If Tenant gives such notice within the time prescribed, Landlord and Tenant shall be deemed to have entered into an extension of this Lease for a five (5) year extended term on the terms and conditions set forth herein.

49.4 Monthly Base Rent During Renewal Term

The Monthly Base Rent payable during any Renewal Term shall be an amount equal to the greater of (i) the Monthly Base Rent payable for the last month of the then expiring Term (provided that such

Monthly Base Rent shall be increased during each year of the Renewal Term to an amount equal to one hundred three percent (103%) of the Monthly Base Rent payable during the immediately preceding term), or (ii) ninety-five percent (95%) of the Fair Market Rent (as hereinafter defined) for the Premises during such Renewal Term.

49.4.1 Fair Market Rent Definition

"**Fair Market Rent**" shall mean the rate being charged for comparable office/R&D/laboratory space in comparable locations in the South San Francisco/Brisbane market area, taking into consideration: tenant credit, tenant improvements or allowances provided or to be provided and leasing commissions, but specifically excluding Tenant's Property, any specialized laboratory improvements or other Tenant Improvements actually paid for by Tenant (as determined in accordance with Paragraph 12.6 above).

49.4.2 Determination of Fair Market Rent

Landlord and Tenant shall meet and attempt in good faith to mutually determine the Fair Market Rent for any Renewal Term. If the parties have not reached agreement on the Fair Market Rent by the date that is thirty (30) days after Landlord's receipt of Tenant's Notice, each party shall appoint an arbitrator and shall give to the other party notice of the identity of the arbitrator no later than the date that is forty (40) days after Landlord's receipt of Tenant's Notice. If either party fails to appoint an arbitrator by the date that is forty (40) days after Landlord's receipt of Tenant's Notice, the sole arbitrator appointed, if any, shall determine the Fair Market Rent. If two arbitrators are appointed, they shall immediately meet and attempt to agree upon such Fair Market Rent. If the arbitrators cannot reach agreement on the Fair Market Rent by the date that is sixty (60) days after Landlord's receipt of Tenant's Notice, each arbitrator shall submit a determination of Fair Market Rent to Landlord and Tenant. If the determinations of Fair Market Rent made by these two arbitrators vary by ten percent (10%) or less, the Fair Market Rent shall be the average of the two determinations. If the determinations vary by more than ten percent (10%), the two arbitrators shall within ten (10) days after submission of their determinations appoint a third arbitrator. If the two arbitrators shall be unable to agree on the selection of a third arbitrator within the 10-day period, then either Tenant or Landlord may request such appointment by petitioning the presiding judge of the Superior Court in and for the County of San Mateo. Such third arbitrator shall, within thirty (30) days after appointment, make a determination of the Fair Market Rent and submit such determination to Landlord and Tenant. The Fair Market Rent shall be the determination of Fair Market Rent submitted by the original two arbitrators that is closer to the Fair Market Rent determination of the third arbitrator. If the third arbitrator's determination is exactly between the Fair Market Rent determination of the original two arbitrators, then the Fair Market Rent shall be the average of the original two determinations. The determination of Fair Market Rent pursuant to this Paragraph 49 shall be final and binding on Landlord and Tenant.

49.4.3 Arbitrator Qualifications

For purposes of this Paragraph, "**arbitrator**" shall mean a licensed commercial real estate broker or leasing agent with not less than five (5) years of full-time commercial brokerage experience in San Mateo County.

49.4.4 Fees and Costs of Arbitrators

Each party shall bear the fees and costs of its arbitrator in connection with the determination of Fair Market Rent and one-half of the fees and costs of the third arbitrator, if any.

49.4.5 Arbitration Period Base Rent

If the determination of Fair Market Rent has not been made by the expiration of the then expiring Term, Tenant shall (i) continue to pay Monthly Base Rent at the Monthly Base Rent for the last month

of the Term (the "**Arbitration Period Base Rent**") as well as any Additional Rent due under the Lease and (ii) pay to Landlord, or receive as a refund from Landlord, as applicable, on the first day of the month after the determination of Fair Market Rent is made, an amount, if any, equal to the difference between the Arbitration Period Base Rent that was paid to Landlord and the Monthly Base Rent for the Renewal Term that should have been paid to Landlord as the Monthly Base Rent for the Renewal Term as determined hereunder.

50. PARKING

50.1 Grant of Parking License

Provided that Tenant shall comply with and abide by Landlord's parking rules and regulations from time to time in effect, Tenant shall have a license to use for the parking of passenger automobiles the number of non-exclusive and undesignated parking spaces set forth in the Basic Lease Information in the areas designated for parking by Landlord from time to time (the "**Designated Parking Areas**"). Notwithstanding the foregoing, Landlord shall not be required to enforce Tenant's right to use any such parking spaces (but Landlord shall use commercially reasonable efforts to resolve any problems related to parking); and provided, further, that the number of parking spaces allocated to Tenant hereunder shall be reduced on a proportionate basis in the event any of the parking spaces in the Designated Parking Areas are taken or otherwise eliminated as a result of any Condemnation or casualty event affecting such Designated Parking Areas. Notwithstanding the foregoing provisions of this Paragraph 50.1, Landlord shall have the right to relocate Tenant's parking from time to time to other areas within the Project and to provide parking spaces to Tenant in surface parking lots, parking structures or other areas now or hereafter designated by Landlord as the "Project's Parking Areas." All unreserved spaces will be on a first-come, first-served basis in common with other tenants of and visitors to the Project in parking spaces provided by Landlord from time to time in the Project's Parking Areas. Tenant's license to use the parking spaces provided for herein shall be subject to such terms, conditions, rules and regulations as Landlord or the operator of the Parking Area may impose from time to time.

50.2 No Assignment of Parking License

The license granted hereunder is for self-service parking only and does not include additional rights or services except to the extent that Landlord elects in its sole and absolute discretion to provide any such services.

50.3 Visitor Parking

Tenant recognizes and agrees that visitors, clients and/or customers (collectively the "**Visitors**") to the Project and the Premises must park automobiles or other vehicles only in areas designated by Landlord from time to time as being for the use of such Visitors and Tenant hereby agrees to ask its Visitors to park only in the areas designated by Landlord from time to time for the use of Tenant's Visitors.

51. RIGHT OF FIRST OFFER

51.1 Offer Notice

If subsequent to the full execution of this Lease, Landlord desires to sell the Building, Landlord shall notify Tenant in writing of such intent to sell (the "**Offer Notice**"); provided, however, that Landlord shall not be required to provide Tenant with the Offer Notice with respect to the Building if Landlord has previously terminated this Lease or recaptured the Premises. This Right of First Offer shall be personal to Tenant and any transferee under a Permitted Transfer and shall not be assignable or otherwise transferable in whole or in part, voluntarily or by operation of law, to any other permitted assignee, subtenant or other third parties. Tenant's right to receive the Offer Notice shall further be

effective only if Tenant is not in Default under this Lease and no event has occurred which with the giving of notice or the passage of time, or both, would constitute a Default hereunder. Subject to Paragraph 51.4 below, Tenant's right to receive an Offer Notice in accordance with this Paragraph 51.1 shall be a one-time right.

51.2 Election Notice

In the event Tenant desires to purchase the Building, Tenant shall notify Landlord in writing of its election to purchase the Building (the **"Election Notice"**) within ten (10) days following Tenant's receipt of the Offer Notice. If Tenant delivers an Election Notice to Landlord, Tenant shall acquire the Building on an "AS IS" basis and without any representations or warranties from Landlord.

51.3 Purchase and Sale Agreement

In the event Tenant timely delivers the Election Notice to Landlord, the parties shall thereafter execute a purchase and sale agreement prepared by Seller's counsel (the "**Purchase and Sale Agreement**") with the purchase price of the Building (the "**Purchase Price**") equal to the quotient of the Net Operating Income (as defined below) of the Building divided by nine one hundredths (.09) and with a closing (the "**Closing**") to be held on or before the date that is forty-five (45) days after delivery of the Offer Notice.

51.4 Failure to Exercise or Sign Agreement

If Tenant fails to deliver an Election Notice within the 10-day time period, or if for any reason whatsoever Tenant has not executed the Purchase and Sale Agreement within ten (10) days after its receipt thereof from Landlord, Tenant's right to purchase the Building hereunder shall automatically terminate and be of no further force and effect with respect to Landlord or any other Person (as hereinafter defined) and Landlord shall thereafter have the right to sell the Building at any time to any Person on terms acceptable to Landlord in its sole and absolute discretion. Notwithstanding the foregoing, if Landlord fails to enter into a letter of intent or purchase and sale agreement for the sale of the Building to any such Person within two hundred seventy (270) days after the date Tenant's right to purchase the Building lapses pursuant to this Paragraph 51.4, then Tenant's rights under this Paragraph 51 shall be reinstated and Landlord shall once again furnish Tenant with an Offer Notice prior to selling the Building to a Person other than a Landlord Affiliate. Tenant hereby expressly acknowledges and agrees that time is of the essence for purposes of the Election Notice and the ten (10) day period to execute the Purchase and Sale Agreement and that Tenant's failure to deliver such Election Notice or the executed Purchase and Sale Agreement as specified herein will relieve Landlord of any obligation under this Paragraph.

51.5 Net Operating Income

As used herein, "Net Operating Income" shall mean the Monthly Base Rent due under the Lease with respect to the Building being purchased for the twelve (12) full calendar months following the Offer Notice or, if the Offer Notice is given prior to the Commencement Date, the Monthly Base Rent for the Premises for the twelve (12) full calendar months following the Commencement Date, and Tenant shall receive a credit against the Purchase Price equal to the cost (calculated as of the date of Closing) reasonably estimated by Landlord to complete the Base Building Improvements (exclusive of any Tenant Requested Base Building Improvements and any improvements or costs required to be paid by Tenant under the terms of the Lease), assuming for purposes of this determination that the Base Building Improvements for the Building shall be similar in design and quality to the Base Building Improvements constructed by Landlord under the 901 Gateway Lease. As used in this Paragraph 51.5, Monthly Base Rent shall mean the scheduled Monthly Base Rent set forth in the Basic Lease Information plus the monthly installment of principal and interest required to be paid on the Deferred Allowance, if any, pursuant to Section D of ***Exhibit B***.

51.6 Landlord's Sale to Affiliate; Survival of Option

Notwithstanding anything in this Paragraph to the contrary, this Paragraph shall be inapplicable to, and neither Landlord nor any person or entity providing financing to Landlord in connection with the Building ("**Lender**") shall have any obligation to provide an Offer Notice to Tenant in connection with (i) any sale, conveyance or other transfer or proposed sale, conveyance or other transfer of the Building to any Person who controls, is controlled by or is under common control with, Landlord or Lender or any Person in which Hines Interest Limited Partnership or Morgan Stanley Real Estate Investment Fund maintains an interest (collectively, a "**Landlord Affiliate**"), or (ii) any foreclosure sale or deed-in-lieu of foreclosure or the exercise of any similar remedy (collectively, a "**Foreclosure**") by any Lender. As used herein, "**Person**" shall mean any natural person, corporation, firm, association or other entity, whether acting in an individual, fiduciary or other capacity. Tenant's rights under this Paragraph 51.6 shall survive Landlord's transfer pursuant to clause (i) of this Paragraph 51.6 but shall not survive any Foreclosure.

51.7 Concurrent Exercise of Rights of First Offer with respect to 901 Gateway Boulevard and 951 Gateway Boulevard

Notwithstanding anything to the contrary contained in this Paragraph 51, if Landlord concurrently delivers to Tenant an Offer Notice under this Lease and an Offer Notice under Paragraph 51 of the 901 Gateway Lease, then Tenant shall have the right to exercise the Right of First Offer contained in this Paragraph 51 only if it concurrently and validly exercises the Right of First Offer granted to Tenant under Paragraph 51 of the 901 Gateway Lease. Any attempt by Tenant to deliver an Election Notice under Paragraph 51.2 above without the concurrent delivery of an Election Notice under Paragraph 51.2 of the 901 Gateway Lease (assuming that Landlord has delivered to Tenant Offer Notices under both this Lease and the 901 Gateway Lease) shall be null and void and of no force or effect.

52. MEMORANDUM OF LEASE

Promptly after full execution of this Lease, Landlord and Tenant shall execute and cause to be recorded a Memorandum of Lease in the form attached hereto as ***Exhibit G***.

Landlord and Tenant have executed and delivered this Lease effective as of the Lease Date specified in the Basic Lease Information.

LANDLORD: HMS GATEWAY OFFICE, L.P.,
a Delaware limited partnership

By: Hines Gateway Office, L.P.,
Administrative Partner

By: Hines Interests Limited Partnership,
General Partner

By: Hines Holdings, Inc.,
General Partner

By: /s/ JAMES C. BUIE, JR.

Name: James C. Buie, Jr.

Its: Executive Vice President

TENANT: ADVANCED MEDICINE, INC.,
a Delaware corporation

By: /s/ A. GREG STURMER

Name: A. Greg Sturmer

Its: Vice President

EXHIBIT A

BASE BUILDING CONSTRUCTION AGREEMENT

This exhibit, entitled "Base Building Construction Agreement," is and shall constitute ***Exhibit A*** to the Lease Agreement, dated as of January 1, 2001, by and between Landlord and Tenant (the "**Lease**"). The terms and conditions of this ***Exhibit A*** are hereby incorporated into and are made a part of the Lease.

Subject to the terms and conditions set forth herein and in the Lease, Landlord shall cause construction of the Building in accordance with the procedures set forth below:

A. Definitions

1. "**Base Building Improvements**" shall mean a three (3) story building, containing approximately 60,000 square feet, all exterior surfaces, utilities, landscaping and paved parking, all in substantial compliance with those items listed on the 951 Gateway Preliminary Specifications as "Base Building" and located substantially in accordance with the Site Plan; provided, however, that the term "**Base Building Improvements**" shall not include any Tenant Requested Base Building Improvements.

2. "**Base Building Plans and Specifications**" is defined in Section B.1 below.

3. "**Building Work Cost**" is defined in Section B.3 below.

4. "**Contractor**" shall mean a licensed general contractor selected by Landlord and approved by Tenant, which approval shall not be unreasonably withheld, conditioned or delayed.

5. "**Construction Warranties**" is defined in Section D.2 below.

6. "**Landlord's Architect**" shall mean Dowler Gruman Architects or another architect selected by Landlord in Landlord's reasonable discretion.

7. "**Landlord's Contract**" shall mean the construction contract entered into by and between Landlord and the Contractor for the construction of the Base Building Improvements and any Tenant Requested Base Building Improvements.

8. "**Original Base Building Plans and Specifications**" shall mean the plans and specifications for the two (2) story building, comprising approximately 50,000 square feet, together with all exterior surfaces, utilities, landscaping and paved parking associated therewith, which was to have been constructed by Landlord pursuant to the Original 951 Lease, which plans and specifications were titled "Preliminary Construction Documents dated August 24, 2000," and were prepared by Dowler Gruman Architects.

9. "**951 Gateway Preliminary Specifications**" shall mean those preliminary specifications for construction of the Base Building Improvements categorized as "Base Building" and more particularly described on the attached ***Exhibit A-1***.

10. "**Site Plan**" shall mean the site plan set forth on the attached ***Exhibit A-2*** establishing the approximate location of the Building.

11. "**Tenant Requested Base Building Improvements**" shall mean those improvements requested by Tenant in accordance with this ***Exhibit A*** that are to be incorporated into the Base Building Plans and Specifications.

Capitalized terms not otherwise defined in this ***Exhibit A*** shall have the meanings ascribed to them in the Lease.

B. Schedule

1. *Plans and Specifications*. Landlord's Architect has previously prepared the Original Base Building Plans and Specifications. At Tenant's request, Landlord has obtained the governmental approvals, permits and variances required for the construction of the Base Building Improvements contemplated under this Lease (the "**Expansion Approvals**"). At Tenant's sole cost and expense, Landlord's Architect shall modify and amend the Original Base Building Plans and Specifications, on or before Friday, February 23, 2001, to incorporate any changes necessary to accommodate construction of all of the Base Building Improvements substantially in accordance with the 951 Gateway Preliminary Specifications (the "**Base Building Plans and Specifications**"). Tenant shall have the right to approve the Base Building Plans and Specifications only to the extent such plans and specifications reflect any changes to the Original Base Building Plans and Specifications which are material deviations from the 951 Gateway Preliminary Specifications; provided, however, that such approval shall not be unreasonably withheld, conditioned or delayed; and provided, further, that if Tenant fails to respond within ten (10) days following Landlord's request for approval, Tenant shall be conclusively deemed to have given its approval to the matter submitted by Landlord. Notwithstanding the foregoing, the Base Building Plans and Specifications are, from time to time, subject to change in Landlord's discretion, upon written consent from Tenant, which consent shall not be unreasonably withheld, conditioned or delayed; and provided, further, that if Tenant fails to respond within five (5) business days following Landlord's request for consent, Tenant shall be conclusively deemed to have given its consent to any such change. Landlord may without the written consent of the Tenant change the Base Building Plans and Specifications as may be required by any governmental agency or as necessary to comply with any governmental requirements or to address structural or unanticipated field conditions or which, in the reasonable discretion of Landlord, will not have a material effect on Tenant's use of the Premises or a material effect on the aesthetic appearance or impression relating to the Base Building Improvements.

2. *Tenant Requested Base Building Improvements*. On or before Friday, February 23, 2001, Tenant shall deliver to Landlord's Architect detailed specifications for any Tenant Requested Base Building Improvements. Landlord shall have ten (10) days from its receipt of such specifications to approve or disapprove the Tenant Requested Base Building Improvements. Landlord's approval may be given or withheld in Landlord's reasonable discretion, to ensure, among other things, that the Tenant Requested Base Building Improvements are compatible with all other construction and all Systems within the Building. If Landlord disapproves the Tenant Requested Base Building Improvements, then within five (5) business days thereafter, Landlord shall meet with the Tenant's Architect (as defined in Exhibit B) and Tenant to discuss, or shall submit to Tenant's Architect and Tenant in writing, the reasons for Landlord's disapproval. Within five (5) business days following such meeting or submission, Tenant shall cause Tenant's Architect to revise the same and to submit new specifications for the Tenant Requested Base Building Improvements to Landlord. The procedure set forth in this paragraph will be repeated as set forth above until Landlord has approved the Tenant Requested Base Building Improvements.

3. Estimate of Building Work Costs. Following the approval by Landlord of the Tenant Requested Base Building Improvements, Landlord shall furnish Tenant with an estimate of the cost of the Tenant Requested Base Building Improvements (the "Building Work Cost").

4. Tenant's Review of Building Work Cost. The Building Work Cost shall be subject to Tenant's approval, which approval shall not be unreasonably withheld, conditioned or delayed; and provided, further, that if Tenant fails to respond within five (5) business days following Landlord's request for consent, Tenant shall be conclusively deemed to have given its approval

to the Building Work Cost. If Tenant timely disapproves the Building Work Cost, then within five (5) business days thereafter, Tenant shall meet with Landlord, Contractor, Landlord's Architect and Tenant's Architect to discuss value engineering changes to the Tenant Requested Base Building Improvements. Within five (5) business days following such meeting, Tenant shall cause Tenant's Architect to revise the Tenant Requested Base Building Improvements and to submit revised specifications for approval by Landlord in accordance with the procedure set forth above and for a new Building Work Cost to be prepared by Landlord. The procedure set forth in this paragraph will be repeated until Tenant has approved the Building Work Cost.

5. *Revision of Plans & Specifications*. Following Landlord's approval of the Tenant Requested Base Building Improvements and Tenant's approval of the Building Work Cost, Landlord shall cause Landlord's Architect to revise the Base Building Plans and Specifications to incorporate the Tenant Requested Base Building Improvements.

C. Construction

The Base Building Improvements shall be constructed, at Landlord's sole cost and expense, by Contractor in accordance with the Base Building Plans and Specifications, as the same may be amended or modified from time to time by Landlord.

D. General

1. *Landlord's Covenant*. Subject to the terms and conditions of the Lease and the conditions precedent set forth in Section D.1 above, Landlord covenants that the Base Building Improvements shall be free from material latent defects in design, materials and workmanship. Any claims by Tenant under this Section D.1 shall be made in writing not later than one (1) year after the Commencement Date. In the event Tenant fails to deliver a written claim to Landlord on or before the applicable date set forth above, then Landlord shall be conclusively deemed to have satisfied its obligations under this paragraph. The covenants contained in this paragraph are subject to Paragraph 39 of the Lease and are made specifically and exclusively for the benefit of the original Tenant and any assignee or sublessee under a Permitted Transfer pursuant to Paragraph 23.4 of the Lease.

2. Construction Warranties. Landlord shall obtain from Contractor, and shall request Contractor to obtain from all subcontractors and material suppliers, warranties (collectively, "Construction Warranties") for all components of the Base Building Improvements for which warranties are customarily provided in the construction industry and Landlord shall enforce the Construction Warranties as reasonably requested by Tenant.

3. Special Provisions regarding Construction of Bridge. At the request of Tenant submitted to Landlord in accordance with Section B.2 above, Landlord shall consent to the construction of a pedestrian bridge (the "Bridge") connecting the Building to the 901 Gateway Premises in a location approved by Landlord in writing, subject, however, to the issuance by the City of all required permits and approvals for the construction of the Bridge and compliance by Tenant with all of the terms and provisions of said Section B.2, including, without limitation, the delivery to and approval by Landlord of detailed plans and specifications for the Bridge and all required alterations to the facades of the Building and the 901 Gateway Premises.

INITIALS:

TENANT: _____

LANDLORD: _____

EXHIBIT A-1

951 GATEWAY PRELIMINARY SPECIFICATIONS

A "cold shell" standard shell for each building shall be constructed per all governmental codes by Landlord for Tenant, including, but not limited to, the following:

Structure/Envelope

- Concrete foundation to be reinforced grade beams with spread footings or other system as specified by geotechnical and engineering consultants.
- Ground floor to be concrete slab, minimum thickness 5", level to FF-20, FL-15, on grade or as required by geotechnical and engineering consultants with a minimum of 4" drain rock, 2" sand cushion and a 10 mil vapor barrier, but in no event a mar slab.
- Second and third floors to have vented metal decking with reinforced concrete topping slab which meets fire inspection code and flat to FF-20.
- Building structural framing to consist of reinforced steel "braced frame" with beams and columns constructed using rolled shapes. Cross bracing at exterior.
- Non-bearing exterior curtain wall consisting of EIFS, with exterior containing a minimum average of 40% glass with ribbon windows of high performance glass (minimum shading coefficient of .67).
- Floor system designed with live load capacity of 120 psf.
- Roof live load to be 50 psf in all bays.
- Floor to floor heights to be 17'-0".
- Roof drains and drain lines with connection to site storm drain system.
- Paved surface parking and structured parking adjacent to the Premises as required to provide tenant with the parking designated in the Lease.
- Roof screens up to 11'-0" in height above the roof as required by the City.
- Roofing membrane to be a four-ply asphalt built-up over rigid insulation over metal deck roof construction.
- Fire proofing of building structure, if required, to building code.
- Fire safing between floors to maintain code required separations.
- Perimeter and roof base building insulation per Title 24 requirements.

Utilities

- 2,000 amp 277/480 volt, 3-phase electric service and transformer with underground electrical to switchgear and meter.
- "House power" panels and transformer for site lights and irrigation.
- One gas service to exterior meter.
- Four (4), 4" telephone and data conduits. Stubbed to building.
- Site storm drain system.

- Domestic water service with meters, backflow preventers and check assembly located per California Water Service requirements.
- Sanitary sewer to and including main line under ground floor slab.
- Complete light hazard automatic fire sprinkler system to meet NFPA standards (excluding drops to suspended ceilings).

Miscellaneous

- Exterior doors prepared with hardware and rough-in to provide for electronic security. Such security to be provided and installed by Tenant.
- All utility connection(s) and development fees for base building systems.
- Landscaping, hardscapes and automatic irrigation systems, including control systems.
- One (1) monument sign at each main entrance along Gateway Boulevard identifying The Gateway North Campus and the building address.
- Site lighting a minimum of one (1) foot candle per square foot, including control system.
- Two (2) sets of interior exit stairs per building and two corresponding exits; one set of exit stairs shall be extended to the roof for roof access.

EXHIBIT A2

SITE PLAN

EXHIBIT B

PREMISES CONSTRUCTION AGREEMENT

This exhibit, entitled "Premises Construction Agreement," is and shall constitute ***Exhibit B*** to the Lease Agreement, dated as of January 1, 2001, by and between Landlord and Tenant (the "**Lease**"). The terms and conditions of this ***Exhibit B*** are hereby incorporated into and are made a part of the Lease.

Subject to the terms and conditions set forth herein and in the Lease, Landlord shall allow the construction or installation of the improvements in the interior of the Premises in accordance with the procedures set forth below:

A. Definitions

1. **"Approved Plans"** is defined in Section B.5 below.

2. **"Contractor"** shall mean the general contractor retained by Landlord pursuant to Exhibit A to the Lease.

3. **"Estimated Work Cost"** is defined in Section B.3 below.

4. **"Excess Tenant Improvements Costs"** is defined in Section B.6 below.

5. **"Final Cost Quotation"** is defined in Section B.6 below and shall include all costs associated with the Tenant Improvements, including, without limitation, costs of all tenant improvement work; architectural and engineering fees; governmental agency fees for permits, licenses and inspections; construction fees, including, without limitation, general contractors' overhead and supervision fees; and such other costs as may be incurred by Landlord in connection with such construction.

6. **"Preliminary Plans"** is defined in Section B.1 below.

7. **"Tenant Improvement Allowance"** shall mean the amount set forth in the Basic Lease Information as adjusted pursuant to the provisions thereof, which amount shall, except as otherwise provided in this ***Exhibit B***, be paid by Landlord toward the cost of completion of the Tenant Improvements (collectively, the **"Tenant Improvement Cost"**). The Tenant Improvement Allowance shall be subject to adjustment upon the final determination of the Premises' square footage by Landlord's Architect. Notwithstanding the foregoing, (i) not less than an amount equal to Fifteen and 57/100^{ths} Dollars ($15.57) per square foot of the Premises (the **"Warm Shell Allowance"**) shall be expended on the improvements generally described on ***Exhibit B-1*** hereto, and (ii) the Tenant Improvement Allowance and the Deferred Allowance may not be used to pay the costs of Tenant Improvements that constitute furniture, equipment or trade fixtures or result in changes to the Base Building Improvements. If the Tenant Improvement Cost exceeds the Tenant Improvement Allowance, the difference shall be paid by Tenant in accordance with this ***Exhibit B***. If the total cost of constructing and installing the improvements described on ***Exhibit B-1*** is less than the Warm Shell Allowance, then the Tenant Improvement Allowance shall be reduced by the difference and the difference shall not be disbursed to Tenant.

8. **"Tenant's Architect"** shall mean Dowler Gruman Architects or a replacement licensed architect selected by Tenant and approved by Landlord.

9. **"Tenant's Contract"** shall mean the construction contract entered into by and between Tenant and the Contractor for the construction of the Tenant Improvements.

10. **"Tenant Improvements"** shall mean all improvements made to the Premises pursuant to the Approved Plans, specifically excluding, however, any Tenant Requested Base Building Improvements (as defined in ***Exhibit A*** to the Lease). Without limiting the generality of the foregoing, the Tenant Improvements shall include and Tenant shall be responsible for the construction and installation of the improvements described on ***Exhibit B-1***.

11. **"Warm Shell Allowance"** is defined within the definition of Tenant Improvement Allowance in Section A.7 above.

Capitalized terms not otherwise defined in this ***Exhibit B*** shall have the meanings ascribed to them in the Lease.

B. Schedule

1. Tenant shall cause Tenant's Architect to furnish to Landlord preliminary space plans and specifications (the "**Preliminary Plans**") on or before February 15, 2001. The failure of Tenant's Architect to furnish Preliminary Plans to Landlord by February 15, 2001 shall constitute a Tenant Delay for all purposes of this Lease and shall not lead to a postponement of or adjustment to the Commencement Date. Tenant shall be responsible for all costs associated with the Preliminary Plans (collectively, the **"Preliminary Design Costs"**), including any revisions required by Section B.2 hereunder.

2. Landlord shall have ten (10) days from its receipt of the Preliminary Plans to approve or disapprove the same. Landlord's approval of the Preliminary Plans shall not be unreasonably withheld, conditioned or delayed. If Landlord disapproves the Preliminary Plans, then within five (5) business days thereafter, Landlord shall meet with Tenant's Architect and Tenant to discuss, or shall submit to Tenant's Architect and Tenant in writing, the reasons for Landlord's disapproval. Within five (5) business days following such meeting or submission, Tenant shall cause the Tenant's Architect to revise the same and to submit new Preliminary Plans to Landlord. The same procedure set forth in this paragraph will be repeated as set forth above until Landlord has approved the Preliminary Plans.

3. Promptly after approval of the Preliminary Plans, Tenant shall cause Contractor to furnish Landlord with an estimate of the cost of the Tenant Improvements as shown on the Preliminary Plans (the **"Estimated Work Cost"**). The Estimated Work Cost shall separately itemize all costs to complete the improvements described on ***Exhibit B-1*** hereto.

4. Following Contractor's calculation of the Estimated Work Cost, Tenant shall cause Tenant's Architect to prepare detailed construction drawings and specifications (the **"Working Drawings"**) for the Tenant Improvements based strictly upon the Preliminary Plans, except as otherwise agreed in writing by Landlord and Tenant. Tenant shall be responsible for all costs associated with the Working Drawings. The Working Drawings shall be completed no later than April 15, 2001. The foregoing, any delay in the completion of the Working Drawings beyond April 15, 2001 shall constitute a Tenant Delay for all purposes of this Lease and shall not lead to a postponement of or adjustment to the Commencement Date.

5. Landlord shall have ten (10) days from its receipt of the Working Drawings to approve or disapprove the same. Landlord's approval of the Working Drawings shall not be unreasonably withheld, conditioned or delayed. If Landlord disapproves the Working Drawings, then within five (5) business days thereafter, Landlord shall meet with Tenant's Architect and Tenant to discuss, or shall submit to the Tenant's Architect and Tenant in writing, the reasons for Landlord's disapproval. Within five (5) business days following such meeting or submission, Tenant shall cause Tenant's Architect to revise the same and to submit new Working Drawings to Landlord, and the same procedure will be repeated as set forth above until Landlord has

approved the Working Drawings (the "**Approved Plans**"). Upon approval of the Working Drawings, Landlord shall deliver to Tenant a list of Tenant Improvements to be removed by Tenant, at Tenant's cost and expense in accordance with Paragraph 11.2 of the Lease, upon expiration of the Term or earlier termination of the Lease. Notwithstanding the foregoing, during the preparation of the Working Drawings, Landlord shall, upon Tenant's request, advise Tenant of items that will be required to be removed pursuant to the previous sentence.

6. Within ten (10) business days after Landlord's approval of the Approved Plans, Tenant shall cause Contractor to furnish to Landlord a cost estimate for the Tenant Improvements based upon the Approved Plans (the **"Final Cost Quotation"**). The Final Cost Quotation shall separately itemize all costs to complete the improvements described on ***Exhibit B-1*** hereto. If the Final Cost Quotation is greater than the Tenant Improvement Allowance, Tenant shall be responsible for the difference between the Tenant Improvement Allowance and the Final Cost Quotation (the **"Excess Tenant Improvements Cost"**). If the Tenant Improvement Allowance exceeds the Final Cost Quotation, then the Excess Tenant Improvements Cost shall be zero.

7. Landlord and Tenant shall make progress payments on a pro rata basis (in the proportion that the Tenant Improvement Allowance paid by Landlord and the Excess Tenant Improvements Cost paid by Tenant, if any, bear to the Final Cost Quotation) from time to time as the Tenant Improvements are constructed in the Premises. Tenant shall pay its pro rata share of any progress payments directly to Contractor or subcontractors, as appropriate, and Landlord shall pay its pro rata share of any progress payments directly to Tenant's Contractor or subcontractors, as appropriate, subject to a reasonable retention as determined by Landlord. Landlord shall be entitled to suspend or terminate construction of the Tenant Improvements and to declare Tenant in default in accordance with the terms of the Lease if payment by Tenant of Tenant's pro rata share of any progress payment has not been received by Contractor when due, as required hereunder. Moreover, Landlord shall not be required to pay its pro rata share of any progress payment until such time as Landlord receives from Tenant a draw request in a form approved by Landlord, which draw request shall be executed by Tenant, Tenant's Architect and Tenant's Contractor, together with a conditional lien waiver duly executed by Tenant's Contractor as to the progress payment then being requested by Tenant hereunder and an unconditional lien waiver for the immediately preceding progress payment made by Landlord. All lien waivers shall comply with California law regarding materialmen and mechanic's liens.

8. In the event that the Tenant Improvement Allowance exceeds the Final Cost Quotation, then promptly following the substantial completion of the Tenant Improvements, the payment in full of all costs of designing and constructing the Tenant Improvements, and the receipt by Landlord of unconditional lien waivers from Tenant's Contractor, subcontractors and material suppliers for all amounts due in connection with the Tenant Improvements, Landlord shall disburse the remaining Tenant Improvement Allowance to Tenant in a single lump-sum disbursement.

C. Tenant Improvement Construction

1. All Tenant Improvements to be constructed or installed in the Premises shall be performed by Contractor in accordance with the Approved Plans, subject to any changes agreed to by Landlord and Tenant in writing. Landlord shall have no obligation to Tenant for defects in design, workmanship or materials in connection with the Tenant Improvements. Any changes to the Approved Plans shall require the written approval of Landlord and Tenant, which approval shall not be unreasonably withheld, conditioned or delayed. All such changes must be evidenced by a written change order executed by Landlord and Tenant or their respective

representatives describing the change required in the Approved Plans, and the cost of such changes shall be paid in accordance with the terms of this ***Exhibit B***.

2. Tenant shall cause Contractor to construct the Tenant Improvements in a manner designed to avoid interference with the construction of the Base Building Improvements. Landlord and Tenant shall each use good faith efforts to reasonably resolve any issues or conflicts that may arise during the course of constructing the Tenant Improvements and the Base Building Improvements. Entry by Contractor in accordance with this ***Exhibit B*** shall not constitute Tenant's occupancy of the Premises under Paragraph 3 of the Lease; however, Tenant shall comply with all terms and conditions of the Lease (excluding only, prior to the Commencement Date, the obligation to pay Rent) during Contractor's occupancy of and work within the Premises. Tenant shall be responsible for maintaining harmonious labor relations with all contractors and service providers servicing the Premises.

3. In addition to and without limitation on the requirements set forth in the Lease, Tenant shall ensure that Contractor and all subcontractor(s) procure and maintain in full force and effect during the course of construction a "broad form" commercial general liability and property damage policy of insurance naming, Landlord, Tenant and Landlord's lenders as additional insureds. The minimum limit of coverage of the aforesaid policy shall be in the amount of not less than Three Million Dollars ($3,000,000) for injury or death of one person in any one accident or occurrence and in the amount of not less than Three Million Dollars ($3,000,000) for injury or death of more than one person in any one accident or occurrence, and shall contain a severability of interest clause or a cross liability endorsement. Such insurance shall further insure Landlord and Tenant against liability for property damage of at least One Million Dollars ($1,000,000).

D. Deferred Allowance

In addition to the Tenant Improvement Allowance, Landlord agrees to provide Tenant up to Nine Hundred Thousand Dollars ($900,000.00) (viz., $15.00 per square foot) to be applied toward completion of the Tenant Improvements (the "**Deferred Allowance**") after the Tenant Improvement Allowance has been disbursed. The Deferred Allowance shall be subject to adjustment upon the final determination of the Premises square footage by Landlord's Architect. The Deferred Allowance shall be disbursed to Tenant, if at all, in a single lump-sum disbursement, shall be available to reimburse Tenant for costs actually incurred in connection with the design and construction of the Tenant Improvements (except that no portion of the Deferred Allowance may be used to pay the costs of Tenant Improvements that constitute furniture, equipment or trade fixtures or result in changes to the Base Building Improvements), shall be disbursed by Landlord upon the submission of draw requests and other documentation similar in form and content to that required in connection with the disbursement of the Tenant Improvement Allowance, and shall be subject to a reasonable retention as determined by Landlord. Tenant shall provide the aforesaid draw request and associated documentation to Landlord not less than ninety (90) days' prior to the date of the disbursement of the Deferred Allowance. The Deferred Allowance shall be repayable by Tenant to Landlord in substantially equal self-amortizing monthly installments over the remaining initial Term of the Lease (from and after the date of disbursement of the Deferred Allowance), together with interest on the balance outstanding from time to time from the date of disbursement at the following rates: interest shall accrue on the initial Four Hundred Fifty Thousand Dollars ($450,000.00) disbursed by Landlord at the per annum rate of 14% and on the second Four Hundred Fifty Thousand Dollars ($450,000.00) disbursed by Landlord at the per annum rate of 15%. Such installments shall be payable on the first day of each month concurrently with the payment of Monthly Base Rent, and shall be deemed a part of the "Rent" hereunder for all purposes of this Lease. Concurrently with the disbursement of the Deferred Allowance, Landlord and Tenant shall execute a Deferred Allowance Amortization Memorandum in

the form of ***Exhibit I*** hereto. Notwithstanding anything herein to the contrary, in the event the Lease shall terminate for any reason prior to the scheduled expiration thereof, the Deferred Allowance and all accrued and unpaid interest thereon shall immediately become due and payable in full.

E. General

1. All drawings, space plans, plans and specifications for any improvements or installations in the Premises are expressly subject to Landlord's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. Any approval by Landlord of any drawings, plans or specifications prepared on behalf of Tenant including, without limitation, any Preliminary Plans, Working Drawings or Approved Plans, or any revisions thereto, shall not in any way bind Landlord, create any responsibility or liability on the part of the Landlord for the completeness of the same, their design sufficiency or compliance with applicable statutes, ordinances or regulations or constitute a representation or warranty by Landlord as to the adequacy or sufficiency of such drawings, plans or specifications, or the improvements to which they relate, but such approval shall merely evidence the consent of Landlord to such drawings, plans or specifications.

2. The Tenant Improvement Allowance (including, without limitation, the Warm Shell Allowance) and Deferred Allowance shall be used by Tenant to construct Tenant Improvements in the entire Premises and may not be used to improve only a portion or portions of the Premises. Tenant shall be deemed to have satisfied its obligations under this Section E.2 if Tenant constructs or installs, as appropriate, within the entire Premises, at a minimum, acoustical ceilings, HVAC, floor coverings, light fixtures and walls with a paint finish, all in accordance with applicable Laws and to a condition which allows for full legal occupancy of the Building, as evidenced by the receipt of a certificate of occupancy from the City. Notwithstanding the foregoing, Tenant shall only be required to improve the warehouse facilities, storerooms, electrical rooms and data rooms located within the Premises to the same condition to which such facilities and rooms were improved within the 901 Gateway Premises following the completion of construction of Tenant Improvements (as defined in the 901 Gateway Lease) in the 901 Gateway Premises.

3. Any failure by Tenant to pay any amounts due hereunder shall have the same effect under the Lease as a failure to pay Rent and any failure by Tenant to perform any of its other obligations hereunder shall be subject to Paragraph 24 of the Lease.

4. Tenant shall provide Landlord with as-built plans and specifications of the Tenant Improvements within forty-five (45) days after the Commencement Date.

INITIALS:

TENANT: /s/ A. GREG STURMER

LANDLORD: /s/ JAMES BUIE, JR.

EXHIBIT B-1

DESCRIPTION OF "WARM SHELL" IMPROVEMENTS

- Elevator(s) per code
- Stairs in excess of two (2) exit stairs provided as part of the 951 Gateway Preliminary Specifications
- Restrooms per code
- HVAC for standard office use (laboratory upgrades will not be funded-out of the Warm Shell Allowance)
- Standard office lobby
- Electrical for standard office use (laboratory upgrades will not be funded out of the Warm Shell Allowance)
- Rooftop mechanical platform
- Roof Screens

EXHIBIT C

ADDITIONAL OPERATIONAL GUIDELINES

As a component of the Tenant Improvements and any Alterations made by Tenant to the Premises, Tenant shall install fume hoods, as well as a rooftop venting and exhaust system designed to increase the velocity of exhaust such that any odors shall be discharged high into the atmosphere in order to minimize the risk of odors detectable at ground level. In addition, Tenant shall install and utilize such additional venting, exhaust and quenching systems, including, without limitation, base quenching, distillation units, acid quenching, and mechanical exhaust/filtration systems, as appropriate to reduce the risk of emanation of such odors.

EXHIBIT D

RULES AND REGULATIONS

This exhibit, entitled "Rules and Regulations," is and shall constitute ***Exhibit D*** to the Lease Agreement, dated as of the Lease Date, by and between Landlord and Tenant for the Premises. The terms and conditions of this ***Exhibit D*** are hereby incorporated into and are made a part of the Lease. Capitalized terms used, but not otherwise defined, in this ***Exhibit D*** have the meanings ascribed to such terms in the Lease.

1. Tenant shall not use any method of heating or air conditioning other than that approved by Landlord in writing without the prior written consent of Landlord, which consent shall not to be unreasonably withheld, conditioned or delayed.

2. All window coverings installed by Tenant and visible from the outside of the Building require the prior written approval of Landlord.

3. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance or any flammable or combustible materials on or around the Project or the Adjacent Properties, except to the extent that Tenant is permitted to use the same in the Premises under the terms of Paragraph 32 of the Lease.

4. Tenant shall not alter any lock or install any new locks or bolts on any door at the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed.

5. Tenant shall not make any duplicate keys without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed.

6. Tenant shall park motor vehicles in parking areas designated by Landlord, including areas for loading and unloading. During those periods of loading and unloading, Tenant shall not unreasonably interfere with traffic flow around the Building or the Project and loading and unloading areas of other tenants.

7. Tenant shall not disturb, solicit or canvas any tenant or other occupant of the Building or Project and shall cooperate to prevent same.

8. No person shall go on the roof without Landlord's permission except as required to repair and maintain the same as required under the Lease.

9. Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Building, to such a degree as to be objectionable to Landlord or other tenants, shall be placed and maintained by Tenant, at Tenant's expense, on vibration isolators or in noise-dampening housing or other devices sufficient to eliminate noise or vibration.

10. All goods, including material used to store goods, delivered to the Premises of Tenant shall be immediately moved into the Premises and shall not be left in parking or receiving areas overnight. During the period of construction of the Tenant Improvements and any Alterations, all construction materials shall be stored in a manner and a location mutually acceptable to Landlord and Tenant.

11. Tenant is responsible for the storage and removal of all trash and refuse. All such trash and refuse shall be contained in suitable receptacles stored behind screened enclosures at locations approved by Landlord.

12. Tenant shall not store or permit the storage or placement of goods or merchandise in or around the Common Areas surrounding the Premises. No displays or sales or merchandise shall be allowed in the Parking Areas or other Common Areas.

13. Tenant shall not permit any animals, including, but not limited to, any household pets, to be brought or kept in or about the Premises, the Building, the Project or any of the Common Areas which would violate applicable Laws or constitute a nuisance to the Premises, the Building or the Project. Tenant shall prior to the Commencement Date and thereafter from time to time upon the request of Landlord provide to Landlord a written plan for the handling and disposal of all animals used by Tenant in the conduct of its business, which plan shall be subject to the written approval of Landlord.

INITIALS:

TENANT: _____

LANDLORD: _____

EXHIBIT E

HAZARDOUS MATERIALS DISCLOSURE CERTIFICATE

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Materials Disclosure Certificate is necessary for the Landlord to evaluate your proposed uses of the premises (the "**Premises**") and to determine whether to enter into a lease agreement with you as tenant. If a lease agreement is signed by you and the Landlord (the "**Lease Agreement**"), on an annual basis in accordance with the provisions of Paragraph 32 of the Lease Agreement, you are to provide an update to the information initially provided by you in this certificate. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to:

Landlord: HMS Gateway Office L.P.
c/o Hines
651 Gateway Boulevard, Suite 1140
South San Francisco, California 94080
Phone: (650) 794-1111

Name of (Prospective) Tenant: Advanced Medicine, Inc.

Mailing Address:

Contact Person, Title and Telephone Number(s):

Contact Person for Hazardous Waste Materials Management and Manifests and Telephone Number(s):

Address of (Prospective) Premises:

Length of (Prospective) initial Term:

1. GENERAL INFORMATION:

Describe the proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled, and services and activities to be provided or otherwise conducted. Existing tenants should describe any proposed changes to on-going operations.

2. USE, STORAGE AND DISPOSAL OF HAZARDOUS MATERIALS

2.1 Will any Hazardous Materials (as hereinafter defined) be used, generated, treated, stored or disposed of in, on or about the Premises? Existing tenants should describe any Hazardous Materials which continue to be used, generated, treated, stored or disposed of in, on or about the Premises.

Wastes	Yes ☐	No ☐
Chemical Products	Yes ☐	No ☐
Other	Yes ☐	No ☐

If Yes is marked, please explain:

2.2 If Yes is marked in Section 2.1, attach a list of any Hazardous Materials to be used, generated, treated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Materials to be present on or about the Premises at any given time; estimated annual throughput; the proposed location(s) and method of storage (excluding nominal amounts of ordinary household cleaners and janitorial supplies which are not regulated by any Environmental Laws, as hereinafter defined); and the proposed location(s) and method(s) of treatment or disposal for each Hazardous Material, including the estimated frequency, and the proposed contractors or subcontractors. Existing tenants should attach a list setting forth the information requested above and such list should include actual data from on-going operations and the identification of any variations in such information from the prior year's certificate.

3. STORAGE TANKS AND SUMPS

3.1 Is any above or below ground storage or treatment of gasoline, diesel, petroleum, or other Hazardous Materials in tanks or sumps proposed in, on or about the Premises? Existing tenants should describe any such actual or proposed activities.

Yes ☐ No ☐

If yes, please explain:

4. WASTE MANAGEMENT

4.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number? Existing tenants should describe any additional identification numbers issued since the previous certificate.

Yes ☐ No ☐

4.2 Has your company filed a biennial or quarterly reports as a hazardous waste generator? Existing tenants should describe any new reports filed.

Yes ☐ No ☐

If yes, attach a copy of the most recent report filed.

5. WASTEWATER TREATMENT AND DISCHARGE

5.1 Will your company discharge wastewater or other wastes to:

☐ storm drain? ☐ sewer?

☐ surface water? ☐ no wastewater or other wastes discharged.

Existing tenants should indicate any actual discharges. If so, describe the nature of any proposed or actual discharge(s).

5.2 Will any such wastewater or waste be treated before discharge?

Yes ☐ No ☐

If yes, describe the type of treatment proposed to be conducted. Existing tenants should describe the actual treatment conducted.

6. AIR DISCHARGES

6.1 Do you plan for any air filtration systems or stacks to be used in your company's operations in, on or about the Premises that will discharge into the air; and will such air emissions be monitored? Existing tenants should indicate whether or not there are any such air filtration systems or stacks in use in, on or about the Premises which discharge into the air and whether such air emissions are being monitored.

Yes ☐ No ☐

If yes, please describe:

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing tenants should specify any such equipment being operated in, on or about the Premises.

☐ Spray booth(s) ☐ Incinerator(s)

☐ Dip tank(s) ☐ Other (Please describe)

☐ Drying oven(s) ☐ No Equipment Requiring Air Permits

If yes, please describe:

6.3 Please describe (and submit copies of with this Hazardous Materials Disclosure Certificate) any reports you have filed in the past [thirty-six] months with any governmental or quasi-governmental agencies or authorities related to air discharges or clean air requirements and any such reports which have been issued during such period by any such agencies or authorities with respect to you or your business operations.

7. HAZARDOUS MATERIALS DISCLOSURES

7.1 Has your company prepared or will it be required to prepare a Hazardous Materials management plan ("**Management Plan**") or Hazardous Materials Business Plan and Inventory ("**Business Plan**") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes ☐ No ☐

If yes, attach a copy of the Management Plan or Business Plan. Existing tenants should attach a copy of any required updates to the Management Plan or Business Plan.

7.2 Are any of the Hazardous Materials, and in particular chemicals, proposed to be used in your operations in, on or about the Premises listed or regulated under Proposition 65? Existing tenants should indicate whether or not there are any new Hazardous Materials being so used which are listed or regulated under Proposition 65.

Yes ☐ No ☐

If yes, please explain:

8. ENFORCEMENT ACTIONS AND COMPLAINTS

8.1 With respect to Hazardous Materials or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes ☐ No ☐

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered to Landlord pursuant to the provisions of Paragraph 32 of the Lease Agreement.

8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes ☐ No ☐

If yes, describe any such lawsuits and attach copies of the complaint(s), cross-complaint(s), pleadings and other documents related thereto as requested by Landlord. Existing tenants should describe and attach a copy of any new complaint(s), cross-complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the provisions of Paragraph 32 of the Lease Agreement.

8.3 Have there been any problems or complaints from adjacent tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing tenants should indicate whether or not there have been any such problems or complaints from adjacent tenants, owners or other neighbors at, about or near the Premises and the current status of any such problems or complaints.

Yes ☐ No ☐

If yes, please describe. Existing tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the signed Lease Agreement and the current status of any such problems or complaints.

9. PERMITS AND LICENSES

9.1 Attach copies of all permits and licenses issued to your company with respect to its proposed operations in, on or about the Premises, including, without limitation, any Hazardous Materials permits, wastewater discharge permits, air emissions permits, and use permits or approvals. Existing tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

As used herein, "**Hazardous Materials**" shall mean and include any substance that is or contains (a) any "**hazardous substance**" as now or hereafter defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("**CERCLA**") (42 U.S.C. § 9601 *et seq*.) or any regulations promulgated under CERCLA; (b) any " **hazardous waste**" as now or hereafter defined in the Resource Conservation and Recovery Act, as amended ("**RCRA**") (42 U.S.C. § 6901 *et seq*.) or any regulations promulgated under RCRA; (c) any substance now or hereafter regulated by the Toxic Substances Control Act, as amended ("**TSCA**") (15 U.S.C. § 2601 *et seq*.) or any regulations promulgated under TSCA; (d) petroleum, petroleum by-products, gasoline, diesel fuel, or other petroleum hydrocarbons; (e) asbestos and asbestos-containing material, in any form, whether friable or non-friable; (f) polychlorinated biphenyls; (g) lead and lead-containing materials; or (h) any additional substance, material or waste (A) the presence of which on or about the Premises (i) requires reporting, investigation or remediation under any Environmental Laws (as hereinafter defined), (ii) causes or threatens to cause a nuisance on the Premises or any adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Premises or any adjacent property, or (iii) which, if it emanated or migrated from the Premises, could constitute a trespass, or (B) which is now or is hereafter classified or considered to be hazardous or toxic under any Environmental Laws; and "**Environmental Laws**" shall mean and include (a) CERCLA, RCRA and TSCA; and (b) any other federal, state or local laws, ordinances, statutes, codes, rules, regulations, orders or decrees now or hereinafter in effect relating to (i) pollution, (ii) the protection or regulation of human health, natural resources or the environment, (iii) the treatment, storage or disposal of Hazardous Materials, or (iv) the emission, discharge, release or threatened release of Hazardous Materials into the environment.

The undersigned hereby acknowledges and agrees that this Hazardous Materials Disclosure Certificate is being delivered to Landlord in connection with the evaluation of a Lease Agreement and, if such Lease Agreement is executed, will be attached thereto as an exhibit. The undersigned further acknowledges and agrees that if such Lease Agreement is executed, this Hazardous Materials Disclosure Certificate will be updated from time to time in accordance with Paragraph 32 of the Lease Agreement. The undersigned further acknowledges and agrees that the Landlord and its partners, lenders and

representatives may, and will, rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the term, and any renewals thereof, of the Lease Agreement. I [print name] , acting with full authority to bind the (proposed) Tenant and on behalf of the

(proposed) Tenant, certify, represent and warrant that the information contained in this certificate is true and correct.

(PROSPECTIVE) TENANT:

ADVANCED MEDICINE, INC.,
a Delaware corporation

By: _____

Title: _____

Date: _____

INITIALS:

TENANT:

/s/ A. GREG STURMER

LANDLORD:

/s/ JAMES BUIE, JR.

EXHIBIT F

TENANT'S PROPERTY

Laboratory related furniture and equipment including:

- benches and tables
- casework
- biosafety, laminar flow, and fume hoods
- cages/fencing
- DI water system
- vacuum pumps
- compressed air
- nitrogen manifold

Office related furniture and equipment including:

- open office partitions
- telephone and network equipment
- reception desk
- lobby furniture
- lobby display cases
- appliances
- interior signage

EXHIBIT G

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Attention:

(*Space above this line for Recorder's use*)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is executed as of January 1, 2001, by and between HMS GATEWAY OFFICE, L.P., a Delaware limited partnership ("**Landlord**"), and ADVANCED MEDICINE, INC., a Delaware corporation ("**Tenant**"). Landlord has previously leased to Tenant a portion of that certain real property described on ***Exhibit A*** attached hereto and incorporated herein by reference, consisting of the building commonly known as 951 Gateway Boulevard located in South San Francisco, California, commencing on January 1, 2001 and terminating on March 31, 2012 on the terms and conditions set forth in that certain Lease between Landlord and Tenant dated as of January 1, 2001 (the "**Off Record Lease**"). Landlord has also granted to Tenant options to renew the term of the Lease for two (2) additional periods of five (5) years each in accordance with the terms and conditions of the Off Record Lease.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Lease so that third parties might have notice of the lease by Landlord and Tenant herein.

LANDLORD: HMS GATEWAY OFFICE, L.P., a Delaware limited partnership

By: Hines Gateway Office, L.P., Administrative Partner

By: Hines Interests Limited Partnership, General Partner

By: Hines Holdings, Inc., General Partner

By: _____

Name: _____

Its: _____

TENANT: ADVANCED MEDICINE, INC., a Delaware corporation

By: _____

Name: _____

Its: _____

INITIALS:

TENANT: /s/ A. GREG STURMER

LANDLORD: /s/ JAMES BUIE, JR.

EXHIBIT H

DEFERRED ALLOWANCE AMORTIZATION MEMORANDUM

LANDLORD: ARE-901/951 GATEWAY BOULEVARD, LLC, SUCCESSOR IN INTEREST TO HMS GATEWAY OFFICE, L.P.

TENANT: THERAVANCE, INC., (FORMERLY ADVANCED MEDICINE, INC.)

LEASE DATE: January 1, 2001

PREMISES: Located at 951 Gateway Boulevard, South San Francisco, California

Tenant hereby acknowledges that Landlord has provided a Deferred Allowance to Tenant in the amount of eight hundred ninety seven thousand two hundred forty Dollars ($897,240) pursuant to Paragraph D of *Exhibit B* to the Lease. Subject to the terms of the Lease and said *Exhibit B*, the Deferred Allowance shall be repayable by Tenant, together with interest on the principal balance outstanding from time to time at the rates set forth.

Four hundred forty eight thousand six hundred twenty Dollars ($448,620) of the Deferred Allowance shall bear interest at the rate of fourteen percent (14%) per annum; and

Four hundred forty eight thousand six hundred twenty Dollars ($448,620) of the Deferred Allowance shall bear interest at the rate of fifteen percent (15%) per annum.

The Deferred Allowance, together with interest at the rates set above, shall be payable in monthly installments of fourteen thousand three hundred sixty six and 73/100 Dollars ($14,366.73) each. Said installments shall be payable on the first day of each month during the initial Term of the Lease (commencing with the first day of the first month following the disbursement of the Deferred Allowance) concurrently with the payment of Base Rent.

TENANT: THERAVANCE, INC.,
(FORMERLY ADVANCED MEDICINE, INC.) a Delaware corporation

By: /s/ A. GREG STURMER

Name: A. Greg Sturmer

Title: Vice President, Finance

Approved and Agreed:

Landlord:

ARE-901/951 Gateway Boulevard, LLC,
successor in interest to HMS Gateway Office, L.P.
a Delaware limited partnership

By: ARE 901/951 Gateway Boulevard, LLC,

By: SEE SCHEDULE I

Name: _____

Title: _____

SCHEDULE I

ARE-901/951 GATEWAY BOULEVARD, LLC, a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES, L.P., a Delaware limited partnership, managing member

By: ARE-QRS CORP., a Maryland corporation, general partner

By: /s/ JOEL S. MARCUS

Name: Joel S. Marcus

Title: CEO

EXHIBIT J

TENANT ESTOPPEL CERTIFICATE
951 GATEWAY BOULEVARD

From: Theravance, Inc. (Formerly Advanced Medicine, Inc.)
901 Gateway Boulevard
South San Francisco, California 94080
("Tenant")

To: ARE-901/951 Gateway Boulevard LLC
c/o Alexandria Real Estate Equities, Inc.
135 N. Los Robles Ave., Suite 250
Pasadena, California 91101
("Purchaser")

HMS Gateway Office, L.P.
Hines Gateway
651 Gateway Boulevard, Suite 1140
South San Francisco, California 94080
("Landlord")

Lease: Amended and Restated Lease Agreement dated January 1, 2001 between HMS Gateway Office, L.P., a Delaware limited partnership, and Advanced Medicine, Inc., a Delaware corporation, covering the Premises (as defined below), as modified, altered or amended (as further described in Paragraph I below) (the "Lease").

Premises: 59,816 rentable square feet (as determined by Landlord's architect upon the commencement of the term, as provided in the Lease) (the "Premises"), located in the building to be known as 951 Gateway having an address of 951 Gateway Boulevard, South San Francisco, California 94080.

Tenant hereby certifies to Landlord and Purchaser as follows:

1. Attached hereto as Annex 1 is a true, correct, and complete copy of the Lease, including amendments, modifications, supplements, guarantees, and restatements thereof. Tenant is the current Tenant under the Lease. The Lease is in full force and effect and is the complete and only lease, agreement or understanding between Landlord and Tenant affecting the Premises and any rights to parking. The Lease has not been modified, altered or amended, except by the documents listed on Annex I attached hereto. Pursuant to the Lease, Tenant has the right to use 160 non-exclusive and undesignated parking spaces located within the project of which the Premises are part (the "Project"). Tenant acknowledges that Landlord may fulfill its obligations regarding parking under the Lease through the exercise of Landlord's rights under that certain Declaration of Reciprocal Easements made by HMS Gateway Office, L.P. and recorded on June 26, 2000 as Document No. 2000-077496.

2. The term of the Lease has commenced and expires on March 31, 2012 subject to the following options to extend: Two (2) options of five (5) years each. Tenant has accepted and is presently occupying the Premises.

3. Except as otherwise set forth in Paragraph 51 of the Lease, Tenant has no option or right of first refusal, right of first offer, or other right to purchase the Premises and has no right, title, or interest in the Premises other than as the tenant under the Lease. Based on Landlord's representation to Tenant that, on or about December 5, 2001, Landlord and Purchaser entered into a letter of intent for the sale of the Project to Purchaser, Tenant's right of first offer to purchase the Premises pursuant to Paragraph 51 of the Lease has automatically terminated, is no longer of any force or effect, and will not be reinstated unless the sale of the Project to Purchaser contemplated in the letter of intent fails to close. Upon completion of the sale of the Project to Purchaser, (i) neither Purchaser nor any successor landlord under the Lease shall have any obligations under Paragraph 51 of the Lease or shall ever be

required to provide Tenant with an "Offer Notice" (as defined in Paragraph 51.1 of the Lease), and (ii) Purchaser and each successor landlord under the Lease shall have the right to sell any part of the Project at any time to any "Person" (as defined in Paragraph 51.4 of the Lease) on terms acceptable to Purchaser or any such successor landlord, in Purchaser's or such successor landlord's sole and absolute discretion.

4. The base rent under the Lease for the current lease year is $162,731.18 per month. Tenant is responsible to pay, as additional rent, for its pro rata share (100%) of operating expenses for the building in excess of base operating expenses of $0. Tenant has fully paid all base rent, additional rent and other sums due and payable under the Lease on or before the date of this Certificate and Tenant has not paid any rent more than one month in advance. Tenant currently is not entitled to any abatement, refund, rebate, concession, forgiveness of rent or other charges, or free or partial rent. Tenant is not in default under any of the terms, conditions or covenants of the Lease to be performed or complied with by Tenant, and no event has occurred and no circumstance exists which, with the passage of time or the giving of notice by Landlord, or both, would constitute such a default.

5. As of the date of this Certificate, Landlord is not in default under any of the terms, conditions or covenants of the Lease to be performed or complied with by Landlord, and no event has occurred and no circumstance exists which, with the passage of time or the giving of notice by Tenant, or both, would constitute such a default.

6. As of the date of this Certificate, Tenant has no defenses, offsets or credits against the payment or rent and other sums due or to become due under the Lease or against the performance of any other of Tenant's obligations under the Lease.

7. Tenant has paid to Landlord a security deposit in the amount of $1,312,500 in the form of a letter of credit.

8. Tenant agrees that, from and after the date hereof, Tenant will not pay any rent under the Lease more than thirty (30) days in advance of its due date.

9. As of the date of this Certificate, all insurance, if any, required to be maintained by Tenant under the Lease currently is in effect.

10. As of the date of this Certificate, Tenant has not sublet any portion of the Premises or assigned any rights under the Lease. The address for notices to be sent to Tenant is as set forth in the Lease.

11. Tenant understands that this Certificate is required in connection with Purchaser's acquisition of the Property, and Tenant agrees that Purchaser and its assigns (including any parties providing financing for the Property) will, and will be entitled to, rely on the truth of this Certificate.

12. The party executing this document on behalf of Tenant represents that he/she has been authorized to do so on behalf of Tenant.

EXECUTED on this 19 day of April, 2002.

"TENANT"

By: /s/ A. GREG STURMER

Exhibit 10.8

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Exhibit 10.12

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE (this "**First Amendment**") is made as of June 1, 2010 ("**Effective Date**"), by and between **ARE-901/951 GATEWAY BOULEVARD, LLC**, a Delaware limited liability company ("**Landlord**"), and **THERAVANCE, INC.**, a Delaware corporation ("**Tenant**").

RECITALS

A. Landlord and Tenant are now parties to that certain Amended and Restated Lease Agreement dated January 1, 2001 (the "**Lease**"). Pursuant to the Lease, Tenant leases certain premises consisting of approximately 59,816 rentable square feet ("**Premises**") in a three (3)-story building located at 951 Gateway Boulevard, South San Francisco, California. The Premises are more particularly described in the Lease. Capitalized terms used herein without definition shall have the meanings defined for such terms in the Lease.

B. Pursuant to that certain Sublease dated February 9, 2009 ("**Sublease**") now between Tenant and IPERIAN, INC., a Delaware corporation (as successor-in-interest to iZumi Bio, Inc.,) ("**Subtenant**"), Tenant subleases to Subtenant the entire second floor of the Building, consisting of approximately 19,988 rentable square feet ("**Second Floor Premises**").

C. Landlord and Tenant desire, subject to the terms and conditions set forth below, to amend the Lease to, among other things, (i) extend the Term of the Lease, (ii) provide for the surrender by Tenant of the entire first floor of the Building, consisting of approximately 19,914 rentable square feet ("**First Floor Premises**") on May 31, 2011 ("**FFP Surrender Date**"), and (iii) provide for the surrender by Tenant of the Second Floor Premises on March 31, 2012 ("**SFP Surrender Date**").

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the mutual promises and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **Term**. The "**Expiration Date**" of the Term of the Lease is hereby extended from March 31, 2012, until May 31, 2020. From and after the Effective Date, references in the Lease to "Term" shall mean the one hundred twenty (120) months commencing on June 1, 2010 and expiring on May 31, 2020.

2. **Premises**.

a. **Following the FFP Surrender Date**. Notwithstanding anything to the contrary contained in the Lease, commencing on June 1, 2011, the definition of "Premises" shall be amended to mean the Second Floor Premises and the Third Floor Premises.

As of June 1, 2011, the Site Plan attached to the Lease as Exhibit A2 describing the Premises shall be deleted and replaced with **Exhibit A** attached hereto.

b. **Following the SFP Surrender Date**. Commencing on April 1, 2012, the definition of "Premises" shall be amended to mean the Third Floor Premises.

As of April 1, 2012, **Exhibit A** attached hereto shall be amended to exclude the Second Floor Premises.

3. **Premises Square Footage**.

a. **Following the FFP Surrender Date**. Commencing on June 1, 2011, the definition of "Premises Square Footage" contained in the Basic Lease Information shall be deleted and replaced with the following:

"*Premises Square Footage*: 39,902 rentable square feet"

b. **Following the SFP Surrender Date**. Commencing on April 1, 2012, the definition of "Premises Square Footage" contained in the Basic Lease Information shall be deleted and replaced with the following:

"*Premises Square Footage*: 19,914 rentable square feet"

4. **Tenant's Proportionate Share**.

a. **Following the FFP Surrender Date**. Commencing on June 1, 2011, the definitions of "Tenant's Proportionate Share of Project" and "Tenant's Proportionate Share of Building" contained in the Basic Lease Information shall be deleted and replaced with the following:

"*Tenant's Proportionate Share of Project*: 66.71%

Tenant's Proportionate Share of Building: 66.71%"

b. **Following the SFP Surrender Date**. Commencing on April 1, 2012, the definitions of "Tenant's Proportionate Share of Project" and "Tenant's Proportionate Share of Building" contained in the Basic Lease Information shall be deleted and replaced with the following:

"*Tenant's Proportionate Share of Project*: 33.29%

Tenant's Proportionate Share of Building: 33.29%"

5. **Monthly Base Rent**.

a. **First Floor Premises/Third Floor Premises**. Notwithstanding anything to the contrary contained in the Lease, commencing on the Effective Date of this First Amendment, Monthly Base Rent for the First Floor Premises and the entire third floor of the Building, consisting of approximately 19,914 rentable square foot feet ("**Third Floor Premises**") shall be payable as follows through the FFP Surrender Date:

Time Period	Monthly Base Rent
6/1/10 — 5/31/11	$103,552.80 per month

b. **Third Floor Premises**. Notwithstanding anything to the contrary contained in the Lease, commencing on June 1, 2011, Monthly Base Rent for the Third Floor Premises shall be payable pursuant to the following table:

Time Period	Monthly Base Rent
6/1/11 — 3/31/12	$55,759.20 per month
4/1/12 — 3/31/13	$58,746.30 per month
4/1/13 — 3/31/14	$60,508.69 per month
4/1/14 — 3/31/15	$62,323.95 per month

4/1/15 — 3/31/16	$64,193.69 per month
4/1/16 — 3/31/17	$66,119.50 per month
4/1/17 — 3/31/18	$68,103.08 per month
4/1/18 — 3/31/19	$70,146.17 per month
4/1/19 — 3/31/20	$72,250.56 per month
4/1/20 — 5/31/20	$74,418.08 per month

c. **Second Floor Premises**. Notwithstanding anything to the contrary contained in the Lease, commencing on the date of this First Amendment, Tenant shall pay to Landlord Monthly Base Rent for the Second Floor Premises through the SFP Surrender Date, as follows:

Time Period	Monthly Base Rent
6/1/10 — 11/30/10	$51,968.80 per month
12/1/10 - 2/28/11	$41,175.28 per month
3/1/11 — 3/31/12	$42,410.54 per month

6. **Notice to Subtenant**. Concurrently with Tenant's execution of this First Amendment, Tenant shall notify Subtenant in writing that the Lease with respect to the Second Floor Premises will terminate as of March 31, 2012, pursuant to this First Amendment, and that Subtenant shall have no right to extend the term of the Sublease beyond March 31, 2012.

7. **Additional Rent**. Notwithstanding anything to the contrary contained in the Lease, commencing on December 1, 2010, until the SFP Surrender Date, Tenant shall be required to pay for Expenses (as defined in Paragraph 4.2 of the Lease) with respect to the Second Floor Premises only in an amount equal to $1.50 per rentable square foot of the Second Floor Premises per month. Notwithstanding the foregoing, Tenant shall continue to pay Expenses and Additional Rent for the First Floor Premises (through the FFP Surrender Date, as the same may be extended pursuant to Section 12(a) below) and the Third Floor Premises as provided for in the Lease.

8. **Additional Tenant Improvement Allowance**. Landlord and Tenant have amended the 901 Gateway Lease to, among other things, provide Tenant an "Additional TI Allowance" of up to $2,606,840.00. Notwithstanding anything to the contrary contained in the 901 Gateway Lease, Tenant shall only have the right to use up to $782,052.00 of the Additional TI Allowance for the design and construction of fixed and permanent improvements within the Third Floor Premises desired by and performed by Tenant and which improvements shall be of a fixed and permanent nature (the "**Additional Tenant Improvements**"); provided, however, that Tenant shall comply with the terms of Section 3 of that certain First Amendment to Lease of even date herewith entered into by Landlord and Tenant with respect to the 901 Gateway Lease in connection with Tenant's use of the Additional TI Allowance and the construction by Tenant of the Additional Tenant Improvements within the Third Floor Premises.

9. **Security Deposit**. Effective as of the Effective Date of this First Amendment, Paragraph 7 of the Lease is hereby deleted in its entirety and replaced with the following:

"**7.** **Security Deposit**. Tenant acknowledges and agrees that Tenant has delivered to Landlord a Security Deposit (as defined in the 901 Gateway Lease) pursuant to the terms of the 901 Gateway Lease and that Landlord shall have the right to apply all or any portion of such Security Deposit in connection with any Default (as defined in Paragraph 24) under this Lease.

The Security Deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's default. Upon each occurrence of a Default by Tenant under this Lease, Landlord may use all or any part of the Security Deposit to pay delinquent payments due

under this Lease, future rent damages under California Civil Code Section 1951.2, and the cost of any damage, injury, expense or liability caused by such Default, without prejudice to any other remedy provided herein or provided by law. Landlord's right to use the Security Deposit under this Paragraph 7 includes the right to use the Security Deposit to pay future rent damages following the termination of this Lease pursuant to Paragraph 25.5 below. Upon any use of all or any portion of the Security Deposit, Tenant shall pay Landlord within twenty (20) days after receipt of written demand the amount that will restore (by the delivery of a replacement or amended Letter of Credit) the Security Deposit to the amount set forth in the definition of "Letter of Credit" set forth in the Basic Lease Information of the 901 Gateway Lease. Tenant hereby waives the provisions of any law, now or hereafter in force, including, without limitation, California Civil Code Section 1950.7, which provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by Tenant or to clean the Premises, it being agreed that Landlord may, in addition, claim those sums reasonably necessary to compensate Landlord for any other loss or damage, foreseeable or unforeseeable, caused by the Default of Tenant or any of Tenant's Agents under this Lease. Upon bankruptcy or other debtor-creditor proceedings against Tenant, the Security Deposit shall be deemed to be applied first to the payment of Rent and other charges due Landlord for periods prior to the filing of such proceedings, subject to applicable bankruptcy law. If Tenant shall fully perform every provision of this Lease to be performed by Tenant and Landlord is holding cash in the amount of a bifurcated Letter of Credit (as described below) or cash proceeds therefrom, the Security Deposit, or any balance thereof (i.e., after deducting therefrom all amounts to which Landlord is entitled under the provisions of this Lease), shall be returned to Tenant within ninety (90) days after the expiration or earlier termination of this Lease. If Landlord is holding a bifurcated Letter of Credit upon the expiration or earlier termination of this Lease, Landlord shall comply with the LC Issuer's requirements necessary to cancel the bifurcated Letter of Credit by the date that is ninety (90) days after the expiration or earlier termination of this Lease.

Notwithstanding anything contained in this Paragraph 7 to the contrary, if Landlord draws on the Letter of Credit for any reason, then Tenant shall have the right, upon ten (10) days' prior written notice to Landlord, to obtain a refund from Landlord of any unapplied proceeds of the Letter of Credit which Landlord has drawn upon, any such refund being conditioned upon Tenant simultaneously delivering to Landlord a replacement Letter of Credit in the amount required by, and otherwise meeting the requirements contained in, this Paragraph 7 and Paragraph 7 of the 901 Gateway Lease.

Notwithstanding anything to the contrary contained herein or in the 901 Gateway Lease, if requested by Landlord at any time following the date of this Lease, Tenant shall cause the LC Issuing Bank (as defined in the 901 Gateway Lease) to bifurcate the Letter of Credit (as defined in the 901 Gateway Lease) into two separate letters of credit, one securing Tenant's obligations under the 901 Gateway Lease and the other securing Tenant's obligations under this Lease. Such bifurcated letters of credit shall each be in an amount specified by Landlord, provided that the aggregate amount of such letters of credit shall equal the amount of the Letter of Credit immediately prior to such bifurcation. Concurrently with the bifurcation of the Letter of Credit, Landlord and Tenant shall enter into a modification of the 901 Gateway Lease and a modification of this Lease, which modifications shall amend Paragraph 7 of the 901 Gateway Lease and this Paragraph 7 to provide for separate, stand-alone security deposit provisions in the 901 Gateway Lease and this Lease.

If Landlord transfers its interest in the Project or this Lease, Landlord shall either (a) transfer any Security Deposit then held by Landlord to a person or entity assuming Landlord's obligations under this Paragraph 7, or (b) return to Tenant any Security Deposit then held by Landlord and remaining after the deductions permitted herein. Upon such transfer to such transferee or the return of the Security Deposit to Tenant, Landlord shall have no further obligation with respect to the Security Deposit, and Tenant's right to the return of the Security

Deposit shall apply solely against Landlord's transferee. Landlord's obligation respecting the Security Deposit is that of a debtor, not a trustee, and no interest shall accrue thereon."

10. **Unreserved Parking Spaces**. Commencing on June 1, 2011, the definition of "Unreserved Parking Spaces" contained in the Basic Lease Information shall be deleted and replaced with the following:

"*Unreserved Parking Spaces*: Subject to the terms of Paragraph 50, Tenant shall have the right, in common with other tenants of the Project pro rata in accordance with the rentable area of the Premises and the rentable areas of the Project occupied by such other tenants, to park in the Project Parking Areas (as defined in Paragraph 50)."

11. **Surrender Plan**. Effective as of the Effective Date of this First Amendment, Paragraph 32.9 of the Lease hereby is deleted in its entirety and replaced with the following:

"**32.9 Condition of Premises upon Expiration or Termination**. Upon the expiration of the Term or earlier termination of Tenant's right of possession, Tenant shall surrender the Premises to Landlord (x) free of Hazardous Materials brought upon, kept, used, stored, handled, treated, generated in, or released or disposed of from, the Premises by Tenant or Tenant's Agents ("**Tenant HazMat Operations**") in a manner consistent with prudent commercial practices and such that no Hazardous Materials resulting from Tenant HazMat Operations remain at the Premises in violation of Environmental Requirements and the continued presence of such Hazardous Materials are not in excess of industry standards for the occupancy and re-use of the Premises for research and scientific purposes by a subsequent tenant of the Premises, and (z) released of any license, clearance or other authorization of any kind issued by any governmental authority having jurisdiction over the use, storage, handling, treatment, generation, release, disposal, removal or remediation of Hazardous Materials in, on or about the Premises (collectively referred to herein as "**Hazardous Materials Clearances**"). At least 3 months prior to the surrender of the Premises, Tenant shall deliver to Landlord a narrative description of the actions proposed (or required by any governmental authority) to be taken by Tenant in order to surrender the Premises (including any installations permitted by Landlord to remain in the Premises) at the expiration or earlier termination of the Term, free from any residual impact from the Tenant HazMat Operations and in a manner consistent with prudent commercial practices and such that no Hazardous Materials resulting from Tenant HazMat Operations remain at the Premises in violation of Environmental Requirements and the continued presence of Hazardous Materials are not in excess of industry standards for the occupancy and re-use of the Premises for research and scientific purposes by a subsequent tenant of the Premises (the "**Surrender Plan**"). Such Surrender Plan shall be accompanied by a current listing of (i) all Hazardous Materials licenses and permits held by or on behalf of any of Tenant or Tenant's Agents with respect to the Premises, and (ii) all Hazardous Materials used, stored, handled, treated, generated, released or disposed of or from the Premises by Tenant or Tenant's Agents, and shall be subject to the review and approval of Landlord's environmental consultant, which approval shall not be unreasonably withheld, conditioned or delayed. In connection with the review and approval of the Surrender Plan, upon the request of Landlord, Tenant shall deliver to Landlord or its consultant such additional non-proprietary information concerning Tenant HazMat Operations as Landlord reasonably shall request. On or before such surrender, Tenant shall deliver to Landlord commercially reasonable evidence that the approved Surrender Plan has been satisfactorily completed and Landlord shall have the right, subject to reimbursement at Tenant's expense as set forth below, to cause Landlord's environmental consultant to inspect the Premises and perform such additional procedures as may be deemed reasonably necessary to confirm that the Premises are, as of the effective date of such surrender or early termination of the Lease, free from any residual impact from Tenant HazMat Operations as required pursuant to this Paragraph 7. Tenant shall reimburse Landlord, as Additional Rent, for the actual out-of pocket expense incurred by Landlord for Landlord's environmental consultant to review and approve the Surrender Plan and to visit the Premises and verify satisfactory completion of the same, which

cost shall not exceed $5,000. Landlord shall have the unrestricted right to deliver such Surrender Plan (subject to any standard non-reliance letter, if any, prepared by Tenant and delivered by Tenant to Landlord concurrently with Tenant's delivery of the Surrender Plan to Landlord, which non-reliance letter shall be applicable only to third parties other than Landlord) and any report by Landlord's environmental consultant with respect to the surrender of the Premises to Landlord's potential tenants, purchasers, lenders and other third parties with a need to know in connection with Landlord's business; provided, however, that Landlord instructs such parties to treat the same as confidential.

If Tenant shall fail to prepare or submit a Surrender Plan reasonably approved by Landlord, or if Tenant shall fail to complete the approved Surrender Plan, or if such Surrender Plan, whether or not approved by Landlord, shall fail to adequately address any residual effect of Tenant HazMat Operations in, on or about the Premises, shall fail to adequately address any Hazardous Materials resulting from Tenant's HazMat Operations remaining at the Premises in violation of Environmental Requirements or in a manner not consistent with prudent commercial practices or such that the continued presence of such Hazardous Materials are in excess of industry standards for the occupancy and re-use of the Premises for research and scientific purposes by a subsequent tenant of the Premises, Landlord shall have the right to take such actions as Landlord reasonably may deem reasonable or appropriate to assure that the Premises and the Project are surrendered free from any such residual impact from Tenant HazMat Operations, the cost of which actions shall be reimbursed by Tenant as Additional Rent, without regard to the limitation set forth in the first paragraph of this Paragraph 32.9.

All obligations of Tenant hereunder not fully performed as of the expiration or earlier termination of this Lease, including the obligations of Tenant under Paragraph 32 of this Lease, shall survive the expiration or earlier termination of the Term, including, without limitation, indemnity obligations, payment obligations with respect to rent and obligations concerning the condition and repair of the Premises."

12. **Surrender of the Surrender Premises**.

a. **First Floor Premises**. The Lease with respect to the First Floor Premises shall terminate as provided for in the Lease on the FFP Surrender Date. Tenant shall voluntarily surrender the First Floor Premises on or before such date in the condition which Tenant is required to surrender the Premises as of the expiration of the Lease. Tenant represents and warrants that since the Commencement Date of the Lease, the First Floor Premises has been used solely for offices purposes, warehousing and shipping and receiving (including the storage of Subtenant's chemicals in the warehouse space and storage of chemical waste in the chemical waste room located in the First Floor Premises). Notwithstanding anything to the contrary contained herein or in the Lease, so long as the First Floor Premises continues to be used solely for office purposes, warehousing and shipping and receiving through the FFP Surrender Date, Tenant shall not be required to provide Landlord a Surrender Plan with respect to the First Floor Premises in connection with Tenant's surrender of the First Floor Premises. From and after the FFP Surrender Date, Tenant shall have no further rights or obligations of any kind with respect to the First Floor Premises. Notwithstanding the foregoing, those provisions of the Lease which, by their terms, survive the termination of the Lease shall survive the surrender of the First Floor Premises and termination of the Lease with respect to the First Floor Premises as provided for herein. Nothing herein shall excuse Tenant from its obligations under the Lease with respect to the First Floor Premises prior to the FFP Surrender Date. Notwithstanding anything to the contrary contained in the Lease, (i) Tenant shall not be required to remove any Tenant Improvements or Alterations from the First Floor Premises in connection with its surrender of the First Floor Premises and all Tenant Improvements and Alterations located in the First Floor Premises shall become the Property of Landlord on the Surrender Date, and (ii) in addition to any such Tenant Improvements and Alterations, all casework, if any, located in the First Floor

Premises as of the date of this First Amendment shall also remain in the First Floor Premises and become the Property of Landlord on the Surrender Date.

Tenant has informed Landlord that Tenant will be relocating certain of its employees currently located in the First Floor Premises to a portion of Tenant's premises located within the 901 Gateway Building (as defined below). Tenant shall have the right to extend the term of the Lease with respect to the First Floor Premises for a period of ninety (90) days in order to complete the relocation of its employees. Not later than 90 days after the mutual execution and delivery of this First Amendment by the parties, Tenant shall notify Landlord in writing ("**FFP Notice**") whether Tenant elects to extend the term of the Lease with respect to the First Floor Premises for such ninety (90) day period. If Tenant delivers the FFP Notice to Landlord within the time period provided in the immediately preceding sentence, the FFP Surrender Date shall be automatically extended for one (1) additional period of ninety (90) days ("**FFP Extension Period**"). During the FFP Extension Period, Tenant shall have the right to continue to occupy the First Floor Premises pursuant to all of the terms and conditions of the Lease, as modified by this First Amendment; provided, however, that Tenant shall be required to pay Monthly Base Rent for the First Floor Premises in an amount equal to $55,759.20 per month for each month of the FFP Extension Period, along with all Additional Rent payable with respect to the First Floor Premises pursuant to the terms of the Lease.

b. **Second Floor Premises**. The Lease with respect to the Second Floor Premises shall terminate as provided for in the Lease on the SFP Surrender Date. Tenant shall voluntarily surrender the Second Floor Premises on or before such date in the condition which Tenant is required to surrender the Premises as of the expiration of the Lease and in compliance with the surrender requirements set forth in the Lease (including this First Amendment). From and after the SFP Surrender Date, Tenant shall have no further rights or obligations of any kind with respect to the Second Floor Premises. Notwithstanding the foregoing, those provisions of the Lease which, by their terms, survive the termination of the Lease shall survive the surrender of the Second Floor Premises and termination of the Lease with respect to the Second Floor Premises as provided for herein. Nothing herein shall excuse Tenant from its obligations under the Lease with respect to the Second Floor Premises prior to the SFP Surrender Date. Notwithstanding anything to the contrary contained in the Lease, (i) Tenant shall not be required to remove any Tenant Improvements or Alterations from the Second Floor Premises in connection with its surrender of the Second Floor Premises and all Tenant Improvements and Alterations located in the Second Floor Premises shall become the Property of Landlord on the SFP Surrender Date, and (ii) in addition to any such Tenant Improvements and Alterations, all laboratory casework located in the Second Floor Premises as of the date of this First Amendment shall also remain in the Second Floor Premises and become the Property of Landlord on the SFP Surrender Date.

Notwithstanding anything to the contrary contained herein, Tenant acknowledges that Landlord may enter into a direct lease with Subtenant pursuant to which Subtenant would lease the Second Floor Premises directly from Landlord following the SFP Surrender Date ("**Direct Lease**"). If Landlord and Subtenant enter into a Direct Lease prior to the SFP Surrender Date, Tenant shall not be required to provide Landlord a Surrender Plan with respect to the Second Floor Premises in connection with Tenant's surrender of the Second Floor Premises; provided, however, that Landlord shall have the right to conduct any inspections and testing of the Second Floor Premises determined reasonably necessary by Landlord to determine whether the condition of the Second Floor Premises is in compliance with the provisions of the Lease and whether any contamination has occurred in or from the Second Floor Premises. Upon request from Tenant, Landlord shall provide Tenant with a copy of the results of such testing, subject to Landlord's standard non-reliance letter. Notwithstanding anything to the contrary contained herein, Tenant shall be required to pay the cost of such testing of the Second Floor Premises if there is a violation of Paragraph 32 of the Lease caused by Tenant or any of Tenant's Agents or if contamination for which Tenant is responsible under Paragraph 32 of the Lease is identified,

along with all costs incurred to clean up, remove or remediate any contamination identified by the investigations and testing conducted by Landlord hereunder.

c. First Floor Warehouse/Shipping and Receiving. Landlord acknowledges and agrees that from and after the FFP Surrender Date the warehouse and shipping and receiving areas located in the First Floor Premises will be Common Area to which Tenant, Subtenant and other tenants, licensees and occupants of the Building will have shared access for warehouse and shipping and receiving purposes. In addition, in connection with the splitting of services pursuant to Section 13 below, Tenant may be required to locate the new CDA compressor, N2 and CO2 distribution systems and the House Vacuum in the warehouse space, which likely would result in the removal of some existing cages (collectively, the "**Warehouse Relocation Work**"). Subject to the provisions of Section 13 below, Landlord consents to Tenant's installation of the Warehouse Relocation Work in the First Floor warehouse, and Tenant's continued use of the warehouse and shipping and receiving areas in the First Floor Premises in common with other tenants, licensees and occupants of the Building from and after the FFP Surrender Date for such purposes.

13. **Splitting of Services**. Landlord and Tenant acknowledge that because Tenant currently leases the entire Building pursuant to the Lease and that certain adjacent building located at 901 Gateway Boulevard, South San Francisco, California ("**901 Building**") pursuant to the 901 Gateway Lease, the services identified in this Section 13, along with any additional services which may be identified by both Landlord and Tenant, each in the exercise of its reasonable discretion (collectively, "**Shared Services**"), are currently shared between the Building and the 901 Building. Because Tenant is surrendering the First Floor Premises and the Second Floor Premises pursuant to this First Amendment, Tenant has requested that the Shared Services be split pursuant to this Section 13 so that they may independently serve each of the Building and the 901 Building, respectively ("**Splitting Work**").

a. Landlord shall make available to Tenant an allowance of up to $250,000.00 (the "**Splitting Allowance**") for the Splitting Work. Except for the Splitting Allowance, Tenant shall be solely responsible for all of the costs of the Splitting Work. Landlord and Tenant agree to work together in good faith to minimize the cost of the Splitting Work. The Splitting Allowance shall only be available for use by Tenant for the payment of the cost of the Splitting Work until July 31, 2012, and any portion of the Splitting Allowance which has not been disbursed by Landlord for the Splitting Work on or before the expiration of such date shall be forfeited and shall not be available for use by Tenant. Notwithstanding anything to the contrary contained herein, Landlord and Tenant shall agree upon the equitable allocation of the cost of the Splitting Work for any additional Shared Services identified by Landlord and Tenant after July 31, 2012, at the time such additional Shared Services are identified.

b. Unless Landlord elects otherwise, Tenant shall perform the Splitting Work pursuant to plans approved by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. The contractors for the Splitting Work shall be shall be selected by Tenant, subject to Landlord's approval, which approval shall not be unreasonably withheld. conditioned or delayed. Prior to the commencement of the Splitting Work, Tenant shall deliver to Landlord a copy of any contract with Tenant's contractors and certificates of insurance from any contractor performing any part of the Splitting Work evidencing industry standard commercial general liability, automotive liability, "builder's risk", and workers' compensation insurance. Tenant shall cause the general contractor to provide a certificate of insurance naming Landlord, Alexandria Real Estate Equities, Inc., and Landlord's lender (if any) as additional insureds for the general contractor's liability coverages required above. Landlord shall be entitled to receive the benefit of any warranties, if any, obtained by Tenant with respect to Splitting Work

c. Except as otherwise expressly provided in this Section 13(c), Tenant shall cause the Splitting Work to be completed on or before June 30, 2012. Notwithstanding the foregoing, Tenant shall complete the Splitting Work with respect to the CO2, N2, CDA, DI and House Vacuum distribution of services ("**Specified Services**") no later than April 30, 2012; provided, however, that Landlord may, by not less than one hundred twenty (120) days' prior written notice to Tenant, cause Tenant to complete the Splitting Work with respect to the Specified Services prior to such date if Landlord intends to enter into a lease or other occupancy agreement with a third party (including, without limitation, Subtenant) with respect to any portion of the First Floor Premises and/or Second Floor Premises.

d. Notwithstanding anything to the contrary contained herein, Tenant shall not be required to perform any Splitting Work with respect to the telephone, IT, building management and security systems serving the Building prior to March 31, 2011. Prior to such date, Landlord and Tenant agree to work together in good faith to determine the manner and timing of splitting such systems at the lowest possible cost.

Tenant, at Tenant's sole cost and expense, shall disconnect the existing public address systems serving the First Floor Premises and the Second Floor Premises on or before April 30, 2011.

14. **Utilities**. On or before September 1, 2010, Tenant shall transfer all water, electricity, heat, light, power, sewer, refuse and trash collection contracts for the Building to Landlord. With respect to Tenant's obligation to transfer utilities to Landlord, Tenant and Landlord shall reasonably cooperate to ensure that each such utility will continue to be available to the Building without interruption. Such cooperation shall include working with each party's account representative to coordinate the termination of the utility service in Tenant's name and the commencement of such service in Landlord's name in a manner that permits utility service without disruption. With respect to janitorial services for the Premises, during the Term, as extended, Tenant shall provide janitorial services to the Premises pursuant to its contract for janitorial services with the vendor performing such services for the 901 Building and Landlord shall have no obligation to provide janitorial services to the Premises. Except for janitorial services provided by Landlord with respect to the Common Areas, which shall be passed through as an Expense, Landlord shall provide for its own janitorial service to that portion of the Building not occupied by Tenant, and may not charge Tenant for any portion of such service as an Expense or otherwise.

Notwithstanding anything to the contrary contained in the Lease, as of the date that all such utilities are established in Landlord's name, Paragraph 5.1 of the Lease shall be deleted in its entirety and replaced with the following:

"***5.1 Tenants Obligation to Pay***

Landlord shall provide, subject to the terms of this Paragraph 5.1, water, electricity, heat, light, power, sewer, and other utilities (including natural gas [but not process gas] and fire sprinklers to the extent the Project is plumbed for such services), refuse and trash collection and janitorial services

(collectively, "**Utilities**"). Landlord shall pay, as part of Expenses or subject to Tenant's reimbursement obligation, for all Utilities used on the Premises, all maintenance charges for Utilities, and any storm sewer charges or other similar charges for Utilities imposed by any governmental authority or Utility provider, and any taxes, penalties, surcharges or similar charges thereon. Landlord may cause, at Tenant's expense, any Utilities to be separately metered or charged directly to Tenant by the provider. Notwithstanding the foregoing, Tenant's cost for the installation of any separate meter shall not exceed that then-applicable cost of a "Demon Meter" or its reasonable equivalent. Tenant shall pay directly to the Utility provider, prior to delinquency, any separately metered Utilities and services which may be furnished to Tenant or the Premises during the Term. Tenant shall pay, as part of Expenses, its share of all charges for jointly metered Utilities based upon consumption, as reasonably determined by Landlord. Tenant acknowledges that the Premises, the Building and/or the Project may become subject to the

rationing of Utility services or restrictions on Utility use as required by a public utility company, governmental agency or other similar entity having jurisdiction thereof. Tenant acknowledges and agrees that its tenancy and occupancy hereunder shall be subject to such rationing or restrictions as may be imposed upon Landlord, Tenant, the Premises, the Building and/or the Project, and Tenant shall in no event be excused or relieved from any covenant or obligation to be kept or performed by Tenant by reason of any such rationing or restrictions. Upon request from Landlord, Tenant agrees to cooperate in good faith with Landlord to develop the most efficient energy conservation program possible in order to comply with Laws, but in no event shall Landlord have the right to implement any energy conservation program (except to the extent mandated by Law) which unreasonably interferes, in Tenant's reasonable good faith judgment, with Tenant's operation of its business at the Premises. Except to the extent that an energy conservation or program or measure is mandated by Law, Tenant shall have the right, in Tenant's reasonable discretion, to approve in advance any energy conservation program or measure proposed by Landlord."

15. **Emergency Generator**. Although Landlord is the owner of emergency generator and related automatic transfer switches serving the Building and the 901 Building (collectively, the "**Emergency Generator**"), prior to the date of this First Amendment, Tenant, as the sole tenant of the Building and the 901 Building, has been operating and maintaining the Emergency Generator. Tenant shall, on the date that is 1 day after the mutual execution and delivery of this First Amendment by the parties ("**EG Transfer Date**"), (x) deliver the Emergency Generator to Landlord in good working order with a full tank of diesel (y) assign to, transfer and deliver to Landlord all governmental permits and licenses (to the extent such permits and licenses are assignable), if any, warranties (to the extent assignable), operating and maintenance manuals, records and other documents concerning the Emergency Generator, and (y) terminate any service, maintenance or other contracts maintained by Tenant with respect to the Emergency Generator. Tenant has not been obligated to maintain a wastewater permit in connection with the Emergency Generator. With respect to any permit required for the Emergency Generator, Landlord acknowledges and agrees that Tenant has been in the process of obtaining a generator permit in connection with a Tenant permitting process underway with the Bay Area Air Quality Management District ("BAAQMD") for the 901 Building, that Tenant will remove the generator from its permit application with BAAQMD, and that Landlord will need to obtain a generator permit from BAAQMD in its own name. To the best of Tenant's knowledge, Tenant does not have any other permits in connection with the Emergency Generator. To the extent Tenant has current contracts with any vendors for the Emergency Generator, Tenant and Landlord shall reasonably cooperate to assign or terminate such contracts in the manner set forth in Section 14 above regarding utilities.

To the extent it is not possible for Tenant to remove the request for a generator permit from its BAAQMD application or to assign or terminate any service maintenance or other contracts within 1 day after the mutual execution and delivery of this First Amendment, Tenant shall not be in default hereunder if Tenant promptly commences efforts to do so and diligently performs until such actions have been completed within a reasonable period after such date.

Landlord shall, within 5 days of the EG Transfer Date, as part of Expenses, conduct such testing of the Emergency Generator required, in Landlord's sole and absolute discretion, to determine whether the Emergency Generator is, in fact, in good working order. If such testing discloses that the Emergency Generator is not in good working order, Landlord shall have the right, at Tenant's sole cost and expense, to perform any maintenance and/or repairs required to put the Emergency Generator in good working order.

Following the EG Transfer Date, Landlord's sole obligation for either providing emergency generators or providing emergency back-up power to Tenant shall be: (i) to provide emergency generators with not less than the current capacity of the Emergency Generator and Tenant shall be entitled to Tenant's share of the capacity thereof available for use by all tenants

of the Building and the 901 Building, collectively, in accordance with the rentable area of the Premises and the 901 Building and the collective rentable areas of the Building and the 901 Building occupied by such other tenants, (ii) to contract with a third party to maintain the emergency generators ("**Emergency Generator Servicer**") as per the manufacturer's standard maintenance guidelines, and (iii) to obtain and maintain licenses for the emergency generators as required by applicable law. Landlord shall have no obligation to provide Tenant with operational emergency generators or back-up power or to supervise, oversee or confirm that the Emergency Generator Servicer or any other third party maintaining the emergency generators is maintaining the generators as per the manufacturer's standard guidelines or otherwise. Landlord shall provide to Tenant copies of any reports received by Landlord from the Emergency Generator Servicer regarding its maintenance and repairs of the emergency generators; provided, however, that in no event shall Landlord's failure to deliver such reports constitute a default by Landlord under the Lease. During any period of replacement, repair or maintenance of the emergency generators when the emergency generators are not operational, including any delays thereto due to the inability to obtain parts or replacement equipment, Landlord shall have no obligation to provide Tenant with an alternative back-up generator or generators or alternative sources of back-up power. Tenant expressly acknowledges and agrees that Landlord does not guaranty that such emergency generators will be operational at all times or that emergency power will be available to the Premises when needed. Landlord shall provide Tenant with not less than five (5) business days' notice of the scheduled disruption in the operation of the emergency generators. In the case of an emergency, Landlord shall provide Tenant with notice of any emergency disruption as soon as reasonably possible after Landlord becomes aware of the need for such emergency disruption.

16. **Maintenance**. Tenant shall continue to maintain the Building pursuant to Paragraph 13.1 of the Lease following the FFP Surrender Date until such date that Landlord notifies Tenant in writing that Landlord shall assume the maintenance of the Building ("**Assumption Date**"); provided, however, that in no event shall the Assumption Date occur after July 31, 2011. Nothing contained herein shall release Tenant from its obligations arising prior to the Assumption Date. Commencing on the Assumption Date, Paragraph 13 of the Lease shall be deleted in its entirely and replaced with the following:

"**13. MAINTENANCE AND REPAIRS OF PREMISES**

13.1 Landlord Repairs. Landlord, as an Expense, shall repair, replace when necessary (as reasonably determined by Landlord) and maintain in good repair the exterior of the Building (including exterior doors), parking, landscaping, exterior lighting, roof membrane, roof covering and all other Common Areas of the Project, including HVAC, plumbing, fire sprinklers, elevators, fire safety equipment, sewer and septic systems, the Emergency Generator and all other building systems serving the Premises and other portions of the Project ("**Building Systems**"), uninsured losses and damages caused by Tenant, or by any of Tenant's Agents excluded. Landlord, at Landlord's sole cost without right of reimbursement from Tenant, shall repair, replace when necessary (as reasonably determined by Landlord) and maintain the structural portions of the roof (specifically excluding the roof membrane and the roof covering, the repair and/or replacement of which shall be treated as an Expense), the foundation, footings, floor slab and load-bearing walls and exterior walls of the Building (excluding any glass and any routine maintenance, including, without limitation, any painting, sealing, patching and waterproofing of such walls, repair, the maintenance of which shall be treated as an Expense), uninsured losses and damages caused by Tenant or Tenant's Agents excluded. Any losses and damages caused by Tenant or any Tenant Agent shall be repaired by Landlord, to the extent not covered by insurance, at Tenant's sole cost and expense. Landlord reserves the right to stop Building Systems services when necessary (i) by reason of accident or emergency, or (ii) for planned repairs, alterations or improvements, which are, in the reasonable judgment of Landlord, desirable or necessary to be made, until said repairs, alterations or improvements shall have been completed. Landlord shall have no responsibility or liability for failure to supply Building Systems services during any such

period of interruption; provided, however, that Landlord shall, except in case of emergency, give Tenant not less than five (5) business days' advance notice of any planned stoppage of Building Systems services for routine and planned maintenance, repairs, alterations or improvements. Tenant shall promptly give Landlord written notice of any repair required by Landlord pursuant to this section, after which Landlord shall make a commercially reasonable effort to effect such repair within five (5) business days, or, where the repair cannot reasonably be completed within five (5) business days, as soon as reasonably possible thereafter. Landlord shall not be liable for any failure to make any repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after the time periods set forth herein. Tenant waives its rights under any state or local law to terminate this Lease or to make such repairs at Landlord's expense and agrees that the parties' respective rights with respect to such matters shall be solely as set forth herein. Repairs required as the result of fire, earthquake, flood, vandalism, war, or similar cause of damage or destruction shall be controlled by Paragraph 21.

Notwithstanding anything to the contrary contained in the Lease, commencing on the Assumption Date, to the extent that Landlord performs or is required to perform any capital repairs, replacements or improvements for the Project, whether to comply with Law, with any obligation imposed on Landlord pursuant to this Lease or at Landlord's election, Tenant shall be responsible as part of Expenses for its Proportionate Share of the cost of such capital repairs, replacements and improvements amortized over the useful life (as reasonably determined by Landlord taking into account relevant real estate accounting principles, consistently applied, including, without limitation, the hours of operation of the Building and its use for laboratory/office purposes) of such capital items. Tenant shall pay Tenant's Proportionate Share of such amortized costs for each month after such capital repairs, replacements or improvements are completed until the first to occur of the expiration of the Term (as it may be extended) or the end of the period over which such costs are amortized.

13.2 Tenant's Repairs. Subject to Paragraph 13.1 hereof, Tenant, at its expense, shall repair and maintain in good condition all portions of the Premises, including, without limitation, entries, doors (excluding exterior doors providing access to the Building, maintenance, repair and replacement of which is the obligation of Landlord as an Expense), ceilings, interior windows, interior walls, and the interior side of demising walls. Should Tenant fail to make any such repair or replacement or fail to maintain the Premises, Landlord shall give Tenant notice of such failure. If Tenant fails to commence cure of such failure within ten (10) days of Landlord's notice, and thereafter diligently prosecute such cure to completion, Landlord may perform such work and shall be reimbursed by Tenant within thirty (30) days after receipt of written demand therefor (together with reasonable documentation); provided, however, that if such failure by Tenant creates or could create an emergency, Landlord may immediately commence cure of such failure and shall thereafter be entitled to recover the actual and reasonable costs of such cure from Tenant. Subject to Paragraphs 21 and 22 of the Lease, Tenant shall bear the full uninsured cost of any repair or replacement to any part of the Project that results from damage caused by Tenant or any Tenant Party and any repair that benefits only the Premises."

17. **Signs**. Tenant shall be entitled to its Proportionate Share of any available external Building signage, if any, which signage shall be at Tenant's cost and expense. Notwithstanding the foregoing, Tenant acknowledges and agrees that Tenant's signage on the Building including, without limitation, the size, color and type, shall be subject to Landlord's prior written approval and shall be consistent with Landlord's signage program at the Project and applicable legal requirements. Tenant shall be responsible, at Tenant's sole cost and expense, for the maintenance of Tenant's signage, for the removal of Tenant's signs at the expiration or earlier termination of this Lease and for the repair all damage resulting from such removal.

18. **Option to Renew**. Tenant shall have two (2) options (each a "**Renewal Option**") to extend the term of this Lease with respect to the entire Premises for successive periods of five (5) years each (each a "**Renewal Term**") pursuant to the provisions of Paragraph 49 of the Lease. For

avoidance of doubt, the parties hereby acknowledge and agree that if the Monthly Base Rent during any Renewal Term is calculated pursuant to Paragraph 49.4(ii) of the Lease, Monthly Base Rent shall be increased on each annual anniversary of the commencement of such Renewal Term by a percentage as determined by Landlord and agreed to by Tenant at the time the Fair Market Rent is determined.

19. **Right of First Offer**. Notwithstanding anything to the contrary contained herein or in the Lease, Paragraph 51 of the Lease is hereby deleted in its entirety and of no further force or effect and Tenant shall have no further right of first offer or other right to purchase the Building.

20. **Right to Expand**.

a. **Right of First Refusal**. From and after the FFP Surrender Date with respect to the First Floor Premises, and from and after the SFP Surrender Date with respect to the Second Floor Premises through the expiration or earlier termination of the Term, each time that Landlord intends to accept a written proposal (the "**Pending Deal**") to lease the First Floor Space or, if applicable, the Second Floor Space to a third party ("**ROFR Space**"), Landlord shall deliver to Tenant written notice (the "**Pending Deal Notice**") of the existence and the terms of such Pending Deal; provided, however, that the terms of this Section 20(a) shall not apply to any current or future transaction pursuant to which Landlord intends to lease all or any of the Second Floor Space and/or the First Floor Premises directly to Subtenant. Tenant shall be entitled to exercise its right under this Section 20(a) only with respect to the entire ROFR Space. Within ten (10) business days after Tenant's receipt of the Pending Deal Notice, Tenant shall deliver to Landlord written notice (the "**Space Acceptance Notice**") if Tenant elects to lease the ROFR Space. Tenant's right to receive the Pending Deal Notice and election to lease or not lease the ROFR Space pursuant to this Section 20(a) is hereinafter referred to as the "**Right of First Refusal**." If Tenant elects to lease the ROFR Space by delivering the Space Acceptance Notice within the required ten (10) business day period, Tenant shall be deemed to agree to lease the ROFR Space on the terms and conditions set forth in the Pending Deal Notice and any other terms agreeable to Landlord and Tenant, in the respective sole discretion of each party.

If (i) Tenant fails to deliver a Space Acceptance Notice to Landlord within the required ten (10) business day period, or (ii) no lease amendment or lease agreement for the ROFR Space, acceptable to Landlord and Tenant in their respective reasonable discretion, has been executed and delivered by the parties within thirty (30) days after Landlord delivers a draft of the same to Tenant despite the good faith efforts of both parties, Tenant shall be deemed to have elected not to exercise Tenant's right to lease the ROFR Space pursuant to the Pending Deal Notice in question in which case Tenant shall be deemed to have forever waived its right to lease the ROFR Space pursuant to the Pending Deal Notice in question, this Section 20(a) shall terminate and be of no further force or effect with respect to the Pending Deal Notice in question, and Landlord shall have the right to lease the ROFR Space to the party that was the subject of the Pending Deal Notice on substantially the same business terms and conditions set forth in the Pending Deal Notice. Notwithstanding the foregoing, if Landlord negotiates with the proposed tenant economic lease terms materially more favorable (but in no event shall the economic lease terms be considered materially more favorable unless the difference in net effective base rent is 10% or greater), as reasonably determined by Landlord, than those offered to Tenant but rejected as part of the Pending Deal Notice, Landlord shall be required to submit the more favorable economic terms to Tenant for its review. Tenant shall have five (5) business days after receipt of the more favorable economic terms to accept or reject the revised terms. If Tenant rejects the more favorable terms, Landlord shall be free to enter into a lease with the proposed tenant on such terms. Tenant's rejection of any particular Pending Deal Notice shall not relieve Landlord of its obligation to again offer any Right of First Refusal Space to Tenant at any time that Landlord intends, other than with respect to Subtenant with respect to whom the terms of this Section 20 shall not apply, to again agree to a written proposal from another party to lease such space in such period.

b. **Amended Lease**. If: (i) Tenant fails to timely deliver a Space Acceptance Notice, or (ii) after the expiration of a period of thirty (30) days from Tenant's delivery of a Space Acceptance Notice pursuant to Section 20(a), no lease amendment or lease agreement for the ROFR Space, acceptable to Landlord and Tenant, in the respective sole discretion of each, has been executed, Tenant shall be deemed to have waived its right to lease the ROFR Space at issue.

c. **Exceptions**. Notwithstanding the above, the Right of First Refusal shall not be in effect and may not be exercised by Tenant:

(i) during any period of time that Tenant is in Default under any provision of the Lease; or

(ii) if Tenant has been in Default under any provision of the Lease three (3) or more times, whether or not the Defaults are cured, during the twelve (12) month period prior to the date on which Tenant seeks to exercise the Right of First Refusal.

d. **Termination**. The Right of First Refusal shall terminate and be of no further force or effect even after Tenant's due and timely exercise of the Right of First Refusal, if, after such exercise, but prior to the commencement date of the lease of such ROFR Space, (i) Tenant fails to timely cure any default by Tenant under the Lease; or (ii) Tenant has Defaulted three (3) or more times during the period from the date of the exercise of the Right of First Refusal to the date of the commencement of the lease of the ROFR Space, whether or not such Defaults are cured.

e. **Rights Personal**. The Right of First Refusal is personal to Tenant and is not assignable without Landlord's consent, which may be granted or withheld in Landlord's sole discretion separate and apart from any consent by Landlord to an assignment of Tenant's interest in the Lease, except that they may be assigned in connection with any Permitted Transfer of this Lease.

f. **No Extensions**. The period of time within which the Right of First Refusal may be exercised shall not be extended or enlarged by reason of Tenant's inability to exercise the Right of First Refusal.

21. **Additional Modifications to Lease**. From and after the Effective Date of this First Amendment, the Lease shall be modified as follows:

a. Modification to Basic Lease Information. The Tenant's Contact Person shall be "General Counsel" rather than "Marty Glick".

b. Modification to Paragraph 2.3(a), "Changes to Common Area". The following shall be added at the end of Paragraph 2.3(a): "Notwithstanding the foregoing, Landlord's exercise of the foregoing rights shall not materially interfere with Tenant's access to or use of the Premises to the extent that Tenant's business operations are materially interrupted thereby."

c. Modification to Paragraph 2.3(b), "Changes to Common Area". The second sentence of Paragraph 2.3(b) hereby is deleted and revised to state in its entirety as follows: "During periods of construction only, Landlord shall have the right to provide parking to Tenant on properties reasonably proximate to the Project (the "**Adjacent Properties**") or through the use of valets or parking attendants on the Parking Areas or the Adjacent Properties, provided that Tenant shall at all times have parking for the number of automobiles contemplated under the Lease."

d. Modification to Paragraph 4.2, "Additional Rent". There shall be added to Paragraph 4.2 a new Paragraph 4.2.11, "Exclusions from Expenses", which reads as follows:

"4.2.11 Exclusions from Expenses. Notwithstanding anything to the contrary contained in this Paragraph 4.2, and in addition to the exclusions set forth in the preceding paragraph, there shall be excluded from Expenses and Additional Rent the following: (i) leasing commissions, advertising expenses, promotional expenses, attorneys' fees, disbursements, and other costs and expenses incurred in procuring prospective tenants, negotiating and executing leases, and constructing improvements required to prepare for a new tenant's occupancy for the Building or the Project, if any; (ii) finance and debt service fees, principal and/or interest on debt or amortization payments on any mortgages executed by Landlord covering Landlord's property, any other indebtedness of Landlord, and rental under any ground lease or leases for the Building or the Project; (iii) any depreciation allowance or expense, amortization (except for expenditures permitted under this Lease) or expense reserve; (iv) the costs of Landlord's third party property manager or, if there is no third party property manager, administration fees in excess of the amount of 3.0% of Base Rent); (v) except for management fees, Landlord's general overhead and any overhead or profit increment to any subsidiary or affiliate of Landlord for services on or to the Project to the extent that the cost of such service exceeds competitive costs for such services rendered by persons or entities of similar skill, competence and experience other than a subsidiary or affiliate of Landlord; (vi) any costs or expenses representing any amount paid for services and materials to a (personal or business) related person, firm, or entity to the extent such amount exceeds the amount that would have been paid for such service or materials at the then existing market rates in the absence of such relationship; (vii) compensation paid to any employee of Landlord above the grade of Property Manager/Building Superintendent, including officers and executives of Landlord (provided that Landlord may pass through as Expenses compensation paid to employees at or below the grade of Property Manager/Building Superintendant or affiliates of Landlord providing services to the Project); (viii) costs of electrical energy furnished and metered directly to tenants of the Project or for which Landlord is entitled to be reimbursed by tenants as additional rental over and above tenant's Monthly Base Rent or pass-through of Expenses; (ix) the cost of any work or service furnished to any tenant or occupant of the Project to a materially greater extent or in a materially more favorable manner than that furnished generally to the tenants and other occupants of the Project, or the costs of work or service furnished exclusively for the benefit of any tenant or occupant of the Project or at such tenant's cost; (x) the costs and expenses incurred in resolving disputes with other tenants, other occupants, or prospective tenants or occupants of the Project, collecting rents or otherwise enforcing leases of the tenants of the Project; (xi) any costs incurred to remove, study, test, remediate or otherwise related to the presence of Hazardous Materials in the Building, which Hazardous Materials (A) Tenant proves originated from any separately demised tenant space within the Building other than the Premises or (B) Tenant proves were not brought upon, kept, used, stored, handled, treated, generated in, or released or disposed of from, the Building by Tenant or Tenant's Agents; (xii) the costs of any work or service performed for any facility other than a facility located within the Project; (xiii) the costs of repairs, alterations, and general maintenance necessitated by the gross negligence or willful misconduct of Landlord or its agents, employees, or contractors or repairs; (xiv) interest or penalties due to the late payment by Landlord of taxes, utility bills or other such costs (except to the extent caused by Tenant's action or inaction); (xv) any of the following tax or assessment expenses: (a) estate, inheritance, transfer, gift, federal, state or franchise taxes of Landlord, or (b) penalties and interest, other than those attributable to Tenant's failure to comply timely with its obligations pursuant to this Lease; and (xvi) bad debt expenses and charitable contributions and donations. Landlord agrees that (a) Landlord will not collect or be entitled to collect more than one hundred percent (100%) of the Expenses actually paid by Landlord in connection with the operation of the Project in any calendar year, and (b) Landlord shall make no profit from Landlord's collection of Expenses."

e. Modifications to Paragraph 15, "Tenant's Insurance". The third sentence of Paragraph 15.2 hereby is revised in its entirety to state: "No such policy shall contain a deductible greater than Twenty-Five Thousand Dollars ($25,000.00). Paragraph 15.5 hereby is deleted and revised to state in its entirety as follows: "All insurance required to be carried by Tenant hereunder shall be maintained with insurance companies authorized to do business in the State of California for the issuance of the applicable type of insurance coverage and rated A-VII or better in Best's Key Rating Guide. Tenant shall deliver to Landlord certificates of insurance and true and complete copies of any and all endorsements required herein for all insurance required to be maintained by Tenant hereunder at the execution of this Lease by Tenant. Tenant shall, at least thirty (30) days prior to expiration of each policy, furnish Landlord and the other parties named as additional insureds with certificates of renewal thereof. Tenant shall (i) provide Landlord with 30 days advance written notice of cancellation of each policy, and (ii) require Tenant's insurer to endeavor to provide 30 days advance written notice of cancellation of each policy."

f. Modification to Paragraph 23.2, "Assignment and Subletting — Requirements of Request for Consent". Paragraph 23.2 shall be amended to provide that if Tenant requests consent to a proposed assignment or subletting (except in connection with a Permitted Transfer), whether or not the term of the proposed transfer is for the balance of the Term, Landlord shall have the right to recapture that portion of the Premises that is the subject of the proposed assignment or subletting and terminate the Lease with respect thereto; provided, however, that subsection (3) of Paragraph 23.2 shall be of no further force or effect and Landlord shall not have the right to sublease or take an assignment, as the case may be, of the interest in the Lease that is at issue.

g. Modification to Paragraph 24, "Tenant's Default". The following is hereby added at the end of Paragraph 24.(a): "provided, however, that if Tenant vacates the Premises at any time during the last nine (9) months of the Term but continues to perform all of its obligations hereunder, including, without limitation, maintaining all insurance policies required by this Lease and complying with all of the requirements of Paragraph 32.9, Tenant shall not be deemed to be in default under this Paragraph 24.(a);".

h. Modification to Paragraph 32.2, "Tenant's Obligation to Update Disclosure Certificates". The first sentence of Paragraph 32.2 hereby is deleted and revised to state in its entirety as follows: "Within ten (10) business days after receipt of Landlord's written request, Tenant shall complete, execute and deliver to Landlord an updated Disclosure Certificate (each, an "Updated Disclosure Certificate") describing Tenant's then current and proposed future uses of Hazardous Materials on or about the Premises, which Update Disclosure Certificates shall be in the same format as that which is set forth in Exhibit D or in such other form as is reasonably acceptable to Landlord".

i. Modification to Paragraph 34, "Waiver". The last two sentences of Paragraph 34 hereby are deleted and revised to state in their entirety as follows: "No delay or omission in the exercise of any right or remedy of Landlord or Tenant in regard to any default by the other shall impair such right or remedy or be construed as a waiver. Any waiver by Landlord or Tenant of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provisions of this Lease."

j. Modification to Paragraph 40, "Financial Statements". Paragraph 40 hereby is deleted and revised to state in its entirety as follows: "Within ten (10) days after Landlord's request, Tenant shall deliver to Landlord the then current, or if Tenant is a publicly traded company, the most recent publicly available financial statements of Tenant prepared, compiled or reviewed by a certified public accountant, including a balance sheet and

profit and loss statement for the most recent prior year, all prepared in accordance with GAAP.".

k. New Paragraphs. The following new paragraphs are hereby added to the Lease:

"**53.** **Commercially Reasonable**. Where Landlord or Tenant are required to use "best efforts" in the performance of any obligation under this Lease, "best efforts" shall mean "commercially reasonable good faith efforts."

"**54.** **Force Majeure**. Whenever a period of time is herein prescribed for action (other than the payment of money) to be taken by Landlord or Tenant, such party shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, terrorist activity, governmental laws, regulations or restrictions".

22. **Brokers**. Landlord and Tenant each represents and warrants that it has not dealt with any broker, agent or other person (collectively, "**Broker**") in connection with this First Amendment and that no Broker brought about this transaction, other than BT Cassidy/Turley. Landlord and Tenant each hereby agree to indemnify and hold the other harmless from and against any claims by any Broker, other than the broker, if any named in this Section 22, claiming a commission or other form of compensation by virtue of having dealt with Tenant or Landlord, as applicable, with regard to this First Amendment.

23. **OFAC**. To Tenant's knowledge, without any duty of inquiry, as of the date of Tenant's execution of this First Amendment, Tenant is currently (a) in compliance with and shall at all times during the Term of the Lease remain in compliance with the regulations of the Office of Foreign Assets Control ("**OFAC**") of the U.S. Department of Treasury and any statute, executive order, or regulation relating thereto (collectively, the "**OFAC Rules**"), (b) not listed on, and shall not during the term of the Lease be listed on, the Specially Designated Nationals and Blocked Persons List maintained by OFAC and/or on any other similar list maintained by OFAC or other governmental authority pursuant to any authorizing statute, executive order, or regulation, and (c) not a person or entity with whom a U.S. person is prohibited from conducting business under the OFAC Rules.

24. **Miscellaneous**.

a. This First Amendment is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This First Amendment may be amended only by an agreement in writing, signed by the parties hereto.

b. This First Amendment is binding upon and shall inure to the benefit of the parties hereto, their respective agents, employees, representatives, officers, directors, divisions, subsidiaries, affiliates, assigns, heirs, successors in interest and shareholders.

c. Tenant acknowledges that it has read the provisions of this First Amendment, understands them, and is bound by them. Time is of the essence in this First Amendment.

d. This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this First Amendment attached thereto.

e. Except as amended and/or modified by this First Amendment, the Lease is hereby ratified and confirmed and all other terms of the Lease shall remain in full force and effect, unaltered and unchanged by this First Amendment. In the event of any conflict between the provisions of this First Amendment and the provisions of the Lease, the provisions of this First Amendment shall prevail. Whether or not specifically amended by this First Amendment, all of the terms and provisions of the Lease are hereby amended to the extent necessary to give effect to the purpose and intent of this First Amendment.

[Signatures are on the next page.]

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the day and year first above written.

TENANT:

THERAVANCE, INC.,
a Delaware corporation

/s/ Rick E Winningham

By: Rick E Winningham
Its: Chief Executive Officer

LANDLORD:

ARE-901/951 GATEWAY BOULEVARD, LLC,
a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES, L.P.,
a Delaware limited partnership,
managing member

By: ARE-QRS CORP.,
a Maryland corporation,
general partner

/s/ Eric S. Johnson

By: Eric S. Johnson
Its: Vice President, Real Estate Legal Affairs

EXHIBIT A

The Premises

(Attached)

Exhibit 10.13

LEASE AGREEMENT

BY AND BETWEEN

HMS GATEWAY OFFICE L.P.,
A Delaware Limited Partnership

AS LANDLORD,

AND

ADVANCED MEDICINE, INC.,
a Delaware corporation

AS TENANT

DATED JANUARY 1, 2001

TABLE OF CONTENTS

Exhibit

LEASE AGREEMENT

BASIC LEASE INFORMATION

Lease Date:	January 1, 2001
Landlord:	HMS Gateway Office, L.P. a Delaware limited partnership
Landlord's Address:	c/o Hines Interests Limited Partnership 101 California Street, Suite 1000 San Francisco, California 94111-5848 Attn: Tom Kruggel *All notices sent to Landlord under this Lease shall be sent to the above address, with copies to:* Hines 651 Gateway Boulevard, Suite 1140 South San Francisco, California 94080 Attn: Catherine Fogelman
Tenant:	Advanced Medicine, Inc., a Delaware corporation
Tenant's Contact Person:	Marty Glick
Tenant's Address:	901 Gateway Boulevard South San Francisco, California 94080
Premises Square Footage:	One hundred ten thousand four hundred twenty eight (110,428) square feet.
Premises Address:	901 Gateway Boulevard South San Francisco, California
Project:	Parcel A as shown on the Final Parcel Map 99-095 dated March 2000, prepared by Kier & Wright, together with all improvements constructed thereon.
Building (if not the same as the Project):	901 Gateway Boulevard South San Francisco, California
Tenant's Proportionate Share of Project	100%
Tenant's Proportionate Share of	100%
Length of Term:	One hundred thirty five (135) months
Commencement Date:	January 1, 2001
Expiration Date:	March 31, 2012
Monthly Base Rent:	1. Monthly Base Rent for the period commencing January 1, 2001 and ending March 31, 2001 shall be $269,405.71; 2. Monthly Base Rent for the period commencing April 1, 2001 and ending March 31, 2002 shall be $275,534.46; 3. Monthly Base Rent for the period commencing April 1, 2002 and ending March 31, 2003 shall be $281,847.08;

4. Monthly Base Rent for the period commencing April 1, 2003 and ending March 31, 2004 shall be $288,349.07;

5. Monthly Base Rent for the period commencing April 1, 2004 and ending March 31, 2005 shall be $295,046.13;

6. Monthly Base Rent for the period commencing April 1, 2005 and ending March 31., 2006 shall be $301,944.09;

7. Monthly Base Rent for the period commencing April 1, 2006 and ending March 31, 2007 shall be $309,049.00;

8. Monthly Base Rent for the period commencing April 1, 2007 and ending March 31, 2008 shall be $316,367.05;

9. Monthly Base Rent for the period commencing April 1, 2008 and ending March 31, 2009 shall be $323,904.65;

10. Monthly Base Rent for the period commencing April 1, 2009 and ending March 31, 2010 shall be $331,668.37;

11. Monthly Base Rent for the period commencing April 1, 2010 through March 31, 2011 shall be $339,665.00;

12. Monthly Base Rent for the period commencing April 1, 2011 and ending March 31, 2012 shall be $347,901.53.

Letter of Credit: Three Million Seven Hundred Fifty Thousand Dollars ($3,750,000), subject to reduction in accordance with Paragraph 7(d) hereof.

Permitted Use: General office and research and development activities associated with biotechnology/pharmaceutical services. All uses must be in accordance with all applicable Laws.

Unreserved Parking Spaces: Two Hundred Ninety Three (293) non-exclusive and undesignated parking spaces.

Except as otherwise provided in this Lease to the contrary, the foregoing parking calculation shall remain fixed.

Tenant Improvement Allowance: Nine Million Three Hundred Eighty-Six Thousand Three Hundred Eighty Dollars ($9,386,380) of which Landlord has paid Seven Million Seven Hundred Twenty-Nine Thousand Nine Hundred Sixty Dollars ($7,729,960) as of the date of this Lease, leaving a remaining Tenant Improvement Allowance to be paid of One Million Six Hundred Fifty-Six Thousand Four Hundred Twenty Dollars ($1,656,420), which shall be paid on the later to occur of (i) January 1, 2001, or (ii) five (5) business days following the mutual execution and delivery of this Lease.

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into by and between Landlord and Tenant on the Lease Date. The defined terms used in this Lease which are defined in the Basic Lease Information attached to this Lease Agreement ("Basic Lease Information") shall have the meaning and definition given them in the Basic Lease Information. The Basic Lease Information, the exhibits, the addendum or addenda described in the Basic Lease Information, and this Lease Agreement are and shall be construed as a single instrument and are referred to herein as the "Lease".

O P E R A T I V E P R O V I S I O N S

1. DEMISE

In consideration for the rents and all other charges and payments payable by Tenant, and for the agreements, terms and conditions to be performed by Tenant in this Lease, LANDLORD DOES HEREBY LEASE TO TENANT, AND TENANT DOES HEREBY HIRE AND TAKE FROM LANDLORD, the Premises described below (the "Premises"), upon the agreements, terms and conditions of this Lease for the Term hereinafter stated.

2. PREMISES

2.1 Definition of Premises, 951 Gateway Premises, Building, Project, Parking Areas, Common Areas

(a) The "Premises" demised by this Lease consist of that certain three (3) story building (the "Building") shown on the Site Plan attached hereto as *Exhibit A*, which Building is to be located in that certain real estate development (the "Project") specified in the Basic Lease Information. Subject to the provisions of this Lease, Landlord shall have the right to revise the definition of "Project" from time to time as Landlord develops and improves the Project and surrounding real property now or hereafter owned by Landlord or its Affiliates (as hereinafter defined), or sells to third parties portions of the Project or such adjacent properties. If at any time during the Term, Tenant is leasing, in accordance with the terms and conditions of this Lease, less than the entire Building, the "Premises" shall be deemed to include only that portion of the Building then leased by Tenant pursuant to this Lease. Tenant shall have the

non-exclusive right (in common with the other tenants, Landlord and any other person granted use by Landlord) to use the Common Areas (as hereinafter defined), except that, with respect to the Project's parking areas (the "Parking Areas"), Tenant shall have only the rights set forth in Paragraph 50 below. No easement for light or air is incorporated in the Premises. For purposes of this Lease, the term "Common Areas" shall mean all areas and facilities (i) outside the Premises and/or outside other buildings occupied or intended to be occupied by tenants, and (ii) either within the exterior boundary line of the Project or within the exterior boundary lines of properties abutting the Project, which areas and facilities are from time to time provided and designated by Landlord for the nonexclusive use of Landlord, Tenant and other tenants of the Project or of the properties abutting the Project and their respective employees, guests and invitees, including, without limitation, the Parking Areas.

(b) Concurrently herewith, Landlord and Tenant are entering into a Lease Agreement, dated as of even date herewith, covering certain premises (the "951 Gateway Lease") to be hereafter developed by Landlord and to be known as 951 Gateway Boulevard, South San Francisco, California (the "951 Gateway Premises").

2.2 Changes to Common Area

(a) Landlord has the right, in its sole and absolute discretion, from time to time, to: (i) make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces (provided, however, Landlord shall not have the right, except as otherwise provided herein, to reduce the total number of parking spaces below the number allocated to Tenant in the Basic Lease Information), Parking Areas, ingress, egress, direction of

driveways, entrances, corridors and walkways; (ii) close temporarily any of the Common Areas for maintenance or construction purposes so long as reasonable access to the Premises remains available; (iii) add additional buildings and improvements to the Common Areas or remove existing buildings or improvements therefrom; (iv) use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project or any portion thereof so long as reasonable access to the Premises and the loading area serving the Premises remains available; and (v) do and perform any other acts or make any other changes in, to or with respect to the Common Areas and the Project as Landlord may, in its sole and absolute discretion, deem to be appropriate.

(b) Notwithstanding the terms of Paragraph 2.2(a) above, Tenant understands and acknowledges that Landlord will during the Term be developing the Project and other lands owned by Landlord for other tenants or occupants, including, without limitation, for Tenant as the future occupant of the 951 Gateway Premises, and that from time to time, whether during periods of construction or otherwise, Landlord may be unable to provide the full number of parking spaces allocated to Tenant under this Lease in the Parking Areas. During such periods, Landlord shall have the right to provide parking to Tenant on properties reasonably proximate to the Project (the "Adjacent Properties") or through the use of valets or parking attendants on the Parking Areas or the Adjacent Properties, provided only that Tenant shall at all times have parking for the number of automobiles contemplated under this Lease.

3. TERM

The term of this Lease (the "Term") shall commence on January 1, 2001 (the "Commencement Date") and shall expire on March 31, 2012 (the "Expiration Date").

4. RENT

4.1 Monthly Base Rent.

Commencing on the Commencement Date, Tenant shall pay to Landlord, in advance on the first day of each month, without further notice or demand and without offset or deduction, the monthly installments of rent specified in the Basic Lease Information (the "Monthly Base Rent"). If the expiration or termination of the Term of this Lease is not the last day of a calendar month, a prorated installment of Rent based on a per diem calculation shall be paid for the fractional calendar month during which the Term expires or terminates.

4.2 Additional Rent

This Lease is intended to be a triple-net Lease with respect to Landlord; and subject to Paragraph 13.2 below, the Base Rent owing hereunder is (1) to be paid by Tenant absolutely net of all costs and expenses relating to Landlord's ownership and operation of the Project and the Building, and (2) not to be reduced, offset or diminished, directly or indirectly, by any cost, charge or expense payable hereunder by Tenant or by others in connection with the Premises, the Building and/or the Project or any part thereof. The provisions of this Paragraph 4.2 for the payment of Tenant's Proportionate Share(s) of Expenses (as hereinafter defined) are intended to pass on to Tenant its share of all such costs and expenses. In addition to the Base Rent, Tenant shall pay to Landlord, in accordance with this Paragraph 4, Tenant's Proportionate Share(s) of all costs and expenses paid or incurred by Landlord in connection with the ownership, operation, maintenance, management and repair of the Premises, the Building and/or the Project or any part thereof (collectively, the "Expenses"), including, without limitation, all the following items (the "Additional Rent"):

1. *Taxes and Assessments.* All real estate taxes and assessments, which shall include any form of tax, assessment, fee, license fee, business license fee, levy, penalty (if a result of Tenant's delinquency), or tax (other than net income, estate, succession, inheritance, transfer or franchise taxes), imposed by

any authority having the direct or indirect power to tax, or by any city, county, state or federal government or any improvement or other district or division thereof, whether such tax is (i) determined by the area of the Premises, the Building and/or the Project or any part thereof, or the Rent and other sums payable hereunder by Tenant or by other tenants, including, but not limited to, any gross income or excise tax levied by any of the foregoing authorities with respect to receipt of Rent and/or other sums due under this Lease; (ii) upon any legal or equitable interest of Landlord in the Premises, the Building and/or the Project or any part thereof, (iii) upon this transaction or any document to which Tenant is a party creating or transferring any interest in the Premises, the Building and/or the Project; (iv) levied or assessed in lieu of, in substitution for, or in addition to, existing or additional taxes against the Premises, the Building and/or the Project, whether or not now customary or within the contemplation of the parties; or (v) surcharged against the parking area. Tenant and Landlord acknowledge that Proposition 13 was adopted by the voters of the State of California in the June, 1978 election and that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such purposes as fire protection, street, sidewalk, road, utility construction and maintenance, refuse removal and for other governmental services which may formerly have been provided without charge to property owners or occupants. It is the intention of the parties that all new and increased assessments, taxes, fees, levies and charges due to any cause whatsoever are to be included within the definition of real property taxes for purposes of this Lease. "Taxes and assessments" shall also include legal and consultants' fees, costs and disbursements incurred in connection with proceedings to contest, determine or reduce taxes, Landlord specifically reserving the right, but not the obligation, to contest by appropriate legal proceedings the amount or validity of any taxes. In the event Landlord elects not to contest the real property taxes and assessments levied against the Building with respect to any calendar year during the Term, and if Tenant demonstrates to Landlord's reasonable satisfaction that such a contest would likely result in a reduction of such taxes and assessments, then Tenant shall have the right to retain a consultant to prosecute such contest, subject to Landlord's reasonable approval of the identity of such consultant. Such contest shall be conducted at Tenant's sole cost and expense, provided that if Tenant prevails in such contest, the reasonable fees and costs of Tenant's consultants shall, to the extent of any actual savings resulting from such contest, be equitably shared by Tenant and other tenant(s) who receive the benefit of such savings. Tenant shall have the right to deduct from its payments of Additional Rent the shares of such fees and costs to be charged to other tenants, as reasonably determined by Landlord, and Landlord shall cause such amounts to be billed or charged to the other benefited tenant(s).

2. *Insurance.* All insurance premiums for the Building and/or the Project or, subject to clause (i) of the paragraph immediately following Paragraph 4.2(8) below, any part thereof, including premiums for "all risk" fire and extended coverage insurance, commercial general liability insurance, rent loss or abatement insurance, earthquake insurance, flood or surface water coverage, and other insurance as Landlord deems necessary in its sole discretion, and any deductibles paid under policies of any such insurance.

3. *Utilities.* The cost of all Utilities (as hereinafter defined) serving the Premises, the Building and the Common Areas that are not separately metered to Tenant, any assessments or charges for Utilities or similar purposes included within any tax bill for the Building or the Common Areas, including, without limitation, entitlement fees, allocation unit fees, and/or any similar fees or charges and any penalties (if a result of Tenant's delinquency) related thereto, and any amounts, taxes, charges, surcharges, assessments or impositions levied, assessed or imposed upon the Building or the Common Areas, or any part thereof, or upon Tenant's use and occupancy thereof, as a result of any rationing of Utility services or restriction on Utility use affecting the Building and/or the Common Areas, as contemplated in Paragraph 5 below (collectively, "Utility Expenses").

4. *Common Area Expenses.* All costs to operate, maintain, repair, replace, supervise, insure and administer the Common Areas, including supplies, materials, labor and equipment used in or related to

the operation and maintenance of the Common Areas, including parking areas (including, without limitation, all costs of resurfacing and restriping parking areas), signs and directories on the Building and/or the Project, landscaping (including maintenance contracts and fees payable to landscaping consultants), amenities, sprinkler systems, sidewalks, walkways, driveways, curbs, lighting systems and security services, if any, provided by Landlord for the Common Areas.

5. *Parking Charges.* Any parking charges or other costs levied, assessed or imposed by, or at the direction of, or resulting from statutes or regulations, or interpretations thereof, promulgated by any governmental authority or insurer in connection with the use or occupancy of the Building or the Project.

6. *Maintenance and Repair Costs.* Except for costs which are the responsibility of Landlord pursuant to Paragraph 13.2 below, all costs to maintain, repair, and replace the Premises, the Building and/or the Common Areas or any part thereof, including, without limitation, (i) all costs paid under maintenance, management and service agreements such as contracts for janitorial, security and refuse removal, (ii) all costs to maintain, repair and replace the roof coverings of the Building, (iii) all costs to maintain, repair and replace the heating, ventilating, air conditioning, plumbing, sewer, drainage, electrical, fire protection, life safety and security systems and other mechanical and electrical systems and equipment serving the Premises, the Building and/or the Common Areas or any part thereof (collectively, the "Systems"), all to the extent that Landlord or any of Landlord's agents, advisors, employees, partners, shareholders, directors, invitees or independent contractors (collectively, "Landlord's Agents") perform such tasks.

7. *Life Safety Costs.* All costs to install, maintain, repair and replace all life safety systems, including, without limitation, all fire alarm systems, serving the Premises, the Building and/or the Common Areas or any part thereof (including all maintenance contracts and fees payable to life safety consultants) whether such systems are or shall be required by Landlord's insurance carriers, Laws (as hereinafter defined) or otherwise, all to the extent that Landlord or Landlord's Agents perform such tasks.

8. *Management and Administration.* All costs for management and administration of the Premises, the Building and/or the Project or any part thereof, including, without limitation, a property management fee equal to two percent (2%) of the annual Rent derived from the Building, accounting, auditing, billing, postage, legal and accounting costs and fees for licenses and permits related to the ownership and operation of the Project (but specifically excluding any salaries and benefits of employees of Landlord or the property manager of the Building).

9. *Gateway Operational Expenses.* All charges, assessments, costs or fees levied by any association or entity of which the Project or any part thereof is a member or to which the Project or any part thereof is subject (including, without limitation, the Gateway Property Owners' Association), or levied under or imposed by any reciprocal easement agreement, joint operating agreement or other document, instrument or agreement to which the Project or any part thereof is subject.

Notwithstanding anything in this Paragraph 4.2 to the contrary, (i) Tenant shall not be responsible for the payment of any Expenses which relate to or benefit solely another building within the Project occupied or intended to be occupied by tenants or for which Landlord receives full reimbursement from other tenants, and (ii) with respect to all sums payable by Tenant as Additional Rent under this Paragraph 4.2 for the replacement of any item or the construction of any new item in connection with the physical operation of the Premises, the Building or the Project (i.e., HVAC, roof membrane or coverings and parking area) which is a capital item the replacement of which would be capitalized under generally accepted accounting principles consistently applied, Tenant shall be required to pay only the prorata share of the cost of the item falling due within the Term (including any Renewal Term) based upon the amortization of the same over the useful life of such item, as reasonably

determined by Landlord. Such share shall be paid by Tenant on a monthly basis throughout the Term (rather than in a lump sum when incurred by Landlord).

4.3 Adjustment to Additional Rent

Notwithstanding any other provision herein to the contrary, if the Building is not fully occupied during any year of the Term, an adjustment shall be made in computing Additional Rent for such year so that Additional Rent shall be computed as though the Building had been fully occupied during such year; provided, however, that in no event shall Landlord collect in total, from Tenant and all other tenants of the Building, an amount greater than one hundred percent (100%) of the actual Expenses during any year of the Term.

4.4 Payment of Additional Rent.

4.4.1. Expense Statement

Upon the Commencement Date, Landlord shall submit to Tenant an estimate of monthly Additional Rent for the period between the Commencement Date and the following December 31 and Tenant shall pay such estimated Additional Rent on a monthly basis, in advance, on the first day of each month. Tenant shall continue to make said monthly payments until notified by Landlord of a change therein. By April 1 of each calendar year, Landlord shall endeavor to provide to Tenant a statement (the "Expense Statement") showing the actual Additional Rent due to Landlord for the prior calendar year, to be prorated during the first year from the Commencement Date. If the total of the monthly payments of Additional Rent that Tenant has made for the prior calendar year is less than the actual Additional Rent chargeable to Tenant for such prior calendar year, then Tenant shall pay the difference in a lump sum within ten (10) days after receipt of such statement from Landlord. Any overpayment by Tenant of Additional Rent for the prior calendar year shall be credited towards the Additional Rent next due.

4.4.2. Calculation of Additional Rent

Landlord's then-current annual operating and capital budgets for the Building and the Project shall be used for purposes of calculating Tenant's monthly payment of estimated Additional Rent for the current year. Landlord shall make the final determination of Additional Rent for the year in which this Lease terminates as soon as possible after termination of such year. Even though the Term has expired and Tenant has vacated the Premises, Tenant shall remain liable for payment of any amount due to Landlord in excess of the estimated Additional Rent previously paid by Tenant, and, conversely, Landlord shall promptly return to Tenant any overpayment. Failure of Landlord to submit statements as called for herein shall not be deemed a waiver of Tenant's obligation to pay Additional Rent as herein provided.

4.4.3. Tenant's Proportionate Share(s)

With respect to Expenses which Landlord allocates to the Building, Tenant's "Proportionate Share" shall be the percentage set forth in the Basic Lease Information as Tenant's Proportionate Share of the Building, as adjusted by Landlord from time to time for a remeasurement of or changes in the physical size of the Premises or the Building. With respect to Expenses which Landlord allocates to the Project, Tenant's "Proportionate Share" shall be the percentage set forth in the Basic Lease Information as Tenant's Proportionate Share of the Project as adjusted by Landlord from time to time in connection with the construction of additional buildings within the Project or a remeasurement of or changes in the physical size of the Premises or the Project, whether such changes in size are due to an addition to or a sale or conveyance of a portion of the Project or otherwise. Notwithstanding the foregoing,

Landlord may equitably adjust Tenant's Proportionate Share(s) for all or part of any item of expense or cost reimbursable by Tenant that relates to a repair, replacement, or service that benefits only the Premises or only a portion of the Building and/or the Project or that varies with the occupancy of the Building and/or the Project; provided, however, that Tenant's prorata allocation of any such Expense shall not be disproportionate to any other tenant's prorata allocation of such Expense.

4.4.4. Tenant's Audit Rights

Provided Tenant is not in Default under the terms of this Lease, Tenant, at its sole cost and expense, shall have the right within sixty (60) days after the delivery of each Expense Statement to review and audit Landlord's books and records regarding such Expense Statement for the sole purpose of determining the accuracy of such Expense Statement. Such review or audit shall be performed by a nationally recognized accounting firm that calculates its fees with respect to hours actually worked and that does not discount its time or rate (as opposed to a calculation based upon percentage of recoveries or other incentive arrangement), shall take place during normal business hours in the office of Landlord or Landlord's property manager and shall be completed within three (3) business days after the commencement thereof. If Tenant does not so review or audit Landlord's books and records, Landlord's Expense Statement shall be final and binding upon Tenant. In the event that Tenant determines on the basis of its review of Landlord's books and records that the amount of Expenses paid by Tenant pursuant to this Paragraph 4 for the period covered by such Expense Statement is less than or greater than the actual amount properly payable by Tenant under the terms of this Lease, Tenant shall promptly pay any deficiency to Landlord or, if Landlord concurs with the results of Tenant's audit, Landlord shall promptly refund any excess payment to Tenant, as the case may be. Landlord shall pay for any reasonable audit expenses if such excess payment exceeds the aggregate Expenses in Landlord's Expense Statement by seven percent (7%).

4.5 General Payment Terms

The Base Rent, Additional Rent and all other sums payable by Tenant to Landlord hereunder, including, without limitation, any Late Charges, as defined below, assessed pursuant to Paragraph 6 below, and any interest assessed pursuant to Paragraph 44 below, are referred to collectively as the "Rent." All Rent shall be paid without deduction, offset or abatement (except as specifically provided in this Lease) in lawful money of the United States of America. Checks are to be made payable to HMS Gateway Office, L.P. and shall be mailed: c/o Hines Interests Limited Partnership, 101 California Street, Suite 1000, San Francisco, California 94111-5848, Attn: Tom Kruggel, or to such other person or place as Landlord may, from time to time, designate to Tenant in writing. The Rent for any fractional part of a calendar month at the commencement or termination of the Lease term shall be a prorated amount of the Rent for a full calendar month based upon the number of days in the month of the commencement or termination of the Lease term, as applicable.

5. UTILITY EXPENSES

5.1 Tenant's Obligation to Pay

Tenant shall pay the cost of all water, sewer use, sewer discharge fees, gas, heat, electricity, refuse pick-up, janitorial service (including, without limitation, exterior and interior window washing), telephone, cable T.V., telecommunications facilities and all materials and services or other utilities (collectively, "Utilities") billed or metered separately to the Premises and/or Tenant, together with all taxes, assessments, charges and penalties added to or included within such cost. Tenant acknowledges that the Premises, the Building and/or the Project may become subject to the rationing of Utility services or restrictions on Utility use as required by a public utility company, governmental agency or other similar entity having jurisdiction thereof. Tenant acknowledges and agrees that its tenancy and

occupancy hereunder shall be subject to such rationing or restrictions as may be imposed upon Landlord, Tenant, the Premises, the Building and/or the Project, and Tenant shall in no event be excused or relieved from any covenant or obligation to be kept or performed by Tenant by reason of any such rationing or restrictions. Tenant agrees to comply with energy conservation programs implemented by Landlord by reason of rationing, restrictions or Laws.

5.2 Limitation of Landlord's Liability for Interruption of Utilities

(a) Landlord shall not be liable for any loss, injury or damage to property caused by or resulting from any variation, interruption, or failure of Utilities due to any cause whatsoever, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations, improvements, or due to accident, strike, or conditions or other events shall be deemed an eviction of Tenant or relieve Tenant from any of its obligations hereunder; provided, however, that Landlord shall give Tenant not less than forty-eight (48) hours' notice of any interruption of Utilities planned in advance by Landlord. Landlord shall also use reasonable efforts to notify Tenant of any planned interruption of Utilities by any Utility service provider, provided that Landlord obtains actual knowledge of such planned interruption. In no event shall Landlord be liable to Tenant for any damage to the Premises or for any loss, damage or injury to any property therein or thereon occasioned by bursting, rupture, leakage, failure or overflow of any plumbing or other pipes (including, without limitation, water, steam, and/or refrigerant lines), sprinklers, tanks, drains, drinking fountains or washstands, or other similar cause in, above, upon or about the Premises, the Building or the Project.

(b) Notwithstanding the provisions of Paragraph 5.2(a) above, if any Utility Services to the Premises are interrupted or interfered with as the result of the negligence or willful misconduct of any contractors engaged by Landlord to perform services at the Project, then Landlord shall use commercially reasonable efforts to pursue any claims for compensation or reimbursement available to Landlord against such contractors to the extent of any losses suffered by Tenant and shall make any monies received available to Tenant after allowance for Landlord's costs of collection. In addition to the foregoing, if any policy of insurance maintained by Landlord with respect to the Premises provides coverage for losses incurred due to the failure of Utilities, then Landlord shall make a claim under such policy to the extent of any losses suffered by Tenant, and shall make the proceeds received, if any, available to Tenant after allowance for Landlord's costs of collection.

6. LATE CHARGE

Notwithstanding any other provision of this Lease, Tenant hereby acknowledges that late payment to Landlord of Rent, or other amounts due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. If any Rent or other sums due from Tenant are not received by Landlord or by Landlord's designated agent when due, and if Tenant does not cure such failure within five (5) days after the due date (the "Grace Period"), then Tenant shall pay to Landlord a late charge equal to five percent (5%) of such overdue amount (the "Late Charge"), plus any costs and reasonable attorneys' fees incurred by Landlord by reason of Tenant's failure to pay Rent and/or other charges when due hereunder; provided, however, that Tenant shall have the right to pay Rent during the Grace Period only five (5) times during the Term and, after Tenant has paid Rent during the Grace Period an aggregate of five (5) times, Tenant shall pay to Landlord a Late Charge on any Rent or other sums due hereunder that are not received by Landlord or Landlord's designated agent when due. Notwithstanding the foregoing, if Tenant establishes and maintains throughout the Term a direct payment or debit arrangement with a bank or financial institution pursuant to which the Rent due hereunder is automatically paid to Landlord by electronic transfer on the first day of each month, and if Tenant provides Landlord with evidence of such arrangement, then Landlord shall. provide Tenant with notice of any late payment of Rent prior to

the imposition of a Late Charge. Landlord and Tenant hereby agree that such Late Charge represent a fair and reasonable estimate of the cost that Landlord will incur by reason of Tenant's late payment and shall not be construed as a penalty. Landlord's acceptance of such Late Charge shall not constitute a waiver of Tenant's default with respect to such overdue amount or estop Landlord from exercising any of the other rights and remedies granted under this Lease.

Initials: Landlord _____ Tenant _____

7. LETTER OF CREDIT

(a) *Delivery of Letter of Credit.* Tenant has heretofore delivered to Landlord or, concurrently herewith, Tenant shall deliver to Landlord, at Tenant's sole cost and expense, the Letter of Credit described below in the aggregate amount of Three Million Seven Hundred Fifty Thousand Dollars ($3,750,000.00) as security for the full and faithful performance of Tenant's covenants and obligations under this Lease and the 951 Gateway Lease. Upon the date that is forty-five (45) days after the later of (i) the expiration of the Term or earlier termination of this Lease, and/or (ii) the expiration or earlier termination of the 951 Gateway Lease, the Letter of Credit (as reduced pursuant to this Paragraph 7) shall be returned to Tenant, reduced by any amounts that Landlord reasonably estimates to be required to remedy any Defaults on the part of Tenant hereunder and/or under the 951 Gateway Lease.

(b) *Increase in Face Amount of Letter of Credit.* Notwithstanding anything to the contrary contained in Paragraph 7(a) above or Paragraph 7 of the 951 Gateway Lease, if at any time after the date of this Lease Tenant's Actual Cash Balance (as hereinafter defined) is less than Fifty Million Dollars ($50,000,000.00), then Tenant shall immediately deliver to Landlord an amendment to the Letter of Credit increasing the then-current face amount thereof by the sum of One Million Dollars ($1,000,000.00) (said One Million Dollar ($1,000,000.00) increase being herein referred to as the "Supplemental Credit"). Together with the execution of this Lease, Tenant shall deliver to Landlord bank and investment statements and other financial information acceptable to Landlord to substantiate Tenant's Actual Cash Balance as of September 30, 2000. Commencing as of the quarter ending December 31, 2000 and continuing thereafter, Tenant shall, within forty-five (45) days after the end of each calendar quarter, and at such other times as Landlord may request, Tenant shall deliver to Landlord, bank and investment statements and other financial information acceptable to Landlord to substantiate Tenant's then-current Actual Cash Balance. As used herein, Tenant's "Actual Cash Balance" means, at any given time, the actual balance of Tenant's "cash and cash equivalents," and "cash and cash equivalents" means the aggregate amount of the following, to the extent owned by Tenant free and clear of all loans, repayment obligations, encumbrances and rights of others: (i) cash on hand; (ii) dollar demand deposits maintained in the United States with any commercial bank and dollar time deposits maintained in the United States with, or certificates of deposit having a maturity of five years or less issued by, any commercial bank or other financial institution acceptable to the Landlord; (iii) direct obligations of, or unconditionally guaranteed by, the United States and having a maturity of five years or less; and (iv) readily marketable commercial paper having a maturity of five years or less, issued by any corporation organized and existing under the laws of the United States or any state thereof or the District of Columbia and rated by Standard & Poor's or Moody's (or, if neither such organization shall rate such commercial paper at any time, rated by any nationally recognized rating organization in the United States) with the highest rating assigned by such organization.

(c) *Landlord's Right to Draw on Letter of Credit; Letter of Credit Proceeds.* Landlord may (but shall not be required to) draw upon the Letter of Credit from time to time, in a singular draw or by partial draws at Landlord's election, as permitted by the Letter of Credit, and use the proceeds therefrom (the "Letter of Credit Proceeds") or any portion thereof to (i) cure or remedy any Default of Tenant under this Lease and/or under the 951 Gateway Lease, including, without limitation, any failure of Tenant to remove the Bridge and to restore the facades of the Building and the 951 Gateway Premises upon the earlier of the expiration or sooner termination of this Lease or the 951 Gateway Lease, to the extent such removal and restoration are required under Section 11.2 of the 951 Gateway Lease, (ii) repair damage to the Premises and/or to the 951 Gateway Premises caused by Tenant, (iii) clean the Premises upon termination of this Lease and clean the 951 Gateway Premises upon termination of the 951 Gateway Lease, (iv) reimburse Landlord for the payment of any amount which Landlord may spend or be required to spend by reason of Tenant's Default hereunder and/or under the 951 Gateway Lease, or (v) compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's Default hereunder and/or under the 951 Gateway Lease, including, without limitation, all costs incurred by Landlord in releasing the Premises and/or the 951 Gateway Premises, as appropriate, and any tenant improvement costs and leasing commissions associated therewith; it being understood that any use of the Letter of Credit Proceeds shall not constitute a bar or defense to any of Landlord's remedies set forth in this Lease or the 951 Gateway Lease, as the case may be. In such event and upon written notice from Landlord to Tenant specifying the amount of the Letter of Credit Proceeds so utilized by Landlord, Tenant shall immediately deliver to Landlord an amendment to the Letter of Credit restoring the Letter of Credit to the full amount required under Paragraph 7(a) above (as increased pursuant to Paragraph 7(b) above), less any reductions theretofore permitted pursuant to Paragraph 7(c). Tenant's failure to deliver such amendment to Landlord within ten (10) business days of Landlord's notice shall constitute a Default hereunder and under the 951 Gateway Lease.

(d) *Reduction of Amount of Letter of Credit.* As used herein, "Letter of Credit" shall mean an unconditional, stand-by irrevocable letter of credit (hereinafter referred to as the "Letter of Credit") issued by Mellon Bank or the San Francisco Bay Area office of another major national bank mutually satisfactory to Landlord and Tenant (collectively, the "LC Issuing Bank"), naming Landlord as beneficiary, in the amount specified above; provided, however, that the amount of the Letter of Credit shall be subject to reduction from time to time as provided below:

(1) If Tenant achieves actual annual net sales revenues of Thirty Million Dollars ($30,000,000.00) or more during any calendar year during the Term, the then-current amount of the Letter of Credit (including the Supplemental Credit, if applicable) shall be reduced by twenty-five percent (25%) (in addition to any other reduction to which Tenant is entitled under subparagraphs (2) and (3) below); for purposes of this subparagraph (1), "net sales revenues" shall mean the gross revenues actually realized by Tenant from the operation of its core business (as opposed to nonrecurring income or revenues not generated by Tenant's core business), less actual expenses incurred by Tenant during the applicable calendar year;

(2) commencing on April 1, 2004, the then-current amount of the Letter of Credit (specifically excluding, however, the Supplemental Credit, if applicable) shall be reduced on April 1 of each year in substantially equal annual amounts such that the balance of the Letter of Credit shall be zero on the Expiration Date; and

(3) commencing on the fourth (4th) anniversary of the date Tenant delivers the Supplemental Credit to Landlord (the "Supplemental Credit Delivery Date"), the Supplemental Credit shall be reduced on the fourth (4th) and each succeeding anniversary of the Supplemental Credit Delivery Date in substantially equal installments such that the balance of the Supplemental Credit shall be zero on the Expiration Date.

The Letter of Credit shall be for no less than a one-year term and in any event shall be maintained in effect from the date hereof through the date that is forty-five (45) days after expiration of the Term or the earlier termination of this Lease.

(e) *Form of Letter of Credit.* The Letter of Credit shall provide: (i) that Landlord may make partial and multiple draws hereunder, up to the face amount thereof, (ii) that Landlord may draw upon the Letter of Credit up to the full amount thereof, and the LC Issuing Bank will pay to Landlord the amount of such draw upon receipt by the LC Issuing Bank of a draft signed by Landlord (which draft may be presented by Landlord to the LC Issuing Bank in person, by overnight mail or by telefacsimile), accompanied by a written statement from Landlord that Tenant is in Default under this Lease and/or the 951 Gateway Lease or that Landlord is otherwise entitled to draw upon the Letter of Credit, and (iii) that, in the event of Landlord's assignment or other transfer of its interest in this Lease and/or the 951 Gateway Lease, the Letter of Credit shall be freely transferable by Landlord, without recourse, to the assignee or transferee of such interest and the LC Issuing Bank shall confirm the same to Landlord and such assignee or transferee.

(f) *Failure to Provide for Annual Renewal or Replacement of Letter of Credit.* In the event that the LC Issuing Bank shall fail to notify Landlord at least forty-five (45) days prior to expiration of the Letter of Credit that the Letter of Credit will be renewed for at least one (1) year beyond the then applicable expiration date, and deliver to Landlord a replacement Letter of Credit or a modification to the existing Letter of Credit effectuating such renewal at least forty-five (45) days prior to expiration of the Letter of Credit, and Tenant shall not have otherwise delivered to Landlord, at least forty-five (45) days prior to the relevant annual expiration date, a replacement Letter of Credit in the amount required hereunder and under the 951 Gateway Lease and otherwise meeting the requirements set forth above, then Landlord shall be entitled to draw on the Letter of Credit as provided above, and shall hold the proceeds of such draw in a segregated interest bearing cash collateral account in the name of Landlord and with a bank selected by Landlord, as security for the full and faithful performance of Tenant's obligations hereunder and under the 951 Gateway Lease, until Tenant shall have provided a new Letter of Credit satisfying the requirements of this Paragraph 7 and Paragraph 7 of the 951 Gateway Lease, in which event Landlord shall promptly return the proceeds of such draw plus all accrued interest thereon, not otherwise used in accordance with the terms of this Lease and/or the 951 Gateway Lease, to Tenant.

(g) *Bifurcation of Letter of Credit.* Notwithstanding anything to the contrary contained herein or in the 951 Gateway Lease, if requested by Landlord at any time following the date of this Lease, Tenant shall cause the LC Issuing Bank to bifurcate the Letter of Credit into two separate letters of credit, one securing Tenant's obligations under the 951 Gateway Lease and the other securing Tenant's obligations under this Lease. Such bifurcated letters of credit shall each be in an amount specified by Landlord, provided that the aggregate amount of such letters of credit shall equal the amount of the Letter of Credit immediately prior to such bifurcation. Concurrently with the bifurcation of the Letter of Credit, Landlord and Tenant shall enter into a modification of the 951 Gateway Lease and a modification of this Lease, which modifications shall amend Paragraph 7 of the 951 Gateway Lease and this Paragraph 7 to provide for separate, stand-alone letter of credit provisions in the 951 Gateway Lease and this Lease.

8. POSSESSION

By entry hereunder, Tenant accepts the Premises as suitable for Tenant's intended use and as being in good and satisfactory condition, operating order and repair, AS IS and without representation or warranty by Landlord as to the condition, use or occupancy which may be made thereof, with the exception of any obligation Landlord may have with respect to Landlord's covenants set forth within Section 9.2(a) below. Any exceptions to the foregoing must be by written agreement executed by Landlord and Tenant.

9. USE OF PREMISES

9.1 Permitted Use

(a) The use of the Premises by Tenant and Tenant's agents, advisors, employees, partners, shareholders, directors, invitees and independent contractors (collectively, "Tenant's Agents") shall be solely for the Permitted Use specified in the Basic Lease Information and for no other use. Tenant shall not permit any objectionable or unpleasant smoke, dust, gas, noise or vibration to emanate from or near the Premises, and shall use its best efforts to prevent any objectionable odor from emanating from or near the Premises. Tenant shall strictly comply with the measures set forth on *Exhibit B* hereto and any additional measures reasonably required by Landlord from time to time to eliminate the emanation of objectionable odors. Tenant shall promptly provide Landlord with copies of all permits issued to Tenant by the Bay Area Air Quality Management District (the "Air Management District") and any other governmental agency responsible for or having jurisdiction over matters related to air quality, together with copies of all correspondence between Tenant and the Air Management District or such other agencies. Tenant acknowledges that The Gateway, the real estate development in which the Project is located, is a first-class office and R&D campus and that "objectionable odors" is a subjective standard. Accordingly, Tenant agrees that if odors in the area of the Building lead to complaints from other tenants and occupants of The Gateway, and if Landlord reasonably determines, based upon observation and/or a review of Tenant's records, that such odors emanated from the Premises, Tenant shall promptly use its best efforts to correct the situation at Tenant's sole cost and expense. Such measures to be taken by Tenant shall include, without limitation, the hiring of special consultants and the making of capital improvements to the Premises. Tenant shall make its laboratory records available to Landlord for review in connection with any complaints by tenants or occupants of the Gateway and as otherwise reasonably requested by Landlord. Any failure of Tenant to comply with its obligations under this Paragraph 9.1 (a) shall constitute an immediate Default under this Lease.

(b) The Premises shall not be used to create any nuisance or trespass, for any illegal purpose, for any purpose not permitted by Laws, for any purpose that would invalidate the insurance or increase the premiums for insurance on the Premises, the Building or the Project or for any purpose or in any manner that would unreasonably interfere with other tenants' use or occupancy of the Project. Tenant agrees to pay to Landlord, as Additional Rent, any increases in premiums on policies resulting from Tenant's Permitted Use or any other use or action by Tenant or Tenant's Agents which increases Landlord's premiums or requires additional coverage by Landlord to insure the Premises. Tenant agrees not to overload the floor(s) of the Building.

9.2 Compliance with Governmental Regulations and Private Restrictions

(a) Subject to the terms and conditions of the Lease, Landlord covenants that the Base Building Improvements have been constructed in compliance with all applicable building code requirements in effect and actively being enforced by the City of South San Francisco on the date the building permits were issued to the Contractor therefor. Any claims by Tenant under this Paragraph 9.2 shall be made in writing not later than March 31, 2001. In the event Tenant fails to deliver a written claim to Landlord on or before such date, then Landlord shall be conclusively deemed to have satisfied its obligations under this paragraph. The covenants contained in this paragraph are subject to Paragraph 39 below of the Lease and are made specifically and exclusively for the

benefit of the original Tenant and any assignee or sublessee under a Permitted Transfer pursuant to Paragraph 23.4 below.

(b) Tenant and Tenant's Agents shall, at Tenant's expense, faithfully observe and comply with (1) all municipal, state and federal laws, statutes, codes, rules, regulations, ordinances, requirements, and orders (collectively, "Laws"), now in force or which may hereafter be in force pertaining to the Premises or Tenant's use of the Premises, the Building or the Project, including, without limitation, any

Laws requiring installation of fire sprinkler systems, seismic reinforcement and related alterations, whether substantial in cost or otherwise; provided, however, that except as provided in Paragraph 9.3 below, Tenant shall not be required to make or, except as provided in Paragraph 4 above, pay for, structural changes to the Premises or the Building not related to Tenant's specific use of the Premises unless the requirement for such changes is imposed as a result of any improvements or additions made or proposed to be made at Tenant's request; (2) all recorded covenants, conditions and restrictions affecting the Project ("Private Restrictions") now in force or which may hereafter be in force, Landlord hereby specifically reserving the right to hereafter adopt such Private Restrictions and to impose the same on the Project or any portion thereof; provided that such Private Restrictions adopted after the date hereof shall not unreasonably impair Tenant's use of the Premises for any Permitted Use; and (3) any and all rules and regulations set forth in *Exhibit C* and any other rules and regulations now or hereafter promulgated by Landlord (collectively, the "Rules and Regulations"). Without limiting the generality of the foregoing, Tenant hereby covenants and agrees for itself, its successors and assigns, and all persons claiming under or through it, that this Lease is made and accepted upon and subject to the condition that there shall be no discrimination against, or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises herein leased, nor shall Tenant, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein leased. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any such Laws or Private Restrictions, shall be conclusive of that fact as between Landlord and Tenant.

9.3 Compliance with Americans with Disabilities Act

Landlord and Tenant hereby agree and acknowledge that the Premises, the Building and/or the Project may be subject to, among other Laws, the requirements of the Americans with Disabilities Act, a federal law codified at 42 U.S.C. 12101 *et seq*., including, but not limited to, Title III thereof, and all regulations and guidelines related thereto, together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, including all requirements of Title 24 of the State of California, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented (collectively, the "ADA"). Any Tenant Improvements (as hereinafter defined) constructed in connection with Tenant's leasing of the Premises or Alterations (as hereinafter defined) made during the Term shall be in compliance with the requirements of the ADA, and all costs incurred for purposes of compliance therewith shall be a part of and included in the costs of the Tenant Improvements or the Alterations, as applicable. Tenant shall be solely responsible for conducting its own independent investigation of this matter and for ensuring that the design of all Tenant Improvements and Alterations strictly complies with all requirements of the ADA. Subject to reimbursement pursuant to Paragraph 4 above, if any barrier removal work or other work is required to the Building, the Common Areas or the Project under the ADA; then such work shall be the responsibility of Landlord; provided, if such work is required under the ADA as a result of Tenant's use of the Premises or any work or Alteration made to the Premises by or on behalf of Tenant, then such work shall be performed by Landlord at the sole cost and expense of Tenant; and, provided further, that if any such work is required under the ADA as a result of another tenant's specific use of its premises or improvements made by another tenant to its premises, then the cost of such work shall be solely chargeable to such tenant and Tenant shall have no responsibility therefor. Except as otherwise expressly provided in this provision, Tenant shall be responsible at its sole cost and expense for fully and faithfully complying with all applicable requirements of the ADA, including, without limitation, not discriminating against any disabled persons in the operation of Tenant's business in or about the Premises, and offering or otherwise providing

auxiliary aids and services as, and when, required by the ADA. Within ten (10) days after receipt, Tenant shall advise Landlord in writing, and provide Landlord with copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises, the Building or the Project; any claims made or threatened orally or in writing regarding noncompliance with the ADA and relating to any portion of the Premises, the Building or the Project; or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises, the Building or the Project. Tenant shall and hereby agrees to protect, defend (with counsel acceptable to Landlord) and hold Landlord and Landlord's Agents harmless and indemnify Landlord and Landlord's Agents from and against all liabilities, damages, claims, losses, penalties, judgments, charges and expenses (including attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, Tenant's or Tenant's Agents' violation or alleged violation of the ADA. Landlord shall and hereby agrees to protect, defend (with counsel acceptable to Tenant) and hold Tenant and Tenant's Agents harmless and indemnify Tenant and Tenant's Agents from and against all liabilities, damages, claims, losses, penalties, judgments, charges and expenses (including attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, Landlord's failure to have the Base Building Improvements constructed in compliance with the ADA as currently administered by the City of South San Francisco.

10. ACCEPTANCE OF PREMISES

By taking possession of the Premises hereunder Tenant accepts the Premises as suitable for Tenant's intended use and as being in good and sanitary operating order, condition and repair, AS IS, and without representation or warranty by Landlord as to the condition, use or occupancy which may be made thereof, except for Landlord's covenant set forth in Section 9.2(a) above. Any exceptions to the foregoing must be by written agreement executed by Landlord and Tenant.

11. SURRENDER

11.1 Surrender at Expiration or Termination

Tenant agrees that on the last day of the Term, or on the sooner termination of this Lease, Tenant shall surrender the Premises to Landlord (i) in good condition and repair (damage by acts of God, fire, and normal wear and tear excepted), but with all interior walls painted or cleaned so they appear painted and, where appropriate, patched, any carpets cleaned, all floors cleaned and waxed, and all plumbing fixtures in good condition and working order and, where appropriate, capped, and (ii) otherwise in accordance with Paragraph 32.9. Normal wear and tear shall not include any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Lease.

11.2 Removal Obligations and Abandonment of Tenant's Property

On or before the expiration or sooner termination of this Lease, Tenant shall, in accordance with this Paragraph 11, and at Tenant's sole cost and expense, remove, and repair any damage caused by such removal, (A) all of Tenant's Property (as hereinafter defined) and Tenant's signage from the Premises, the Building and the Project, (B) all Tenant Improvements and Alterations required to be removed pursuant to Paragraph 12 below, and (C) remove the depressed slab and trench drains in Room 1205 and return to such slab to a typical standard slab height and finish. Any of Tenant's Property not so removed by Tenant as required herein shall be deemed abandoned and may be stored, removed, and disposed of by Landlord at Tenant's expense, and Tenant waives all claims against Landlord for any damages resulting from Landlord's retention and disposition of such property;

provided, however, that Tenant shall remain liable to Landlord for all costs incurred in storing and disposing of such abandoned property of Tenant. All Tenant Improvements and Alterations except those which Tenant is required to remove pursuant to Paragraph 12 below hereto shall remain in the Premises as the property of Landlord.

11.3 Indemnification

If the Premises are not surrendered at the end of the Term or sooner termination of this Lease, and in accordance with the provisions of this Paragraph 11 and Paragraph 32.9 below, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all loss or liability resulting from delay by Tenant in so surrendering the Premises including, without limitation, any loss or liability resulting from any claim against Landlord made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Landlord due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each case, reasonable attorneys' fees and costs.

12. ALTERATIONS AND ADDITIONS

12.1 Landlord's Consent Required

Tenant shall not make, or permit to be made, any alteration, addition or improvement (hereinafter referred to individually as an "Alteration" and collectively as the "Alterations") to the Premises or any part thereof without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that Landlord shall have the right in its sole and absolute discretion to consent or to withhold its consent to any Alteration which affects the structural portions of the Premises, the Building or the Project or the Systems serving the Premises, the Building and/or the Project or any portion thereof.

12.2 Alterations Permitted Without Landlord's Consent; Removal Requirements

Notwithstanding the foregoing, but subject to the conditions set forth below, Tenant may, without Landlord's consent, make Alterations within the Premises provided that (i) such Alterations do not affect the structural portions of the Premises, the Building or the Project or the Systems, and (ii) the cost, on an individual project basis, of any Alteration or related series of Alterations is less than $50,000, and all Alterations in the aggregate do not exceed $500,000 over the Term. The Alterations made by Tenant without the consent of Landlord in accordance with this Paragraph 12.2 shall be herein referred to as the "Permitted Alterations."

12.3 Alterations at Tenant's Expense

Any Alteration to the Premises shall be at Tenant's sole cost and expense, in compliance with all applicable Laws and all requirements requested by Landlord, including, without limitation, the requirements of any insurer providing coverage for the Premises or the Project or any part thereof, and in accordance with plans and specifications approved in writing by Landlord (except for Permitted Alterations), which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, with respect to Alterations that may be made without Landlord's prior consent as permitted above, Landlord agrees that Tenant shall not be required to submit plans and specifications for prior approval of the Landlord and that Landlord shall not require prior approval of the installing contractor; provided, however, if Tenant does not obtain the prior approval of plans and specifications for any Alteration, then subject to the terms of Paragraph 12.4(b) below, Landlord may, by notice to Tenant given not later than ninety (90) days prior to the Expiration Date (except in the event of a termination of this Lease prior to the scheduled Expiration Date, in which event no advance

notice shall be required), require Tenant, at Tenant's expense, to remove, and repair any damage caused by removal of, any and all such Alterations. If Tenant does not obtain Landlord's prior consent as to the installing contractor, Tenant shall be responsible for maintaining harmonious labor relations with all contractors and service providers servicing the Premises, Building and/or Project. In addition, with respect to any Permitted Alterations made without Landlord's prior consent as permitted above, Tenant agrees to meet with Landlord, at Landlord's request, not more than once in every calendar year, to discuss any such Permitted Alterations that have been made to the Premises (each such meeting being herein referred to as an "Alterations Meeting"). Tenant shall provide to Landlord within forty five (45) days after written request as-built plans and specifications for any Alterations (including, without limitation, any Permitted Alterations) made by Tenant to the Premises. Notwithstanding anything in this Lease to the contrary, any approval by Landlord of any drawings, plans or specifications prepared on behalf of Tenant shall not in any way bind Landlord, create any responsibility or liability on the part of Landlord for the completeness of the same, their design sufficiency or compliance with applicable statutes, ordinances or regulations or constitute a representation or warranty by Landlord as to the adequacy or sufficiency of such drawings, plans or specifications, or the improvements to which they relate, but such approval shall merely evidence the consent of Landlord to such drawings, plans or specifications.

12.4 Requirements of Request for Approval

(a) Any Alterations requiring the prior consent of Landlord shall contain a request that Landlord specify in writing to Tenant those Alterations that Tenant will be required to remove in accordance with Paragraph 11.1 upon expiration or sooner termination of this Lease. Upon receipt of such request, Landlord shall make such determination and respond to Tenant within twenty (20) business days of such request. Landlord's failure to respond within such time shall be deemed to mean that Tenant shall not be required to remove such Alterations upon the expiration or sooner termination of this Lease.

(b) In the event Tenant constructs or installs any Permitted Alterations without the consent of Landlord, then Tenant shall have the right at the next succeeding Alterations Meeting to request that Landlord specify in writing whether Tenant will be required to remove all or any portion of such Permitted Alterations upon expiration or sooner termination of this Lease. Upon receipt of such request, Landlord shall make such determination and respond to Tenant within twenty (20) business days of such request. Landlord's failure to respond within such time shall conclusively be deemed to be an irrevocable waiver of Landlord's right to demand their removal.

12.5 Permits Required; Insurance Required

12.5.1. Permits

Before Alterations may begin, valid building permits or other permits or licenses required must be furnished to Landlord, and, once the Alterations begin, Tenant will diligently and continuously pursue their completion. Landlord may monitor construction of the Alterations, either through its own employees or through a construction manager retained by Landlord.

12.5.2. Insurance

Tenant shall maintain during the course of any construction (including, without limitation, during the construction of any Alterations), at its sole cost and expense, builders' risk insurance for the amount of the completed value of the Alterations on an all-risk non-reporting form covering all improvements under construction, including building materials, and other insurance in amounts and against such risks as Landlord shall reasonably require in connection with the Alterations, including, without limitation, naming Landlord and Landlord's lender as loss payee under any such policy. In

addition to and without limitation on the generality of the foregoing, Tenant shall ensure that its contractor(s) procure and maintain in full force and effect during the course of construction a "broad form" commercial general liability and property damage policy of insurance naming Landlord, Tenant and Landlord's lenders as additional insureds. The minimum limit of coverage of the aforesaid policy shall be in the amount of not less than Three Million Dollars ($3,000,000.00) for injury or death of one person in any one accident or occurrence and in the amount of not less than Three Million Dollars ($3,000,000.00) for injury or death of more than one person in any one accident or occurrence, and shall contain a severability of interest clause or a cross liability endorsement. Such insurance shall further insure Landlord and Tenant against liability for property damage of at least One Million Dollars ($1,000,000.00).

12.6 Title to Improvements; Removal Rights; Financing

Except as otherwise expressly stated herein or agreed to in writing between the parties, the Tenant Improvements actually paid for by Tenant and all Alterations, including, but not limited to, heating, lighting, electrical, air conditioning, fixed partitioning, drapery, wall covering and paneling, built-in cabinet work and carpeting installations made by Tenant, together with all property that has become an integral part of the Premises or the Building, shall upon installation become the property of Tenant; provided, however, that title to all such Tenant Improvements, Alterations and property shall automatically transfer to Landlord upon the expiration of the Term or the sooner termination of this Lease without the payment of any consideration or the execution of any transfer documents. Notwithstanding the foregoing, Tenant shall retain title to and ownership of Tenant's Property at all times. For purposes of this Paragraph 12.6 and Paragraph 49.4.1 below, Landlord shall be deemed to have paid for those Tenant Improvements funded out of the Initial Tenant Improvement Allowance (as hereinafter defined), and Tenant shall be deemed to have paid for the remaining Tenant Improvements. As used herein, "Initial Tenant Improvement Allowance" means the initial $45.00 per square foot of the Tenant Improvement Allowance provided by Landlord hereunder.

12.7 Computer, Utility and Telecommunications Equipment

No private telephone systems, utilities and/or other related computer, utility or telecommunications equipment or lines may be installed without Landlord's prior written consent, which consent shall not be unreasonably withheld. If Landlord gives such consent, all equipment must be installed within the Premises and, unless Landlord, at the time of installation, notifies Tenant in writing that removal will be required, left in the Premises and surrendered to Landlord upon the expiration or sooner termination of this Lease.

12.8 Notice and Opportunity to Post Notice of Nonresponsibility

Tenant agrees not to proceed to make any Alterations, notwithstanding consent from Landlord to do so, without fifteen (15) days' prior written notice to Landlord, in order that Landlord may post appropriate notices to avoid any liability to contractors or material suppliers for payment for Tenant's improvements. Tenant will at all times permit such notices to be posted and to remain posted until the completion of work.

13. MAINTENANCE AND REPAIRS OF PREMISES

13.1 Maintenance by Tenant

Subject to the provisions of Paragraph 13.2, 21 and 22 below, throughout the Term, Tenant shall, at its sole expense, (1) keep and maintain in good order and condition the Building and the Premises and repair the Building and the Premises and every part thereof, including interior and exterior glass,

windows, window frames and casements, interior and exterior doors and door frames and door closers; interior and exterior lighting (including, without limitation, light bulbs and ballasts), the roof covering; the Systems serving the Premises and the Building; interior and exterior signage, interior demising walls and partitions, equipment, interior painting and interior walls and floors, and the roll-up doors, ramps and dock equipment, including, without limitation, dock bumpers, dock plates, dock seals, dock levelers and dock lights located in or on the Premises (excepting only those portions of the Building or the Project to be maintained by Landlord, as provided in Paragraph 13.2 below), (2) furnish all expendables, including light bulbs, paper goods and soaps, used in the Premises, and (3) keep and maintain in good order and condition and repair and replace all of Tenant's security systems in or about or serving the Premises. Tenant shall not do nor shall Tenant allow Tenant's Agents to do anything to cause any damage, deterioration or unsightliness to the Premises, the Building or the Project. Tenant shall perform its obligations under this Paragraph 13.1 in accordance with maintenance and repair standards adopted by Landlord from time to time for the Project. Tenant shall cause to be furnished to Landlord on not less than a quarterly basis maintenance reports on all Systems and the roof of the Building prepared by a qualified vendor or consultant, and Tenant shall promptly perform any maintenance tasks recommended by such reports or otherwise required by Landlord to cause the Premises and the Systems to comply with Landlord's maintenance and repair standards.

13.2 Maintenance by Landlord

Subject to the provisions of Paragraphs 13.1, 21 and 22, and further subject to Tenant's obligation under Paragraph 4 to reimburse Landlord, in the form of Additional Rent, for Tenant's Proportionate Share(s) of the Project and the Building, as applicable, of the cost and expense of the following items, Landlord agrees to repair and maintain the Common Areas in good order and condition, including, without limitation, the Parking Areas, pavement, landscaping, sprinkler systems, sidewalks, driveways, curbs, and lighting systems in the Common Areas. Subject to the provisions of Paragraphs 13.1, 21 and 22, Landlord, at its own cost and expense, agrees to repair and maintain the following items: the structural portions of the roof (specifically excluding the roof coverings), the foundation, the footings, the floor slab, and the load bearing walls and exterior walls of the Building (excluding any glass and any routine maintenance, including, without limitation, any painting, sealing, patching and waterproofing of such walls).

13.3 Landlord's Right to Perform Tenant's Obligations

Notwithstanding anything in this Paragraph 13 to the contrary, Landlord shall have the right to either repair or to require Tenant to repair any damage to any portion of the Premises, the Building and/or the Project caused by or created due to any act, omission, negligence or willful misconduct of Tenant or Tenant's Agents and to restore the Premises, the Building and/or the Project, as applicable, to the condition existing prior to the occurrence of such damage; provided, however, that in the event Landlord elects to perform such repair and restoration work, Tenant shall reimburse Landlord upon demand for all costs and expenses incurred by Landlord in connection therewith. Landlord's obligation hereunder to repair and maintain is subject to the condition precedent that Landlord shall have received written notice of the need for such repairs and maintenance and a reasonable time to perform such repair and maintenance. Tenant shall promptly report in writing to Landlord any defective condition which Landlord is required to repair, and failure to so report such defects shall make Tenant responsible to Landlord for the costs and expenses of repairing any Preventable Damage occurring after the date Tenant obtains actual knowledge of such defective condition and any liability incurred by Landlord by reason of Tenant's failure to notify Landlord of such defective condition in a timely manner as provided herein. As used herein, "Preventable Damage" means any damage or deterioration which could have been prevented had Landlord received timely notice of the defective condition. Nothing contained herein shall be deemed or construed to limit Tenant's obligations under Paragraph 16 below.

13.4 Tenant's Waiver of Rights

Tenant hereby expressly waives all rights to make repairs at the expense of Landlord or to terminate this Lease, as provided for in California Civil Code Sections 1941 and 1942, and 1932(1), respectively, and any similar or successor statute or law in effect or any amendment thereof during the Term.

14. LANDLORD'S INSURANCE

At all times during the Term of this Lease, Landlord shall purchase and keep in force "all risk" property insurance covering the Base Building Improvements, the Tenant Improvements and all Alterations made to the Premises by Tenant in accordance with the terms of Paragraph 12 above, in accordance with Landlord's customary insurance program for comparable properties. Tenant shall provide Landlord with such information as may be requested by Landlord or its insurers concerning the value of the Tenant Improvements or any Alterations. Tenant acknowledges and agrees that Landlord shall have no obligation to maintain property insurance covering any alterations, additions or improvements made to the Premises other than Alterations made in strict accordance with Paragraph 12 (such other alterations, additions or improvements being herein referred to as "Unpermitted Alterations"), and Tenant hereby agrees to indemnify and hold harmless Landlord and Landlord's Agents from and against any and all Losses (as hereinafter defined) resulting from or arising out of the making of any such Unpermitted Alterations. Tenant shall, at its sole cost and expense, comply with any and all reasonable requirements pertaining to the Premises, the Building and the Project of any insurer necessary for the maintenance of reasonable property damage and commercial general liability insurance, covering the Building and the Project. Landlord, at Tenant's cost, may maintain "Loss of Rents" insurance, insuring that the Rent will be paid in a timely manner to Landlord for a period of at least twelve (12) months if the Building or any portion thereof are destroyed or rendered unusable or inaccessible by any cause insured against under this Lease.

15. TENANT'S INSURANCE

15.1 Commercial General Liability Insurance

At all times during the Term of this Lease, Tenant shall, at Tenant's expense, secure and keep in force a Commercial General Liability insurance policy covering the Premises, insuring Tenant, and naming Landlord and its lenders as additional insureds, against liability arising out of the ownership, use, occupancy or maintenance of the Premises. The minimum limit of coverage of such policy shall be in the amount of not less than Three Million Dollars ($3,000,000.00) for each occurrence combined single limit for bodily injury and property damage, shall include contractual liability coverage (which shall include coverage for Tenant's indemnification obligations in this Lease, provided that the amount of such coverage shall not be construed to limit Tenant's indemnification obligations hereunder), and shall contain severability of interests and cross liability coverage clauses and/or endorsements. Such insurance shall be endorsed to be primary and non-contributory to any insurance Landlord may carry. Landlord may from time to time require reasonable increases in any such limits if Landlord believes that additional coverage is necessary or desirable. The limit of any insurance shall not limit the liability of Tenant hereunder. No policy maintained by Tenant under this Paragraph 15.1 shall contain a deductible greater than Five Thousand Dollars ($5,000.00). Such policies of insurance shall be issued as primary policies and not contributing with or in excess of coverage that Landlord may carry.

15.2 Property Insurance

At all times during the Term of this Lease, Tenant shall, at Tenant's expense, maintain in full force and effect special form property insurance on all of its personal property, possessions, furniture,

furnishings, trade or business fixtures, equipment and such other items listed on *Exhibit E* (collectively, "Tenant's Property") located on the Premises. Such special form property insurance shall be on a full replacement cost basis and shall be written to cover all risks of direct loss or damage, including, but not be limited to, theft, water damage and sprinkler leakage. No such policy shall contain a deductible greater than Five Thousand Dollars ($5,000.00). During the Term of this Lease the proceeds from any such policy or policies of insurance shall be used for the repair or replacement of Tenant's Property. Landlord shall have no interest in the insurance upon Tenant's Property and will sign all documents reasonably necessary in connection with the settlement of any claim or loss by Tenant. Landlord will not carry insurance on Tenant's Property.

15.3 Worker's Compensation Insurance; Employer's Liability Insurance

At all times during the Term of this Lease, Tenant shall, at Tenant's expense, maintain in full force and effect worker's compensation insurance with not less than the minimum limits required by Law, and employer's liability insurance with a minimum limit of coverage of One Million Dollars ($1,000,000) per accident.

15.4 Business Interruption Insurance

Tenant shall, at all times during the Term of this Lease, maintain in full force and effect loss of income and extra expense insurance in such amounts as will reimburse Tenant for direct or indirect loss of earnings or extra expenses attributable to or resulting from all perils commonly insured under a special form policy of property insurance.

15.5 Insurance Standards and Evidence of Coverage

All insurance required to be carried by Tenant hereunder shall be maintained with insurance companies authorized to do business in the State of California for the issuance of the applicable type of insurance coverage and rated A:XIII or better in Best's Key Rating Guide. Notwithstanding the foregoing, Landlord hereby approves General Star Indemnity as the carrier of the insurance required under Paragraph 15.1 above, provided that General Star Indemnity shall at all times during the Term maintain a Best's Key Rating of not less than A++:VIII. Tenant shall deliver to Landlord certificates of insurance and true and complete copies of any and all endorsements required herein for all insurance required to be maintained by Tenant hereunder at the time of execution of this Lease by Tenant. Tenant shall, at least thirty (30) days prior to expiration of each policy, furnish Landlord and the other parties named as additional insureds with certificates of renewal or "binders" thereof. Each certificate shall expressly provide that such policies shall not be cancelable except after thirty (30) days' prior written notice to Landlord and the other parties named as additional insureds as required in this Lease (except for cancellation for nonpayment of premium, in which event cancellation shall not take effect until at least ten (10) days' notice has been given to Landlord and the parties named as additional insureds hereunder).

16. INDEMNIFICATION

16.1 Of Landlord

Tenant shall indemnify and hold harmless Landlord and Landlord's advisors, employees, partners, shareholders and directors against and from any and all claims, liabilities, judgments, costs, demands, causes of action and expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Losses") arising from (1) the use of the Premises, the Building or the Project by Tenant or Tenant's Agents, or from any activity done, permitted or suffered by Tenant or Tenant's Agents in or about the Premises, the Building or the Project, and (2) any act, neglect, fault, willful misconduct or omission of

Tenant or Tenant's Agents, or from any breach or default in the terms of this Lease by Tenant or Tenant's Agents, and (3) any action or proceeding brought on account of any matter in items (1) or (2); provided, however, that in no event shall Tenant be required to indemnify Landlord against any claims, demands or losses resulting from any failure of Landlord to observe any of the terms and conditions of this Lease, including, without limitation, the covenant set forth in Paragraph 9.2(a) above, in each case to the extent such failure or breach has persisted for an unreasonable period of time after written notice of such failure or breach. If any action or proceeding is brought against Landlord by reason of any such claim, upon notice from Landlord, Tenant shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. As a material part of the consideration to Landlord, Tenant hereby releases Landlord and Landlord's Agents from responsibility for, waives its entire claim of recovery for and assumes all risk of (i) damage to property or injury to persons in or about the Premises, the Building or the Project from any cause whatsoever (except that which is caused by the gross negligence or willful misconduct of Landlord or Landlord's Agents or by the failure of Landlord to observe any of the terms and conditions of this Lease, if such failure has persisted for an unreasonable period of time after written notice of such failure), or (ii) loss resulting from business interruption or loss of income at the Premises. The obligations of Tenant under this Paragraph 16.1 shall survive the expiration or earlier termination of this Lease.

16.2 Of Tenant

Landlord shall indemnify and hold harmless Tenant and Tenant's employees, partners, shareholders and directors against and from any and all Losses relating to the Project and arising from (1) the gross negligence or willful misconduct of Landlord or Landlord's Agents, (2) the failure of Landlord to observe any of the terms and conditions of this Lease, if such failure has persisted for an unreasonable period of time after written notice of such failure, and (3) any action or proceeding brought on account of any matter in items (1) or (2). If any action or proceeding is brought against Tenant by reason of any such claim, upon notice from Tenant, Landlord shall defend the same at Landlord's expense by counsel reasonably satisfactory to Landlord. The obligations of Landlord under this Paragraph 16.2 shall survive any termination of this Lease.

16.3 No Impairment of Insurance

The foregoing indemnity shall not relieve any insurance carrier of its obligations under any policies required to be carried by either party pursuant to this Lease, to the extent that such policies cover the peril or occurrence that results in the claim that is subject to the foregoing indemnity.

17. SUBROGATION

Landlord and Tenant hereby mutually waive any claim against the other and its Agents for any loss or damage to any of their property located on or about the Premises, the Building or the Project that is caused by or results from perils covered by the property insurance required to be carried by the respective parties in accordance with Paragraphs 14 and 15 of this Lease, whether or not due to the negligence of the other party or its Agents. Because the foregoing waivers will preclude the assignment of any claim by way of subrogation to an insurance company or any other person, each party now agrees to immediately give to its insurer written notice of the terms of these mutual waivers and shall have their insurance policies endorsed to prevent the invalidation of the insurance coverage because of these waivers. Nothing in this Paragraph 17 shall relieve a party of liability to the other for failure to carry insurance required by this Lease.

18. SIGNS

Tenant shall not place or permit to be placed in, upon, or about the Premises, the Building or the Project any exterior lights, decorations, balloons, flags, pennants, banners, advertisements or notices, or

erect or install any signs, windows or door lettering, placards, decorations, or advertising media of any type which can be viewed from the exterior of the Premises without obtaining Landlord's prior written consent or without complying with Landlord's signage program, as the same may be modified by Landlord from time to time, and with all applicable Laws, and will not conduct, or permit to be conducted, any sale by auction on the Premises or otherwise on the Project. Tenant shall remove any sign, advertisement or notice placed on the Premises, the Building or the Project by Tenant upon the expiration of the Term or sooner termination of this Lease, and Tenant shall repair any damage or injury to the Premises, the Building or the Project caused thereby, all at Tenant's expense. If any signs are not removed, or necessary repairs not made, Landlord shall have the right to remove the signs and repair any damage or injury to the Premises, the Building or the Project at Tenant's sole cost and expense.

19. FREE FROM LIENS

Tenant shall keep the Premises, the Building and the Project free from any liens arising out of any work performed, material furnished or obligations incurred by or for Tenant in accordance with the provisions of this Paragraph 19. In the event that Tenant shall not, within ten (10) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, Landlord shall have in addition to all other remedies provided herein and by law the right but not the obligation to cause same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Landlord by Tenant upon demand. Landlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law or that Landlord shall deem proper for the protection of Landlord, the Premises, the Building and the Project, from mechanics' and materialmen's liens. Tenant agrees not to proceed to perform any repairs or construction on the Premises without fifteen (15) days' prior written notice to Landlord in order that Landlord may post appropriate notices to avoid any liability to contractors or material suppliers for payment for Tenant's work.

20. ENTRY BY LANDLORD

Tenant shall permit Landlord and Landlord's Agents to enter into and upon the Premises at all reasonable times upon twenty-four (24) hours' notice (except in the case of an emergency, in which event no advance notice shall be required) for the purpose of inspecting the same or showing the Premises to prospective purchasers, lenders or tenants or to alter, improve, maintain and repair the Premises or the Building as required or permitted of Landlord under the terms hereof, or for any other reasonable business purpose, without any rebate of Rent and without any liability to Tenant for any loss of occupation or quiet enjoyment of the Premises thereby occasioned; and Tenant shall permit Landlord to post notices of non-responsibility and ordinary "for sale" or "for lease" signs. Notwithstanding the foregoing, Landlord shall only enter the Premises for the purpose of showing the same to prospective tenants during the last ten

(10) months of the Term. No such entry shall be construed to be a forcible or unlawful entry into, or a detailer of, the Premises, or an eviction of Tenant from the Premises. Tenant's representatives shall have the right to accompany Landlord on any inspection of the Premises, provided that Tenant's representatives are available at the time of such inspections. Landlord may temporarily close entrances, doors, corridors, elevators or other facilities without liability to Tenant by reason of such closure in the case of an emergency and when Landlord otherwise reasonably deems such closure necessary.

21. DESTRUCTION AND DAMAGE

21.1 Damage Covered by Extended Coverage Insurance

If the Premises are damaged by fire or other perils covered by extended coverage insurance, Landlord shall, at Landlord's option:

21.1.1. Material Damage; Insured Loss

In the event of material damage to the Premises (which shall mean damage or destruction of a nature such that all required permits cannot be reasonably obtained and/or the Premises cannot be substantially repaired and restored to the condition existing immediately prior to such damage or destruction within three hundred sixty-five (365) days after the date Landlord obtains actual knowledge of such destruction (the "Casualty Discovery Date")), Landlord may elect either to commence promptly to repair and restore the Premises and prosecute the same diligently to completion, in which event this Lease shall remain in full force and effect; or not to repair or restore the Premises, in which event this Lease shall terminate. Landlord shall give Tenant written notice of its intention within sixty (60) days after the Casualty Discovery Date. If Landlord elects in writing not to restore the Premises, this Lease shall be deemed to have terminated as of the date of such destruction.

21.1.2. Minor Damage; Insured Loss

In the event of minor damage to the Premises (which shall mean damage or destruction of a nature such that all required permits can be reasonably obtained and the Premises may be substantially repaired or restored to the condition existing immediately prior to such damage or destruction within three hundred sixty-five (365) days after the Casualty Discovery Date) for which Landlord will receive insurance proceeds sufficient to cover the cost to repair and restore such partial destruction, Landlord shall commence and proceed diligently with the work of repair and restoration, in which event this Lease shall continue in full force and effect. If the insurance proceeds (plus any amounts Tenant may elect or is obligated to contribute) are not sufficient to cover the cost of such repair and restoration, Landlord may elect either to so repair and restore, in which event this Lease shall continue in full force and effect, or not to repair or restore, in which event this Lease shall terminate. In either case, Landlord shall give written notice to Tenant of its intention within sixty (60) days after the Casualty Discovery Date. If Landlord elects, in writing, not to restore the Premises, this Lease shall be deemed to have terminated as of the date of such partial destruction.

21.1.3. Calculation of Restoration Period.

Following the occurrence of any casualty event, Landlord shall obtain from a licensed general contractor selected by Landlord (the "Restoration Contractor") an estimate of the time required to obtain all permits and to fully repair and restore the Premises. In the event the Restoration Contractor determines that the work of repair and restoration shall require more than three hundred sixty-five (365) days to complete, Tenant shall have the right to discuss such timing with the Restoration Contractor and, with the approval of Landlord, to discuss modifications to the scope of work in an effort to reduce the repair and restoration time to a period of less than three hundred sixty-five days; provided, however, that in the event of any disagreement between the parties as to the estimated length of the restoration period or the scope of work required, the determination of Landlord and the Restoration Contractor shall control.

21.2 Uninsured Loss

If the Premises are damaged by any peril not covered by Landlord's property insurance, and the cost to repair such damage exceeds any amount Tenant may agree to contribute, Landlord may elect either to commence promptly to repair and restore the Premises and prosecute the same diligently to completion, in which event this Lease shall remain in full force and effect; or not to repair or restore the Premises, in which event this Lease shall terminate. Landlord shall give Tenant written notice of its intention within sixty (60) days after the Casualty Discovery Date. If Landlord elects, in writing, not to restore the Premises, this Lease shall be deemed to have terminated as of the date on which Tenant surrenders possession of the Premises to Landlord.

21.3 Casualty During Last Twelve Months of Term

If fifty percent (50%) or more of the Building is damaged or destroyed during the last twelve (12) months of the Term (unless Tenant has remaining extension options and has previously validly exercised such options or validly exercises such options within ten (10) days after the Casualty Discovery Date), Landlord shall have the option to terminate this Lease, exercisable by notice to Tenant within sixty (60) days after the Casualty Discovery Date.

21.4 Tenant's Right to Terminate Lease

If the Premises is damaged or destroyed to the extent that the Premises cannot be substantially repaired or restored by Landlord within three hundred sixty-five (365) days after the Casualty Discovery Date, Tenant may terminate this Lease immediately upon notice thereof to Landlord, which notice shall be given, if at all, not later than fifteen (15) days after Landlord notifies Tenant of Landlord's estimate of the period of time required to repair such damage or destruction.

21.5 Rent Abatement

In the event of repair and restoration as herein provided, the monthly installments of Base Rent and Additional Rent shall be abated proportionately to the extent Tenant's use of the Premises is impaired during the period of such repair or restoration, but only to the extent of rental abatement insurance proceeds actually received by Landlord. The number of parking spaces allocated to Tenant hereunder shall be reduced on a proportionate basis in the event any of the parking spaces in the Parking Areas are eliminated as a result of such damage or destruction affecting such Parking Areas. Except as expressly provided above with respect to abatement of Base Rent, Tenant shall have no claim against Landlord for, and hereby releases Landlord and Landlord's Agents from responsibility for and waives its entire claim of recovery for any cost, loss or expense suffered or incurred by Tenant as a result of any damage to or destruction of the Premises, the Building or the Project or the repair or restoration thereof, including, without limitation, any cost, loss or expense resulting from any loss of use of the whole or any part of the Premises, the Building or the Project and/or any inconvenience or annoyance occasioned by such damage, repair or restoration.

21.6 Restoration of Base Building Improvements and Tenant Improvements

If Landlord is obligated to or elects to repair or restore as herein provided, Landlord shall repair or restore only the Base Building Improvements constructed pursuant to the terms of this Lease, substantially to their condition existing immediately prior to the occurrence of the damage or destruction; and Tenant shall promptly repair and restore, at Tenant's expense, the Tenant Improvements and Tenant's Alterations. Landlord shall make available to Tenant to pay Restoration Costs (as hereinafter defined) any insurance proceeds actually collected by Landlord allocable to the Tenant Improvements and Alterations. Such proceeds shall be disbursed by Landlord in accordance with customary construction-lending practices and disbursement procedures (including, without

limitation, the creation of a retention). As used herein, "Restoration Costs" means costs actually incurred by Tenant in repairing and restoring the Tenant Improvements and any Alterations made by Tenant to the Premises.

21.7 Waiver

Tenant hereby waives the provisions of California Civil Code Section 1932(2) and Section 1933(4) which permit termination of a lease upon destruction of the leased premises, and the provisions of any similar law now or hereinafter in effect, and the provisions of this Paragraph 21 shall govern exclusively in case of such destruction.

22. CONDEMNATION

(a) If twenty-five percent (25%) or more of the Building or fifty percent (50%) or more of the Designated Parking Areas (as hereinafter defined) is taken for any public or quasi-public purpose by any lawful governmental power or authority, by exercise of the right of appropriation, inverse condemnation, condemnation or eminent domain, or sold to prevent such taking (each such event being referred to as a "Condemnation"), Landlord may, at its option, terminate this Lease as of the date title vests in the condemning party. If twenty-five percent (25%) or more of the Premises is taken and if the Premises remaining after such Condemnation and any repairs by Landlord would be untenantable for the conduct of Tenant's business operations, Tenant shall have the right to terminate this Lease as of the date title vests in the condemning party. If either party elects to terminate this Lease as provided herein, such election shall be made by written notice to the other party given within thirty (30) days after the nature and extent of such Condemnation have been finally determined. If neither Landlord nor Tenant elects to terminate this Lease to the extent permitted above, Landlord shall promptly proceed to restore the Premises, to the extent of any Condemnation award received by Landlord, to substantially the same condition as existed prior to such Condemnation, allowing for the reasonable effects of such Condemnation, and a proportionate abatement shall be made to the Base Rent and Additional Rent corresponding to the time during which, and to the portion of the floor area of the Premises (adjusted for any increase thereto resulting from any reconstruction) of which, Tenant is deprived on account of such Condemnation and restoration, as reasonably determined by Landlord. Except as expressly provided in the immediately preceding sentence with respect to abatement of Rent, Tenant shall have no claim against Landlord for, and hereby releases Landlord and Landlord's Agents from responsibility for and waives its entire claim of recovery for any cost, loss or expense suffered or incurred by Tenant as a result of any Condemnation or the repair or restoration of the Premises, the Building, the Project or the Parking Areas following such Condemnation, including, without limitation, any cost, loss or expense resulting from any loss of use of the whole or any part of the Premises, the Building, the Project or the parking areas and/or any inconvenience or annoyance occasioned by such Condemnation, repair or restoration. The provisions of California Code of Civil Procedure Section 1265.130, which allows either party to petition the Superior Court to terminate the Lease in the event of a partial taking of the Premises, the Building or the Project or the parking areas for the Building or the Project, and any other applicable law now or hereafter enacted, are hereby waived by Tenant.

(b) Landlord shall be entitled to any and all compensation, damages, income, rent, awards, or any interest therein whatsoever which may be paid or made in connection with any Condemnation, and Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease or otherwise; provided, however, that Tenant shall be entitled to receive any award separately allocated by the condemning authority to Tenant for Tenant's relocation expenses or the value of Tenant's Property (specifically excluding fixtures, Alterations and other components of the Premises which under this Lease or by law are or at the expiration of the Term will become the property of Landlord), provided that such award does not reduce any award otherwise allocable or payable to Landlord.

23. ASSIGNMENT AND SUBLETTING

23.1 Landlord's Consent Required Except for Permitted Transfers

Except as specifically provided for in Paragraph 23.3 below, Tenant shall not voluntarily or by operation of law, (1) mortgage, pledge, hypothecate or encumber this Lease or any interest herein, (2) assign or transfer this Lease or any interest herein, (3) sublease the Premises or any part thereof, or any right or privilege appurtenant thereto, or (4) allow any other person (the employees and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed provided that Tenant is not then in Default under this Lease nor is any event then occurring which with the giving of notice or the passage of time, or both, would constitute a Default hereunder.

23.2 Requirements of Request for Consent.

When Tenant requests Landlord's consent to such assignment or subletting, it shall notify Landlord in writing of the name and address of the proposed assignee or subtenant and the nature and character of the business of the proposed assignee or subtenant and shall provide current and prior financial statements for the proposed assignee or subtenant prepared in accordance with generally accepted accounting principles consistently applied ("GAAP"). Tenant shall also provide Landlord with a copy of the proposed sublease or assignment agreement, including all material terms and conditions thereof, and such additional information concerning the proposed assignee or subtenant as Landlord may request. Landlord shall have the option, to be exercised within fifteen (15) days of receipt of the foregoing in the case of a proposed assignment or subletting affecting not more than twenty five thousand (25,000) square feet of the Premises, and within thirty (30) days of receipt of the foregoing in the case of a proposed assignment or subletting affecting more than twenty five thousand (25,000) square feet ("Landlord's Review Period"), to (1) consent to the proposed assignment or sublease, (2) refuse its consent to the proposed assignment or sublease, providing that such consent shall not be unreasonably withheld, conditioned or delayed so long as Tenant is not then in Default under this Lease or the Expansion Lease, if any, nor is any event then occurring which with the giving of notice or the passage of time, or both, would constitute a Default hereunder or under the Expansion Lease, or (3) sublease or take an assignment, as the case may be, from Tenant of the interest in this Lease and/or the Premises that Tenant proposes to assign or sublease, on the same terms and conditions as stated in the proposed sublet or assignment agreement. Notwithstanding the foregoing, in the event Tenant wishes to assign or sublet all of the Premises for all of the remainder of the Term (except in either event in connection with a Permitted Transfer), then in addition to the options specified in the aforesaid clauses (1), (2) and (3), Landlord shall have the additional right, to be exercised within the aforesaid thirty (30) day period, to terminate this Lease in its entirety. In the event Landlord elects to terminate this Lease or sublease or take an assignment from Tenant of the interest in this Lease and/or the Premises that Tenant proposes to assign or sublease as provided in the foregoing clauses of this Paragraph 23.2, then Landlord shall have the additional right to negotiate directly with Tenant's proposed assignee or subtenant and to enter into a direct lease or occupancy agreement with such party on such terms as shall be acceptable to Landlord in its sole and absolute discretion, and Tenant hereby waives any claims against Landlord related thereto, including, without limitation, any claims for any compensation or profit related to such lease or occupancy agreement.

23.3 Criteria To Be Considered in Connection with Request for Consent

Without otherwise limiting the criteria upon which Landlord may withhold its consent to a proposed assignment or sublease, Landlord shall be entitled to consider all reasonable criteria including, but not limited to, the following: (1) whether or not the proposed subtenant or assignee is engaged in a business which, and the Premises will be used in a manner which, is in keeping with the

then character and nature of all other tenancies in the Project, (2) whether the use to be made of the Premises by the proposed subtenant or assignee will conflict with any so-called "exclusive" use then in favor of any other tenant of the Building, the Project, or the Adjacent Properties, and whether such use would be prohibited by any other portion of this Lease, including, but not limited to, any rules and regulations then in effect, or under applicable Laws, and whether such use imposes an unreasonable load upon the Premises and the Building and Project services, (3) the business reputation of the proposed individuals who will be managing and operating the business operations of the assignee or subtenant, and the long-term financial and competitive business prospects of the proposed assignee or subtenant, and (4) the creditworthiness and financial stability of the proposed assignee or subtenant in light of the responsibilities involved. In any event, Landlord may withhold its consent to any assignment or sublease if the actual use proposed to be conducted in the Premises or portion thereof is not a Permitted Use provided for under Paragraph 9 above or a general office use.

23.4 Permitted Transfers

Notwithstanding the foregoing, Tenant may, without Landlord's consent, but upon notice and delivery of evidence documenting such assignment or subletting, assign or sublet to an Affiliate (as defined below) of the original Tenant (such assignment or subletting being referred to as a "Permitted Transfer"). In addition, a sale or transfer of the capital stock of Tenant shall be deemed a Permitted Transfer if (1) such sale or transfer occurs in connection with any bona fide financing or capitalization for the benefit of Tenant or (2) occurring through a public trade. For purposes of this Lease, "Affiliate" shall mean, as to any Person, any person, firm or corporation (i) which shall be controlled by, under the control of, or under common control with such person, (ii) which results from a merger of, reorganization of, or consolidation with, or (iii) which acquires substantially all of the stock or assets with respect to the business that is conducted in the Premises. "Person" means any natural person, corporation, firm, association, government, governmental agency or any other entity, whether acting in any individual, fiduciary or other capacity. For purposes hereof, "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, firm or corporation, whether through the ownership of voting securities, by contract or otherwise.

23.5 Excess Rent

If Landlord approves an assignment or subletting as herein provided, Tenant shall pay to Landlord, as Additional Rent, fifty percent (50%) of the Transfer Profits (as hereinafter defined), as evidenced by written records satisfactory to Landlord. As used herein, "Transfer Profits" means the difference, if any, between (1) the Base Rent plus Additional Rent allocable to that part of the Premises affected by such assignment or sublease pursuant to the provisions of this Lease, and (2) the rent and any additional rent payable by the assignee or sublessee to Tenant, less actual leasing commissions and reasonable attorneys' fees, if any, incurred by Tenant in connection with such assignment or sublease, and actual tenant improvement costs paid by Tenant in improving the Premises for the applicable assignee or subtenant up to an aggregate of five dollars ($5.00) per square foot of space subject to the assignment or sublease transaction. The assignment or sublease agreement, as the case may be, after approval by Landlord, shall not be amended without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, shall contain an express assumption by the assignee or subtenant of Tenant's obligations under this Lease and shall contain a provision directing the assignee or subtenant to pay the rent and other sums due thereunder directly to Landlord upon receiving written notice from Landlord that Tenant is in default under this Lease with respect to. the payment of Rent. In the event that, notwithstanding the giving of such notice, Tenant collects any rent or other sums from the assignee or subtenant, then Tenant shall hold such sums in trust for the benefit of Landlord and shall immediately forward the same to Landlord. Landlord's collection of such rent and other sums shall not constitute an acceptance by Landlord of attornment by such assignee or subtenant.

A consent to one assignment, subletting, occupation or use shall not be deemed to be a consent to any other or subsequent assignment, subletting, occupation or use, and consent to any assignment or subletting shall in no way relieve Tenant of any liability under this Lease. Any assignment or subletting without Landlord's consent shall be void, and shall, at the option of Landlord, constitute a Default under this Lease.

23.6 No Release of Tenant

Notwithstanding any assignment or subletting, including, without limitation, a Permitted Transfer, Tenant shall at all times remain fully responsible and liable for the payment of the Rent and for compliance with all of Tenant's other obligations under this Lease (regardless of whether Landlord's approval has been obtained for any such assignment or subletting).

23.7 Payment of Landlord's Fees

Tenant shall pay Landlord's reasonable fees (including, without limitation, the fees of Landlord's counsel, not to exceed $1,000.00 per transaction), incurred in connection with Landlord's review and processing of documents regarding any proposed assignment or sublease.

23.8 No Consent to Further Assignment

Notwithstanding anything in this Lease to the contrary, in the event Landlord consents to an assignment or subletting by Tenant in accordance with the terms of this Paragraph 23 (specifically excluding any Permitted Transfer), Tenant's assignee or subtenant shall have no right to further assign this Lease or any interest therein or thereunder or to further sublease all or any portion of the Premises.

23.9 Constraints Reasonable

Tenant acknowledges and agrees that the restrictions, conditions and limitations imposed by this Paragraph 23 on Tenant's ability to assign or transfer this Lease or any interest herein, to sublet the Premises or any part thereof, to transfer or assign any right or privilege appurtenant to the Premises, or to allow any other person to occupy or use the Premises or any portion thereof, are, for the purposes of California Civil Code Section 1951.4, as amended from time to time, and for all other purposes, reasonable at the time that the Lease was entered into, and shall be deemed to be reasonable at the time that Tenant seeks to assign or transfer this Lease or any interest herein, to sublet the Premises or any part thereof, to transfer or assign any right or privilege appurtenant to the Premises, or to allow any other person to occupy or use the Premises or any portion thereof.

24. TENANT'S DEFAULT

The occurrence of any one of the following events shall constitute an event of default on the part of Tenant ("Default"):

(a) The vacation of the Premises for a consecutive period of sixty (60) days or more, without (i) the intention of retaking possession or occupancy, and (ii) providing for the security of the Building, or the abandonment of the Premises by Tenant or any other vacation which would cause any insurance policy to be invalidated or otherwise lapse;

(b) Failure to pay any installment of Rent or any other monies due and payable hereunder within five (5) days after the date the same are due;

(c) A general assignment by Tenant for the benefit of creditors;

(d) The filing of a voluntary petition in bankruptcy by Tenant, the filing by Tenant of a voluntary petition for an arrangement, the filing by or against Tenant of a petition, voluntary or involuntary, for reorganization, or the filing of an involuntary petition by the creditors of Tenant, said involuntary petition remaining undischarged for a period of sixty (60) days;

(e) Receivership, attachment, or other judicial seizure of substantially all of Tenant's assets on the Premises, such attachment or other seizure remaining undismissed or undischarged for a period of sixty (60) days after the levy thereof;

(f) Death or disability of Tenant, if Tenant is a natural person, or the failure by Tenant to maintain its legal existence, if Tenant is a corporation, partnership, limited liability company, trust or other legal entity;

(g) Failure of Tenant to execute and deliver to Landlord any estoppel certificate, subordination agreement, or lease amendment in the time periods and manner required by Paragraphs 30 or 31 or 42;

(h) An assignment or sublease, or attempted assignment or sublease, of this Lease or the Premises by Tenant contrary to the provisions of Paragraph 23, unless such assignment or sublease is expressly conditioned upon Tenant having received Landlord's consent thereto;

(i) Failure of Tenant to deposit the Letter of Credit with Landlord when required under Paragraph 7, and/or failure of Tenant to restore the Letter of Credit to the amount and within the time period provided in Paragraph 7;

(j) Failure in the performance of any of Tenant's covenants, agreements or obligations hereunder (except those failures specified as events of Default in any other subparagraphs of this Paragraph 24, which shall be governed by such other subparagraphs), which failure continues for thirty (30) days after written notice thereof from Landlord to Tenant, provided that, if Tenant has exercised reasonable diligence to cure such failure and such failure cannot be cured within such thirty (30) day period despite reasonable diligence, Tenant shall not be in default under this subparagraph so long as Tenant thereafter diligently and continuously prosecutes the cure to completion;

(k) Chronic delinquency by Tenant in the payment of Rent, or any other periodic payments required to be paid by Tenant under this Lease. "Chronic delinquency" shall mean failure by Tenant to pay Rent, or any other periodic payments required to be paid by Tenant under this Lease, when due (i) for any three (3) months (consecutive or nonconsecutive) during any period of twelve (12) months or (ii) for any twelve (12) months (consecutive or nonconsecutive) during the Term. In the event of a Chronic Delinquency, in addition to Landlord's other remedies for Default provided in this Lease, at Landlord's option, Landlord shall have the right to require that Rent be paid by Tenant quarterly, in advance;

(l) Chronic overuse by Tenant or Tenant's Agents of the number of undesignated parking spaces set forth in the Basic Lease Information. "Chronic overuse" shall mean use by Tenant or Tenant's Agents of a number of parking spaces greater than the number of parking spaces set forth in the Basic Lease Information more than three (3) times during any twelve (12) month period;

(m) Any insurance required to be maintained by Tenant pursuant to this Lease shall be canceled or terminated or shall expire or be reduced or materially changed, except as permitted in this Lease, and shall not have been replaced with substitute insurance satisfying the requirements of this Lease within five (5) business days of Tenant's receipt of notice of such termination, reduction or change;

(n) Any failure by Tenant to discharge any lien or encumbrance placed on the Project or any part thereof in violation of this Lease within ten (10) days after the date such lien or encumbrance is filed or recorded against the Project or any part thereof; and

(o) Any Default (as defined in the 951 Gateway Lease) under the terms of the 951 Gateway Lease.

Tenant agrees that any notice given by Landlord pursuant to Paragraph 24(j) above shall satisfy the requirements for notice under California Code of Civil Procedure Section 1161, and Landlord shall not be required to give any additional notice in order to be entitled to commence an unlawful detainer proceeding.

25. LANDLORD'S REMEDIES

25.1 Termination

In the event of any Default by Tenant, then in addition to any other remedies available to Landlord at law or in equity and under this Lease, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder by giving written notice of such intention to terminate. In the event that Landlord shall elect to so terminate this Lease then Landlord may recover from Tenant:

(1) the worth at the time of award of any unpaid Rent and any other sums due and payable which have been earned at the time of such termination; plus

(2) the worth at the time of award of the amount by which the unpaid Rent and any other sums due and payable which would have been earned after termination until the time of award exceeds the amount of such rental loss Tenant proves could have been reasonably avoided; plus

(3) the worth at the time of award of the amount by which the unpaid Rent and any other sums due and payable for the balance of the term of this Lease after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(4) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course would be likely to result therefrom, including, without limitation, (A) any costs or expenses incurred by Landlord (1) in retaking possession of the Premises; (2) in maintaining, repairing, preserving, restoring, replacing, cleaning, altering, remodeling or rehabilitating the Premises or any affected portions of the Building or the Project, including such actions undertaken in connection with the reletting or attempted reletting of the Premises to a new tenant or tenants; (3) for leasing commissions, advertising costs and other expenses of reletting the Premises; or (4) in carrying the Premises, including taxes, insurance premiums, utilities and security precautions; (B) any unearned brokerage commissions paid in connection with Tenant's lease of the Premises; (C) reimbursement of any previously waived or abated Base Rent or Additional Rent or any free rent or reduced rental rate granted hereunder; and (D) any concession made or paid by Landlord to the benefit of Tenant in consideration of this Lease including, but not limited to, any moving allowances, contributions, payments or loans by Landlord for tenant improvements or build-out allowances (including, without limitation, any unamortized portion of the Tenant Improvement Allowance (such Tenant Improvement Allowance to be amortized over the Term in the manner reasonably determined by Landlord), if any), or assumptions by Landlord of any of Tenant's previous lease obligations; plus

(5) such reasonable attorneys' fees incurred by Landlord as a result of a Default, and costs in the event suit is filed by Landlord to enforce such remedy; and plus

(6) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

As used in subparagraphs (1) and (2) above, the "worth at the time of award" is computed by allowing interest at an annual rate equal to twelve percent (12%) per annum or the maximum rate permitted by law, whichever is less. As used in subparagraph (3) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%). Tenant waives redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other pertinent present or future Law, in the event Tenant is evicted or Landlord takes possession of the Premises by reason of any Default of Tenant hereunder.

25.2 Continuation of Lease

In the event of any Default by Tenant, then in addition to any other remedies available to Landlord at law or in equity and under this Lease, Landlord shall have the remedy described in California Civil Code Section 1951.4 (Landlord may continue this Lease in effect after Tenant's Default and abandonment and recover Rent as it becomes due, provided Tenant has the right to sublet or assign, subject only to reasonable limitations). In addition, Landlord shall not be liable in any way whatsoever for its failure or refusal to relet the Premises; provided, however, that the foregoing provision shall not be deemed to relieve Landlord of any duty under applicable law to mitigate Tenant's damages in the event Landlord elects to seek damages for Tenant's breach or default. For purposes of this Paragraph 25.2, the following acts by Landlord will not constitute the termination of Tenant's right to possession of the Premises:

(1) Acts of maintenance or preservation or efforts to relet the Premises, including, but not limited to, alterations, remodeling, redecorating, repairs, replacements and/or painting as Landlord shall consider advisable for the purpose of reletting the Premises or any part thereof, or

(2) The appointment of a receiver upon the initiative of Landlord to protect Landlord's interest under this Lease or in the Premises.

25.3 Re-entry

In the event of any Default by Tenant, Landlord shall also have the right, with or without terminating this Lease, in compliance with applicable law, to re-enter the Premises and remove all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant.

25.4 Reletting

In the event of the abandonment of the Premises by Tenant or in the event that Landlord shall elect to re-enter as provided in Paragraph 25.3 or shall take possession of the Premises pursuant to legal proceeding or pursuant to any notice provided by law, then if Landlord does not elect to terminate this Lease as provided in Paragraph 25.1, Landlord may from time to time, without terminating this Lease, relet the Premises or any part thereof for such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable with the right to make alterations and repairs to the Premises in Landlord's sole discretion. In the event that Landlord shall elect to so relet, then rentals received by Landlord from such reletting shall be applied in the following order: (1) to reasonable attorneys' fees incurred by Landlord as a result of a Default and costs in the event suit is filed by Landlord to enforce such remedies; (2) to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; (3) to the payment of any costs of such reletting; (4) to the payment of the costs of any alterations and repairs to the Premises; (5) to the payment of Rent due and unpaid hereunder; and (6) the residue, if any, shall

be held by Landlord and applied in payment of future Rent and other sums payable by Tenant hereunder as the same may become due and payable hereunder. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of Rent hereunder, be less than the Rent payable during the month by Tenant hereunder, then Tenant shall pay such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. Tenant shall also pay to Landlord, as soon as ascertained, any costs and expenses incurred by Landlord in such reletting or in making such alterations and repairs not covered by the rentals received from such reletting.

25.5 Termination

No re-entry or taking of possession of the Premises by Landlord pursuant to this Paragraph 25 shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any reletting without termination by Landlord because of any Default by Tenant, Landlord may at any time after such reletting elect to terminate this Lease for any such Default.

25.6 Cumulative Remedies

The remedies herein provided are not exclusive and Landlord shall have any and all other remedies provided herein or by law or in equity.

25.7 No Surrender

No act or conduct of Landlord, whether consisting of the acceptance of the keys to the Premises, or otherwise, shall be deemed to be or constitute an acceptance of the surrender of the Premises by Tenant prior to the expiration of the Term, and such acceptance by Landlord of surrender by Tenant shall only flow from and must be evidenced by a written acknowledgment of acceptance of surrender signed by Landlord. The surrender of this Lease by Tenant, voluntarily or otherwise, shall not work a merger unless Landlord elects in writing that such merger take place, but shall operate as an assignment to Landlord of any and all existing subleases, or Landlord may, at its option, elect in writing to treat such surrender as a merger terminating Tenant's estate under this Lease, and thereupon Landlord may terminate any or all such subleases by notifying the sublessee of its election so to do within five (5) days after such surrender.

26. LANDLORD'S RIGHT TO PERFORM TENANT'S OBLIGATIONS

26.1 Landlord's Right to Perform

Without limiting the rights and remedies of Landlord contained in Paragraph 25 above, if Tenant shall be in Default in the performance of any of the terms, provisions, covenants or conditions to be performed or complied with by Tenant pursuant to this Lease, then Landlord may at Landlord's option, without any obligation to do so, and without further notice to Tenant perform any such term, provision, covenant, or condition, or make any such payment and Landlord by reason of so doing shall not be liable or responsible for any loss or damage thereby sustained by Tenant or anyone holding under or through Tenant or any of Tenant's Agents, unless caused by Landlord's gross negligence or willful misconduct.

26.2 In Emergencies

Without limiting the rights of Landlord under Paragraph 25 above, Landlord shall have the right at Landlord's option, without any obligation to do so, to perform any of Tenant's covenants or obligations under this Lease without notice to Tenant in the case of an emergency, as determined by Landlord in its good faith and absolute judgment, or if Landlord otherwise determines in its reasonable discretion

that such performance is necessary or desirable for the preservation of the rights and interests or safety of other tenants of the Building or the Project.

26.3 Tenant's Obligation to Reimburse Landlord

If Landlord performs any of Tenant's obligations hereunder in accordance with this Paragraph 26, the full amount of the cost and expense incurred or the payment so made or the amount of the loss so sustained shall immediately be owing by Tenant to Landlord, and Tenant shall promptly pay to Landlord upon demand, as Additional Rent, the full amount thereof with interest thereon from the date of payment by Landlord at the lower of (l) twelve percent (12%) per annum, or (2) the highest rate permitted by applicable law.

27. ATTORNEYS' FEES

27.1 Prevailing Party Entitled to Fees

If either party hereto fails to perform any of its obligations under this Lease or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Lease, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default and/or in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements. Any such attorneys' fees and other expenses incurred by either party in enforcing a judgment in its favor under this Lease shall be recoverable separately from and in addition to any other amount included in such judgment, and such attorneys' fees obligation is intended to be severable from the other provisions of this Lease and to survive and not be merged into any such judgment.

27.2 Costs of Collection

Without limiting the generality of Paragraph 27.1 above, if Landlord utilizes the services of an attorney for the purpose of collecting any Rent due and unpaid by Tenant or in connection with any other breach of this Lease by Tenant, Tenant agrees to pay Landlord reasonable attorneys' fees as determined by Landlord for such services, regardless of the fact that no legal action may be commenced or filed by Landlord.

28. TAXES

Tenant shall be liable for and shall pay, prior to delinquency, all taxes levied against Tenant's Property. If any Alteration or Tenant Improvement installed by Tenant pursuant to Paragraph 12 or any of Tenant's Property is assessed and taxed with the Project or Building, Tenant shall pay such taxes to Landlord, in an amount reasonably determined by Landlord if such taxes are not separately stated in the applicable tax bill, within ten (10) days after delivery to Tenant of a statement therefor.

29. EFFECT OF CONVEYANCE

The term "Landlord" as used in this Lease means, from time to time, the then current owner of the Building or the Project containing the Premises, so that, in the event of any sale of the Building or the Project, Landlord shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord arising hereunder from and after the date of such transfer, and it shall be deemed and construed, without further agreement between the parties and the purchaser at any such sale, that the purchaser of the Building or the Project has assumed and agreed to carry out any and all covenants and obligations of Landlord hereunder.

30. TENANT'S ESTOPPEL CERTIFICATE

From time to time, upon written request of Landlord, Tenant shall execute, acknowledge and deliver to Landlord or its designee, a written certificate stating (a) the date this Lease was executed, the Commencement Date of the Term and the date the Term expires; (b) the date Tenant entered into occupancy of the Premises; (c) the amount of Rent and the date to which such Rent has been paid; (d) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way (or, if assigned, modified, supplemented or amended, specifying the date and terms of any agreement so affecting this Lease); (e) that this Lease represents the entire agreement between the parties with respect to Tenant's right to use and occupy the Premises (or specifying such other agreements, if any); (f) that all obligations under this Lease to be performed by Landlord as of the date of such certificate have been satisfied (or specifying those as to which Tenant claims that Landlord has yet to perform); (g) that all required contributions by Landlord to Tenant on account of Tenant's improvements have been received (or stating exceptions thereto); (h) that on such date there exist no defenses or offsets that Tenant has against the enforcement of this Lease by Landlord (or stating exceptions thereto); (i) that no Rent or other sum payable by Tenant hereunder has been paid more than one (1) month in advance (or stating exceptions thereto); (j) that a currently valid Letter of Credit has been deposited with Landlord, stating the original amount thereof and any increases or decreases thereto; and (k) any other matters evidencing the status of this Lease that may be required either by a lender making a loan to Landlord to be secured by a deed of trust covering the Building or the Project or by a purchaser of the Building or the Project. Any such certificate delivered pursuant to this Paragraph 30 may be relied upon by a prospective purchaser of Landlord's interest or a mortgagee of Landlord's interest or assignee of any mortgage upon Landlord's interest in the Premises. If Tenant shall fail to provide such certificate within ten (10) days of receipt by Tenant of a written request by Landlord as herein provided, such failure shall, at Landlord's election, constitute a Default under this Lease, and Tenant shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee.

31. SUBORDINATION

Landlord shall have the right to cause this Lease to be and remain subject and subordinate to any and all mortgages, deeds of trust and ground leases, if any ("Encumbrances") that are now or may hereafter be executed covering the Premises, or any renewals, modifications, consolidations, replacements or extensions thereof, for the full amount of all advances made or to be made thereunder and without regard to the time or character of such advances, together with interest thereon and subject to all the terms and provisions thereof; provided only, and as an express condition precedent to any such subordination of this Lease to an Encumbrance hereafter executed covering the Premises, that the holder of such Encumbrance ("Holder") shall agree to recognize Tenant's rights under this Lease upon the foreclosure or termination, as applicable, of such Encumbrance as long as Tenant shall pay the Rent and observe and perform all the provisions of this Lease to be observed and performed by Tenant. Within ten (10) days after Landlord's written request, Tenant shall execute, acknowledge and

deliver any and all reasonable documents required by Landlord or the Holder to effectuate such subordination, provided that, concurrently with the execution of such subordination documents, the Holder shall execute a nondisturbance agreement in favor of Tenant consistent with the terms of this Paragraph 31. If Tenant fails to do so, such failure shall constitute a Default by Tenant under this Lease. Notwithstanding anything to the contrary set forth in this Paragraph 31, Tenant hereby attorns and agrees to attorn to any person or entity purchasing or otherwise acquiring the Premises at any sale or other proceeding or pursuant to the exercise of any other rights, powers or remedies under such Encumbrance.

32. ENVIRONMENTAL COVENANTS

32.1 Disclosure Certificate

Prior to executing this Lease, Tenant has completed, executed and delivered to Landlord a Hazardous Materials Disclosure Certificate ("Initial Disclosure Certificate"), a fully completed copy of which is attached hereto as *Exhibit D* and incorporated herein by this reference. Tenant covenants, represents and warrants to Landlord that the information on the Initial Disclosure Certificate is, to the best of Tenant's knowledge, true and correct and accurately describes the Hazardous Materials which will be treated, used or stored on or about the Premises by Tenant or Tenant's Agents.

32.2 Tenant's Obligation to Update Disclosure Certificate

Tenant shall, on a semi-annual basis, complete, execute and deliver to Landlord an updated Disclosure Certificate (each, an "Updated Disclosure Certificate") describing Tenant's then current and proposed future uses of Hazardous Materials on or about the Premises, which Updated Disclosure Certificates shall be in the same format as that which is set forth in *Exhibit D* or in such updated format as Landlord may require from time to time. Landlord shall have the right to approve or disapprove such new or additional Hazardous Materials in its sole and absolute discretion. Tenant shall make no use of Hazardous Materials on or about the Premises except as described in the Initial Disclosure Certificate or as otherwise approved by Landlord in writing in accordance with this Paragraph 32.2.

32.3 Definition of Hazardous Materials

As used in this Lease, the term "Hazardous Materials" shall mean and include any substance that is or contains (1) any "hazardous substance" as now or hereafter defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") (42 U.S.C. § 9601 et seq.) or any regulations promulgated under CERCLA; (2) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act, as amended ("RCRA") (42 U.S.C. § 6901 et seq.) or any regulations promulgated under RCRA; (3) any substance now or hereafter regulated by the Toxic Substances Control Act, as amended ("TSCA") (15 U.S.C. § 2601 et seq.) or any regulations promulgated under TSCA; (4) petroleum, petroleum by-products, gasoline, diesel fuel, or other petroleum hydrocarbons; (5) asbestos and asbestos-containing material, in any form, whether friable or non-friable; (6) polychlorinated biphenyls; (7) lead and lead-containing materials; or (8) any additional substance, material or waste (A) the presence of which on or about the Premises (i) requires reporting, investigation or remediation under any Environmental Laws (as hereinafter defined), (ii) causes or threatens to cause a nuisance on the Premises or any adjacent area or property or poses or threatens to pose a hazard to the health or safety of persons on the Premises or any adjacent area or property, or (iii) which, if it emanated or migrated from the Premises, could constitute a trespass, or (B) which is now or is hereafter classified or considered to be hazardous or toxic under any Environmental Laws. Landlord hereby notifies Tenant in accordance with California Health & Safety Code Section 25359.7 that in 1981-82, the Project was

the subject of a state-supervised cleanup of hazardous waste disposed of on the site by prior occupants. As part of the cleanup approved by the applicable agencies, some soils containing heavy metals were left in place, covered by clean fill. These soils are managed in accordance with the requirements of the applicable agencies and a Declaration of Covenants, Conditions and Restrictions imposed by Homart Development Co.

32.4 Definition of Environmental Laws

As used in this Lease, the term "Environmental Laws" shall mean and include (1) CERCLA, RCRA and TSCA; and (2) any other federal, state or local laws, ordinances, statutes, codes, rules, regulations, orders or decrees now or hereinafter in effect relating to (A) pollution, (B) the protection or regulation of human health, natural resources or the environment, (C) the treatment, storage or disposal of Hazardous Materials, or (D) the emission, discharge, release or threatened release of Hazardous Materials into the environment.

32.5 Tenant's Use of Hazardous Materials

Tenant agrees that during its use and occupancy of the Premises it will (1) not (A) introduce any Hazardous Materials on or about the Premises except in a manner and quantity necessary for the ordinary performance of Tenant's business or (B) release, discharge or dispose of any Hazardous Materials on, in, at, under, or emanating from, the Premises, the Building or the Project; (2) comply with all Environmental Laws relating to Tenant's use of Hazardous Materials in, on or about the Premises and not engage in or permit Tenant's Agents to engage in any activity in, on or about the Premises in violation of any Environmental Laws; and (3) immediately notify Landlord of (A) any inquiry, test, investigation or enforcement proceeding by any governmental agency or authority against Tenant, Landlord or the Premises, Building or Project relating to any Hazardous Materials or under any Environmental Laws or (B) the occurrence of any event or existence of any condition that would cause a breach of any of the covenants set forth in this Paragraph 32.

32.6 Tenant's Remediation Obligations

If Tenant's use of Hazardous Materials on or about the Premises results in a release, discharge or disposal of Hazardous Materials on, in, at, under, or emanating from, the Premises, the Building or the Project, Tenant agrees to investigate, clean up, remove or remediate such Hazardous Materials in full compliance with (1) the requirements of (A) all Environmental Laws and (B) any governmental agency or authority responsible for the enforcement of any Environmental Laws; and (2) any additional requirements of Landlord that are reasonably necessary to protect the value of the Premises, the Building or the Project.

32.7 Landlord's Inspections

Upon twenty-four (24) hours' notice to Tenant (except in the case of an emergency, in which event no advance notice shall be required), Landlord may inspect the Premises and surrounding areas for the purpose of determining whether there exists on or about the Premises any Hazardous Material or other condition or activity that is in violation of the requirements of this Lease or of any Environmental Laws. Such inspections may include, but are not limited to, entering upon the property adjacent to or surrounding the Premises with drill rigs or other machinery for the purpose of obtaining laboratory samples. Landlord shall not be limited in the number of such inspections during the Term of this Lease. In the event (1) such inspections reveal the presence of any such Hazardous Material or other condition or activity caused by Tenant or its Agents in violation of the requirements of this Lease or of any Environmental Laws, or (2) Tenant or its Agents contribute or knowingly consent to the importation of any Hazardous Materials in, on, under, through or about the Premises, the Building or the Project or, through their actions, exacerbate the condition of or the conditions caused by any

Hazardous Materials in, on, under, through or about the Premises, the Building or the Project, Tenant shall reimburse Landlord for the cost of such inspections within ten (10) days of receipt of a written statement therefor. Tenant will supply to Landlord such historical and operational information regarding the Premises and surrounding areas as may be reasonably requested to facilitate any such inspection and will make available for meetings appropriate personnel having knowledge of such matters. In the event Tenant vacates the Premises prior to the Expiration Date, Tenant shall give Landlord at least sixty (60) days' prior notice of its intention to vacate the Premises so that Landlord will have an opportunity to perform such an inspection prior to such vacation. The right granted to Landlord herein to perform inspections shall not create a duty on Landlord's part to inspect the Premises, or liability on the part of Landlord for Tenant's use, storage, treatment or disposal of Hazardous Materials, it being understood that Tenant shall be solely responsible for all liability in connection therewith.

32.8 Landlord's Right to Remediate

Landlord shall have the right, but not the obligation, prior or subsequent to a Default, without in any way limiting Landlord's other rights and remedies under this Lease, to enter upon the Premises, or to take such other actions as it deems necessary or advisable, to investigate, clean up, remove or remediate any Hazardous Materials or contamination by Hazardous Materials present on, in, at, under, or emanating from, the Premises, the Building or the Project in violation of Tenant's obligations under this Lease or under any Environmental Laws. Notwithstanding any other provision of this Lease, Landlord shall also have the right, at its election, in its own name or as Tenant's agent, to negotiate, defend, approve and appeal, at Tenant's expense, any action taken or order issued by any governmental agency or authority with regard to any such Hazardous Materials or contamination by Hazardous Materials. All reasonable costs and expenses paid or incurred by Landlord in the exercise of the rights set forth in this Paragraph 32 shall be payable by Tenant upon demand.

32.9 Condition of Premises Upon Expiration or Termination

Tenant shall surrender the Premises to Landlord upon the expiration or earlier termination of this Lease free of debris, waste or Hazardous Materials placed on, about or near the Premises by Tenant or Tenant's Agents, and in a condition which complies with (i) all Environmental Laws, and (ii) any additional requirements of Landlord that are reasonably necessary to protect the value of the Premises, the Building or the Project, including, without limitation, the obtaining of any closure permits or other governmental permits or approvals related to Tenant's use of Hazardous Materials in or about the Premises. Tenant's obligations and liabilities pursuant to the provisions of this Paragraph 32 shall survive the expiration or earlier termination of this Lease.

32.10 Tenant's Indemnification of Landlord

Tenant agrees to indemnify and hold harmless Landlord from and against any and all claims, losses (including, without limitation, loss in value of the Premises, the Building or the Project and any losses to Landlord due to lost opportunities to lease any portions of the Premises to succeeding tenants due to the failure of Tenant to surrender the Premises upon the expiration or sooner termination of this Lease in accordance with the provisions of Paragraph 32.9 above), liabilities and expenses (including attorneys' fees) sustained by Landlord attributable to (1) any Hazardous Materials placed on or about the Premises, the Building or the Project by Tenant or Tenant's Agents, or (2) Tenant's breach of any provision of this Paragraph 32.

32.11 Landlord's Indemnification of Tenant

Landlord agrees to indemnify and hold harmless Tenant from and against any and all claims, losses, liabilities and expenses (including attorneys' fees, but specifically excluding lost profits and

consequential damages) actually sustained by Tenant attributable to any Hazardous Materials placed on or about the Premises, the Building or the Project by Landlord or Landlord's Agents, except to the extent the condition thereof has been exacerbated by Tenant or Tenant's Agents.

32.12 Limitation of Tenant's Liability

Notwithstanding anything in this Lease to the contrary, Tenant shall not be responsible for the clean up or remediation of, and shall not be required to indemnify Landlord against any costs or liabilities attributable to, contamination by Hazardous Materials during the Term caused by third parties or Hazardous Materials place on or about the Premises (i) prior to the Commencement Date by third parties not related to Tenant or Tenant's Agents, or (ii) by Landlord at any time, except in any of the foregoing cases to the extent that Tenant or Tenant's Agents have contributed to or exacerbated the presence of such Hazardous Materials.

32.13 Survival

The provisions of this Paragraph 32 shall survive the expiration or earlier termination of this Lease.

33. NOTICES

All notices and demands which are required or may be permitted to be given to either party by the other hereunder shall be in writing and shall be sent by United States mail, postage prepaid, certified, or by personal delivery or overnight courier, addressed to the addressee at Tenant's Address or Landlord's Address as specified in the Basic Lease Information, or to such other place as either party may from time to time designate in a notice to the other party given as provided herein. Copies of all notices and demands given to Landlord shall additionally be sent to Landlord's property manager at the address specified in the Basic Lease Information or at such other address as Landlord may specify in writing from time to time. Notice shall be deemed given upon actual receipt (or attempted delivery if delivery is refused), if personally delivered, or one (1) business day following deposit with a reputable overnight courier that provides a receipt, or on the third (3rd) day following deposit in the United States mail in the manner described above.

34. WAIVER

The waiver of any breach of any term, covenant or condition of this Lease shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No delay or omission in the exercise of any right or remedy of Landlord in regard to any Default by Tenant shall impair such a right or remedy or be construed as a waiver. Any waiver by Landlord of any Default must be in writing and shall not be a waiver of any other Default concerning the same or any other provisions of this Lease.

35. HOLDING OVER

Any holding over after the expiration of the Term, without the express written consent of Landlord, shall constitute a Default and, without limiting Landlord's remedies provided in this Lease, such holding over shall be construed to be a tenancy at sufferance, at a rental rate equal to the greater of one hundred fifty percent (150%) of (i) the fair market rental value for the Premises as determined by Landlord or (ii) the Base Rent last due in this Lease, plus Additional Rent, and shall otherwise be on the terms and conditions herein specified, so far as applicable; provided, however, in no event shall

any renewal or extension option or other similar right or option contained in this Lease be deemed applicable to any such tenancy at sufferance. If the Premises are not surrendered at the end of the Term or sooner termination of this Lease, and in accordance with the provisions of Paragraphs 11 and 32.9, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all loss or liability resulting from delay by Tenant in so surrendering the Premises including, without limitation, any loss or liability resulting from any claim against Landlord made by any succeeding tenant or prospective tenant caused by such delay and losses to Landlord due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

36. SUCCESSORS AND ASSIGNS

36.1 Binding on Successors, Etc.

The terms, covenants and conditions of this Lease shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all of the parties hereto. If Tenant shall consist of more than one entity or person, the obligations of Tenant under this Lease shall be joint and several.

36.2 Landlord's Right to Sell

Notwithstanding anything in this Lease to the contrary, Landlord shall have the right to sell, transfer or otherwise convey, either separately or jointly, its interest in the Building and/or the Project, and all of Landlord's related rights and obligations hereunder, to any Person.

37. TIME

Time is of the essence of this Lease and each and every term, condition and provision herein.

38. BROKERS

Landlord and Tenant each represents and warrants to the other that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker other than BT Commercial ("Broker") in relation to Tenant's lease of the Premises and/or the negotiating or making of this Lease, and each party agrees to indemnify and hold harmless the other from any claim or claims, and costs and expenses, including attorneys' fees, incurred by the indemnified party in conjunction with any such claim or claims of any other broker or brokers to a commission in connection with this Lease as a result of the actions of the indemnifying party. Landlord has paid BT Commercial a brokerage commissions in the amount of Five Hundred Fifty-Two Thousand One Hundred Forty ($552,140.00) in relation to Tenant's lease of the Premises. Nothing contained herein shall restrict Landlord from paying any fees owed by Landlord in connection with Tenant's lease of the Premises and/or the execution of this Lease to any constituent partner of Landlord (or any Affiliate of any such partner) and to any consultants providing services to Landlord in connection with the Project.

39. LIMITATION OF LIABILITY

Tenant agrees that, in the event of any default or breach by Landlord with respect to any of the terms of this Lease to be observed and performed by Landlord or with respect to the enforcement of an indemnity obligation of Landlord under this Lease (1) Tenant shall look solely to the then-current landlord's interest in the Building for the satisfaction of such indemnity obligation of Landlord or for satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord; (2) no other property or assets of Landlord, its partners, shareholders, officers, directors, employees, investment advisors, or any successor in interest of any of

them (collectively, the "Landlord Parties") shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies; (3) no personal liability shall at any time be asserted or enforceable against the Landlord Parties; and (4) no judgment will be taken against the Landlord Parties (except for a judgment against Landlord which is enforceable only to the extent of Landlord's interest in the Building). The provisions of this Paragraph shall apply only to the Landlord and the parties herein described, and shall not be for the benefit of any insurer nor any other third party.

40. FINANCIAL STATEMENTS

Within ten (10) days after Landlord's request, Tenant shall deliver to Landlord the then current, or if Tenant is a publicly traded company, the publicly available financial statements of Tenant (including interim periods following the end of the last fiscal year for which annual statements are available), prepared, compiled or reviewed by a certified public accountant, including a balance sheet and profit and loss statement for the most recent prior year, all prepared in accordance with GAAP.

41. RULES AND REGULATIONS

Tenant agrees to comply with such reasonable rules and regulations as Landlord may adopt from time to time for the orderly and proper operation of the Building and the Project. Such rules may include but shall not be limited to the following: (a) restriction of employee parking to a limited, designated area or areas in reasonable proximity to the Building; and (b) regulation of the removal, storage and disposal of Tenant's refuse and other rubbish at the sole cost and expense of Tenant. The then current rules and regulations shall be binding upon Tenant upon delivery of a copy of them to Tenant. Landlord shall not be responsible to Tenant for the failure of any other person to observe and abide by any of said rules and regulations; provided, however, Landlord shall enforce such rules and regulation in a non-discriminatory manner. Landlord's current rules and regulations are attached to this Lease as *Exhibit C*.

42. MORTGAGEE PROTECTION

42.1 Modifications for Lender

If, in connection with obtaining financing for the Project or any portion thereof, Landlord's lender shall request reasonable modifications to this Lease as a condition to such financing, Tenant shall not unreasonably withhold, delay or defer its consent to such modifications, provided such modifications do not materially adversely affect Tenant's rights or increase Tenant's obligations under this Lease.

42.2 Rights to Cure

Tenant agrees to give to any trust deed or mortgage holder ("Holder"), by registered mail, at the same time as it is given to Landlord, a copy of any notice of default given to Landlord, provided that prior to such notice Tenant has been notified, in writing, (by way of notice of assignment of rents and leases, or otherwise) of the address of such Holder. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in this Lease, then the Holder shall have an additional twenty (20) days after expiration of such period, or after receipt of such notice from Tenant (if such notice to the Holder is required by this Paragraph 42.2), whichever shall last occur within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary if within such twenty (20) days, any Holder has commenced and is diligently pursuing the remedies necessary to cure such default (including, but not limited to, commencement of foreclosure proceedings, if necessary to effect such cure), in which event there shall be no default under this Lease.

43. ENTIRE AGREEMENT

This Lease, including the Exhibits and any Addenda attached hereto, which are hereby incorporated herein by this reference, contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein or therein, shall be of any force and effect.

44. INTEREST

Any installment of Rent and any other sum due from Tenant under this Lease which is not received by Landlord when due shall bear interest from the date such payment was originally due under this Lease until paid at an annual rate equal to the maximum rate of interest permitted by law. Payment of such interest shall not excuse or cure any Default by Tenant. In addition, Tenant shall pay all costs and reasonable attorneys' fees incurred by Landlord in collection of such amounts.

45. INTERPRETATION

This Lease shall be construed and interpreted in accordance with the laws of the State of California. The parties acknowledge and agree that no rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Lease, including the Exhibits and any Addenda attached hereto. All captions in this Lease are for reference only and shall not be used in the interpretation of this Lease. Whenever required by the context of this Lease, the singular shall include the plural, the masculine shall include the feminine, and vice versa. If any provision of this Lease shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect. Unless otherwise specifically stated herein to the contrary, Landlord's consent may be given or withheld in Landlord's sole and absolute discretion.

46. REPRESENTATIONS AND WARRANTIES

46.1 Of Tenant

Tenant hereby makes the following representations and warranties, each of which is material and being relied upon by Landlord, is true in all respects as of the date of this Lease, and shall survive the expiration or termination of the Lease.

(1) If Tenant is an entity, Tenant is duly organized, validly existing and in good standing under the laws of the state of its organization and the persons executing this Lease on behalf of Tenant have the full right and authority to execute this Lease on behalf of Tenant and to bind Tenant without the consent or approval of any other person or entity. Tenant has full power, capacity, authority and legal right to execute and deliver this Lease and to perform all of its obligations hereunder. This Lease is a legal, valid and binding obligation of Tenant, enforceable in accordance with its terms.

(2) Tenant has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by any creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets, (iv) suffered the attachment or other judicial seizure of all or substantially all of its assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

46.2 Of Landlord

Landlord hereby makes the following representations and warranties, each of which is material and being relied upon by Tenant, is true in all respects as of the date of this Lease, and shall survive the expiration or termination of the Lease.

(1) If Landlord is an entity, Landlord is duly organized, validly existing and in good standing under the laws of the state of its organization and the persons executing this Lease on behalf of Landlord have the full right and authority to execute this Lease on behalf of Landlord and to bind Landlord without the consent or approval of any other person or entity. Landlord has full power, capacity, authority and legal right to execute and deliver this Lease and to perform all of its obligations hereunder. This Lease is a legal, valid and binding obligation of Landlord, enforceable in accordance with its terms.

(2) Landlord has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by any creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets, (iv) suffered the attachment or other judicial seizure of all or substantially all of its assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

47. SECURITY

47.1 Landlord Not Obligated to Provide Security

Tenant acknowledges and agrees that, while Landlord may engage security personnel to patrol the Building or the Project, Landlord is not required to provide any security services with respect to the Premises, the Building or the Project and that Landlord shall not be liable to Tenant for, and Tenant waives any claim against Landlord with respect to, any loss by theft or any other damage suffered or incurred by Tenant in connection with any unauthorized entry into the Premises or any other breach of security with respect to the Premises, the Building or the Project.

47.2 Tenant's Obligation to Comply with Security Measures

Tenant hereby agrees to the exercise by Landlord and Landlord's Agents, within their sole discretion, of such security measures as, but not limited to, the evacuation of the Premises, the Building or the Project for cause, suspected cause or for drill purposes, the denial of any access to the Premises, the

Building or the Project and other similarly related actions that it deems necessary to prevent any threat of property damage or bodily injury. The exercise of such security measures by Landlord and Landlord's Agents, and the resulting interruption of service and cessation of Tenant's business, if any, shall not be deemed an eviction or disturbance of Tenant's use and possession of the Premises, or any part thereof, or render Landlord or Landlord's Agents liable to Tenant for any resulting damages, or relieve Tenant from Tenant's obligations under this Lease.

48. JURY TRIAL WAIVER

Landlord and Tenant each hereby waive any right to trial by jury with respect to any action or proceeding (i) brought by Landlord, Tenant or any other party, relating to (A) this Lease and/or any understandings or prior dealings between the parties hereto, or (B) the Premises, the Building or the Project or any part thereof, or (ii) to which Landlord is a party. The parties each hereby agree that this Lease constitutes a written consent to waiver of trial by jury pursuant to the provisions of California Code of Civil Procedure Section 631.

49. OPTION TO RENEW

Tenant shall have two (2) options (each a "Renewal Option") to extend the Term of this Lease with respect to the entire Premises (including, without limitation, the "951 Gateway Premises"), for successive periods of five (5) years each (each a "Renewal Term"). Each Renewal Option shall be effective only if (i) Tenant is not in Default under this Lease and no event has occurred which with the giving of notice or the passage of time, or both, would constitute a Default hereunder, either at the time of exercise of the Renewal Option or the time of commencement of the Renewal Term, and (ii) concurrently with the exercise of each such Renewal Option hereunder, Tenant validly exercises the corresponding renewal option contained in Paragraph 49 of the 951 Gateway Lease.

49.1 Commencement Dates

If Tenant exercises the first Renewal Option in accordance herewith, the first Renewal Term shall commence on the day following the last day of the initial Term and end on the day preceding the fifth anniversary thereof. If Tenant exercises the second Renewal Option, the second Renewal Term shall commence on the day following the last day of the first Renewal Term and end on the day preceding the fifth anniversary thereof. The second Renewal Option may not be exercised unless Tenant has previously exercised the first Renewal Option hereunder and under the 951 Gateway Lease. Each Renewal Term, if properly exercised, shall be upon the same terms and conditions as the Lease except for Monthly Base Rent (which shall be determined as provided in the following provisions of this Paragraph).

49.2 Renewal Option is Personal; Non-Transferable

The Renewal Option shall be personal to Tenant, any transferee under a Permitted Transfer, and any assignee to whom Tenant assigns its entire right, title and interest under, or any sublessee to whom Tenant subleases the entire Premises for the entire remaining Term of, this Lease, and shall not be assignable or otherwise transferable in whole or in part, voluntarily or by operation of law, to any other permitted assignee, subtenant or other third parties and there shall be no further Renewal Option beyond the expiration of the second Renewal Term.

49.3 Tenant's Notice of Exercise

In order to exercise a Renewal Option, Tenant shall give written notice to Landlord of Tenant's exercise of such election ("Tenant's Notice") at least ten (10) months prior to expiration of the then current Term and if such notice is not so given, the Renewal Option shall lapse; the Tenant hereby expressly acknowledges and agrees that time is of the essence for purposes of notice of exercise of a Renewal Option and that Tenant's failure to do so by said date will relieve Landlord of any obligation under this Paragraph. If Tenant gives such notice within the time prescribed, Landlord and Tenant shall be deemed to have entered into an extension of this Lease for a five (5) year extended term on the terms and conditions set forth herein.

49.4 Monthly Base Rent During Renewal Term

The Monthly Base Rent payable during any Renewal Term shall be an amount equal to the greater of (i) the Monthly Base Rent payable for the last month of the then expiring Term (provided that such Monthly Base Rent shall be increased during each year of the Renewal Term to an amount equal to one hundred three percent (103%) of the Monthly Base Rent payable during the immediately preceding term), or (ii) ninety-five percent (95%) of the Fair Market Rent (as hereinafter defined) for the Premises during such Renewal Term.

49.4.1. Fair Market Rent Definition

"Fair Market Rent" shall mean the rate being charged for comparable office/R&D/laboratory space in comparable locations in the South San Francisco/Brisbane market area, taking into consideration: tenant credit, tenant improvements or allowances provided or to be provided and leasing commissions, but specifically excluding any specialized laboratory improvements, Tenant's Property or other Tenant Improvements actually paid for by Tenant (as determined in accordance with Paragraph 12.6 above).

49.4.2. Determination of Fair Market Rent

Landlord and Tenant shall meet and attempt in good faith to mutually determine the Fair Market Rent for any Renewal Term. If the parties have not reached agreement on the Fair Market Rent by the date that is thirty (30) days after Landlord's receipt of Tenant's Notice, each party shall appoint an arbitrator and shall give to the other party notice of the identity of the arbitrator no later than the date that is forty (40) days after Landlord's receipt of Tenant's Notice. If either party fails to appoint an arbitrator by the date that is forty (40) days after Landlord's receipt of Tenant's Notice, the sole arbitrator appointed, if any, shall determine the Fair Market Rent. If two arbitrators are appointed, they shall immediately meet and attempt to agree upon such Fair Market Rent. If the arbitrators cannot reach agreement on the Fair Market Rent by the date that is sixty (60) days after Landlord's receipt of Tenant's Notice, each arbitrator shall submit a determination of Fair Market Rent to Landlord and Tenant. If the determinations of Fair Market Rent made by these two arbitrators vary by ten percent (10%) or less, the Fair Market Rent shall be the average of the two determinations. If the determinations vary by more than ten percent (10%), the two arbitrators shall within ten (10) days after submission of their determinations appoint a third arbitrator. If the two arbitrators shall be unable to agree on the selection of a third arbitrator within the 10-day period, then either Tenant or Landlord may request such appointment by petitioning the presiding judge of the Superior Court in and for the County of San Mateo. Such third arbitrator shall, within thirty (30) days after appointment, make a determination of the Fair Market Rent and submit such determination to Landlord and Tenant. The Fair Market Rent shall be the determination of Fair Market Rent submitted by the original two arbitrators that is closer to the Fair Market Rent determination of the third arbitrator. If the third arbitrator's determination is exactly between the Fair Market Rent determination of the original two arbitrators, then the Fair Market Rent shall be the average of the original two determinations. The determination of Fair Market Rent pursuant to this Paragraph 49 shall be final and binding on Landlord and Tenant.

49.4.3. Arbitrator Qualifications

For purposes of this Paragraph, "arbitrator" shall mean a licensed commercial real estate broker or leasing agent with not less than five (5) years of fulltime commercial brokerage experience in San Mateo County.

49.4.4. Fees and Costs of Arbitrators

Each party shall bear the fees and costs of its arbitrator in connection with the determination of Fair Market Rent and one-half of the fees and costs of the third arbitrator, if any.

49.4.5. Arbitration Period Base Rent

If the determination of Fair Market Rent has not been made by the expiration of the then expiring Term, Tenant shall (i) continue to pay Monthly Base Rent at the Monthly Base Rent for the last month of the Term (the "Arbitration Period Base Rent") as well as any Additional Rent due under the Lease and (ii) pay to Landlord, or receive as a refund from Landlord, as applicable, on the first day of the

month after the determination of Fair Market Rent is made, an amount, if any, equal to the difference between the Arbitration Period Base Rent that was paid to Landlord and the Monthly Base Rent for the Renewal Term that should have been paid to Landlord as the Monthly Base Rent for the Renewal Term as determined hereunder.

50. PARKING

50.1 Grant of Parking License

Provided that Tenant shall comply with and abide by Landlord's parking rules and regulations from time to time in effect, Tenant shall have a license to use for the parking of passenger automobiles the number of non-exclusive and undesignated parking spaces in the Common Areas set forth in the Basic Lease Information. Notwithstanding the foregoing, Landlord shall not be required to enforce Tenant's right to use any such parking spaces (but Landlord shall use commercially reasonable efforts to resolve any problems related to parking); and, provided further, that the number of parking spaces allocated to Tenant hereunder shall be reduced on a proportionate basis in the event any of the parking spaces in the Designated Parking Areas are taken or otherwise eliminated as a result of any Condemnation or casualty event affecting such Designated Parking Areas. Notwithstanding the foregoing provisions of this Paragraph 50.1, Landlord shall have the right to relocate Tenant's parking from time to time to other areas within the Project and to provide parking spaces to Tenant in surface parking lots, parking structures or other areas now or hereafter designated by Landlord as the "Project's Parking Areas." All unreserved spaces will be on a first-come, first-served basis in common with other tenants of and visitors to the Project in parking spaces provided by Landlord from time to time in the Project's Parking Areas. Tenant's license to use the parking spaces provided for herein shall be subject to such terms, conditions, rules and regulations as Landlord or the operator of the Parking Area may impose from time to time.

50.2 No Assignment of Parking License

The license granted hereunder is for self-service parking only and does not include additional rights or services except to the extent that Landlord elects in its sole and absolute discretion to provide any such services.

50.3 Visitor Parking

Tenant recognizes and agrees that visitors, clients and/or customers (collectively the "Visitors") to the Project and the Premises must park automobiles or other vehicles only in areas designated by Landlord from time to time as being for the use of such Visitors and Tenant hereby agrees to ask its Visitors to park only in the areas designated by Landlord from time to time for the use of Tenant's Visitors.

51. RIGHT OF FIRST OFFER

51.1 Offer Notice

If subsequent to the full execution of this Lease, Landlord desires to sell the Building, Landlord shall notify Tenant in writing of such intent to sell (the "Offer Notice"); provided, however, Landlord shall not be required to provide Tenant with the Offer Notice with respect to the Building if Landlord has previously terminated this Lease or recaptured the Premises. This Right of First Offer shall be personal to Tenant and any transferee under a Permitted Transfer and shall not be assignable or otherwise transferable in whole or in part, voluntarily or by operation of law, to any other permitted assignee, subtenant or other third parties. Tenant's right to receive the Offer Notice shall further be

effective only if Tenant is not in Default under this Lease and no event has occurred which with the giving of notice or the passage of time, or both, would constitute a Default hereunder. Subject to Paragraph 51.4 below, Tenant's right to receive an Offer Notice in accordance with this Paragraph 51.1 shall be a one-time right.

51.2 Election Notice

In the event Tenant desires to purchase the Building, Tenant shall notify Landlord in writing of its election to purchase the Building (the "Election Notice") within ten (10) days following Tenant's receipt of the Offer Notice. If Tenant delivers an Election Notice to Landlord, Tenant shall acquire the Building on an "as-is" basis and without any representations or warranties from Landlord.

51.3 Purchase and Sale Agreement

In the event Tenant timely delivers the Election Notice to Landlord, the parties shall thereafter execute a purchase and sale agreement prepared by Seller's counsel (the "Purchase and Sale Agreement") with the purchase price of the Building equal to the quotient of the Net Operating Income (as defined below) of the Building divided by nine hundredths (.09%) and with a closing to be held on or before the date that is forty-five (45) days after delivery of the Offer Notice.

51.4 Failure to Exercise or Sign Agreement

If Tenant fails to deliver an Election Notice within the 10-day time period, or if for any reason whatsoever Tenant has not executed the Purchase and Sale Agreement within ten (10) days after its receipt thereof from Landlord, Tenant's right to purchase the Building hereunder shall automatically terminate and be of no further force and effect with respect to Landlord or any other Person (as hereinafter defined) and Landlord shall thereafter have the right to sell the Building at any time to any Person on terms acceptable to Landlord in its sole and absolute discretion. Notwithstanding the foregoing, if Landlord fails to enter into a letter of intent or purchase and sale agreement for the sale of the Building to any such Person within two hundred seventy (270) days after the date Tenant's right to purchase the Building lapses pursuant to this Paragraph 51.4, then Tenant's rights under this Paragraph 51 shall be reinstated and Landlord shall once again furnish Tenant with an Offer Notice prior to selling the Building to a Person other than a Landlord Affiliate. Tenant hereby expressly acknowledges and agrees that time is of the essence for purposes of the Election Notice and the ten (10) day period to execute the Purchase and Sale Agreement and that Tenant's failure to deliver such Election Notice or the executed Purchase and Sale Agreement as specified herein will relieve Landlord of any obligation under this Paragraph.

51.5 Net Operating Income

As used herein, "Net Operating Income" shall mean the Monthly Base Rent due under the Lease with respect to the Building being purchased for the twelve (12) full calendar months following the Offer Notice. As used in this Paragraph 51.5, Monthly Base Rent shall mean the scheduled Monthly Base Rent set forth in the Basic Lease Information.

51.6 Landlord's Sale to Affiliate; Survival of Option

Notwithstanding anything in this Paragraph to the contrary, this Paragraph shall be inapplicable to, and neither Landlord nor any person or entity providing financing to Landlord in connection with the Building ("Lender") shall have any obligation to provide an Offer Notice to Tenant in connection with (i) any sale, conveyance or other transfer or proposed sale, conveyance or other transfer of the Building to any Person who controls, is controlled by or is under common control with, Landlord or Lender or any Person in which Hines Interest Limited Partnership or Morgan Stanley Real Estate

Investment Fund maintains an interest (collectively, a "Landlord Affiliate"), or (ii) any foreclosure sale or deed-in-lieu of foreclosure or the exercise of any similar remedy (collectively, a "Foreclosure") by any Lender. As used herein "Person" shall mean any natural person, corporation, firm, association or other entity, whether acting in an individual, fiduciary or other capacity. Tenant's rights under this Paragraph 51.6 shall survive Landlord's transfer pursuant to clause (i) of this Paragraph 51.6 but shall not survive any Foreclosure.

51.7 Concurrent Exercise of Rights of First Offer with respect to 901 Gateway Boulevard and 951 Gateway Boulevard

Notwithstanding anything to the contrary contained in this Paragraph 51, if Landlord concurrently delivers to Tenant an Offer Notice under this Lease and an Offer Notice under Paragraph 51 of the 951 Gateway Lease, then Tenant shall have the right to exercise the Right of First Offer contained in this Paragraph 51 only if it concurrently and validly exercises the Right of First Offer granted to Tenant under Paragraph 51 of the 951 Gateway Lease. Any attempt by Tenant to deliver an Election Notice under Paragraph 51.2 above without the concurrent delivery of an Election Notice under Paragraph 51.2 of the 951 Gateway Lease (assuming that Landlord has delivered to Tenant Offer Notices under both this Lease and the 951 Gateway Lease) shall be null and void and of no force or effect.

52. MEMORANDUM OF LEASE

Promptly after full execution of this Lease, Landlord and Tenant shall execute and cause to be recorded a Memorandum of Lease in the form attached hereto as *Exhibit F*.

53. TENANT IMPROVEMENTS AND TENANT IMPROVEMENT ALLOWANCE

In connection with Tenant's lease of the Premises, Tenant has constructed the improvements described in *Exhibit G* attached hereto (the "Tenant Improvements"). In connection with this Lease, Landlord has agreed to supply Tenant with an improvement allowance ("Tenant Improvement Allowance") in an amount equal to Nine Million Three Hundred Eighty-Six Thousand Three Hundred Eighty Dollars ($9,386,380). Landlord and Tenant hereby acknowledge that prior to the date hereof, Landlord has paid Tenant Seven Million Seven Hundred Twenty-Nine Thousand Nine Hundred Sixty ($7,729,960), representing a portion of the Tenant Improvement Allowance owed hereunder, leaving a remaining Tenant Improvement Allowance to be paid to Tenant in the amount of One Million Six Hundred Fifty-Six Thousand Four Hundred Twenty Dollars ($1,656,420). On the later date to occur of (i) January 1, 2001, or (ii) the date which is five (5) business days following the mutual execution and delivery of this Lease, Landlord shall pay to Tenant the amount of One Million Six Hundred Fifty-Six Thousand Four Hundred Twenty Dollars ($1,656,420) representing the remaining outstanding balance of the Tenant Improvement Allowance owed hereunder.

Landlord and Tenant have executed and delivered this Lease effective as of the Lease Date specified in the Basic Lease Information.

LANDLORD: HMS GATEWAY OFFICE, L.P.,
a Delaware limited partnership

By: Hines Gateway Office, L.P.,
Administrative Partner

By: Hines Interests Limited Partnership,
General Partner

By: Hines Holdings, Inc.,
General Partner

By: /s/ JAMES C. BUIE, JR.

Name: James C. Buie, Jr.

Its: Executive Vice President

TENANT: ADVANCED MEDICINE, INC.
a Delaware corporation

By: /s/ A. GREG STURMER

Name: A. Greg Sturmer

Its: Vice President, Finance

EXHIBIT A

SITE PLAN

[TO COME]

EXHIBIT B

ADDITIONAL OPERATIONAL GUIDELINES

As a component of the Tenant Improvements and any Alterations made by Tenant to the Premises, Tenant shall install fume hoods, as well as a rooftop venting and exhaust system designed to increase the velocity of exhaust such that any odors shall be discharged high into the atmosphere in order to minimize the risk of odors detectable at ground level. In addition, Tenant shall install and utilize such additional venting, exhaust and quenching systems, including, without limitation, base quenching, distillation units, acid quenching, and mechanical exhaust/filtration systems, as appropriate to reduce the risk of emanation of such odors.

EXHIBIT C

RULES AND REGULATIONS

This exhibit, entitled "Rules and Regulations," is and shall constitute *Exhibit E* to the Lease Agreement, dated as of the Lease Date, by and between Landlord and Tenant for the Premises. The terms and conditions of this *Exhibit E* are hereby incorporated into and are made a part of the Lease. Capitalized terms used, but not otherwise defined, in this *Exhibit E* have the meanings ascribed to such terms in the Lease.

1. Tenant shall not use any method of heating or air conditioning other than that approved by Landlord in writing without the prior written consent of Landlord, which consent shall not to be unreasonably withheld, conditioned or delayed.

2. All window coverings installed by Tenant and visible from the outside of the Building require the prior written approval of Landlord.

3. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance or any flammable or combustible materials on or around the Project or the Adjacent Properties, except to the extent that Tenant is permitted to use the same in the Premises under the terms of Paragraph 32 of the Lease.

4. Tenant shall not alter any lock or install any new locks or bolts on any door at the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed.

5. Tenant shall not make any duplicate keys without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed.

6. Tenant shall park motor vehicles in parking areas designated by Landlord, including areas for loading and unloading. During those periods of loading and unloading, Tenant shall not unreasonably interfere with traffic flow around the Building or the Project and loading and unloading areas of other tenants.

7. Tenant shall not disturb, solicit or canvas any tenant or other occupant of the Building or Project and shall cooperate to prevent same.

8. No person shall go on the roof without Landlord's permission.

9. Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Building, to such a degree as to be objectionable to Landlord or other tenants, shall be placed and maintained by Tenant, at Tenant's expense, on vibration isolators or in noise-dampening housing or other devices sufficient to eliminate noise or vibration.

10. All goods, including material used to store goods, delivered to the Premises of Tenant shall be immediately moved into the Premises and shall not be left in parking or receiving areas overnight. During the period of construction of the Tenant Improvements and any Alterations, all construction materials shall be stored in a manner and a location mutually acceptable to Landlord and Tenant.

11. Tenant is responsible for the storage and removal of all trash and refuse. All such trash and refuse shall be contained in suitable receptacles stored behind screened enclosures at locations approved by Landlord.

12. Tenant shall not store or permit the storage or placement of goods or merchandise in or around the Common Areas surrounding the Premises. No displays or sales or merchandise shall be allowed in the Parking Areas or other Common Areas.

13. Tenant shall not permit any animals, including, but not limited to, any household pets, to be brought or kept in or about the Premises, the Building, the Project or any of the Common Areas which would violate applicable Laws or constitute a nuisance to the Premises, the Building or the Project. Tenant shall prior to the Commencement Date and thereafter from time to time upon the request of Landlord provide to Landlord a written plan for the handling and disposal of all animals used by Tenant in the conduct of its business, which plan shall be subject to the written approval of Landlord.

INITIALS:

TENANT: _____

LANDLORD: _____

EXHIBIT D

HAZARDOUS MATERIALS DISCLOSURE CERTIFICATE

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Materials Disclosure Certificate is necessary for the Landlord to evaluate your proposed uses of the premises (the "Premises") and to determine whether to enter into a lease agreement with you as tenant. If a lease agreement is signed by you and the Landlord (the "Lease Agreement"), on an annual basis in accordance with the provisions of Paragraph 32 of the Lease Agreement, you are to provide an update to the information initially provided by you in this certificate. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to:

Landlord: HMS Gateway Office L.P. c/o Hines
c/o Hines
650 Gateway Boulevard, Suite 1140
South San Francisco, California 94080
Phone: (650) 794-1111

Name of (Prospective) Tenant: Advance Medicine, Inc.

Mailing Address:

Contact Person, Title and Telephone Number(s):

Contact Person for Hazardous Waste Materials Management and Manifests and Telephone Number(s):

Address of (Prospective) Premises:

Length of (Prospective) initial Term:

1. GENERAL INFORMATION:

Describe the proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled, and services and activities to be provided or otherwise conducted. Existing tenants should describe any proposed changes to on-going operations.

2. USE, STORAGE AND DISPOSAL OF HAZARDOUS MATERIALS

2.1 Will any Hazardous Materials (as hereinafter defined) be used, generated, treated, stored or disposed of in, on or about the Premises? Existing tenants should describe any Hazardous Materials which continue to be used, generated, treated, stored or disposed of in, on or about the Premises.

Wastes	Yes ☐	No ☐
Chemical Products	Yes ☐	No ☐
Other	Yes ☐	No ☐

If Yes is marked, please explain:

2.2 If Yes is marked in Exhibit 2.1, attach a list of any Hazardous Materials to be used, generated, treated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Materials to be present on or about the Premises at any given time; estimated annual throughput; the proposed location(s) and method of storage (excluding nominal amounts of ordinary household cleaners and janitorial supplies which are not regulated by any Environmental Laws, as hereinafter defined); and the proposed location(s) and method(s) of treatment or disposal for each Hazardous Material, including the estimated frequency, and the proposed contractors or subcontractors. Existing tenants should attach a list setting forth the information requested above and such list should include actual data from on-going operations and the identification of any variations in such information from the prior year's certificate.

3. STORAGE TANKS AND SUMPS

3.1 Is any above or below ground storage or treatment of gasoline, diesel, petroleum, or other Hazardous Materials in tanks or sumps proposed in, on or about the Premises? Existing tenants should describe any such actual or proposed activities.

Yes ☐ No ☐

If yes, please explain:

4. WASTE MANAGEMENT

4.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number? Existing tenants should describe any additional identification numbers issued since the previous certificate.

Yes ☐ No ☐

4.2 Has your company filed a biennial or quarterly reports as a hazardous waste generator? Existing tenants should describe any new reports filed.

Yes ☐ No ☐

If yes, attach a copy of the most recent report filed.

5. WASTEWATER TREATMENT AND DISCHARGE

5.1 Will your company discharge wastewater or other wastes to:

☐ storm drain? ☐ sewer?

☐ surface water? ☐ no wastewater or other wastes discharged.

Existing tenants should indicate any actual discharges. If so, describe the nature of any proposed or actual discharge(s).

5.2 Will any such wastewater or waste be treated before discharge?

Yes ☐ No ☐

If yes, describe the type of treatment proposed to be conducted. Existing tenants should describe the actual treatment conducted.

6. AIR DISCHARGES

6.1 Do you plan for any air filtration systems or stacks to be used in your company's operations in, on or about the Premises that will discharge into the air; and will such air emissions be monitored? Existing tenants should indicate whether or not there are any such air filtration systems or stacks in use in, on or about the Premises which discharge into the air and whether such air emissions are being monitored.

Yes ☐ No ☐

If yes, please describe:

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing tenants should specify any such equipment being operated in, on or about the Premises.

☐ Spray booth(s) ☐ Incinerator(s)

☐ Dip tank(s) ☐ Other (Please describe)

☐ Drying oven(s) ☐ No Equipment Requiring Air Permits

If yes, please describe:

6.3 Please describe (and submit copies of with this Hazardous Materials Disclosure Certificate) any reports you have filed in the past [thirty-six] months with any governmental or quasi-governmental agencies or authorities related to air discharges or clean air requirements and any such reports which have been issued during such period by any such agencies or authorities with respect to you or your business operations.

7. HAZARDOUS MATERIALS DISCLOSURES

7.1 Has your company prepared or will it be required to prepare a Hazardous Materials management plan ("Management Plan") or Hazardous Materials Business Plan and Inventory ("Business Plan") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes ☐ No ☐

If yes, attach a copy of the Management Plan or Business Plan. Existing tenants should attach a copy of any required updates to the Management Plan or Business Plan.

7.2 Are any of the Hazardous Materials, and in particular chemicals, proposed to be used in your operations in, on or about the Premises listed or regulated under Proposition 65? Existing tenants should indicate whether or not there are any new Hazardous Materials being so used which are listed or regulated under Proposition 65.

Yes ☐ No ☐

If yes, please explain:

8. ENFORCEMENT ACTIONS AND COMPLAINTS

8.1 With respect to Hazardous Materials or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes ☐ No ☐

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered to Landlord pursuant to the provisions of Paragraph 32 of the Lease Agreement.

8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes ☐ No ☐

If yes, describe any such lawsuits and attach copies of the complaint(s), cross-complaint(s), pleadings and other documents related thereto as requested by Landlord. Existing tenants should describe and attach a copy of any new complaint(s), cross-complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the provisions of Paragraph 32 of the Lease Agreement.

8.3 Have there been any problems or complaints from adjacent tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing tenants should indicate whether or not there have been any such problems or complaints from adjacent tenants, owners or other neighbors at, about or near the Premises and the current status of any such problems or complaints.

Yes ☐ No ☐

If yes, please describe. Existing tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the signed Lease Agreement and the current status of any such problems or complaints.

9. PERMITS AND LICENSES

9.1 Attach copies of all permits and licenses issued to your company with respect to its proposed operations in, on or about the Premises, including, without limitation, any Hazardous Materials permits, wastewater discharge permits, air emissions permits, and use permits or approvals. Existing tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

As used herein, "Hazardous Materials" shall mean and include any substance that is or contains (a) any "hazardous substance" as now or hereafter defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") (42 U.S.C. § 9601 *et seq*.) or any regulations promulgated under CERCLA; (b) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act, as amended ("RCRA") (42 U.S.C. § 6901 *et seq*.) or any regulations promulgated under RCRA; (c) any substance now or hereafter regulated by the Toxic Substances Control Act, as amended ("TSCA") (15 U.S.C. § 2601 *et seq*.) or any regulations promulgated under TSCA; (d) petroleum, petroleum by-products, gasoline, diesel fuel, or other petroleum hydrocarbons; (e) asbestos and asbestos-containing material, in any form, whether friable or non-friable; (f) polychlorinated biphenyls; (g) lead and lead-containing materials; or (h) any additional substance, material or waste (A) the presence of which on or about the Premises (i) requires reporting, investigation or remediation under any Environmental Laws (as hereinafter defined), (ii) causes or threatens to cause a nuisance on the Premises or any adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Premises or any adjacent property, or (iii) which, if it emanated or migrated from the Premises, could constitute a trespass, or (B) which is now or is hereafter classified or considered to be hazardous or toxic under any Environmental Laws; and "Environmental Laws" shall mean and include (a) CERCLA, RCRA and TSCA; and (b) any other federal, state or local laws, ordinances, statutes, codes, rules, regulations, orders or decrees now or hereinafter in effect relating to (i) pollution, (ii) the protection or regulation of human health, natural resources or the environment, (iii) the treatment, storage or disposal of Hazardous Materials, or (iv) the emission, discharge, release or threatened release of Hazardous Materials into the environment.

The undersigned hereby acknowledges and agrees that this Hazardous Materials Disclosure Certificate is being delivered to Landlord in connection with the evaluation of a Lease Agreement and, if such Lease Agreement is executed, will be attached thereto as an exhibit. The undersigned further

acknowledges and agrees that if such Lease Agreement is executed, this Hazardous Materials Disclosure Certificate will be updated from time to time in accordance with Paragraph 32 of the Lease Agreement. The undersigned further acknowledges and agrees that the Landlord and its partners, lenders and representatives may, and will, rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the term, and any renewals thereof, of the Lease Agreement. I [print name] , acting with full authority to bind the (proposed) Tenant and on behalf of the (proposed) Tenant, certify, represent and warrant that the information contained in this certificate is true and correct.

(PROSPECTIVE) TENANT:

ADVANCED MEDICINE, INC.,
a Delaware corporation

By: _____

Title: _____

Date: _____

INITIALS:

TENANT: /s/ A. GREG STURMER

LANDLORD: /s/ JAMES C. BUIE, JR.

EXHIBIT E

TENANT'S PROPERTY

Laboratory related furniture and equipment including:

- benches and tables
- casework
- biosafety, laminar flow, and fume hoods
- cages/fencing
- DI water system
- vacuum pumps
- compressed air
- nitrogen manifold

Office related furniture and equipment including:

- open office partitions
- telephone and network equipment
- reception desk
- lobby furniture
- lobby display cases
- appliances
- interior signage

EXHIBIT F

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

_____

_____

_____

Attention: _____

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is executed as of February 17, 1999, by and between HMS GATEWAY OFFICE, L.P., a Delaware limited partnership ("Landlord"), and ADVANCED MEDICINE, INC., a Delaware corporation ("Tenant"). Landlord has previously leased to Tenant a portion of that certain real property described on *Exhibit A* attached hereto and incorporated herein by reference, consisting of the building commonly known as 901 Gateway Boulevard located in South San Francisco, California, commencing on , and terminating on , on the terms and conditions set forth in that certain Lease between Landlord and Tenant dated as of February , 1999 (the "Off Record Lease"). Landlord has also granted to Tenant (i) options to renew the term of the Lease for two (2) additional periods of five (5) years each, and (ii) a right to expand the premises being leased by Tenant, all terms and conditions of the Off Record Lease.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Lease so that third parties might have notice of the lease by Landlord and Tenant herein.

Landlord: HMS GATEWAY OFFICE, L.P.,
a Delaware limited partnership

By: Hines Gateway Office, L.P.,
Administrative Partner

By: Hines Interests Limited Partnership,
General Partner

By: Hines Holdings, Inc.,
General Partner

By: _____

Name: _____

Its: _____

Tenant: ADVANCED MEDICINE, INC.,
a Delaware corporation

By: _____

Name: _____

Its: _____

INITIALS:

TENANT: /s/ A. GREG STURMER

LANDLORD: /s/ JAMES C. BUIE, JR.

EXHIBIT G

TENANT IMPROVEMENTS

The tenant improvements depicted on the plan set dated August 10, 1999, titled "Advanced Medicine, Inc. Tenant Improvement Package."

Exhibit H

TENANT ESTOPPEL CERTIFICATE
901 GATEWAY BOULEVARD

From: Theravance, Inc. (Formerly Advanced Medicine, Inc.)
901 Gateway Boulevard
South San Francisco, California 94080
("Tenant")

To: ARE-901/951 Gateway Boulevard LLC
c/o Alexandria Real Estate Equities, Inc.
135 N. Los Robles Ave., Suite 250
Pasadena, California 91101
("Purchaser")

HMS Gateway Office, L.P.
Hines Gateway
651 Gateway Boulevard, Suite 1140
South San Francisco, California 94080
("Landlord")

Lease: Lease Agreement dated January 1, 2001 between HMS Gateway Office,. L.P., a Delaware limited partnership, and Advanced Medicine, Inc., a Delaware corporation, covering the Premises (as defined below), as modified, altered or amended (as further described in Paragraph 1 below) (the "Lease").

Premises: 110,428 rentable square feet (as set forth in the Lease) (the "Premises"), located in the building known as 901 Gateway having an address of 901 Gateway Boulevard, South San Francisco, California 94080.

Tenant hereby certifies to Landlord and Purchaser as follows:

1. Attached hereto as Annex 1 is a true, correct, and complete copy of the Lease, including amendments, modifications, supplements, guarantees, and restatements thereof. Tenant is the current Tenant under the Lease. The Lease is in full force and effect and is the complete and only lease, agreement or understanding between Landlord and Tenant affecting the Premises and any rights to parking. The Lease has not been modified, altered or amended, except by the documents listed on Annex I attached hereto. Pursuant to the Lease, Tenant has the right to use 293 non-exclusive and undesignated parking spaces located within the project of which the Premises are part (the "Project"). Tenant acknowledges that Landlord may fulfill its obligations regarding parking under the Lease through the exercise of Landlord's rights under that certain Declaration of Reciprocal Easements made by HMS Gateway Office, L.P. and recorded on June 26, 2000 as Document No. 2000-077496.

2. The term of the Lease has commenced and expires on March 31, 2012 subject to the following options to extend: Two (2) options of five (5) years each. Tenant has accepted and is presently occupying the Premises.

10. As of the date of this Certificate, Tenant has not sublet any portion of the Premises or assigned any rights under the Lease. The address for notices to be sent to Tenant is as set forth in the Lease.

11. Tenant understands that this Certificate is required in connection with Purchaser's acquisition of the Property, and Tenant agrees that Purchaser and its assigns (including any parties providing financing for the Property) will, and will be entitled to, rely on the truth of this Certificate.

12. The party executing this document on behalf of Tenant represents that he/she has been authorized to do so on behalf of Tenant.

EXECUTED on this day of April, 2002.

"TENANT"

By: /s/ A. GREG STURMER

Exhibit 10.9

LEASE AGREEMENT BY AND BETWEEN HMS GATEWAY OFFICE L.P., A Delaware Limited Partnership AS LANDLORD, AND ADVANCED MEDICINE, INC., a Delaware corporation AS TENANT DATED JANUARY 1, 2001

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Exhibit 10.14

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE (this "**First Amendment**") is made as of June 1, 2010 ("**Effective Date**"), by and between **ARE-901/951 GATEWAY BOULEVARD, LLC**, a Delaware limited liability company ("**Landlord**"), and **THERAVANCE, INC.**, a Delaware corporation ("**Tenant**").

RECITALS

A. Landlord and Tenant are now parties to that certain Lease Agreement dated January 1, 2001 (the "**Lease**"). Pursuant to the Lease, Tenant leases certain premises consisting of approximately 110,428 rentable square feet ("**Premises**") in a building located at 901 Gateway Boulevard, South San Francisco, California. The Premises are more particularly described in the Lease. Capitalized terms used herein without definition shall have the meanings defined for such terms in the Lease.

B. Landlord and Tenant desire, subject to the terms and conditions set forth below, to amend the Lease to, among other things, (i) extend the Term of the Lease, and (ii) provide Tenant with an additional tenant improvement allowance.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the mutual promises and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **Term**. The "**Expiration Date**" of the Term of the Lease is hereby extended from March 31, 2012, until May 31, 2020. From and after the Effective Date, references in the Lease to "Term" shall mean the one hundred twenty (120) months commencing on June 1, 2010 and expiring on May 31, 2020.

2. **Monthly Base Rent**. Notwithstanding anything to the contrary contained in the Lease, commencing on the Effective Date of this First Amendment, Monthly Base Rent shall be payable pursuant to the following table:

Time Period	Monthly Base Rent
6/1/10 — 5/31/11	$287,112.80 per month
6/1/11 — 3/31/12	$309,198.40 per month
4/1/12 — 3/31/13	$325,762.60 per month
4/1/13 — 3/31/14	$335,535.48 per month
4/1/14 — 3/31/15	$345,601.54 per month
4/1/15 — 3/31/16	$355,969.59 per month
4/1/16 — 3/31/17	$366,648.68 per month
4/1/17 — 3/31/18	$377,648.14 per month
4/1/18 — 3/31/19	$388,977.58 per month
4/1/19 — 3/31/20	$400,646.91 per month
4/1/20 — 5/31/20	$412,666.32 per month

Notwithstanding the foregoing, the above-referenced Monthly Base Rent payable by Tenant (i) shall be reduced by $55,556.00 per month for the period commencing June 1, 2010, through November 30, 2011, and (ii) shall be increased by $62,223.00 for the period commencing December 1, 2011, through May 31, 2013.

3. **Additional Tenant Improvement Allowance**. From and after the Effective Date, Landlord shall make available to Tenant a tenant improvement allowance of up to $2,606,840.00 (the "**Additional TI Allowance**") for the design and construction of fixed and permanent

improvements in the Premises and in Tenant's premises located on the third floor of the adjacent Building located at 951 Gateway Boulevard ("**951 Premises**") desired by and performed by Tenant (provided that Tenant may not spend more than $782,052.00 of the Additional TI Allowance in the 951 Premises), and which improvements shall be of a fixed and permanent nature (the "**Additional Tenant Improvements**"). Tenant acknowledges that (i) the Additional Tenant Improvements shall be constructed pursuant to space plans mutually agreed upon by Landlord and Tenant pursuant to this paragraph, and (ii) upon the expiration of the Term of the Lease, the Additional Tenant Improvements shall become the property of Landlord and Tenant shall not be obligated to remove, and may not remove, the Additional Tenant Improvements at any time during the Term, including upon the expiration or earlier termination of the Lease. Tenant shall deliver to Landlord space plans detailing Tenant's requirements for the Additional Tenant Improvements following the preparation of the same by Tenant's architect. Not more than ten (10) days thereafter, Landlord shall deliver to Tenant either written consent to the space plans, which consent of the space plans shall not be unreasonably withheld, conditioned or delayed, or the written objections, questions or comments of Landlord with regard to the space plans. Representatives of both parties shall promptly make themselves available to discuss and resolve any such objections, questions or comments. In the event the parties cannot reach agreement and resolve all disputed matters relating to any such documents, the parties shall promptly meet and confer and negotiate in good faith to reach agreement on any disputed matters. Tenant shall cause the space plans to be revised to address any agreed-upon changes and shall resubmit said space plans to Landlord for approval within five (5) business days thereafter. Such process shall continue until Landlord has reasonably approved the space plans. The foregoing process also shall apply to Tenant's preparation of final plans and specifications which describe the Additional Tenant Improvements and are based on the approved space plans, and Landlord's approval of the final plans and specifications shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary contained herein, Tenant shall have the right to use up to $250,000 of the Additional TI Allowance to purchase and install within the Premises furniture, cubicles and other personal property and non-Building system materials and equipment, including, but not limited to, Tenant's voice or data cabling, non-ducted biological safety cabinets and other scientific equipment. Except for the Additional TI Allowance, Tenant shall be solely responsible for all of the costs of the Additional Tenant Improvements. The Additional Tenant Improvements shall be treated as Alterations and shall be undertaken pursuant to Paragraph 12 of the Lease, except to the extent the provisions of Paragraph 12 conflict with the provisions of this Section 3, in which case the provisions of this Section 3 shall control. The contractor for the Additional Tenant Improvements shall be selected by Tenant, subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Prior to the commencement of construction of the Additional Tenant Improvements, Tenant shall deliver to Landlord a copy of any contract with Tenant's contractors (including the architect), and certificates of insurance from any contractor performing any part of the Additional Tenant Improvements evidencing industry standard commercial general liability, automotive liability, "builder's risk", and workers' compensation insurance. Tenant shall cause the general contractor to provide a certificate of insurance naming Tenant, Landlord, Alexandria Real Estate Equities, Inc., and Landlord's lender (if any) as additional insureds for the general contractor's liability coverages required above.

During the course of design and construction of the Additional Tenant Improvements, Landlord shall reimburse Tenant for the cost of the Additional Tenant Improvements once a month against a draw request in Landlord's commercially reasonable standard form, containing evidence of payment of the applicable costs and such certifications, lien waivers (including a conditional lien release for each progress payment and unconditional lien releases for the prior month's progress payments), inspection reports and other matters as Landlord reasonably and customarily obtains, to the extent of Landlord's approval thereof for payment, no later than thirty (30) days following receipt of such draw request. Upon completion of the Additional Tenant Improvements (and prior to any final disbursement of the Additional TI Allowance), Tenant shall provide to Landlord the following items: (i) sworn statements setting forth the names of all contractors and subcontractors

who did work on the Additional Tenant Improvements and final lien waivers from all such contractors and subcontractors; and (ii) "as built" plans for the Additional Tenant Improvements. Notwithstanding the foregoing, if the cost of the Additional Tenant Improvements exceeds the Additional TI Allowance, Tenant shall be required to pay such excess. Except as specifically provided in the immediately following paragraph, the Additional TI Allowance shall only be available for use by Tenant for the construction of the Additional Tenant Improvements for a period of twenty-four (24) months following the Effective Date of this First Amendment and any portion of the Additional TI Allowance which has not been requested by Tenant for disbursement by Landlord on or before June 30, 2012 shall be forfeited and shall not be available for use by Tenant.

Notwithstanding anything to the contrary contained herein, Tenant may elect to apply a portion of the Additional TI Allowance, up to $1,042,736.00, to the payment of Monthly Base Rent due under the Lease. Tenant shall notify Landlord in writing not later than thirty (30) days prior to the first day of the month in which Tenant desires that the credit against Monthly Base Rent commence (provided; however, that in no event shall Tenant deliver such notice after June 30, 2012), and Tenant's notice shall state the amount of the Additional TI Allowance that Tenant will take as a credit against Monthly Base Rent ("**Rent Credit**"). The Rent Credit shall be applied to Monthly Base Rent next coming due after the date of Tenant's notice until credited in full.

4. **Letter of Credit**. The definition of "**Letter of Credit**" in the Basic Lease Information is hereby deleted and replaced with the following:

"*Letter of Credit*: $833,333.33"

5. **Security Deposit**. Effective as of the Effective Date of this First Amendment, Paragraph 7 of the Lease is hereby deleted in its entirety and replaced with the following:

"**7. Security Deposit**. Tenant has deposited with Landlord a security deposit (the "**Security Deposit**") for the performance of all of Tenant's obligations hereunder in the amount set forth in the Letter of Credit section in the Basic Lease Information, which Security Deposit shall be in the form of an unconditional and irrevocable stand-by letter of credit (the "**Letter of Credit**"): (i) in form and substance reasonably satisfactory to Landlord, (ii) naming Landlord as beneficiary, (iii) expressly allowing Landlord to draw upon it at any time from time to time by delivering to the issuer notice that Landlord is entitled to draw thereunder pursuant to the terms of this Lease, (iv) issued by an FDIC-insured financial institution reasonably satisfactory to Landlord ("**LC Issuing Bank**"), (v) redeemable by presentation of LC Issuing Bank's sight draft in person, by nationally recognized overnight courier or by facsimile; and (vi) having an expiration date not earlier than ninety (90) days after the Expiration Date or, in the alternative, have a term of not less than one (1) year and be automatically renewable for an additional one (1) year periods (provided, however, that the final Letter of Credit shall not expire earlier than ninety (90) days after the Expiration Date) unless, on or before the date forty-five (45) days prior to the expiration of the term of such Letter of Credit, the LC Issuer gives notice to Landlord of its election not to renew such Letter of Credit for any additional period pursuant thereto. If Tenant does not provide Landlord with a substitute Letter of Credit complying with all of the requirements hereof at least 10 days before the stated expiration date of any then current Letter of Credit, Landlord shall have the right to draw the full amount of the current Letter of Credit and hold the funds drawn in cash without obligation for interest thereon as the Security Deposit. The Security Deposit shall be held by Landlord as security for the performance of Tenant's obligations under this Lease. The Security Deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's default. Upon each occurrence of a Default (as defined in Paragraph 24) by Tenant under this Lease, Landlord may use all or any part of the Security Deposit to pay delinquent payments due under this Lease, future rent damages under California Civil Code Section 1951.2, and the cost of any damage, injury, expense or liability caused by such Default, without prejudice

to any other remedy provided herein or provided by law. Landlord's right to use the Security Deposit under this Paragraph 7 includes the right to use the Security Deposit to pay future rent damages following the termination of this Lease pursuant to Paragraph 25.5 below. Upon any use of all or any portion of the Security Deposit, Tenant shall pay Landlord within twenty (20) days after receipt of written demand the amount that will restore (by delivery of a replacement or amended Letter of Credit) the Security Deposit to the amount set forth in the definition of "Letter of Credit" set forth in the Basic Lease Information of this Lease. Tenant hereby waives the provisions of any law, now or hereafter in force, including, without limitation, California Civil Code Section 1950.7, which provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by Tenant or to clean the Premises, it being agreed that Landlord may, in addition, claim those sums reasonably necessary to compensate Landlord for any other loss or damage, foreseeable or unforeseeable, caused by the Default of Tenant or any of Tenant's Agents under this Lease. Upon bankruptcy or other debtor-creditor proceedings against Tenant, the Security Deposit shall be deemed to be applied first to the payment of Rent and other charges due Landlord for periods prior to the filing of such proceedings, subject to applicable bankruptcy law. If Tenant shall fully perform every provision of this Lease to be performed by Tenant and Landlord is holding cash in the amount of the Letter of Credit or cash proceeds therefrom, the Security Deposit, or any balance thereof (i.e., after deducting therefrom all amounts to which Landlord is entitled under the provisions of this Lease), shall be returned to Tenant within ninety (90) days after the expiration or earlier termination of this Lease. If, in lieu of a cash Security Deposit, Landlord is holding the Letter of Credit upon the expiration or earlier termination of this Lease, Landlord shall comply with the LC Issuer's requirements necessary to cancel the Letter of Credit by the date that is ninety (90) days after the expiration or earlier termination of this Lease.

Notwithstanding anything contained in this Paragraph 7 to the contrary, if Landlord draws on the Letter of Credit for any reason, then Tenant shall have the right, upon ten (10) days' prior written notice to Landlord, to obtain a refund from Landlord of any unapplied proceeds of the Letter of Credit which Landlord has drawn upon, any such refund being conditioned upon Tenant simultaneously delivering to Landlord a replacement Letter of Credit in the amount required by, and otherwise meeting the requirements contained in, this Paragraph 7.

Notwithstanding anything to the contrary contained herein or in the 951 Gateway Lease, if requested by Landlord at any time following the date of this Lease, Tenant shall cause the LC Issuing Bank to bifurcate the Letter of Credit into two separate letters of credit, one securing Tenant's obligations under the 951 Gateway Lease and the other securing Tenant's obligations under this Lease. Such bifurcated letters of credit shall each be in an amount specified by Landlord, provided that the aggregate amount of such letters of credit shall equal the amount of the Letter of Credit immediately prior to such bifurcation. Concurrently with the bifurcation of the Letter of Credit, Landlord and Tenant shall enter into a modification of the 951 Gateway Lease and a modification of this Lease, which modifications shall amend Paragraph 7 of the 951 Gateway Lease and this Paragraph 7 to provide for separate, stand-alone security deposit provisions in the 951 Gateway Lease and this Lease.

If Landlord transfers its interest in the Project or this Lease, Landlord shall either (a) transfer any Security Deposit then held by Landlord to a person or entity assuming Landlord's obligations under this Paragraph 7, or (b) return to Tenant any Security Deposit then held by Landlord and remaining after the deductions permitted herein. Upon such transfer to such transferee or the return of the Security Deposit to Tenant, Landlord shall have no further obligation with respect to the Security Deposit, and Tenant's right to the return of the Security Deposit shall apply solely against Landlord's transferee. Landlord's obligation respecting the Security Deposit is that of a debtor, not a trustee, and no interest shall accrue thereon.

Notwithstanding anything to the contrary contained in this Lease, Landlord shall have the right to apply all or any portion of the Security Deposit in connection with any Defaults (as such term is defined in the 951 Gateway Lease) under the 951 Gateway Lease.

For avoidance of doubt, "Security Deposit" shall mean both the Letter of Credit any cash proceeds therefrom."

Tenant shall have up to sixty (60) days from the date of Tenant's execution of this First Amendment to provide Landlord with an amendment to the Letter of Credit which complies with the requirements set forth in the first paragraph of Section 7, as set forth above.

6. **Surrender Plan**. Effective as of the Effective Date of this First Amendment, Paragraph 32.9 of the Lease hereby is deleted in its entirety and replaced with the following:

"**32.9** **Condition of Premises upon Expiration or Termination**. Upon the expiration of the Term or earlier termination of Tenant's right of possession, Tenant shall surrender the Premises to Landlord (y) free of Hazardous Materials brought upon, kept, used, stored, handled, treated, generated in, or released or disposed of from, the Premises by Tenant or Tenant's Agents ("**Tenant HazMat Operations**") in a manner consistent with prudent commercial practices and such that no Hazardous Materials resulting from Tenant HazMat Operations remain at the Premises in violation of Environmental Requirements and the continued presence of such Hazardous Materials are not in excess of industry standards for the occupancy and re-use of the Premises for research and scientific purposes by a subsequent tenant of the Premises, and (z) released of any license, clearance or other authorization of any kind issued by any governmental authority having jurisdiction over the use, storage, handling, treatment, generation, release, disposal, removal or remediation of Hazardous Materials in, on or about the Premises (collectively referred to herein as "**Hazardous Materials Clearances**"). At least 3 months prior to the surrender of the Premises, Tenant shall deliver to Landlord a narrative description of the actions proposed (or required by any governmental authority) to be taken by Tenant in order to surrender the Premises (including any installations permitted by Landlord to remain in the Premises) at the expiration or earlier termination of the Term, free from any residual impact from the Tenant HazMat Operations and in a manner consistent with prudent commercial practices and such that no Hazardous Materials resulting from Tenant HazMat operations remain at the Premises in violation of Environmental Requirements and the continued presence of such Hazardous Materials are not in excess of industry standards for the occupancy and re-use of the Premises for research and scientific purposes by a subsequent tenant of the Premises (the "**Surrender Plan**"). Such Surrender Plan shall be accompanied by a current listing of (i) all Hazardous Materials licenses and permits held by or on behalf of any of Tenant or Tenant's Agents with respect to the Premises, and (ii) all Hazardous Materials used, stored, handled, treated, generated, released or disposed of or from the Premises by Tenant or Tenant's Agents, and shall be subject to the review and approval of Landlord's environmental consultant, which approval shall not be unreasonably withheld, conditioned or delayed. In connection with the review and approval of the Surrender Plan, upon the request of Landlord, Tenant shall deliver to Landlord or its consultant such additional non-proprietary information concerning Tenant HazMat Operations as Landlord reasonably shall request. On or before such surrender, Tenant shall deliver to Landlord commercially reasonable evidence that the approved Surrender Plan has been satisfactorily completed and Landlord shall have the right, subject to reimbursement at Tenant's expense as set forth below, to cause Landlord's environmental consultant to inspect the Premises and perform such additional procedures as may be deemed reasonably necessary to confirm that the Premises are, as of the effective date of such surrender or early termination of the Lease, free from any residual impact from Tenant HazMat Operations as required pursuant to this Paragraph 7. Tenant shall reimburse Landlord, as Additional Rent, for the actual out-of pocket expense incurred by Landlord for Landlord's environmental consultant to review and approve the Surrender Plan and to visit the Premises and verify satisfactory completion of the same, which cost shall not exceed $5,000. Landlord shall have the unrestricted right to deliver

such Surrender Plan (subject to any standard non-reliance letter, if any, prepared by Tenant and delivered by Tenant to Landlord concurrently with Tenant's delivery of the Surrender Plan to Landlord, which non-reliance letter shall be applicable only to third parties other than Landlord) and any report by Landlord's environmental consultant with respect to the surrender of the Premises to Landlord's potential tenants, purchasers, lenders and other third parties with a need to know in connection with Landlord's business; provided, however, that Landlord instructs such parties to treat the same as confidential.

If Tenant shall fail to prepare or submit a Surrender Plan reasonably approved by Landlord, or if Tenant shall fail to complete the approved Surrender Plan, or if such Surrender Plan, whether or not approved by Landlord, shall fail to adequately address any residual effect of Tenant HazMat Operations in, on or about the Premises, shall fail to adequately address any Hazardous Materials resulting from Tenant's HazMat Operations remaining at the Premises in violation of Environmental Requirements or in a manner not consistent with prudent commercial practices or such that the continued presence of such Hazardous Materials are in excess of industry standards for the occupancy and re-use of the Premises for research and scientific purposes by a subsequent tenant of the Premises, Landlord shall have the right to take such actions as Landlord reasonably may deem reasonable or appropriate to assure that the Premises and the Project are surrendered free from any such residual impact from Tenant HazMat Operations, the cost of which actions shall be reimbursed by Tenant as Additional Rent, without regard to the limitation set forth in the first paragraph of this Paragraph 32.9.

All obligations of Tenant hereunder not fully performed as of the expiration or earlier termination of this Lease, including the obligations of Tenant under Paragraph 32 of this Lease, shall survive the expiration or earlier termination of the Term, including, without limitation, indemnity obligations, payment obligations with respect to rent and obligations concerning the condition and repair of the Premises."

7. **Option to Renew**. Tenant shall have two (2) options (each a "**Renewal Option**") to extend the term of this Lease with respect to the entire Premises for successive periods of five (5) years each (each a "**Renewal Term**") pursuant to the provisions of Paragraph 49 of the Lease.

8. **Right of First Offer**. Notwithstanding anything to the contrary contained herein or in the Lease, Paragraph 51 of the Lease is hereby deleted in its entirety and of no further force or effect and Tenant shall have no further right of first offer or other right to purchase the Building.

9. **Additional Modifications to Lease**. From and after the Effective Date of this First Amendment, the Lease shall be modified as follows:

a. Modification to Basic Lease Information. The Tenant's Contact Person shall be "General Counsel" rather than "Marty Glick".

b. Modification to Paragraph 2.2(a), "Changes to Common Area". The following shall be added at the end of Paragraph 2.2(a): "Notwithstanding the foregoing, Landlord's exercise of the foregoing rights shall not materially interfere with Tenant's access to or use of the Premises to the extent that Tenant's business operations are materially interrupted thereby."

c. Modification to Paragraph 2.2(b), "Changes to Common Area". The second sentence of Paragraph 2.2(b) hereby is deleted and revised to state in its entirety as follows: "During periods of construction only, Landlord shall have the right to provide parking to Tenant on properties reasonably proximate to the Project (the "**Adjacent Properties**") or through the use of valets or parking attendants on the Parking Areas or the Adjacent Properties,

provided that Tenant shall at all times have parking for the number of automobiles contemplated under the Lease."

d. Modification to Paragraph 4.2, "Additional Rent". There shall be added to Paragraph 4.2 a new Paragraph 4.2.10, "Exclusions from Expenses", which reads as follows:

"4.2.11 Exclusions from Expenses. Notwithstanding anything to the contrary contained in this Paragraph 4.2, and in addition to the exclusions set forth in the preceding paragraph, there shall be excluded from Expenses and Additional Rent the following: (i) leasing commissions, advertising expenses, promotional expenses, attorneys' fees, disbursements, and other costs and expenses incurred in procuring prospective tenants, negotiating and executing leases, and constructing improvements required to prepare for a new tenant's occupancy for the Building or the Project, if any; (ii) finance and debt service fees, principal and/or interest on debt or amortization payments on any mortgages executed by Landlord covering Landlord's property, any other indebtedness of Landlord, and rental under any ground lease or leases for the Building or the Project; (iii) any depreciation allowance or expense, amortization (except for expenditures permitted under this Lease) or expense reserve; (iv) the costs of Landlord's third party property manager or, if there is no third party property manager, administration rent in excess of the amount of 3.0% of Base Rent); (v) except for management fees, Landlord's general overhead and any overhead or profit increment to any subsidiary or affiliate of Landlord for services on or to the Project to the extent that the cost of such service exceeds competitive costs for such services rendered by persons or entities of similar skill, competence and experience other than a subsidiary or affiliate of Landlord; (vi) any costs or expenses representing any amount paid for services and materials to a (personal or business) related person, firm, or entity to the extent such amount exceeds the amount that would have been paid for such service or materials at the then existing market rates in the absence of such relationship; (vii) compensation paid to any employee of Landlord above the grade of Property Manager/Building Superintendent, including officers and executives of Landlord (provided that Landlord may pass through as Expenses compensation paid to employees at or below the grade of Property Manager/Building Superintendant or affiliates of Landlord providing services to the Project); (viii) costs of electrical energy furnished and metered directly to tenants of the Project or for which Landlord is entitled to be reimbursed by tenants as additional rental over and above tenant's Monthly Base Rent or pass-through of Expenses; (ix) the cost of any work or service furnished to any tenant or occupant of the Project to a materially greater extent or in a materially more favorable manner than that furnished generally to the tenants and other occupants of the Project, or the costs of work or service furnished exclusively for the benefit of any tenant or occupant of the Project or at such tenant's cost; (x) the costs and expenses incurred in resolving disputes with other tenants, other occupants, or prospective tenants or occupants of the Project, collecting rents or otherwise enforcing leases of the tenants of the Project; (xi) the costs of any work or service performed for any facility other than a facility located within the Project; (xii) the costs of repairs, alterations, and general maintenance necessitated by the gross negligence or willful misconduct of Landlord or its agents, employees, or contractors or repairs; (xiii) interest or penalties due to the late payment by Landlord of taxes, utility bills or other such costs (except to the extent caused by Tenant's action or inaction); (xiv) any of the following tax or assessment expenses: (a) estate, inheritance, transfer, gift, federal, state or franchise taxes of Landlord, or (b) penalties and interest, other than those attributable to Tenant's failure to comply timely with its obligations pursuant to this Lease; and (xv) bad debt expenses and charitable contributions and donations. Landlord agrees that (a) Landlord will not collect or be entitled to collect more than one hundred percent (100%) of the Expenses actually paid by Landlord in connection with the operation of the Project in any calendar year, and (b) Landlord shall make no profit from Landlord's collection of Expenses."

e. Modifications to Paragraph 15, "Tenant's Insurance". The third sentence of Paragraph 15.2 hereby is revised in its entirety to state: "No such policy shall contain a deductible greater than Twenty-Five Thousand Dollars ($25,000.00). Paragraph 15.5 hereby is deleted and revised to state in its entirety as follows: "All insurance required to be carried by Tenant hereunder shall be maintained with insurance companies authorized to do business in the State of California for the issuance of the applicable type of insurance coverage and rated A-VII or better in Best's Key Rating Guide. Tenant shall deliver to Landlord certificates of insurance and true and complete copies of any and all endorsements required herein for all insurance required to be maintained by Tenant hereunder at the execution of this Lease by Tenant. Tenant shall, at least thirty (30) days prior to expiration of each policy, furnish Landlord and the other parties named as additional insureds with certificates of renewal thereof. Tenant shall (i) provide Landlord with 30 days advance written notice of cancellation of each policy, and (ii) require Tenant's insurer to endeavor to provide 30 days advance written notice of cancellation of each policy."

f. Modification to Paragraph 23.2, "Assignment and Subletting — Requirements of Request for Consent". Paragraph 23.2 shall be amended to provide that if Tenant requests consent to a proposed assignment or subletting (except in connection with a Permitted Transfer), whether or not the term of the proposed transfer is for the balance of the Term, Landlord shall have the right to recapture that portion of the Premises that is the subject of the proposed assignment or subletting and terminate the Lease with respect thereto; provided, however, that subsection (3) of Paragraph 23.2 shall be of no further force or effect and Landlord shall not have the right to sublease or take an assignment, as the case may be, of the interest in the Lease that is at issue.

g. Modification to Paragraph 24, "Tenant's Default". The following is hereby added at the end of Paragraph 24.(a): "provided, however, that if Tenant vacates the Premises at any time during the last nine (9) months of the Term but continues to perform all of its obligations hereunder, including, without limitation, maintaining all insurance policies required by this Lease and complying with all of the surrender requirements of Paragraph 32.9, Tenant shall not be deemed to be in default under this Paragraph 24.(a);".

h. Modification to Paragraph 32.2, "Tenant's Obligation to Update Disclosure Certificates". The first sentence of Paragraph 32.2 hereby is deleted and revised to state in its entirety as follows: "Within ten (10) business days after receipt of Landlord's written request, Tenant shall complete, execute and deliver to Landlord an updated Disclosure Certificate (each, an "Updated Disclosure Certificate") describing Tenant's then current and proposed future uses of Hazardous Materials on or about the Premises, which Update Disclosure Certificates shall be in the same format as that which is set forth in Exhibit D or in such other form as is reasonably acceptable to Landlord".

i. Modification to Paragraph 34, "Waiver". The last two sentences of Paragraph 34 hereby are deleted and revised to state in their entirety as follows: "No delay or omission in the exercise of any right or remedy of Landlord or Tenant in regard to any default by the other shall impair such right or remedy or be construed as a waiver. Any waiver by Landlord or Tenant of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provisions of this Lease."

j. Modification to Paragraph 40, "Financial Statements". Paragraph 40 hereby is deleted and revised to state in its entirety as follows: "Within ten (10) days after Landlord's request, Tenant shall deliver to Landlord the then current, or if Tenant is a publicly traded company, the most recent publicly available financial statements of Tenant prepared, compiled or reviewed by a certified public accountant, including a balance sheet and

profit and loss statement for the most recent prior year, all prepared in accordance with GAAP.".

k. New Paragraphs. The following new paragraphs are hereby added to the Lease:

"**54.** **Commercially Reasonable**. Where Landlord or Tenant are required to use "best efforts" in the performance of any obligation under this Lease, "best efforts" shall mean "commercially reasonable good faith efforts."

"**55.** **Force Majeure**. Whenever a period of time is herein prescribed for action (other than the payment of money) to be taken by Landlord or Tenant, such party shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, terrorist activity, governmental laws, regulations or restrictions".

10. **Brokers**. Landlord and Tenant each represents and warrants that it has not dealt with any broker, agent or other person (collectively, "**Broker**") in connection with this First Amendment and that no Broker brought about this transaction, other than BT Cassidy/Turley. Landlord and Tenant each hereby agree to indemnify and hold the other harmless from and against any claims by any Broker, other than the broker, if any named in this Section 11, claiming a commission or other form of compensation by virtue of having dealt with Tenant or Landlord, as applicable, with regard to this First Amendment. Landlord shall pay any commission due to BT Cassidy/Turley in connection with this First Amendment pursuant to a separate written agreement between Landlord and BT Cassidy/Turley.

11. **OFAC**. To Tenant's knowledge, without any duty of inquiry, as of the date of Tenant's execution of this First Amendment, Tenant is currently (a) in compliance with and shall at all times during the Term of the Lease remain in compliance with the regulations of the Office of Foreign Assets Control ("**OFAC**") of the U.S. Department of Treasury and any statute, executive order, or regulation relating thereto (collectively, the "**OFAC Rules**"), (b) not listed on, and shall not during the term of the Lease be listed on, the Specially Designated Nationals and Blocked Persons List maintained by OFAC and/or on any other similar list maintained by OFAC or other governmental authority pursuant to any authorizing statute, executive order, or regulation, and (c) not a person or entity with whom a U.S. person is prohibited from conducting business under the OFAC Rules.

12. **Miscellaneous**.

a. This First Amendment is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This First Amendment may be amended only by an agreement in writing, signed by the parties hereto.

b. This First Amendment is binding upon and shall inure to the benefit of the parties hereto, their respective agents, employees, representatives, officers, directors, divisions, subsidiaries, affiliates, assigns, heirs, successors in interest and shareholders.

c. Landlord and Tenant each acknowledge that it has read the provisions of this First Amendment, understands them, and is bound by them. Time is of the essence in this First Amendment.

d. This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to

any other counterpart identical thereto except having additional signature pages executed by other parties to this First Amendment attached thereto.

e. Except as amended and/or modified by this First Amendment, the Lease is hereby ratified and confirmed and all other terms of the Lease shall remain in full force and effect, unaltered and unchanged by this First Amendment. In the event of any conflict between the provisions of this First Amendment and the provisions of the Lease, the provisions of this First Amendment shall prevail. Whether or not specifically amended by this First Amendment, all of the terms and provisions of the Lease are hereby amended to the extent necessary to give effect to the purpose and intent of this First Amendment.

[Signatures are on the next page.]

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the day and year first above written.

TENANT:

THERAVANCE, INC.,
a Delaware corporation

/s/ Rick E Winningham

By: Rick E Winningham
Its: Chief Executive Officer

LANDLORD:

ARE-901/951 GATEWAY BOULEVARD, LLC,
a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES, L.P.,
a Delaware limited partnership,
managing member

By: ARE-QRS CORP.,
a Maryland corporation,
general partner

/s/ Eric S. Johnson

By: Eric S. Johnson
Its: Vice President, Real Estate Legal Affairs

QuickLinks -- Click here to rapidly navigate through this document

Exhibit 99.1

901 Gateway Boulevard
South San Francisco, California

, 2013

Dear Theravance, Inc. Stockholder:

On April 25, 2013, we announced our intention to spin off our drug discovery and development business (the "Drug Discovery and Development Business") into a separate publicly traded company, Theravance Biopharma, Inc. ("Theravance Biopharma"). Theravance, Inc. ("Theravance") will continue to own certain late-stage partnered respiratory assets and associated potential royalty revenues (the "Royalty Business").

We expect to complete this spin-off on , 2013. We will accomplish the spin-off through a pro rata dividend of the common shares of Theravance Biopharma to Theravance's stockholders. You will not need to take any action to receive Theravance Biopharma shares and you will not be required to pay anything for the new Theravance Biopharma shares or surrender any of your Theravance shares.

At the time of the spin-off, you will receive one common share of Theravance Biopharma for every shares of Theravance common stock that you hold at 5:00 p.m., Eastern Time, on , 2013, the record date for this dividend. However, if you sell your shares of Theravance common stock prior to , 2013, the ex-dividend date, you also will be selling your right to receive common shares of Theravance Biopharma. We will not issue any fractional shares of Theravance Biopharma, so if you otherwise would have been entitled to a fractional share of Theravance Biopharma in the spin-off, you will receive the net cash value of such fractional share instead. We will apply to have the common shares of Theravance Biopharma listed on the Nasdaq Global Market and will trade under the symbol " ". Shares of Theravance will continue to be listed on the Nasdaq Global Market when the spin-off is completed and will trade under the symbol "THRX".

Our board of directors has determined that a strategic separation of our two businesses is in the best interests of our stockholders. We believe that the spinning off of the Drug Discovery and Development Business will provide several opportunities and benefits, including the following:

- *Market Recognition*: The investment community, including analysts, stockholders and prospective investors in each company, will be better able to realize the value of each company fully and independently and enhance the market recognition of each company;
- *Business Focus:* Each company will be better able to focus its efforts on and allocate its resources towards its own business opportunities and challenges;
- *Facilitate Return of Capital to Stockholders*: Following the spin-off, Theravance will have minimal staffing to support its operations and will be structured with the goal of distributing a significant portion of any future royalty revenues from the Royalty Business, net of operating expenses, debt service and income taxes, to its stockholders;
- *Improved Capital Flexibility:* Each company will be able to deploy capital and access additional financing, if appropriate, in accordance with its unique needs and business model; and
- *Employee Incentives:* Each company will be better able to attract, retain and motivate employees by providing equity compensation tied more directly to its performance.

If the distribution is tax-free to Theravance stockholders for U.S. federal income tax purposes, you will not recognize any gain or loss upon receipt of the Theravance Biopharma shares pursuant to the distribution, and your tax basis in your Theravance shares prior to the distribution will be allocated

between your Theravance shares and the Theravance Biopharma shares received in the distribution in proportion to their relative fair market values. If, however, the distribution of Theravance Biopharma shares does not qualify for tax-free treatment, your receipt of all or a portion of the Theravance Biopharma shares may be taxable to you as a dividend. An amount equal to the fair market value of the Theravance Biopharma common shares received by you (including any fractional shares deemed to be received) on the distribution date will be treated as a taxable dividend to the extent of your ratable share of any current and accumulated earnings and profits of Theravance as of the end of 2013 with the excess treated as a non-taxable return of capital to the extent of your tax basis in Theravance common stock and any remaining excess treated as a capital gain. You should consult your own tax advisor as to the particular tax consequences of the distribution to you, including the applicability and effect of any U.S. federal, state, local and non-U.S. tax laws. Theravance intends to seek a ruling from the Internal Revenue Service that the distribution of Theravance Biopharma shares pursuant to the spin-out is tax-free for U.S. federal income tax purposes.

Enclosed please find an Information Statement that describes the spin-off and the business of Theravance Biopharma, which we are providing to all Theravance stockholders in accordance with U.S. law. The Information Statement describes in detail the distribution of Theravance Biopharma common shares to holders of Theravance common stock and contains important business and financial information about Theravance Biopharma. We encourage you to read this information carefully. Please note that stockholder approval is not required for this spin-off, so we are not asking you for a proxy.

If you have any questions regarding the spin-off, please contact our investor relations department by calling (650) 808-4100 or sending a letter to: Theravance, Inc., 901 Gateway Blvd., South San Francisco, CA 94080 Attention: Investor Relations.

Sincerely,

Rick E Winningham
Chief Executive Officer
Theravance, Inc.

This Information Statement is first being mailed to stockholders on or about , 2013. This Information Statement is furnished for informational purposes only.

Ugland House, South Church Street
George Town, Grand Cayman, Cayman Islands

, 2013

Dear Future Theravance Biopharma Shareholder:

It is my great pleasure to welcome you as a shareholder of Theravance Biopharma, Inc. ("Theravance Biopharma") and introduce you to our company. We are a drug development company that focuses on the discovery, development and commercialization of small-molecule medicines in areas of significant unmet medical need. As you know, the board of directors of our parent company, Theravance, Inc. ("Theravance"), has approved a plan to spin off Theravance Biopharma into a separate publicly traded company. We expect to complete the spin-off on , 2013. We will apply to have our common shares listed on the Nasdaq Global Market under the symbol " ".

Theravance Biopharma will continue to leverage Theravance's expertise in multivalent drug discovery and develop its small-molecule product candidate pipeline currently focused on bacterial infections, central nervous system (CNS)/pain, respiratory disease, and gastrointestinal (GI) motility dysfunction. Theravance Biopharma also will continue to make VIBATIV® (telavancin) commercially available in the U.S. VIBATIV® (telavancin) is the bactericidal, once-daily injectable antibiotic discovered by Theravance in a research program dedicated to finding new antibiotics for serious infections due to *Staphylococcus aureus* and other Gram-positive bacteria, including methicillin-resistant (MRSA) strains. Theravance Biopharma also will have an economic interest in the revenues from Theravance agreements with Glaxo Group Limited with regard to the "closed triple" of umeclidinium, vilanterol and fluticasone furoate (UMEC/VI/FF), the Bifunctional Muscarinic Antagonist-Beta$_2$ Agonist (MABA) drug program, as monotherapy and in combination with other therapeutically active components, such as an inhaled corticosteroid (ICS), and any other product or combination of products that may be discovered and developed in the future under these agreements with Glaxo Group Limited. Theravance Biopharma will be capitalized with approximately $300 million in cash, which is expected to fund operations through significant potential corporate milestones over the following two to three years.

With our promising clinical pipeline, drug discovery capabilities, experienced management team and strong balance sheet, we believe that we will begin our future as an independent public company from a position of considerable strength. The spin-off is designed to enable us to operate our business with greater focus. As a Theravance Biopharma shareholder, you can share in our progress as we strive to continue strengthening and growing our business. I invite you to learn more about Theravance Biopharma and our opportunity as a soon-to-be independent publicly traded company by reading the attached Information Statement.

Sincerely,

Rick E Winningham
Chief Executive Officer
Theravance Biopharma, Inc.

Information contained herein is subject to completion or amendment. A Registration Statement on Form 10 relating to these securities has been filed with the Securities and Exchange Commission.

Preliminary and Subject to Completion, dated August 1, 2013

The date of this Information Statement is , 2013

Information Statement

Theravance Biopharma, Inc. Common Shares
(par value $0.00001 per share)

We are furnishing this Information Statement to the stockholders of Theravance, Inc. ("Theravance") in connection with Theravance's distribution via stock dividend to holders of its common stock of all outstanding common shares of Theravance Biopharma, Inc. ("Theravance Biopharma"). At this time, Theravance Biopharma is a wholly-owned subsidiary of Theravance. After the spin-off is completed, Theravance Biopharma will be a separate publicly traded company and will own and operate the drug discovery and development business (the "Drug Discovery and Development Business") currently owned and operated by Theravance. Theravance will continue to own certain late-stage partnered respiratory assets and associated potential royalty revenues (the "Royalty Business").

If you are a holder of record of Theravance common stock at 5:00 p.m., Eastern Time, on , 2013, which is the record date for the distribution, you will be entitled to receive one common share of Theravance Biopharma for every shares of Theravance common stock that you hold on the record date. However, if you sell your shares of Theravance common stock prior to , 2013, the ex-dividend date, you also will be selling your right to receive common shares of Theravance Biopharma. Unless requested otherwise, our common shares will be issued in book-entry form. No fractional shares of Theravance Biopharma will be issued. If you otherwise would have been entitled to a fractional share of Theravance Biopharma in the distribution, you will receive the net cash value of such fractional share instead. Immediately after the distribution is completed on the distribution date, we will be an independent publicly traded company. We expect the distribution to occur on , 2013.

No stockholder vote is required for the spin-off to occur. **We are not asking you for a proxy, and you are requested not to send us a proxy. No action is necessary for you to receive common shares of Theravance Biopharma to which you are entitled in the spin-off.** This means that:

- You do not need to pay any consideration to Theravance Biopharma or to Theravance; and
- You do not need to surrender or exchange any shares of Theravance common stock to receive the common shares of Theravance Biopharma to which you are entitled in the spin-off.

Currently, there is no public trading market for the common shares of Theravance Biopharma, although we expect that a "when-issued" trading market will develop on or shortly after the record date for the distribution. We will apply to have our common shares listed on the Nasdaq Global Market under the symbol " ".

As you review this Information Statement, you should carefully consider the matters described in "Risk Factors" beginning on page 15.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this Information Statement is truthful or complete. Any representation to the contrary is a criminal offense.

This Information Statement does not constitute an offer to sell or the solicitation of an offer to buy any securities.

If you have inquiries related to the distribution, you should contact Theravance's transfer agent, Computershare Shareowner Services, at 250 Royall Street, Canton, MA 02021, or (877) 884-3485.

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Explanatory Note

Theravance Biopharma is furnishing this Information Statement to you solely to provide you with information regarding both the spin-off and our company. It is not, and should not be construed as, an inducement or encouragement to buy or sell any securities of Theravance Biopharma or Theravance.

You should rely only on the information contained in this Information Statement. We have not authorized any other person to provide you with information different from that contained in this Information Statement. The information contained in this Information Statement is believed by us to be accurate as of its date. Therefore, you should assume that the information contained in this Information Statement is accurate only as of the date on the front cover of this Information Statement or other date stated in this Information Statement, regardless of the time of delivery of this Information Statement. Our business, financial condition, results of operations and prospects may have changed since that date, and neither we nor Theravance will update the information except in the normal course of our respective public disclosure obligations and practices or as specifically indicated in this Information Statement.

We will own or have rights to numerous trademarks, trade names, copyrights and other intellectual property used in our business. All other company names, tradenames and trademarks included in this Information Statement are trademarks, registered trademarks or trade names of their respective owners.

As used in this Information Statement, the terms "we," "us," "our," and the "Company" mean Theravance Biopharma (unless the context indicates a different meaning) and the term "GSK" means GlaxoSmithKline plc together with its affiliates, including Glaxo Group Limited.

We describe in this Information Statement the Drug Discovery and Development Business to be transferred to us by Theravance in connection with the spin-off as though the Drug Discovery and Development Business were our business for all historical periods described. However, Theravance Biopharma is a newly-formed entity that has not conducted any operations prior to the spin-off and most of the actions necessary to transfer assets and liabilities of Theravance to us have not occurred but will occur before the effectiveness of the spin-off. References in this Information Statement to the historical assets, liabilities, products, business or activities of our business are intended to refer to the historical assets, liabilities, products, business or activities of the Drug Discovery and Development Business as those were conducted as part of Theravance prior to the spin-off.

Summary

The following is a summary of some of the information contained in this Information Statement. We urge you to read this entire document carefully, including the risk factors, our historical combined financial statements and the notes to those financial statements and our unaudited pro forma combined balance sheet.

Our Company

Theravance Biopharma, Inc.

Theravance Biopharma is a biopharmaceutical company with one approved product that was discovered and developed internally, a pipeline of internally discovered product candidates and strategic collaborations with pharmaceutical companies. We also have an economic interest in future payments that may be made by GSK pursuant to its agreements with Theravance relating to certain drug programs, including the closed triple combination of umeclidinium ("UMEC"), vilanterol ("VI") and fluticasone furoate ("FF") ("UMEC/VI/FF"), the combination of the Bifunctional Muscarinic Antagonist-Beta$_2$ Agonist ("MABA") GSK961081 (" '081") and FF (" '081/FF"), and MABA monotherapy. We are focused on the discovery, development and commercialization of small molecule medicines across a number of therapeutic areas including bacterial infections, central nervous system ("CNS")/pain, respiratory disease, and gastrointestinal ("GI") motility dysfunction. By leveraging our proprietary insight of multivalency to drug discovery, we are pursuing a best-in-class strategy designed to discover superior medicines in areas of significant unmet medical need.

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

Our Programs

The following table summarizes the status of our approved product and our most advanced product candidates for internal development or co-development. The table also includes the status of respiratory programs in which we have an economic interest that are being developed and commercialized by GSK pursuant to agreements with Theravance, which we refer to as the GSK-partnered respiratory programs. We have an economic interest in these programs through our non-voting interest in Theravance Respiratory Company LLC ("TRC"), a Delaware limited liability company controlled by Theravance. See "The Spin-Off—Formation of Theravance Respiratory Company LLC" and "Business—Economic Interests in GSK Respiratory Programs Partnered with Theravance."

Programs

THERAPEUTIC AREA	STATUS				
	Phase 1	Phase 2	Phase 3	Filed	Approved
ECONOMIC INTERESTS IN GSK RESPIRATORY PROGRAMS PARTNERED WITH THERAVANCE					
UMEC/VI/FF		(1)			
GSK961081 (MABA)					
THERAVANCE BIOPHARMA PRODUCT AND DEVELOPMENT PROGRAMS					
BACTERIAL INFECTIONS					
VIBATIV®					
TD-1792					
TD-1607					
CNS/PAIN					
TD-1211: Opioid-Induced Constipation					
TD-9855: ADHD					
TD-9855: Fibromyalgia					
RESPIRATORY					
TD-4208 (LAMA)					
GI MOTILITY DYSFUNCTION					
Velusetrag					
TD-8954					

Legend:

Demonstrated Proof-of-Concept

Proof-of-Concept demonstrated for each of the individual components of the programs

Pre Proof-of-Concept

(1) If Phase 1 studies of these triple-component product candidates demonstrate pharmacokinetic and pharmacodynamic equivalence to the dual-component product candidates, then these triple-component product candidates would be expected to progress to Phase 3 without the need for Phase 2 studies.

Key: **ADHD:** Attention Deficit Hyperactivity Disorder; **CNS:** Central Nervous System; **FF:** Fluticasone Furoate; **GI:** Gastrointestinal; **LAMA:** Long-Acting Muscarinic Antagonist; **MABA:** Bifunctional Muscarinic Antagonist-Beta$_2$ Agonist; **UMEC:** Umeclidinium; **VI:** Vilanterol

In the table above:

Status indicates the most advanced stage of development that has been completed or is in process.

Phase 1 indicates initial clinical safety testing in healthy volunteers, or studies directed toward understanding the mechanisms of action of the drug.

Phase 2 indicates further clinical safety testing and preliminary efficacy testing in a limited patient population.

Phase 3 indicates evaluation of clinical efficacy and safety within an expanded patient population.

Filed indicates that a marketing application has been submitted to a regulatory authority.

Approved indicates the drug has been approved for marketing in at least one jurisdiction.

We consider programs in which at least one compound has successfully completed a Phase 2a study showing efficacy and tolerability as having demonstrated Proof-of-Concept.

Corporate and Available Information

We were incorporated as a Cayman Islands exempted company limited by shares in July 2013 under the name Theravance Biopharma, Inc. Our principal executive offices are located at , and our telephone number is . Our principal wholly-owned operating subsidiary, Theravance Biopharma US, Inc., will be incorporated in Delaware prior to the spin-off.

Reasons for the Spin-Off

On April 25, 2013, Theravance announced a plan to spin off its Drug Discovery and Development Business into a separate publicly traded company. Theravance and we believe that the spin-off of the Drug Discovery and Development Business to us will provide several opportunities and benefits, including the following:

- *Market Recognition:* The investment community, including analysts, stockholders and prospective investors in each company, will be better able to realize the value of each company fully and independently and enhance the market recognition of each company;

- *Business Focus:* Each company will be better able to focus its efforts on and allocate it resources towards its own business opportunities and challenges, with the management of Theravance Biopharma focusing on the discovery, development and commercialization of small-molecule medicines in areas of significant unmet medical need and the management of Theravance focusing on maximizing the commercial value of the potential royalty streams from RELVAR™ ELLIPTA™/BREO™ ELLIPTA™, ANORO™ ELLIPTA™ and vilanterol monotherapy, each partnered with GSK;

- *Facilitate Return of Capital to Stockholders:* Following the spin-off, Theravance will have minimal staffing to support its operations and will be structured with the goal of distributing a significant portion of any future royalty revenues from the Royalty Business, net of operating expenses, debt service and income taxes, to its stockholders;

- *Improved Capital Flexibility:* Each company will be able to deploy capital and access additional financing, if appropriate, in accordance with its unique needs and business model; and

- *Employee Incentives:* Each company will be better able to attract, retain and motivate employees by providing equity compensation tied more directly to its performance, and in particular in the case of Theravance Biopharma, to our research and development efforts.

Selected Risks of our Business and Industry

We face a number of risks associated with our business and industry and must overcome a variety of challenges in implementing our operating strategy in order to be successful. These risks and challenges include the following:

- we expect to incur losses for the foreseeable future, we will require additional financing to meet our future capital needs and we may not be able to obtain additional financing on terms favorable to us, if at all; and
- if our development of new product candidates is delayed, or if our product candidates do not demonstrate safety or effectiveness or are terminated, our business will be harmed.

For a further discussion of these challenges and other risks we face, see "Risk Factors" beginning on page 15.

Summary of the Spin-Off

The following is a brief summary of the terms of the spin-off. Please see "The Spin-Off" for a more detailed description of the matters described below.

Distributing company	Theravance, Inc.
Distributed company	Theravance Biopharma, Inc.
Distribution ratio	Each holder of Theravance common stock will receive one of our common shares for every shares of Theravance common stock held on the record date.
Securities to be distributed	Approximately million of our common shares. Our common shares to be distributed will constitute all of our outstanding common shares immediately after the spin-off.
Distribution agent, transfer agent and registrar for Theravance Biopharma shares	Computershare Shareowner Services
Record Date	5:00 p.m. Eastern Time on , 2013
Ex-Dividend Date	, 2013
Distribution Date	, 2013
Stock exchange listing	Currently there is no public market for our common shares. We will apply to have our common shares listed on the Nasdaq Global Market under the symbol " ".

U.S. federal income tax consequences	Theravance intends to seek a ruling from the Internal Revenue Service to the effect that the distribution will qualify as a tax-free transaction under Sections 355 and 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended (the "Code") and, that for U.S. federal income tax purposes, no gain or loss will be recognized by a holder of Theravance common stock upon the receipt of shares of Theravance Biopharma pursuant to the distribution. A holder of Theravance common stock generally will recognize capital gain or loss with respect to cash received in lieu of fractional shares of Theravance Biopharma. Although the contribution of assets to Theravance Biopharma by Theravance is intended to qualify as a tax-free transaction under Section 368(a)(1)(D) of the Code, pursuant to special rules contained in Section 367 of the Code and the Treasury Regulations promulgated thereunder, Theravance should recognize gain, but not loss, with respect to the assets contributed to Theravance Biopharma in anticipation of the distribution either upon the contribution of assets or upon the distribution. If the distribution were determined not to qualify for non-recognition of gain and loss under Section 355 of the Code, your receipt of all or a portion of our common shares may be taxable to you as a dividend. An amount equal to the fair market value of our common shares received by you (including any fractional shares deemed to be received) on the distribution date will be treated as a taxable dividend to the extent of your ratable share of any 2013 earnings and profits of Theravance with the excess treated as a non-taxable return of capital to the extent of your tax basis in Theravance common stock and any remaining excess treated as capital gain. Theravance will not be able to advise stockholders of the amount of 2013 earnings and profits of Theravance until approximately January 2014. Theravance Biopharma should be respected as a foreign corporation for U.S. federal income tax purposes under Section 7874 of the Code because the assets contributed to Theravance Biopharma by Theravance in connection with the spin-off do not constitute "substantially all" of the assets of Theravance. For a more detailed discussion see "The Spin-Off—U.S. Federal Income Tax Consequences" beginning on page 45.
Purposes of the Distribution	The spin-off is designed to enhance long-term stockholder value by providing the benefits set forth above and under the caption "The Spin-Off—Reasons for the Spin-Off."
Conditions to the Distribution	The distribution of our common shares is subject to the satisfaction of the following conditions, among other conditions described in this information statement: • the Securities and Exchange Commission, or SEC, shall have declared effective our registration statement on Form 10, of which this Information Statement is a part, under the Securities Exchange Act of 1934, as amended, or the Exchange Act; and no stop order relating to the registration statement shall be in effect;

- all permits, registrations and consents required under the securities or blue sky laws of states or other political subdivisions of the U.S. or of other foreign jurisdictions in connection with the distribution shall have been received;
- the listing of our common shares on the Nasdaq Global Market shall have been approved, subject to official notice of issuance;
- all material government approvals and other consents necessary to consummate the distribution shall have been received;
- the transfers of the assets and liabilities contemplated by the Separation and Distribution Agreement shall be in effect; and
- no order, injunction or decree issued by any court of competent jurisdiction or other legal restraint or prohibition preventing consummation of the distribution or any of the transactions related thereto, including those contemplated by the Separation and Distribution Agreement, shall be in effect.

The fulfillment of these conditions does not create any obligation on Theravance to effect the distribution, and the Theravance board of directors has reserved the right, in its sole discretion, to amend, modify or abandon the distribution and related transactions at any time prior to the distribution date. Theravance has the right not to complete the distribution if, at any time, the Theravance board of directors determines, in its sole discretion, that the distribution is not in the best interests of Theravance or its stockholders or that market conditions are such that it is not advisable to separate the Drug Discovery and Development Business from Theravance.

Agreements and Relationships with Theravance

Theravance and Theravance Biopharma each will be independent, publicly traded companies. However, we will enter into a Separation and Distribution Agreement, a Transition Services Agreement, an Employee Matters Agreement and a Tax Sharing and Indemnification Agreement and other agreements with Theravance to effect the separation and distribution and provide a framework for our relationship with Theravance after the separation. These agreements will govern the relationships between us and Theravance after the completion of the separation and provide for the allocation between us and Theravance of Theravance's assets, liabilities and obligations (including employee benefits and tax-related assets and liabilities) attributable to periods prior to our separation from Theravance.

	After the spin-off, certain of our officers and one of our directors will also serve as officers and/or as a director of Theravance and have significant financial interests as holders of Theravance equity. Rick E Winningham will serve as our Chairman and Chief Executive Officer, Michael W. Aguiar will serve as our Senior Vice President and Chief Financial Officer and Bradford J. Shafer will serve as our Senior Vice President, General Counsel and Secretary and each will serve in the same positions for Theravance. For a discussion of these arrangements and relationships, see "Risk Factors—Risks Related to the Spin-Off," beginning on page 15, "Our Relationship with Theravance, Inc. after the Spin-Off" beginning on page 90 and "Compensation of Named Executive Officers" beginning on page 102.
Interest in Theravance Respiratory Company LLC	Prior to the spin-off, Theravance will form a Delaware limited liability company to be called Theravance Respiratory Company LLC ("TRC"). Theravance will assign to TRC its strategic alliance agreement with GSK and all of its rights and obligations under its collaboration agreement with GSK other than with respect to RELVAR™ ELLIPTA™/BREO™ ELLIPTA™ and vilanterol monotherapy. TRC will be controlled by Theravance and jointly owned by Theravance and us. Our equity interest in TRC will entitle us to a 98% economic interest in any future payments made by GSK under the strategic alliance agreement with GSK and under the portion of the collaboration agreement with GSK assigned to TRC other than ANORO™ ELLIPTA™. These other drug programs include UMEC/VI/FF (or the Closed Triple) and the MABA program, as monotherapy and in combination with other therapeutically active components, such as an inhaled corticosteriod (ICS), and any other product or combination of products that may be discovered and developed in the future under the strategic alliance agreement with GSK or collaboration agreement with GSK, which we refer to as the GSK agreements. Theravance's equity interest in TRC will entitle it to 100% of the economic interest in all future payments made by GSK under the collaboration agreement relating to ANORO™ ELLIPTA™ and 2% of the economic interest in all other future payments made by GSK to TRC under the collaboration agreement and in all future payments by GSK under the strategic alliance agreement. See "The Spin-Off—Formation of Theravance Respiratory Company LLC" beginning on page 44.
Questions and Answers about the Spin-off	
How will the spin-off work?	Theravance will contribute to us its Drug Discovery and Development Business (including assets and liabilities) and an equity interest in TRC, and approximately $300 million in cash, which we refer to as the contribution, and Theravance will distribute to its stockholders all of our outstanding common shares on a pro rata basis, which we refer to as the distribution. When we refer to the occurrence of the spin-off, we are referring to the date the spin-off is finalized and our stock is distributed to you. For additional information on the transactions in the spin-off, see "The Spin-Off—Manner of Effecting the Spin-Off" beginning on page 43.

When will the spin-off be completed?	Theravance expects to complete the spin-off by distributing our common shares on , 2013 to holders of record of Theravance common stock on the record date. As discussed under "The Spin-Off—Trading of Theravance Common Stock After the Record Date and Prior to the Ex-Dividend Date," if you sell your shares of Theravance common stock in the "regular way" market after the record date and prior to the ex-dividend date, you also will be selling your right to receive our common shares in connection with the spin-off. For additional information on the spin-off, see "The Spin-Off—Results of the Spin-Off" beginning on page 45.
What do I have to do to participate in the distribution?	Nothing. You are not required to take any action to receive our common shares in the spin-off. No vote of Theravance stockholders will be taken for the spin-off. If you own shares of Theravance common stock as of the close of business on the record date and do not sell those shares in the "regular way" market prior to the ex-dividend date, unless requested otherwise, a book-entry account statement reflecting your ownership of our common shares will be mailed to you, or your brokerage account will be credited for the shares, on or about , 2013. Do not mail in Theravance common stock certificates in connection with the spin-off.
How many of your common shares will I receive?	Theravance will distribute one of our common shares for every shares of Theravance common stock you own of record as of the close of business on the record date and do not sell in the "regular way" market prior to the ex-dividend date. Cash will be distributed in lieu of fractional shares, as described below. Based on approximately million shares of Theravance common stock that we expect to be outstanding on the record date, Theravance will distribute a total of approximately million of our common shares. The number of our common shares that Theravance will distribute to its stockholders will be reduced to the extent that cash payments are to be made in lieu of the issuance of fractional shares of Theravance Biopharma and to the extent that our common shares are held back and sold on the market to satisfy backup withholding taxes and non-U.S. holder dividend withholding taxes and brokerage and other costs, and will be increased to the extent, if any, that Theravance options are exercised prior to the record date. For additional information on the distribution, see "The Spin-Off—Results of the Spin-Off" beginning on page 45.
How will Theravance distribute fractional common shares of Theravance Biopharma?	Theravance will not distribute any fractional shares of Theravance Biopharma to its stockholders. Instead, the distribution agent will aggregate fractional shares into whole shares, sell the whole shares in the open market at prevailing market prices and distribute the aggregate net cash proceeds of the sales pro rata to each holder who otherwise would have been entitled to receive a fractional share in the distribution. Recipients of cash in lieu of fractional shares will not be entitled to any interest on the amounts of payment made in lieu of fractional shares. The receipt of cash in lieu of fractional shares generally will be taxable to the recipient stockholders as described in "The Spin-Off—U.S. Federal Income Tax Consequences" beginning on page 45.

Can Theravance decide to cancel the distribution of Theravance Biopharma common shares even if all the conditions have been met?	Yes. Theravance has the right to terminate the distribution, and the spin-off, even if all of the conditions set forth in the Separation and Distribution Agreement are satisfied, if at any time the board of directors of Theravance determines that the distribution is not in the best interest of Theravance and its stockholders or that market conditions are such that it is not advisable to separate the Drug Discovery and Development Business from Theravance.
Will I receive physical certificates representing Theravance Biopharma common shares following the separation?	Unless you provide us instructions to do otherwise, Theravance, with the assistance of Computershare Shareowner Services, the distribution agent, will electronically issue our common shares to you or to your bank or brokerage firm on your behalf by way of direct registration in book-entry form. The book-entry system allows registered shareholders to hold their shares without physical share certificates. A benefit of issuing shares electronically in book-entry form is that there will be none of the physical handling and safekeeping responsibilities that are inherent in owning physical share certificates. For additional information, see "The Spin-Off—Manner of Effecting the Spin-Off" beginning on page 43.
How will the distribution affect my tax basis and holding period in Theravance common stock and what will my tax basis and holding period be in the common shares received in the distribution?	In the event that the distribution qualifies as a tax-free transaction to stockholders of Theravance, you will have an aggregate tax basis in your Theravance Biopharma common shares received in the distribution and your shares of Theravance common stock immediately after the distribution equal to the aggregate tax basis of yours shares of Theravance common stock held immediately prior to the distribution, which should be allocated in accordance with their relative fair market values. The tax rules regarding basis allocation in a transaction such as the distribution are complex and you are encouraged to consult your own tax advisor about the application of these rules. Your holding period for such Theravance shares will not be affected by the distribution. The holding period of the Theravance Biopharma common shares received in the distribution should include the holding period of your shares of Theravance common stock.
Is there a chance I may incur taxable gain as a result of the distribution?	In the event that the distribution does not qualify as a tax-free transaction, your receipt of all or a portion of the Theravance Biopharma shares may be taxable to you as a dividend. An amount equal to the fair market value of our common shares received by you (including any fractional shares deemed to be received) on the distribution date will be treated as a taxable dividend to the extent of your ratable share of any current and accumulated earnings and profits of Theravance measured as of the end of the year in which the distribution occurs, with the excess treated as a non-taxable return of capital to the extent of your tax basis in Theravance common stock and any remaining excess treated as a capital gain.

If the distribution does not qualify as a tax-free transaction, how will the distribution affect my tax basis and holding period in Theravance common stock and what will my tax basis and holding period be in the common shares received in the distribution?	Your basis in your shares of Theravance common stock would be reduced by the excess, if any, of the fair market value of the Theravance Biopharma common shares received over the amount treated as a taxable dividend. Your holding period for such Theravance shares would not be affected by the distribution. You would have a tax basis in your Theravance Biopharma common shares equal to the fair market value of such shares at the time of the distribution. Your holding period for the Theravance Biopharma common shares received in the distribution would begin on the date of the distribution. You should consult your own tax advisor as to the particular tax consequences of the distribution to you, including the applicability of any U.S. federal, state, local and non-U.S. tax laws. For a more detailed discussion see "U.S. Federal Income Tax Consequences" beginning on page 45.
What will happen to Theravance equity awards?	Holders of Theravance restricted stock awards will receive common shares of Theravance Biopharma upon the distribution subject to the same terms and conditions as apply to Theravance common stock. The number of shares and exercise price, if applicable, of Theravance stock options and restricted stock units that are outstanding on the date of the spin-off will adjust in accordance with the plans under which they were issued. In addition, we expect that Theravance equity awards held by Theravance employees and non-employee directors who join Theravance Biopharma in connection with the spin-off will be amended so that the awards will remain outstanding and continue to vest based on service to Theravance Biopharma following the spin-off. See "The Spin-Off—Treatment of Outstanding Theravance Equity Awards in Connection with the Spin-Off." We also expect to issue new Theravance Biopharma options to our employees and non-employee directors following the spin-off.
Do you intend to pay dividends on your common shares?	We currently do not intend to pay dividends on our common shares. The declaration and amount of dividends will be determined by our board of directors and will depend on our financial condition, earnings, capital requirements, legal requirements, regulatory constraints, contractual restrictions, and any other factors that our board of directors believes are relevant. See "Dividend Policy" on page 58 for additional information on our dividend policy following the spin-off.
What if I want to sell my Theravance common stock or Theravance Biopharma common shares?	You should consult your financial advisors, such as your stockbroker, bank or tax advisor. Neither Theravance nor Theravance Biopharma makes any recommendation as to the purchase, retention or sale of shares of Theravance common stock or the Theravance Biopharma common shares to be distributed. If you decide to sell any shares of Theravance common stock before the ex-dividend date, you should make sure your stockbroker, bank or other nominee understands whether you want to sell your Theravance common stock or the Theravance Biopharma common shares you will receive in the distribution or both.

Where will I be able to trade Theravance Biopharma common shares?	There is no current trading market for our common shares. We will apply to have our common shares listed on the Nasdaq Global Market under the symbol " ." We expect that a limited market, commonly known as a "when-issued" trading market, for our common shares will begin shortly after , 2013. The term "when-issued" means that shares can be traded prior to the time shares are actually available or issued. We expect that on the distribution date or the first trading day after the distribution date, "when-issued" trading in our common shares will end and "regular way" trading will begin. "Regular way" trading refers to trading after a security has been issued and typically involves a transaction that settles on the third full business day following the date of a trade. Our common shares generally will be freely tradable following the spin-off. For additional information regarding the trading of our common shares, see "The Spin-Off—Market for Our Common Shares; Trading of Our Common Shares in Connection with the Spin-Off" beginning on page 54.
Will the number of Theravance shares I own change as a result of the spin-off?	No. The number of shares of Theravance common stock you own will not change as a result of the spin-off.
What will happen to the listing of Theravance common stock?	Nothing. It is expected that after the distribution of Theravance Biopharma common shares, Theravance common stock will continue to be traded on the Nasdaq Global Market under the symbol "THRX".
Are there any risks to owning Theravance Biopharma common shares?	Yes. Our business is subject to both general and specific risks relating to our operations, anticipated net losses, and our operating as a standalone company. Our business is also subject to risks relating to the separation. These and other risks are described in "Risk Factors" beginning on page 15. We encourage you to read that section carefully.
Who do I contact for information regarding you and the spin-off?	Before the spin-off, you should direct inquiries relating to the spin-off to: Investor Relations Theravance, Inc. 901 Gateway Boulevard South San Francisco, CA 94080 After the spin-off, you should direct inquiries relating to our common shares to: Investor Relations Theravance Biopharma US, Inc. 901 Gateway Boulevard South San Francisco, CA 94080 After the spin-off, the transfer agent and registrar for our common shares will be: Computershare Shareowner Services 250 Royall Street Canton, MA 02021

Summary Historical Combined Financial Information

The following table sets forth certain summary historical financial information as of and for each of the years in the two-year period ended December 31, 2012 and as of March 31, 2013 and for the three months ended March 31, 2013 and 2012, which have been derived from our (i) audited combined financial statements as of December 31, 2012 and 2011 and for the years ended December 31, 2012 and 2011, which are included elsewhere in this Information Statement, and (ii) unaudited combined financial statements as of March 31, 2013 and for the three months ended March 31, 2013 and 2012, which are included elsewhere in this Information Statement. In our opinion, the summary historical financial information derived from our unaudited combined financial statements is presented on a basis consistent with the information in our audited combined financial statements. During these periods, Theravance Biopharma was an integrated business of Theravance. The summary historical financial information may not be indicative of the results of operations or financial position that we would have obtained if we had been an independent company during the periods presented or of our future performance as an independent company. See "Risk Factors."

The following table also sets forth the pro forma combined balance sheet as of March 31, 2013, which has been derived from our historical combined financial statements as of such date. The pro forma adjustments are based upon available information and assumptions that we believe are reasonable.

You should read this table together with "Historical Selected Financial Data," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Unaudited Pro Forma Combined Balance Sheet" and our historical combined financial statements and the notes thereto included elsewhere in this Information Statement.

Combined Statements of Operations Data

(in thousands)	Year Ended December 31,		Three Months Ended March 31,	
	2011	2012	2012	2013
			(Unaudited)	
Revenue	$ 14,854	$ 130,145	$ 125,669	$ 22
Operating expenses:				
Research and development	98,850	113,995	32,148	25,408
General and administrative	25,339	25,725	6,486	6,788
Total operating expenses(1)	124,189	139,720	38,634	32,196
Net income (loss)	$ (109,335)	$ (9,575)	$ 87,035	$ (32,174)

Combined Balance Sheet Data

(in thousands)	December 31, 2011	December 31, 2012	March 31, 2013 Actual	March 31, 2013 Pro Forma
			(Unaudited)	
Cash and cash equivalents(2)	$ —	$ —	$ —	$ 300,000
Restricted cash	893	833	833	833
Working capital (deficit)	(33,565)	(11,837)	(9,207)	290,793
Total assets	13,821	20,962	23,530	323,530
Long-term liabilities(3)	118,664	5,280	5,151	5,151
Total parent company equity (deficit)(4)	(140,724)	(6,990)	(4,375)	295,625

(1) The following table discloses the allocation of stock-based compensation expense included in total operating expenses:

(in thousands)	Year Ended December 31, 2011	Year Ended December 31, 2012	Three Months Ended March 31, 2012	Three Months Ended March 31, 2013
			(Unaudited)	
Research and development	$ 12,696	$ 13,192	$ 3,402	$ 3,688
General and administrative	8,767	8,131	2,144	1,828
Total stock-based compensation	$ 21,463	$ 21,323	$ 5,546	$ 5,516

(2) Cash and cash equivalents pro forma include a cash capital contribution by Theravance, Inc. of approximately $300 million based on the anticipated post-separation capital structure at March 31, 2013.

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

(in thousands)	December 31, 2011	December 31, 2012	March 31, 2013 Actual	March 31, 2013 Pro forma
			(Unaudited)	
Deferred revenue	$ 112,843	$ 206	$ 279	$ 279

(4) Total parent company equity, pro forma at March 31, 2013 for Theravance Biopharma, Inc. assumes the issuance of approximately million shares at $0.00001 par value, which is based on the number of outstanding shares of Theravance, Inc. as of , 2013 and the distribution ratio.

Risk Factors

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

RISKS RELATING TO THE SPIN-OFF

We may not realize the potential benefits from the spin-off; Theravance stockholders may not realize the potential benefits of the spin-off.

We may not realize the potential benefits that we expect from our spin-off from Theravance, Inc. ("Theravance"). Further, Theravance stockholders may not realize the intended benefits of the spin-off. We have described those anticipated benefits elsewhere in this Information Statement. See "The Spin-Off—Reasons for the Spin-Off." By separating from Theravance, there is a risk that our company may be more susceptible to market fluctuations and other adverse events than we would have been were we still a part of the current Theravance. In addition, we will incur significant costs, including those described below, which may exceed our estimates, and we will incur some negative effects from our separation from Theravance, including the loss of potential royalty revenue derived from certain of Theravance's late-stage partnered respiratory assets (the "Royalty Business)".

Our historical and pro forma financial information may not reflect what our financial position, results of operations or cash flows would have been as a stand-alone company during the periods presented and is not necessarily indicative of our future financial position, future results of operations or future cash flows.

Our historical financial information included in this Information Statement does not necessarily reflect what our financial position, results of operations or cash flows would have been as a stand-alone company during the periods presented and is not necessarily indicative of our future financial position, future results of operations or future cash flows. This is primarily a result of the following factors:

- Prior to the separation, our business was operated by Theravance as part of its broader corporate organization rather than as a stand-alone company, and our business was able to leverage Theravance's financial resources and creditworthiness;

- Certain general administrative functions are performed by Theravance for the combined entity. Our historical combined financial statements reflect allocations of costs for services shared with Theravance. These allocations may differ from the costs we will incur for these services as an independent company;

- After the spin-off, our cost of capital may be higher than Theravance's cost of capital prior to our separation, because Theravance's credit ratings are higher than what ours are contemplated to be following the separation; and

- After the spin-off, we will also be responsible for the additional costs associated with being an independent, public company, including costs related to corporate governance and listed and registered securities.

The unaudited pro forma combined balance sheet as of March 31, 2013 assumes the cash funding by Theravance of approximately $300 million for a capital contribution based on the anticipated post-separation capital structure. Please refer to "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Unaudited Pro Forma Combined Balance Sheet" and our historical combined financial statements and the notes thereto included elsewhere in this Information Statement.

Our accounting and other management systems and resources may not be adequately prepared to meet the financial reporting and other requirements to which we will be subject following the transactions. If we are unable to achieve and maintain effective internal controls, our business, financial position and results of operations could be adversely affected.

Our financial results previously were included within the consolidated results of Theravance. However, we were not directly subject to the reporting and other requirements of the Exchange Act. As a result of the separation, we will be directly subject to the reporting and other obligations under the Exchange Act, including the requirements of Section 404 of the Sarbanes-Oxley Act of 2002, which will require annual management assessments of the effectiveness of our internal control over financial reporting. When and if we are a "large accelerated filer" or an "accelerated filer" and are no longer an "emerging growth company," each as defined in the Exchange Act, our independent registered public accounting firm will be required to attest to the effectiveness of our internal control over financial reporting. These reporting and other obligations will place significant demands on our management and administrative and operational resources, including accounting resources.

To comply with these requirements, it is anticipated that we may need to upgrade our systems, including information technology, implement additional financial and management controls, reporting systems and procedures and hire additional legal, accounting and/or finance staff. If we are unable to upgrade our financial and management controls, reporting systems, information technology and procedures in a timely and effective fashion, our ability to comply with our financial reporting requirements and other rules that apply to reporting companies could be impaired. In addition, if we are unable to conclude that our internal control over financial reporting is effective (or if the auditors are unable to express an opinion on the effectiveness of our internal controls), we could lose investor confidence in the accuracy and completeness of our financial reports.

Our management will be responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) under the Exchange Act. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States. Any failure to achieve and maintain effective internal controls could have an adverse effect on our business, financial position and results of operations.

We have no history operating as an independent company upon which you can evaluate us.

We do not have an operating history as a stand-alone entity. While our drug discovery and development business (the "Drug Discovery and Development Business") has constituted a substantial part of the historic operations of Theravance, we have not operated as a stand-alone company without

the Royalty Business. After the spin-off, as an independent company, our ability to satisfy our obligations and achieve profitability will be primarily dependent upon the future performance of our Drug Discovery and Development Business, and we will not be able to rely upon the revenues, capital resources and cash flows of the Royalty Business remaining with Theravance. In addition, after the spin-off, we may need certain transition services from Theravance to be able to operate our business and we will be required to deliver a significant number of services to Theravance.

Concerns about our prospects as a stand-alone company and employee compensation and benefits after the spin-off or otherwise, could affect our ability to retain employees.

The spin-off represents a significant organizational change and our employees may have concerns about our prospects as a stand-alone company, including our ability to successfully operate the new entity over the long-term, and our ability maintain our independence after the spin-off. If we are not successful in assuring our employees of our prospects as an independent company, our employees may seek other employment, which could materially adversely affect our business.

After the spin-off, all of our employees will hold stock options, restricted stock and/or restricted stock units for shares of Theravance common stock and will continue to vest in such Theravance equity interests based on service to us. We believe that the continued vesting of Theravance equity awards will help us retain our employees as we transition to a stand-alone company. However, after the spin-off, we will not be able to grant our employees further equity awards for Theravance common stock or effect amendments of Theravance's equity incentive plans (and similar programs) or equity awards previously granted by Theravance. Furthermore, in the event Theravance is acquired and the vesting of Theravance equity awards are accelerated in such an acquisition, we may have difficulty retaining our employees and may have to incur additional costs to retain them.

If we fail to retain our qualified personnel or replace them when they leave, we may be unable to continue our development and commercialization activities, which may cause the price of our securities to fall.

We may be required to satisfy certain indemnification obligations to Theravance or may not be able to collect on indemnification rights from Theravance.

Under the terms of the Separation and Distribution Agreement, we may agree to indemnify Theravance from and after the spin-off with respect to certain indebtedness, liabilities and obligations relating to the Drug Discovery and Development Business. Moreover, we could be liable for indebtedness, liabilities and obligations retained by Theravance under the Separation and Distribution Agreement. We are not aware of any existing indemnification obligations at this time, but any such indemnification obligations that may arise could be significant. Our ability to satisfy these indemnities, if called upon to do so, will depend upon our future financial strength. We cannot determine whether we will have to indemnify Theravance for any substantial obligations after the distribution.

We may have received better terms from unaffiliated third parties than the terms we receive in our agreements with Theravance.

The agreements we will enter into with Theravance in connection with the spin-off were determined by management and the Theravance board of directors in the context of the spin-off while we were still part of Theravance and, accordingly, may not reflect terms that would have resulted from arm's-length negotiations between unaffiliated third parties. The terms of the agreements relate to, among other things, the licensing of intellectual property and the provision of certain employment and transition services. We may have received better terms from third parties because, among other things, third parties may have competed with each other to win our business. See "Our Relationship with Theravance, Inc. after the Spin-Off."

After the spin-off, certain of our directors and officers may have actual or potential conflicts of interest because of their equity ownership in Theravance, and certain of our directors and officers may have actual or potential conflicts of interest because they also serve as officers and/or on the board of directors of Theravance, which may harm our business, prospects and financial condition and result in the diversion of corporate opportunities to Theravance.

Following the distribution, certain of our officers and one of our directors will also serve as officers and/or as a director of Theravance. Rick E Winningham, who will serve as our Chairman and Chief Executive Officer, Michael W. Aguiar, who will serve as our Senior Vice President and Chief Financial Officer, and Bradford J. Shafer, who will serve as our Senior Vice President, General Counsel and Secretary, will each hold the same respective positions for Theravance. In addition, following the spin-off, certain of our directors and executive officers will own shares of Theravance's common stock, and the individual holdings may be significant for some of these individuals compared to their total assets. This service to both companies and ownership of Theravance common stock may create, or may create the appearance of, conflicts of interest when these directors and officers are faced with decisions that could have different implications for Theravance and us. For example, potential or actual conflicts could arise relating to: the terms and conditions of the spin-off; the relationship between Theravance and us after the spin-off, including Theravance's and our respective rights and obligations under agreements entered into in connection with the spin-off; the management of TRC by Theravance after the spin-off, particularly given that we and Theravance have different economic interests in TRC; the compensation of individuals who serve as officers of both companies; and corporate opportunities that may be available to both companies in the future. Although we and Theravance plan to implement policies and procedures to identify and properly address such potential and actual conflicts of interest, there can be no assurance that such conflicts of interest will not harm our business, prospects and financial condition and result in the diversion of corporate opportunities to Theravance.

The tax liability to Theravance as a result of the spin-off could be substantial.

In the pre-spin-off restructuring, it is anticipated that any assets that are transferred by Theravance to us will be taxable pursuant to Section 367 of the Internal Revenue Code of 1986, as amended (the "Code"), or other applicable provisions of the Code and Treasury Regulations. The taxable gain recognized by Theravance attributable to the transfer of assets to us will equal the excess of the fair market value of each asset transferred over Theravance's basis in such asset. Theravance's basis in some assets transferred to us may have been low or zero, which could result in substantial taxable gain to Theravance. In addition, the amount of taxable gain will be based on a determination of the fair market value of Theravance's transferred assets. The determination of fair market values of non-publicly traded assets is subjective and could be subject to adjustments or future challenge by the Internal Revenue Service ("IRS") which could result in an increased U.S. federal income tax liability to Theravance. This liability may be reduced by net operating loss carryforwards. Federal and state tax laws impose restrictions on the utilization of net operating losses in the event of an ownership change for tax purposes, as defined in Section 382 of the Code. Theravance conducted an analysis to determine whether an ownership change had occurred since inception through December 31, 2012, and has concluded that Theravance has not undergone an ownership change.

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

Theravance intends to seek a private letter ruling from the IRS regarding the U.S. federal income tax consequences of the distribution of our common shares to the Theravance stockholders substantially to the effect that the distribution, except for cash received in lieu of a fractional share of our common shares, will qualify as tax-free under Sections 368(a)(1)(D) and 355 of the Code and, that, for U.S. federal income tax purposes, no gain or loss will be recognized by a holder of Theravance common

stock upon the receipt of our common shares pursuant to the distribution. As part of the IRS' general policy with respect to rulings on spin-off transactions (including the distribution), the private letter ruling expected to be received by Theravance will not be based upon a determination by the IRS that certain conditions which are necessary to obtain tax-free treatment under Section 355 of the Code have been satisfied. Rather, the private letter ruling relies or will rely on certain facts and assumptions, and certain representations and undertakings, from us and Theravance regarding the past and future conduct of our respective businesses and other matters. Notwithstanding the private letter ruling, the IRS could determine on audit that the distribution or certain related transactions should be treated as taxable transactions if it determines that any of these facts, assumptions, representations or undertakings is not correct or has been violated or that the distributions should be taxable for other reasons, including as a result of significant changes in stock or asset ownership after the distribution. If the distribution ultimately is determined to be taxable for U.S. federal income tax purposes, the distribution could be treated as a taxable dividend or capital gain to you for U.S. federal income tax purposes, and you could incur significant U.S. federal income tax liabilities.

In addition, under the terms of the Tax Sharing and Indemnification Agreement, in the event the distribution or certain related transactions were determined to be taxable and such determination was the result of actions taken after the distribution by us or Theravance, the party responsible for such failure would be responsible for all taxes and related expenses imposed on us or Theravance as a result thereof. Specifically, in the event that the distribution was determined to be taxable and such determination was the result of certain actions taken, or omitted to be taken, after the distribution by us and such actions (1) were inconsistent with any representation or covenant made in connection with the private letter ruling or (2) violated any representation or covenant made in the Tax Sharing and Indemnification Agreement, or (3) we know or reasonably should expect, after consultation with our advisors, may result in any such determination, we will be responsible for any taxes or penalties imposed on Theravance as a result of such determination, including as a result of a failure to withhold taxes that were required to be withheld on the distribution of our common shares to shareholders or to report such distributions to the IRS.

Theravance Biopharma will be subject to certain restrictions after the separation in order to preserve the tax-free treatment of the distribution, which may reduce Theravance Biopharma's strategic and operating flexibility.

The covenants in, and our indemnity obligations under, the Tax Sharing and Indemnification Agreement may limit our ability to pursue strategic transactions or engage in new business or other transactions that may maximize the value of our business. For example, we may be prohibited from:

- approving or allowing any transaction that results in a change in ownership of more than a specified percentage of our common shares;
- a merger;
- a redemption of equity securities;
- a sale or other disposition of certain businesses or a specified percentage of our assets;
- an acquisition of a business or assets with equity securities to the extent one or more persons would acquire in excess of a specified percentage of our common shares; or
- amending our organizational documents or taking any other action through shareholder vote or otherwise that affects the relative economic or voting rights of our outstanding shares.

Theravance Biopharma's ability to repurchase its shares will be limited following the distribution.

If we are successful in obtaining the private letter ruling, we will represent that we had no plan or intention to redeem, repurchase or otherwise acquire more than 20% of our outstanding shares. As a result, the covenants in, and our indemnity obligations under, the Tax Sharing and Indemnification Agreement will limit our ability to redeem, repurchase or otherwise acquire more than 20% of our outstanding shares as part of a plan that includes the distribution.

Theravance Biopharma may be treated as a U.S. corporation for U.S. federal income tax purposes.

For U.S. federal income tax purposes, a corporation generally is considered tax resident in the place of its incorporation. Because Theravance Biopharma is incorporated under Cayman Islands law, it should be deemed a Cayman Islands corporation under this general rule. Section 7874 of the Code, however, contains rules that could result in a foreign corporation being taxed as a U.S. corporation for U.S. federal income tax purposes. The application of these rules is complex and there is little guidance regarding their application.

Under Section 7874 of the Code, a corporation created or organized outside the U.S. will be treated as a U.S. corporation for U.S. federal tax purposes, when (i) the foreign corporation directly or indirectly acquires substantially all of the assets held directly or indirectly by a U.S. corporation, (ii) the former shareholders of the acquired U.S. corporation hold at least 80% of the vote or value of the shares of the foreign acquiring corporation by reason of holding stock in the U.S. acquired corporation, and (iii) the foreign corporation's "expanded affiliated group" does not have "substantial business activities" in the foreign corporation's country of incorporation relative to its expanded affiliated group's worldwide activities. For this purpose, "expanded affiliated group" generally means the foreign corporation and all subsidiaries in which the foreign corporation, directly or indirectly, owns more than 50% of the stock by vote and value, and "substantial business activities" generally means at least 25% of employees (by number and compensation), assets and gross income of our expanded affiliated group are based, located and derived, respectively, in the Cayman Islands.

We do not expect to be treated as a U.S. corporation under Section 7874 of the Code, because the assets contributed to us by Theravance are not expected to constitute "substantially all" of the assets of Theravance (as determined on both a gross and net fair market value basis). However, there have been legislative proposals to expand the scope of U.S. corporate tax residence and there could be changes to Section 7874 of the Code or the Treasury Regulations promulgated thereunder that could result in Theravance Biopharma being treated as a U.S. corporation.

If it were determined that we should be taxed as a U.S. corporation for U.S. federal income tax purposes, we could be liable for substantial additional U.S. federal income tax. In addition, payments of dividends to non-U.S. holders may be subject to U.S. withholding tax.

Theravance Biopharma is likely to be classified as a passive foreign investment company, or "PFIC," which may have adverse U.S. federal income tax consequences to U.S. holders.

For U.S. federal income tax purposes, Theravance Biopharma generally would be classified as a PFIC for any taxable year if either (i) 75% or more of its gross income (including gross income of certain 25%-or-more-owned corporate subsidiaries) is "passive income" (as defined for such purposes) or (ii) the average percentage of its assets (including the assets of certain 25%-or-more-owned corporate subsidiaries) that produce passive income or that are held for the production of passive income is at least 50%.

We believe that Theravance Biopharma will be a PFIC immediately following the spin-off and distribution and may be a PFIC in subsequent years. If we were to be treated as a PFIC for any taxable year (or portion thereof) that is included in the holding period of a U.S. holder, then the U.S. holder

would generally be subject to additional U.S. federal income taxes plus an interest charge with respect to distributions from Theravance Biopharma. U.S. holders of our common stock may wish to file elections to be treated as owning an interest in a "qualified electing fund" ("QEF") or to "mark-to-market" their common shares to avoid the interest charge consequences of the default PFIC treatment. This paragraph is qualified in its entirety by the discussion below under "The Spin-Off—U.S. Federal Income Tax Consequences." U.S. holders should consult their tax advisers regarding the potential PFIC, QEF and Mark-to-Market treatment of their interests in our common shares.

RISKS RELATING TO THE COMPANY

We anticipate that we will incur losses for the foreseeable future. We may never achieve or sustain profitability.

During the years ended December 31, 2011 and 2012 and the three months ended March 31, 2013, we recognized losses of $109.3, $9.6 and $32.2 million, respectively. We expect to continue to incur net losses over the next several years as we continue our drug discovery and development activities and incur significant preclinical and clinical development costs and commercialization costs relating to VIBATIV®. We expect to incur substantial expenses as we continue our drug discovery and development efforts, particularly to the extent we advance our product candidates into and through clinical studies, which are very expensive. For example, TD-9855 in our MARIN program is in Phase 2 studies for both attention-deficit/hyperactivity disorder and fibromyalgia and our LAMA compound TD-4208 commenced a Phase 2b study in December 2012. Also, in July 2012, we announced positive results from the key study in our Phase 2b program with TD-1211 in our Peripheral Mu Opioid Receptor Antagonist program for opioid-induced constipation. Though we are seeking to partner this program, we may choose to progress TD-1211 into Phase 3 studies by ourselves, which would increase our anticipated operating expenses substantially. Furthermore, should we decide to commercialize VIBATIV® in the U.S. without a partner, we will incur costs and expenses associated with creating an independent sales and marketing organization with appropriate technical expertise, supporting infrastructure and distribution capabilities. Our commitment of resources to the further discovery and continued development of our product candidates will require significant additional funding. Our operating expenses also will increase if:

- our earlier stage potential products move into later stage clinical development, which is generally a more expensive stage of development;
- additional preclinical product candidates are selected for clinical development;
- we pursue clinical development of our potential products in new indications;
- we increase the number of patents we are prosecuting or otherwise expend additional resources on patent prosecution or defense; and
- we acquire additional technologies, product candidates, products or businesses.

Other than potential revenues from VIBATIV®, our only approved drug, and potential contingent payments under collaboration agreements, we do not expect to generate revenues from our drug programs for the foreseeable future. Since we or our collaborators or licensees may not successfully develop additional products, obtain required regulatory approvals, manufacture products at an acceptable cost or with appropriate quality, or successfully market such products with desired margins, our expenses may continue to exceed any revenues we may receive.

In the absence of substantial licensing, contingent payments or other revenues from third-party collaborators, royalties on sales of products licensed under our intellectual property rights, future revenues from our products in development or other sources of revenues, we will continue to incur operating losses and may require additional capital to fully execute our business strategy. The likelihood of reaching, and time required to reach, sustained profitability are highly uncertain. As a

result, we expect to continue to incur substantial losses for the foreseeable future. We are uncertain when or if we will ever be able to achieve or sustain profitability. Failure to become and remain profitable would adversely affect the price of our securities and our ability to raise capital and continue operations.

If additional capital is not available, we may have to curtail or cease operations or we could be forced to share our rights to commercialize our product candidates with third parties on terms that may not be favorable to us.

Based on our current operating plans and financial forecasts, we believe that our cash and cash equivalents and marketable securities will be sufficient to meet our anticipated operating needs for the next two to three years. If our current operating plans or financial forecasts change, we may require additional funding sooner in the form of public or private equity offerings, debt financings or additional collaborations and licensing arrangements. For example, if we chose to conduct Phase 3 studies with TD-1211 in our Peripheral Mu Opioid Receptor Antagonist program for opioid-induced constipation by ourselves, or if data from our LAMA Phase 2b study or our two MARIN Phase 2 studies support progression into Phase 3 development and we choose to progress any of these programs on our own, our capital needs would increase substantially.

Although we expect that we will have sufficient cash to fund our operations and working capital requirements for approximately the next two to three years after the spin-off based on current operating plans and financial forecasts, we may need to raise additional capital in the future to, among other things:

- fund our discovery efforts and research and development programs;
- progress mid-to-late stage product candidates into Phase 3 development, if warranted;
- develop our own sales, marketing and distribution capabilities to commercialize VIBATIV® in the U.S. with appropriate technical expertise and supporting infrastructure, should we decide to proceed without a partner;
- respond to competitive pressures; and
- acquire complementary businesses or technologies.

Our future capital needs depend on many factors, including:

- the scope, duration and expenditures associated with our discovery efforts and research and development programs;
- continued scientific progress in these programs;
- the extent to which we encounter technical obstacles in our research and development programs;
- the outcome of potential licensing transactions, if any;
- competing technological developments;
- the extent of our proprietary patent position in our product candidates;
- our facilities expenses, which will vary depending on the time and terms of any facility lease or sublease we may enter into;
- potential litigation and other contingencies; and
- the regulatory approval process for our product candidates.

We may seek to raise necessary funds through public or private equity offerings, debt financings or additional collaborations and licensing arrangements. We may not be able to obtain additional financing

on terms favorable to us, if at all. General market conditions may make it very difficult for us to seek financing from the capital markets. We may be required to relinquish rights to our technologies or product candidates, or grant licenses on terms that are not favorable to us, in order to raise additional funds through collaborations or licensing arrangements. If adequate funds are not available, we may have to sequence preclinical and clinical studies as opposed to conducting them concomitantly in order to conserve resources, or delay, reduce or eliminate one or more of our research or development programs and reduce overall overhead expenses. If we are unable to raise additional capital in sufficient amounts or on terms acceptable to us, we may have to make reductions in our workforce and may be prevented from continuing our discovery and development efforts and exploiting other corporate opportunities. This would likely harm our business, prospects and financial condition and cause the price of our securities to fall.

We may obtain future financing through the issuance of debt or equity, which may have an adverse effect on our shareholders or may otherwise adversely affect our business.

If we raise funds through the issuance of debt or equity, any debt securities or preferred shares issued will have rights, preferences and privileges senior to those of holders of our common shares in the event of liquidation. In such event, there is a possibility that once all senior claims are settled, there may be no assets remaining to pay out to the holders of common shares. In addition, if we raise funds through the issuance of additional equity, whether through private placements or public offerings, such an issuance would dilute ownership of current shareholders in us.

The terms of debt securities may also impose restrictions on our operations, which may include limiting our ability to incur additional indebtedness, to pay dividends on or repurchase our share capital, or to make certain acquisitions or investments. In addition, we may be subject to covenants requiring us to satisfy certain financial tests and ratios, and our ability to satisfy such covenants may be affected by events outside of our control.

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

The lead compound, GSK961081 ('081), in the MABA program that Theravance partnered with GSK and to which we have certain economic rights, has completed a Phase 2b study, a Phase 1 study in combination with fluticasone propionate ("FP"), an inhaled corticosteroid ("ICS"), and a number of Phase 3-enabling non-clinical studies. GSK has recently initiated preclinical Phase 3 enabling studies in the combination '081/FF program, and has informed Theravance that the Phase 3 study will not be initiated for '081 monotherapy in 2013. Any further delays or adverse developments or results or perceived adverse developments or results with respect to the MABA program will harm our business and could cause the price of our securities to fall. Examples of such adverse developments include, but are not limited to:

- the U.S. Food and Drug Administration ("FDA") and/or other regulatory authorities determining that any of these studies do not demonstrate adequate safety or efficacy, or that additional non-clinical or clinical studies are required with respect to the MABA program;
- the inability to gain, or delay in gaining, regulatory approval outside the U.S. for the ELLIPTA™ dry powder inhaler used in the program;
- safety, efficacy or other concerns arising from clinical or non-clinical studies in this program; or
- any change in FDA policy or guidance regarding the use of MABAs to treat COPD.

Furthermore, we have little, if any, ability to influence the progress of the MABA program, because our interest in this program is only through our economic interest in TRC, which is controlled by Theravance.

If we cannot identify a suitable commercialization partner for VIBATIV® in the U.S. we will need to develop the capability to market, sell and distribute the product.

Our general strategy is to engage pharmaceutical or other healthcare companies with an existing sales and marketing organization and distribution system to market, sell and distribute our products. We may not be able to establish these sales and distribution relationships on acceptable terms, or at all. For any of our product candidates that receive regulatory approval in the future and are not covered by our current collaboration agreements, we will need a partner in order to commercialize such products unless we establish independent sales, marketing and distribution capabilities with appropriate technical expertise and supporting infrastructure. VIBATIV® was returned to Theravance by Astellas Pharma Inc. ("Astellas"), Theravance's former VIBATIV® collaboration partner, in January 2012, and if a suitable commercialization partner in the U.S. cannot be identified for this product, we intend to reintroduce it in the U.S. in 2013 ourselves. At present, we have no sales or distribution personnel and a limited number of marketing personnel. The risks of commercializing VIBATIV® in the U.S. without a partner include:

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

If we are not able to partner VIBATIV® in the U.S. with a third party with marketing, sales and distribution capabilities and if we are not successful in recruiting sales and marketing personnel or in building an internal sales and marketing organization with appropriate technical expertise and supporting infrastructure and distribution capability, we will have difficulty commercializing VIBATIV® in the U.S., which would adversely affect our business and financial condition and which could cause the price of our securities to fall.

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

Each of our product candidates must undergo extensive non-clinical and clinical studies as a condition to regulatory approval. Non-clinical and clinical studies are expensive, take many years to complete and study results may lead to delays in further studies or decisions to terminate programs. The commencement and completion of clinical studies for our product candidates may be delayed and programs may be terminated due to many factors, including, but not limited to:

- lack of effectiveness of product candidates during clinical studies;
- adverse events, safety issues or side effects relating to the product candidates or their formulation into medicines;

- inability to raise additional capital in sufficient amounts to continue our development programs, which are very expensive;
- the need to sequence clinical studies as opposed to conducting them concomitantly in order to conserve resources;
- our inability to enter into partnering arrangements relating to the development and commercialization of our programs and product candidates;
- our inability or the inability of our collaborators or licensees to manufacture or obtain from third parties materials sufficient for use in non-clinical and clinical studies;
- governmental or regulatory delays and changes in regulatory requirements, policy and guidelines;
- failure of our partners to advance our product candidates through clinical development;
- delays in patient enrollment and variability in the number and types of patients available for clinical studies;
- difficulty in maintaining contact with patients after treatment, resulting in incomplete data;
- varying regulatory requirements or interpretations of data among the FDA and foreign regulatory authorities; and
- a regional disturbance where we or our collaborative partners are enrolling patients in clinical trials, such as a pandemic, terrorist activities or war, political unrest or a natural disaster.

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

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

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

Frequently, product candidates that have shown promising results in early preclinical or clinical studies have subsequently suffered significant setbacks or failed in later clinical or non-clinical studies. In addition, clinical and non-clinical studies of potential products often reveal that it is not possible or practical to continue development efforts for these product candidates. If these studies are substantially delayed or fail to prove the safety and effectiveness of our product candidates in development, we may not receive regulatory approval of any of these product candidates. Further, the implementation of new laws and regulations, and revisions to FDA clinical trial design guidance, have increased uncertainty regarding the approvability of a new drug. In addition, over the past decade, the FDA has implemented

additional requirements for approval of new drugs, including advisory committee meetings for new chemical entities, and formal risk evaluation and mitigation strategy ("REMS") at the FDA's discretion. These laws, regulations, additional requirements and changes in interpretation could cause non-approval or further delays in the FDA's review and approval of our and our collaborative partner's product candidates, which would materially harm our business and financial condition and could cause the price of our securities to fall.

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

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

Theravance's previous VIBATIV® commercialization partner failed to maintain a reliable source of drug product supply which resulted in critical product shortages and, eventually, suspension of commercialization. In addition, the European Union marketing authorization for VIBATIV® has been suspended since May 2012 because Theravance's VIBATIV® commercialization partner's single-source VIBATIV® drug product supplier at that time did not meet cGMP requirements for the manufacture of VIBATIV®. In May 2012, Theravance entered into an agreement with Hospira Worldwide, Inc. ("Hospira") to supply VIBATIV® drug product. In June 2013, the FDA approved Hospira as a VIBATIV® drug product manufacturer, and this agreement with Hospira will be assigned to Theravance Biopharma. Although we believe that Hospira will be a reliable supplier of VIBATIV® drug product, if it cannot perform or if its performance does not meet regulatory requirements, including maintaining cGMP compliance, and if commercial manufacture of VIBATIV® drug product cannot be arranged elsewhere on a timely basis, the commercialization of VIBATIV® in the U.S. will continue to be adversely affected and the commercial introduction of VIBATIV® in the European Union and Canada will be further delayed.

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

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

Our manufacturing strategy presents the following additional risks:

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

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

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

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

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

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

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

We are also subject to regulation by regional, national, state and local agencies, including the Department of Justice, the Federal Trade Commission, the Office of Inspector General of the U.S. Department of Health and Human Services and other regulatory bodies with respect to VIBATIV®, as well as governmental authorities in those foreign countries in which any of our product candidates are

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

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

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

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

- the demonstration of the clinical efficacy and safety of VIBATIV®;
- the experiences of physicians, patients and payors with the use of VIBATIV® in the U.S.;
- potential negative perceptions of physicians related to product shortages and regional supply outages that halted commercialization of VIBATIV®, stemming from the manufacturing issues at the previous drug product supplier;
- potential negative perceptions of physicians related to the European Commission's suspension of marketing authorization for VIBATIV® because the previous VIBATIV® commercialization partner's single-source VIBATIV® drug product supplier did not meet the cGMP requirements for the manufacture of VIBATIV®;
- the advantages and disadvantages of VIBATIV® compared to alternative therapies;
- our ability to educate the medical community about the appropriate circumstances for use of VIBATIV®;
- the reimbursement policies of government and third party payors; and
- the market price of VIBATIV® relative to competing therapies.

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

In October 2012, Theravance entered into an exclusive development and commercialization agreement with Alfa Wassermann società per azioni (S.p.A.) ("Alfa Wassermann") for velusetrag, our lead compound in the 5-HT4 program, covering the European Union, Russia, China, Mexico and certain other countries, and Theravance entered into a research collaboration and license agreement with Merck to discover, develop and commercialize novel small molecule therapeutics for the treatment of cardiovascular disease on an exclusive, worldwide basis. In March 2013, Theravance entered into a commercialization agreement with Clinigen Group plc ("Clinigen") for VIBATIV® in the European Union and certain other European countries (including Switzerland and Norway). All of these agreements are being assigned to us by Theravance in the spin-off. In connection with these agreements, we have granted to these parties certain rights regarding the use of our patents and technology with respect to the compounds in our development programs, including development and marketing rights. The Merck and Alfa Wassermann agreements provide us with research and development funding, respectively, for the programs under license, and if either partner decides not to progress the licensed program, we may not be able to develop or commercialize the program on our own.

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

We will not control TRC and, in particular, will have no control over or access to non-public information about the GSK-partnered respiratory programs assigned to TRC in which we have a substantial economic interest.

Before the spin-off, Theravance will form TRC and assign to TRC its strategic alliance agreement with GSK and all of its rights and obligations under its collaboration agreement with GSK other than with respect to RELVAR™ ELLIPTA™/BREO™ ELLIPTA™ and vilanterol monotherapy. Our equity interest in TRC will entitle us to a 98% economic interest in any future payments made by GSK under the strategic alliance agreement with GSK and under the portion of the collaboration agreement with GSK assigned to TRC other than ANORO™ ELLIPTA™. These other drug programs include UMEC/VI/FF (or Closed Triple) and the MABA program, as monotherapy and in combination with other therapeutically active components, such as an inhaled corticosteroid (ICS), and any other product or combination of products that may be discovered and developed in the future under the GSK agreements (other than ANORO™ ELLIPTA™). Our economic interest will not include any payments by GSK associated with RELVAR™ ELLIPTA™/BREO™ ELLIPTA™, ANORO™ ELLIPTA™ or vilanterol monotherapy. Theravance will control TRC and, except for certain limited consent rights, we

will have no right to participate in the business and affairs of TRC. Theravance will have the exclusive right to appoint TRC's manager who, among other things, will be responsible for the day-to-day management of the drug programs assigned to TRC and will exercise the rights relating to the drug programs under the GSK agreements assigned to TRC by Theravance. As a result, we will have no rights to participate in or access to non-public information about the development and commercialization of the drug programs and no right to enforce rights under the GSK agreements assigned to TRC. Moreover, we will have many of the same risks with respect to our dependence on GSK as we have with respect to our dependence on our own partners. See "The Spin-Off—Formation of Theravance Respiratory Company LLC" and "—If our partners do not satisfy their obligations under our agreements with them or if they terminate our partnership with them we may not be able to develop and commercialize our partner product candidates as planned."

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

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

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

We depend on independent clinical investigators, contract research organizations and other third-party service providers in the conduct of our non-clinical and clinical studies for our product

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

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

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

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

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

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

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

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

against our current and future competitors, our business will not grow, our financial condition and operations will suffer and the price of our securities could fall.

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

Our Chief Executive Officer, Chief Financial Officer and General Counsel are expected to work only part-time for us while continuing to work part-time for Theravance during a transition period following the spin-off. Our business may suffer due to lack of time or attention from these officers or potential conflicts of interest.

After the spin-off, our Chief Executive Officer, Chief Financial Officer and General Counsel are expected to work part-time for us and part-time for Theravance and this arrangement is expected to last until the recruitment and transition of new executive officers of Theravance. While we will benefit from their deep knowledge of our current programs, partners and personnel, as well as their familiarity with our systems, policies, procedures and mode of operation, the lack of their full time focus on our business may dilute their effectiveness on our behalf and therefore hurt our business.

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

We are highly dependent on principal members of our management team and scientific staff to operate our business. Our U.S. operating subsidiary's facility and most of its and our employees are located in northern California, which is headquarters to many other biotechnology and biopharmaceutical companies and many academic and research institutions. As a result, competition for certain skilled personnel in our market remains intense. None of our employees have employment commitments for any fixed period of time and they all may leave our employment at will. If we fail to retain our qualified personnel or replace them when they leave, we may be unable to continue our development and commercialization activities, which may cause the price of our securities to fall.

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

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

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

Our U.S. operating subsidiary's facility is located in the San Francisco Bay Area near known earthquake fault zones and therefore is vulnerable to damage from earthquakes. In October 1989, a major earthquake struck this area and caused significant property damage and a number of fatalities. We are also vulnerable to damage from other types of disasters, including power loss, attacks from extremist organizations, fire, floods, communications failures and similar events. If any disaster were to occur, our ability to operate our business could be seriously impaired. In addition, the unique nature of

our research activities and of much of our equipment could make it difficult for us to recover from this type of disaster. We may not have adequate insurance to cover our losses resulting from disasters or other similar significant business interruptions and we do not plan to purchase additional insurance to cover such losses due to the cost of obtaining such coverage. Any significant losses that are not recoverable under our insurance policies could seriously impair our business and financial condition, which could cause the price of our securities to fall.

We are an "emerging growth company" and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies will make our common shares less attractive to investors.

We are an "emerging growth company" under the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. Emerging growth companies can delay adopting new or revised accounting standards until such time as those standards apply to private companies. We plan to avail ourselves of this exemption from new or revised accounting standards and, therefore, we may not be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies.

For as long as we continue to be an emerging growth company, we also intend to take advantage of certain other exemptions from various reporting requirements that are applicable to other public companies including, but not limited to, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, exemptions from the requirements of holding a nonbinding advisory shareholder vote on executive compensation and any golden parachute payments not previously approved, exemption from the requirement of auditor attestation in the assessment of our internal control over financial reporting and exemption from any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements (auditor discussion and analysis). If we do, the information that we provide shareholders may be different than what is available with respect to other public companies. We cannot predict if investors will find our common shares less attractive because we will rely on these exemptions. If some investors find our common shares less attractive as a result, there may be a less active trading market for our common shares and our share price may be more volatile.

We will remain an emerging growth company until the earliest of (i) the end of the fiscal year in which the market value of our common shares that is held by non-affiliates exceeds $700 million as of the end of the second fiscal quarter, (ii) the end of the fiscal year in which we have total annual gross revenues of $1 billion or more during such fiscal year, (iii) the date on which we issue more than $1 billion in non-convertible debt in a three-year period or (iv) the end of the fiscal year following the fifth anniversary of the date of the first sale of our common shares pursuant to an effective registration statement filed under the Securities Act.

RISKS RELATED TO LEGAL AND REGULATORY UNCERTAINTY

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

We rely upon a combination of patents, patent applications, trade secret protection and confidentiality agreements to protect the intellectual property related to our technologies. Any involuntary disclosure to or misappropriation by third parties of this proprietary information could enable competitors to quickly duplicate or surpass our technological achievements, thus eroding our competitive position in our market. The status of patents in the biotechnology and pharmaceutical field involves complex legal and scientific questions and is very uncertain. As of June 30, 2013, Theravance owned 346 issued United States patents and 1,323 granted foreign patents, as well as additional pending United States and foreign patent applications. We anticipate that all or substantially all of the patents and patent applications related to our business will be assigned by Theravance to us or our

wholly-owned Cayman Islands subsidiary in the spin-off. Our patent applications may be challenged or fail to result in issued patents and our existing or future patents may be invalidated or be too narrow to prevent third parties from developing or designing around these patents. If the sufficiency of the breadth or strength of protection provided by our patents with respect to a product candidate is threatened, it could dissuade companies from collaborating with us to develop, and threaten our ability to commercialize, the product candidate. Further, if we encounter delays in our clinical trials or in obtaining regulatory approval of our product candidates, the patent lives of the related product candidates would be reduced.

In addition, we rely on trade secret protection and confidentiality agreements to protect proprietary know-how that is not patentable, for processes for which patents are difficult to enforce and for any other elements of our drug discovery and development processes that involve proprietary know-how, information and technology that is not covered by patent applications. Although we require our employees, consultants, advisors and any third parties who have access to our proprietary know-how, information and technology to enter into confidentiality agreements, we cannot be certain that this know-how, information and technology will not be disclosed or that competitors will not otherwise gain access to our trade secrets or independently develop substantially equivalent information and techniques. Further, the laws of some foreign countries do not protect proprietary rights to the same extent as the laws of the United States. As a result, we may encounter significant problems in protecting and defending our intellectual property both in the United States and abroad. If we are unable to prevent material disclosure of the intellectual property related to our technologies to third parties, we will not be able to establish or, if established, maintain a competitive advantage in our market, which could materially adversely affect our business, financial condition and results of operations, which could cause the price of our securities to fall.

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

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

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

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

The risks identified in the two preceding risk factors also apply to the intellectual property protection efforts of our partners and to GSK with respect to the GSK-partnered respiratory programs in which we hold an economic interest. To the extent the intellectual property protection of any partnered assets are successfully challenged or encounter problems with the United States Patent and Trademark Office or other comparable agencies throughout the world, the future commercialization of these potential medicines could be delayed or prevented. Any challenge to the intellectual property protection of a late-stage development asset, particularly those of the GSK-partnered respiratory programs in which we hold an economic interest, could harm our business and cause the price of our securities to fall.

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

The risk that we may be sued on product liability claims is inherent in the development and commercialization of pharmaceutical products and will be increased upon the reintroduction of VIBATIV®. Side effects of, or manufacturing defects in, products that we or our partners develop or commercialize could result in the deterioration of a patient's condition, injury or even death. Once a product is approved for sale and commercialized, the likelihood of product liability lawsuits tends to increase. Claims may be brought by individuals seeking relief for themselves or by individuals or groups seeking to represent a class. Also, changes in laws outside the U.S. are expanding our potential liability for injuries that occur during clinical trials. These lawsuits may divert our management from pursuing our business strategy and may be costly to defend. In addition, if we are held liable in any of these lawsuits, we may incur substantial liabilities and may be forced to limit or forgo further commercialization of the applicable products.

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

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

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

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

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

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

Our research and development activities involve the controlled use of potentially hazardous substances, including chemical, biological and radioactive materials. In addition, our operations produce hazardous waste products. Federal, state and local laws and regulations govern the use, manufacture, storage, handling and disposal of hazardous materials. We may incur significant additional costs to comply with these and other applicable laws in the future. Also, even if we are in compliance with applicable laws, we cannot completely eliminate the risk of contamination or injury resulting from hazardous materials and we may incur liability as a result of any such contamination or injury. In the event of an accident, we could be held liable for damages or penalized with fines, and the liability could exceed our resources. We do not have any insurance for liabilities arising from hazardous materials. Compliance with applicable environmental laws and regulations is expensive, and current or future environmental regulations may impair our research, development and production efforts, which could harm our business, which could cause the price of our securities to fall.

RISKS RELATING TO OUR COMMON SHARES

There is no existing market for our common shares and a trading market that will provide you with adequate liquidity may not develop for our common shares. In addition, once our common shares begin trading, the market price for our shares may fluctuate widely.

There is currently no public market for our common shares. It is anticipated that shortly after the record date for the distribution, trading of our common shares will begin on a "when-issued" basis and will continue up to either the distribution date or the first trading date after the distribution date, after which "regular way" trading of our common shares will begin. However, there can be no assurance that an active trading market for our common shares will develop as a result of the distribution or be sustained in the future.

To date, no securities analysts have written reports regarding our company as a stand-alone entity and there can be no assurance that any will. Lack of securities analyst coverage or limited securities analyst coverage of our company and stock is likely to reduce demand for our stock from potential investors, which likely will reduce the market price for our shares.

Market prices for securities of biotechnology companies have been highly volatile, and we expect such volatility to continue for the foreseeable future, so that investment in our securities involves substantial risk. By separating from Theravance, there is a risk that our company may be more susceptible to market fluctuations and other adverse events than we would have been were we still a part of the current Theravance. Additionally, the stock market from time to time has experienced significant price and volume fluctuations unrelated to the operating performance of particular

companies. Also, the trading price of shares of newly public companies distributed in spin-off transactions, as our shares will be distributed, can often be very volatile and subject to sharp declines, particularly shortly following the spin-off. The following are some of the factors that may have a significant effect on the market price of our common shares:

- any adverse developments or results or perceived adverse developments or results with respect to the MABA program with GSK, including, without limitation, any further delays encountered in progressing the MABA monotherapy and MABA program, any difficulties or delays encountered with regard to the regulatory path for GSK961081, either alone or in combination with other therapeutically active ingredients, or any indication from non-clinical studies of GSK961081 that the compound is not safe or efficacious;
- any further adverse developments or perceived adverse developments with respect to the commercialization of VIBATIV®;
- any announcements of developments with, or comments by, the FDA or other regulatory authorities with respect to products we or our partners have under development or have commercialized;
- the extent to which GSK advances (or does not advance) UMEC/VI/FF (or Closed Triple) and the MABA program, as monotherapy with GSK961081 ('081) and as a combination with '081/FF, through development into commercialization in all indications in all major markets;
- any adverse developments or agreements or perceived adverse developments or agreements with respect to the relationship of Theravance or TRC, on the one hand, and GSK, on the other hand, including any such developments or agreements resulting from or relating to the spin-off;
- any adverse developments or perceived adverse developments with respect to our relationship with any of our research, development or commercialization partners, including, without limitation, disagreements that may arise between us and any of those partners, including any such developments resulting from or relating to the spin-off;
- any adverse developments or perceived adverse developments with respect to the partnering efforts with VIBATIV®, velusetrag, TD-1211, TD-9855, TD-4208, TD-1792 or our ARNI program;
- announcements of patent issuances or denials, technological innovations or new commercial products by us or our competitors;
- publicity regarding actual or potential study results or the outcome of regulatory review relating to products under development by us, our partners or our competitors;
- regulatory developments in the United States and foreign countries;
- economic and other external factors beyond our control;
- loss of key personnel;
- relative illiquidity in the public market for our common shares related to the concentration of ownership;
- developments or disputes as to patent or other proprietary rights;
- approval or introduction of competing products and technologies;
- results of clinical trials;

- failures or unexpected delays in timelines for our potential products in development, including the obtaining of regulatory approvals;
- delays in manufacturing or clinical trial plans;
- fluctuations in our operating results;
- market reaction to announcements by other biotechnology or pharmaceutical companies;
- initiation, termination or modification of agreements with our collaborators or disputes or disagreements with collaborators;
- litigation or the threat of litigation;
- public concern as to the safety of drugs developed by us; and
- comments and expectations of results made by securities analysts or investors.

If any of these factors causes us to fail to meet the expectations of securities analysts or investors, or if adverse conditions prevail or are perceived to prevail with respect to our business, the price of the common shares would likely drop significantly. A significant drop in the price of a company's common shares often leads to the filing of securities class action litigation against the company. This type of litigation against us could result in substantial costs and a diversion of management's attention and resources.

Substantial sales of common shares may occur in connection with this distribution, which could cause our share price to decline.

Our common shares that Theravance intends to distribute to its stockholders generally may be sold immediately in the public market. It is possible that some Theravance stockholders, including possibly some of Theravance's large stockholders, will sell some or all of our common shares received in the distribution for many reasons, such as that our business profile or market capitalization as an independent company does not fit their investment objectives. The sales of significant amounts of our common shares or the perception in the market that this will occur is likely to result in lowering the market price of our common shares.

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

Theravance Biopharma's ownership at the time of the spin-off will reflect the ownership composition of Theravance. As of , 2013, GSK beneficially owned approximately % of Theravance's outstanding capital stock. Based on our review of publicly available filings as of , 2013, Theravance's three largest stockholders other than GSK collectively owned approximately % of its outstanding capital stock. These shareholders could control the outcome of actions taken by us that require shareholder approval, including a transaction in which shareholders might receive a premium over the prevailing market price for their shares.

Your percentage ownership in Theravance Biopharma will be diluted in the future.

Your percentage ownership in Theravance Biopharma will be diluted in the future because of equity awards that we expect will be granted to our directors, officers and employees as well as other equity instruments such as debt and equity financing. Prior to the separation and record date for the distribution, we expect to adopt an equity incentive plan, which will provide for the grant of equity-based awards, including restricted stock, restricted stock units, stock options, stock appreciation rights and other equity-based awards, to our directors, officers and other employees and advisors.

Certain provisions in our constitutional documents may discourage our acquisition by a third party, which could limit your opportunity to sell shares at a premium.

Our constitutional documents include provisions that could limit the ability of others to acquire control of us, modify our structure or cause us to engage in change-of-control transactions, including, among other things, provisions that:

- require supermajority shareholder voting to effect certain amendments to our amended and restated memorandum and articles of association;
- establish a classified board of directors;
- restrict our shareholders from calling meetings or acting by written consent in lieu of a meeting;
- limit the ability of our shareholders to propose actions at duly convened meetings; and
- authorize our board of directors, without action by our shareholders, to issue preferred shares and additional common shares.

These provisions could have the effect of depriving you of an opportunity to sell your common shares at a premium over prevailing market prices by discouraging third parties from seeking to acquire control of us in a tender offer or similar transaction.

Our shareholders may face difficulties in protecting their interests because we are incorporated under Cayman Islands law.

Our corporate affairs will be governed by our amended and restated memorandum and articles of association to be effective following the spin-off, by the Companies Law (2012 Revision) (as amended) of the Cayman Islands and the common law of the Cayman Islands. The rights of our shareholders and the fiduciary responsibilities of our directors under the laws of the Cayman Islands are different from those under statutes or judicial precedent in existence in jurisdictions in the U.S. Therefore, you may have more difficulty in protecting your interests than would shareholders of a corporation incorporated in a jurisdiction in the U.S., due to the different nature of Cayman Islands law in this area.

While Cayman Islands law allows a dissenting shareholder to express the shareholder's view that a court sanctioned reorganization of a Cayman Islands company would not provide fair value for the shareholder's shares, Cayman Islands statutory law does not specifically provide for shareholder appraisal rights on a merger or consolidation of a company. This may make it more difficult for you to assess the value of any consideration you may receive in a merger or consolidation or to require that the offeror give you additional consideration if you believe the consideration offered is insufficient.

Shareholders of Cayman Islands exempted companies such as our company have no general rights under Cayman Islands law to inspect corporate records and accounts or to obtain copies of lists of shareholders. Our directors have discretion under our amended and restated memorandum and articles of association to determine whether or not, and under what conditions, our corporate records may be inspected by our shareholders, but are not obliged to make them available to our shareholders. This may make it more difficult for you to obtain the information needed to establish any facts necessary for a shareholder motion or to solicit proxies from other shareholders in connection with a proxy contest.

Our Cayman Islands counsel, Maples and Calder, is not aware of any reported class action having been brought in a Cayman Islands court. Derivative actions have been brought in the Cayman Islands courts, and the Cayman Islands courts have confirmed the availability for such actions. In most cases, the company will be the proper plaintiff in any claim based on a breach of duty owed to it, and a claim against (for example) the company's officers or directors usually may not be brought by a shareholder. However, based on English authorities, which would in all likelihood be of persuasive authority and be

applied by a court in the Cayman Islands, exceptions to the foregoing principle apply in circumstances in which:

- a company is acting, or proposing to act, illegally or beyond the scope of its authority;
- the act complained of, although not beyond the scope of the authority, could be effected if duly authorized by more than the number of votes which have actually been obtained; or
- those who control the company are perpetrating a "fraud on the minority."

A shareholder may have a direct right of action against the company where the individual rights of that shareholder have been infringed or are about to be infringed.

There is uncertainty as to shareholders' ability to enforce certain foreign civil liabilities in the Cayman Islands.

We are incorporated as an exempted company limited by shares with limited liability under the laws of the Cayman Islands. A material portion of our assets are located outside of the United States. As a result, it may be difficult for our shareholders to enforce judgments against us or judgments obtained in U.S. courts predicated upon the civil liability provisions of the federal securities laws of the United States or any state of the United States.

We have been advised by our Cayman Islands legal counsel, Maples and Calder, that the courts of the Cayman Islands are unlikely (i) to recognize or enforce against Theravance Biopharma judgments of courts of the United States predicated upon the civil liability provisions of the securities laws of the United States or any State; and (ii) in original actions brought in the Cayman Islands, to impose liabilities against Theravance Biopharma predicated upon the civil liability provisions of the securities laws of the United States or any State, on the grounds that such provisions are penal in nature. However, in the case of laws that are not penal in nature, although there is no statutory enforcement in the Cayman Islands of judgments obtained in the United States, the courts of the Cayman Islands will recognize and enforce a foreign money judgment of a foreign court of competent jurisdiction without retrial on the merits based on the principle that a judgment of a competent foreign court imposes upon the judgment debtor an obligation to pay the sum for which judgment has been given provided certain conditions are met. For a foreign judgment to be enforced in the Cayman Islands, such judgment must be final and conclusive and for a liquidated sum, and must not be in respect of taxes or a fine or penalty, inconsistent with a Cayman Islands' judgment in respect of the same matter, impeachable on the grounds of fraud or obtained in a manner, and or be of a kind the enforcement of which is, contrary to natural justice or the public policy of the Cayman Islands (awards of punitive or multiple damages may well be held to be contrary to public policy). A Cayman Islands' court may stay enforcement proceedings if concurrent proceedings are being brought elsewhere. There is also recent English authority which suggests that due to the universal nature of bankruptcy/insolvency proceedings, foreign judgments obtained in foreign bankruptcy/insolvency proceedings may be enforced by the English courts automatically without applying the principles outlined above. This decision would be persuasive in the Cayman Islands but not binding. To date it has not been considered by the Cayman Islands courts. This decision has also been appealed to the Supreme Court in England and judgment is pending. The Grand Court of the Cayman Islands may stay proceedings if concurrent proceedings are being brought elsewhere, which would delay proceedings and make it more difficult for our shareholders to bring action against us.

The Spin-Off

Reasons for the Spin-Off

Since its incorporation in November 1996, Theravance, Inc. ("Theravance") has focused primarily on the discovery, development and commercialization of small molecule medicines across a number of therapeutic areas including bacterial infections, central nervous system ("CNS")/pain, respiratory disease, and gastrointestinal ("GI") motility dysfunction. Theravance's key programs include RELVAR™ ELLIPTA™/BREO™ ELLIPTA™ (fluticasone furoate/vilanterol), ANORO™ ELLIPTA™ (umeclidinium bromide/vilanterol) and vilanterol monotherapy, each partnered with GSK, and Theravance will retain full interests in these programs following the spin-off. BREO™ ELLIPTA™ has been approved for marketing in the United States and Canada, RELVAR™ ELLIPTA™ is under regulatory review in the European Union and ANORO™ ELLIPTA™ has a December 2013 Prescription Drug User Fee Act ("PDUFA") date. Theravance also has other drug programs it is working on internally or that have been partnered with GSK or other collaborative partners that are not as far along in development and do not offer the potential to generate significant near-term royalty streams.

Prior to announcing the spin-off in April 2013, the Theravance board of directors worked with its financial and legal advisors to explore potential strategic alternatives to enhance stockholder value. These alternatives included selling the company, a merger or consolidation with another company, a royalty monetization transaction and separating the company into two businesses, one (the "Royalty Business") focused primarily on certain late stage respiratory drug programs and the other (the "Drug Discovery and Development Business") focused primarily on the core drug discovery and development business and the remaining drug development programs. In considering the separation of the two businesses, the Theravance board of directors considered, among other factors, that (i) they have different business models, distinct cost structures and can be operated independently with limited overlap, (ii) investors often appeared to be focused on one of the two businesses, but not both of them, and (iii) potential acquirers who may be interested in either one of the businesses may not necessarily be interested in the other.

Following its evaluation process, on April 25, 2013 the Theravance board of directors approved plans to separate its business into two independent publicly traded companies through a spin-off of the Drug Discovery and Development Business to Theravance Biopharma. Following the spin-off, Theravance will retain its full interests in the RELVAR™ ELLIPTA™/BREO™ ELLIPTA™, ANORO™ ELLIPTA™ and vilanterol monotherapy programs, each partnered with GSK (collectively, the "Retained GSK Respiratory Drug Programs"). As part of the separation, the Theravance board of directors also approved assigning to a Delaware limited liability company, Theravance Respiratory Company LLC ("TRC"), that will be controlled by Theravance and jointly owned by Theravance and us, Theravance's strategic alliance agreement with GSK and all of its rights and obligations under its collaboration agreement with GSK other than with respect to RELVAR™ ELLIPTA™/BREO™ ELLIPTA™ and vilanterol monotherapy. See "The Spin-Off—Formation of Theravance Respiratory Company LLC."

Upon completion of the spin-off, we will focus primarily on the discovery, development and commercialization of small-molecule medicines in areas of significant unmet medical need. Key components of our business will consist of:

- Theravance's core drug discovery and development business;
- VIBATIV® and all of Theravance's drug programs that are not partnered with GSK;
- through our equity interest in TRC, a 98% economic interest in any future payments made by GSK under the strategic alliance agreement with GSK and under the portion of the collaboration agreement with GSK assigned to TRC, other than ANORO™ ELLIPTA™. These drug programs include UMEC/VI/FF (or the Closed Triple) and the MABA program, as

monotherapy and in combination with other therapeutically active components, such as an inhaled corticosteroid (ICS), and any other product or combination of products that may be discovered and developed in the future under the GSK agreements (other than ANORO™ ELLIPTA™); and

- approximately $300 million in cash and cash equivalents in the aggregate.

Theravance will focus on managing the Retained GSK Respiratory Drug Programs. The key components of its business will consist of:

- the on-going collaboration activities and responsibilities of Theravance under the GSK agreements;

- all future payments made by GSK under the GSK agreements relating to RELVAR™ ELLIPTA™/BREO™ ELLIPTA™, ANORO™ ELLIPTA™ and vilanterol monotherapy programs; and

- through its equity interest in TRC, a 2% economic interest in any future payments made by GSK under the GSK agreements relating to GSK-partnered respiratory programs assigned to TRC other than ANORO™ ELLIPTA™ (collectively, the "Other TRC Drug Programs").

At the closing of the spin-off, Theravance will make a one-time contribution to us of approximately $300 million in cash and cash equivalents. In addition, Theravance will assign to us substantially all liabilities and obligations other than those related to the Royalty Business and its existing convertible debt.

We currently anticipate that our management team will consist of substantially all of Theravance's existing management team, provided that it is anticipated that our Chief Executive Officer, Chief Financial Officer and General Counsel will continue to work part-time for Theravance following the spin-off and part-time for us during the transition. We also anticipate hiring substantially all of Theravance's current employees, other than a limited number of employees relating to the Royalty Business, and that our wholly-owned U.S. operating subsidiary will be headquartered in Theravance's existing facilities.

Theravance and we believe that the spin-off of the Drug Discovery and Development Business to us will provide several opportunities and benefits, including the following:

- *Market Recognition:* The investment community, including analysts, stockholders and prospective investors in each company, will be better able to realize the value of each company fully and independently and enhance the market recognition of each company;

- *Business Focus:* Each company will be better able to focus its efforts on and allocate it resources towards its own business opportunities and challenges, with the management of Theravance Biopharma focusing on the discovery, development and commercialization of small molecule medicines in areas of significant unmet medical need and the management of Theravance focusing on maximizing the commercial value of the potential royalty streams from the Retained GSK Respiratory Drug Programs;

- *Facilitate Return of Capital to Stockholders:* Following the spin-off, Theravance will have minimal staffing to support its operations and will be structured with the goal of distributing a significant portion of any future royalty revenues from the Royalty Business, net of operating expenses, debt service and income taxes, to its stockholders.

- *Improved Capital Flexibility:* Each company will be better able to deploy capital and access additional financing, if appropriate, in accordance with its unique needs and business model. In particular, Theravance will be positioned to return capital to its stockholders, because the benefit of future revenues of the Royalty Business will accrue to them; and

- *Employee Incentives*: Each company will be better able to attract, retain and motivate employees by providing equity compensation tied more directly to its performance and, in particular in the case of Theravance Biopharma, to our research and development programs.

The Theravance board of directors also considered the risks and challenges of the separation, including the following:

- *Recurring Losses:* Theravance Biopharma expects to incur losses over the next several years and may never achieve or sustain profitability and Theravance Biopharma may not be able to obtain additional financing on favorable terms, if at all;

- *Heightened Risks:* The heightened risks of Theravance Biopharma operating as a standalone independent public company;

- *Uncertain Trading Values:* Uncertainty as to the trading value of Theravance after the spin-off because of the unique nature of the remaining Royalty Business and the lack of similarly situated publicly traded entities, which could serve as models and the uncertainty of the trading value of Theravance Biopharma as a new publicly traded company;

- *Potential Tax Inefficiencies:* The losses of the Drug Discovery and Development Business would no longer reduce the taxable income, if any, from the Royalty Business on Theravance and its stockholders, the expected tax impact of the separation, and the risk that the spin-off may not qualify for tax-free treatment;

- *Duplicative Costs:* There will also be duplicative costs for operating two separate independent public companies;

- *Transaction Costs:* Significant costs and expenses will be incurred to effect the spin-off;

- *Risk of Distraction:* The process of preparing for and effecting the spin-off risks distracting management from managing the ongoing business of both entities; and

- *Dual Officers:* The fact that at least our Chief Executive Officer, Chief Financial Officer and General Counsel will only work for us part-time and for Theravance part-time, and that this arrangement is expected to last until Theravance has recruited new executive officers and they have transitioned into their new roles.

After further determination regarding the terms of the separation, Theravance and we continue to believe that maximizing value to stockholders may best be achieved by the separation and independent operation of the Drug Discovery and Development Business and the Royalty Business.

Manner of Effecting the Spin-Off

The general terms and conditions of the spin-off will be set forth in the Separation and Distribution Agreement to be entered into by Theravance and us. For a description of the expected terms of that agreement, see "Our Relationship with Theravance, Inc. after the Spin-Off—Separation and Distribution Agreement."

Overview. Under the Separation and Distribution Agreement, Theravance will contribute to Theravance Biopharma its Drug Discovery and Development Business, including certain intellectual property, and distribute to its stockholders of record on the record date all of the outstanding Theravance Biopharma common shares. In addition, prior to the distribution, Theravance will assign certain contract rights under the GSK agreements to TRC in which Theravance Biopharma will have economic interests as set forth in the TRC's operating agreement. See "Business—The TRC Structure".

As discussed under "The Spin-Off—Trading of Theravance Common Stock After the Record Date and Prior to the Ex-Dividend Date," if a holder of record of Theravance common stock sells those shares in the "regular way" market prior to the ex-dividend date, that stockholder also will be selling the right to receive Theravance Biopharma common shares in the distribution. Unless requested otherwise, the distribution will be made in book-entry form on the basis of one Theravance Biopharma

common share for every shares of Theravance common stock held on the record date of , 2013. We will instruct Computershare Shareowner Services, as distribution agent, to record the distribution on the distribution date to the holders of Theravance common stock at the close of business on the record date (or their designated transferees) unless the shares of Theravance common stock had been sold prior to the ex-dividend date. Each Theravance Biopharma common share that Theravance distributes will be validly issued, fully paid and nonassessable and free of preemptive rights.

Fractional Shares. Theravance will not distribute any fractional Theravance Biopharma common shares to its stockholders. Instead, the distribution agent will aggregate fractional shares into whole shares, sell the whole shares in the open market at prevailing market prices and distribute the aggregate net cash proceeds of the sales pro rata (based on the fractional share such holder would otherwise be entitled to receive) to each holder who otherwise would have been entitled to receive a fractional share in the distribution. The distribution agent, in its sole discretion, without any influence by Theravance or us, will determine when, how, through which broker-dealer and at what price to sell the whole shares. Any broker-dealer used by the distribution agent will not be an affiliate of either Theravance or us. Recipients of cash in lieu of fractional shares will not be entitled to any interest on the amounts of payment made in lieu of fractional shares. If you physically hold Theravance common stock certificates and are the registered holder, you will receive a check from the distribution agent in an amount equal to your pro rata share of the aggregate net cash proceeds of the sales. We estimate that it will take approximately four to six weeks from the distribution date for the distribution agent to complete the distributions of the aggregate net cash proceeds. If you hold your Theravance common stock through a bank or brokerage firm, your bank or brokerage firm will receive on your behalf your pro rata share of the aggregate net cash proceeds of the sales, which should electronically credit your account for your share of such proceeds.

Book Entry Statements and Physical Certificates. A book-entry account statement or, if requested, physical certificate reflecting your ownership of Theravance Biopharma common shares will be mailed to you, or your brokerage account should be credited for the shares, on or about , 2013.

Future Cash Payments. In addition to its one-time cash payment to us of approximately $300 million in cash and cash equivalents at the closing of the spin-off, Theravance will remain responsible for all operating expenses and related liabilities that were incurred prior to the spin-off under the Separation and Distribution Agreement. However, for ease of administration and in connection with the assignment of certain rights and obligations from Theravance to Theravance Biopharma under the Separation and Distribution Agreement, Theravance Biopharma will assume the obligation to pay for certain of such liabilities following the spin-off. Theravance and Theravance Biopharma will determine the amount of such current liabilities in accordance with the Separation and Distribution Agreement within business days after the date of the spin-off, and Theravance will deliver to Theravance Biopharma a payment to reimburse Theravance Biopharma for assuming the obligation to pay such liabilities.

Formation of Theravance Respiratory Company LLC

Prior to the spin-off, Theravance will form TRC, and assign to TRC its strategic alliance agreement with GSK and all of its rights and obligations under its collaboration agreement with GSK other than with respect to RELVAR™ ELLIPTA™/BREO™ ELLIPTA™ and vilanterol monotherapy. Theravance will guarantee the performance by TRC of the strategic alliance agreement and all obligations under the collaboration agreement assigned to TRC.

Theravance shall own an equity interest in TRC entitling it to 100% of the economic interest in any future payments made by GSK under the GSK agreement relating to ANORO™ ELLIPTA™ and 2% of the economic interest in any future payments made by GSK under the GSK agreements relating to the Other TRC Drug Programs. We will own an equity interest entitling us to receive 98% of the

economic interest in any future payments made by GSK under the GSK agreements relating to the Other TRC Drug Programs. These other drug programs include UMEC/VI/FF (or the Closed Triple) and the MABA program, as monotherapy and in combination with other therapeutically active components, such as an inhaled corticosteroid (ICS), and any other product or combination of products that may be discovered and developed in the future under the GSK agreements (other than ANORO™).

Under TRC's operating agreement, Theravance shall appoint the manager of TRC. The business and affairs of TRC shall be managed exclusively by the manager, including (i) day-to-day management of the drug programs in accordance with the GSK agreements, (ii) preparing an annual operating plan for TRC and (iii) taking all actions necessary to ensure that the formation, structure and operation of TRC complies with applicable law and the GSK agreements, provided that the manager shall not cause TRC to incur any indebtedness, issue any interests in TRC or take any action that would be prohibited under the GSK agreements. Theravance Biopharma shall have no right to participate in the business and affairs of TRC, except that its consent shall be required for any (i) termination of, amendment to or waiver of the strategic alliance agreement with GSK or the portions of the collaboration agreement assigned to TRC that is reasonably expected to have material adverse impact on the Other TRC Drug Programs or any payment received by TRC with respect to such programs or (ii) sale or other disposition of any part of the Other TRC Drug Programs. In addition, subject to certain terms and conditions, Theravance Biopharma may appoint one member to a three-person advisory committee of the LLC who shall have certain information and consultative rights. As a result, Theravance Biopharma has little, if any, ability to influence the business and affairs of TRC.

Formation of Holding Company Structure Prior to the Spin-Off

In connection with the spin-off, Theravance incorporated us in July 2013 as a Cayman Islands exempted company limited by shares for the purpose of transferring to us the Drug Discovery and Development Business and completing the spin-off. Theravance Biopharma, in turn, intends to form a wholly-owned Cayman Islands subsidiary to hold certain assets and form a wholly-owned Delaware subsidiary to employ the U.S.-based employees of the Drug Discovery and Development Business.

Results of the Spin-Off

Following the spin-off, we will be an independent, publicly traded company owning and operating what had previously been Theravance's Drug Discovery and Development Business. We expect to have approximately million of our common shares issued and outstanding immediately following the spin-off based on the distribution ratio described above and the anticipated number of outstanding shares of Theravance common stock on , 2013, the record date. The actual number of shares to be distributed will be determined based on the number of shares of Theravance common stock outstanding on the record date and will be reduced to the extent that cash payments are to be made in lieu of the issuance of fractional shares of Theravance Biopharma and to the extent that our common shares are held back and sold on the market to satisfy backup withholding taxes and non-U.S. holder dividend withholding taxes and brokerage and other costs, and may be increased if Theravance option holders exercise any stock options prior to the record date.

U.S. Federal Income Tax Consequences

The Distribution

Theravance intends to seek a ruling from the IRS to the effect that the distribution will generally qualify as a tax-free transaction for Theravance stockholders under Sections 368(a)(1)(D) and 355 of the Code. A favorable ruling under these sections will also provide that for U.S. federal income tax purposes:

- the aggregate tax basis of Theravance common stock and Theravance Biopharma common shares in the hands of Theravance stockholders immediately after the distribution will be the

same as the tax basis of Theravance common stock immediately before the distribution, allocated between Theravance common stock and Theravance Biopharma common shares in proportion to their relative fair market values on the date of the distribution;

- the holding period of the Theravance Biopharma common shares received by each Theravance stockholder will include the holding period at the time of the distribution for Theravance common stock on which the distribution is made, provided that such Theravance common stock is held as a capital asset on the date of the distribution; and

- stockholders of Theravance who receive cash in lieu of fractional shares will recognize gain or loss on the sale of the fractional share interest in an amount equal to the difference between the cash received and the stockholder's tax basis in the fractional share interest. The gain or loss will be capital gain or loss to the stockholder provided the fractional share interest is a capital asset in the hands of the stockholder.

As part of the IRS' general policy with respect to rulings on spin-off transactions (including the distribution), the private letter ruling expected to be received by Theravance will not be based upon a determination by the IRS that certain conditions which are necessary to obtain tax-free treatment under Section 355 of the Code have been satisfied. Rather, the private letter ruling relies or will rely on certain facts and assumptions, and certain representations and undertakings, from Theravance and Theravance Biopharma regarding the past and future conduct of our respective businesses and other matters. Notwithstanding the private letter ruling, the IRS could determine on audit that the distribution or certain related transactions should be treated as taxable transactions if it determines that any of these facts, assumptions, representations or undertakings is not correct or has been violated or that the distributions should be taxable for other reasons, including as a result of significant changes in stock or asset ownership after the distribution.

If the distribution ultimately is determined to be taxable, each Theravance stockholder who receives Theravance Biopharma common shares in the distribution would generally be treated as receiving a taxable distribution in an amount equal to the fair market value of the Theravance Biopharma common shares received, including any fractional share sold on behalf of the stockholder. Such stockholder would be taxed on the full value of the Theravance Biopharma common shares received in the distribution (without reduction for any portion of such stockholder's tax basis in its Theravance shares) as a dividend for U.S. federal income tax purposes to the extent of such stockholder's pro rata share of any current and accumulated earnings and profits of Theravance as of the end of 2013 (including Theravance's taxable gain on the contribution and distribution, if any). Any amount in excess of Theravance's earnings and profits would be treated first as non-taxable dollar-for-dollar reduction in the stockholder's basis in its Theravance's stock, and thereafter as capital gain from the sale or exchange of such stockholder's Theravance's stock. Subject to certain exceptions, any amount treated as a taxable dividend that is paid to a non-U.S. holder of Theravance stock that is not effectively connected with the non-U.S. holder's conduct of a trade or business within the United States will generally be subject to U.S. federal withholding tax at a rate of 30% of the gross amount of the dividends (or such lower rate specified by an applicable income tax treaty). Additionally, backup withholding (as discussed below) may apply with respect to the amount treated as a taxable dividend.

Because a definitive calculation of the U.S. federal income tax impact of the distribution will not be possible until after the close of Theravance's 2013 taxable year, if the distribution is determined to be taxable, Theravance and other applicable withholding agents will withhold an amount equal to 30% of the fair market value of our common shares distributed to a non-U.S. holder (as if the gross amount of such distribution was a taxable dividend) unless a reduced rate of withholding or an exemption from withholding is applicable. In addition, because the distribution is an in-kind distribution, Theravance and other applicable withholding agents will collect the amount required to be withheld (to the extent any cash in lieu of fractional shares is insufficient) by reducing to cash for remittance to the IRS a sufficient portion of the common shares that a non-U.S. holder would otherwise receive and such non-U.S. holder may bear brokerage or other costs for this withholding procedure. Non-U.S. holders

should consult their own tax advisors regarding their entitlement to benefits under an applicable treaty or other exemption and the manner of claiming the benefits of such treaty or other exemption. Non-U.S. holders may be eligible to obtain a refund of any excess amounts withheld if (1) all or a portion of the distribution is treated as a tax-free return of capital or capital gain or (2) the non-U.S. holder is eligible for a reduced rate of withholding tax pursuant to an applicable income tax treaty.

Treasury Regulations under Section 355 of the Code require that each Theravance stockholder who receives common shares of Theravance Biopharma in the distribution attach to such stockholder's U.S. federal income tax return for the year in which the distribution occurs a detailed statement setting forth such data as may be appropriate to show the applicability of Section 355 of the Code to the distribution. Within a reasonable period of time after the distribution, Theravance will provide its stockholders who receive Theravance Biopharma common shares pursuant to the distribution with the information necessary to comply with such requirement.

In connection with the distribution, Theravance and Theravance Biopharma will enter into a Tax Sharing and Indemnification Agreement pursuant to which Theravance Biopharma will agree to be responsible for certain liabilities and obligations following the distribution. In general, under the terms of the Tax Sharing and Indemnification Agreement, Theravance Biopharma is required to indemnify Theravance against taxes on the distribution that arise as result of certain actions or failures to act by Theravance Biopharma, or a result of changes in ownership of the stock of Theravance Biopharma after the distribution. If Theravance Biopharma is required to indemnify Theravance under the circumstances set forth in the Tax Sharing and Indemnification Agreement, Theravance Biopharma may be subject to substantial liabilities.

Payments of cash in lieu of a fractional shares of Theravance Biopharma made in connection with the distribution may, under certain circumstances, be subject to "backup withholding," unless a stockholder provides proof of an applicable exemption or a correct taxpayer identification number, and otherwise complies with the requirements of the backup withholding rules. Corporations and non-U.S. holders will generally be exempt from backup withholding, but may be required to provide a certification to establish their entitlement to the exemption. Backup withholding does not constitute an additional tax, but is merely an advance payment that may be refunded or credited against a holder's U.S. federal income tax liability if the required information is timely furnished to the IRS.

The U.S. Anti-Inversion Rules

Although Theravance Biopharma is incorporated in the Cayman Islands, the IRS may assert that Theravance Biopharma should be treated as a U.S. corporation (and, therefore, a U.S. tax resident) for U.S. federal tax purposes under Section 7874 of the Code. At the time of enactment of Section 7874 in 2004, a number of publicly-traded U.S. multinational corporations had expatriated to non-U.S. jurisdictions. In most cases, those corporations expatriated to tax haven jurisdictions in which the applicable U.S. multinational corporation had no (or minimal) historic business activities. As a general matter, absent the application of Section 7874, a corporation is considered, for U.S. federal tax purposes, to be a tax resident of the jurisdiction in which it is incorporated.

Under Section 7874, a corporation created or organized outside the U.S. will be treated as a U.S. corporation for U.S. federal tax purposes, when (i) the foreign corporation directly or indirectly acquires substantially all of the assets held directly or indirectly by a U.S. corporation, (ii) the former shareholders of the acquired U.S. corporation hold at least 80% of the vote or value of the shares of the foreign acquiring corporation by reason of holding stock in the U.S. acquired corporation, and (iii) the foreign corporation's "expanded affiliated group" does not have "substantial business activities" in the foreign corporation's country of incorporation relative to its expanded affiliated group's worldwide activities. Solely for purposes of Section 7874, "expanded affiliated group" means the foreign corporation and all subsidiaries in which the foreign corporation, directly or indirectly, owns more than 50% of the stock by vote and value. Treasury Regulation Section 1.7874-3 provides that an expanded affiliated group will be treated as having "substantial business activities" in the relevant foreign country

when compared to its total business activities if, in general, at least 25% of the expanded affiliated group's employees (by number and compensation), asset value and gross income are based, located and derived, respectively, in the relevant foreign country. Specifically, (i) the number of "group employees" based in the relevant foreign country must be at least 25% of the total number of group employees on the applicable date, which is either the date the transaction is completed or the last day of the month immediately preceding the closing of the transaction (to be applied consistently for purposes of each clause), (ii) the "employee compensation" incurred with respect to group employees based in the relevant foreign country must be at least 25% of the total employee compensation incurred with respect to all group employees during the testing period, which is the one-year period ending on the applicable date (as described in clause (i) above), (iii) the value of the "group assets" (generally, tangible and real property, including certain leases thereof) located in the relevant foreign country must be at least 25% of the total value of all group assets on the applicable date, and (iv) the "group income" (generally, gross income from unrelated customers) derived in the relevant foreign country must be at least 25% of the total group income during the testing period (as described in clause (ii) above).

In general, we do not expect that the assets contributed to Theravance Biopharma by Theravance in connection with the spin-off constitute, in the aggregate, "substantially all" of the assets held directly or indirectly by Theravance (as determined on both a gross and net fair market value basis). However, the IRS has not explicitly defined what constitutes "substantially all" of the assets of a corporation in the context of Section 7874. It is possible the IRS may challenge this conclusion and find that the assets contributed to Theravance Biopharma constitute substantially all of the assets of Theravance and thus, Theravance Biopharma could be treated as a U.S. corporation for U.S. federal tax purposes. Furthermore, we caution that there could be adverse changes to the relevant facts and circumstances, which could become known in the future. In addition, there have been legislative proposals to expand the scope of U.S. corporate tax residence and there could be a future change in law under Section 7874 of the Code, the Treasury Regulations promulgated thereunder or otherwise that could result in Theravance Biopharma being treated as a U.S. corporation. If it were determined that Theravance Biopharma should be taxed as a U.S. corporation for U.S. federal income tax purposes, Theravance Biopharma could be liable for substantial additional U.S. federal income tax.

Owning or Disposing of Theravance Biopharma Shares

The following summary discusses certain U.S. federal income tax consequences of the ownership and disposition by U.S. holders of Theravance Biopharma common shares. This discussion is based upon the Code, Treasury Regulations, published positions of the IRS, judicial decisions and other applicable authorities, all as currently in effect, and all of which are subject to change or differing interpretations, possibly with retroactive effect. Any such change could affect the accuracy of this discussion.

The following discussion assumes that Theravance stockholders hold their Theravance common stock, and will hold Theravance Biopharma common shares, as capital assets within the meaning of Section 1221 of the Code. Further, this section does not discuss all tax considerations that may be relevant to holders of Theravance common stock in light of their particular circumstances, nor does it address the consequences to holders of Theravance common stock subject to special treatment under the U.S. federal income tax laws, such as tax-exempt entities, partnerships (including entities treated as partnerships for U.S. federal income tax purposes), persons who acquire such shares of Theravance common stock pursuant to the exercise of employee stock options or otherwise as compensation, financial institutions, insurance companies, dealers or traders in securities, and persons who hold their shares of Theravance common stock as part of a straddle, hedge, conversion, constructive sale, synthetic security, integrated investment or other risk-reduction transaction for U.S. federal income tax purposes. This section does not address any U.S. federal estate, gift or other non-income tax consequences or any

state, local or foreign tax consequences, or the consequences of the Medicare tax on net investment income.

Holders of Theravance Biopharma common shares should consult their tax advisors as to the particular tax consequences to them of the distribution and ownership of Theravance Biopharma shares.

For purposes of this section, a U.S. holder is a beneficial owner of Theravance Biopharma common shares that is, for U.S. federal income tax purposes:

- an individual who is a citizen or a resident of the United States;
- a corporation, or other entity taxable as a corporation for U.S. federal income tax purposes, created or organized under the laws of the United States or any state or political subdivision thereof;
- an estate, the income of which is subject to United States federal income taxation regardless of its source; or
- a trust, if (i) a court within the United States is able to exercise primary jurisdiction over its administration and one or more U.S. persons have the authority to control all of its substantial decisions, or (ii) in the case of a trust that was treated as a domestic trust under the law in effect before 1997, a valid election is in place under applicable Treasury Regulations.

If a partnership (including any entity treated as a partnership for U.S. federal income tax purposes) holds shares of Theravance common stock, the tax treatment of a partner in the partnership generally will depend upon the status of the partner and the activities of the partnership. A partner of a partnership holding shares of Theravance common stock should consult its tax advisor regarding the tax consequences of the distribution.

Distributions or dividends with respect to Theravance Biopharma shares (which for these purposes will include the amount of any non-U.S. taxes withheld therefrom) should generally be includible in the gross income of a U.S. holder as foreign source dividend income to the extent that such distributions are paid out of Theravance Biopharma's current or accumulated earnings and profits as determined under U.S. federal income tax principles.

To the extent Theravance Biopharma pays dividends in a currency other than the U.S. dollar, the amount of any dividend paid to U.S. holders in such currency will be includible in income in a U.S. dollar amount calculated by reference to the exchange rate in effect on the date of receipt, regardless of whether the amount of such dividend is in fact converted into U.S. dollars. If the dividend is converted into U.S. dollars on the date of receipt, a U.S. holder should not be required to recognize foreign currency exchange gain or loss in respect of the dividend income. A U.S. holder may have foreign currency exchange gain or loss if the dividend is converted into U.S. dollars after the date of receipt. In general, foreign currency exchange gain or loss will be treated as U.S.-source ordinary gain or loss for foreign tax credit purposes.

Subject to certain limitations, including the PFIC rules discussed below, non-U.S. taxes (if any) withheld from or paid on dividend distributions generally will be eligible for credit against the U.S. holder's U.S. federal income taxes. The limitation on foreign taxes eligible for credit is calculated separately with respect to specific classes of income. The foreign tax credit rules are complex, and U.S. holders are urged to consult their tax advisors regarding the availability of foreign tax credits in their particular circumstances.

A U.S. holder will generally recognize a capital gain or loss for U.S. federal income tax purposes on the sale or disposition of Theravance Biopharma shares in the same manner as on the sale or disposition of any other shares held as capital assets and such capital gain or loss will be long-term capital gain or loss if the U.S. holder's holding period for such Theravance Biopharma shares exceeds one year as of the date of sale or disposition.

Information Reporting with Respect to Foreign Financial Assets

Certain U.S. holders are required to report information relating to an interest in Theravance Biopharma shares, subject to exceptions (including an exception for ordinary shares held in accounts maintained by certain financial institutions), by attaching a completed IRS Form 8938, Statement of Specified Foreign Financial Assets, with their tax return for each year in which they hold an interest in Theravance Biopharma shares. U.S. holders are urged to consult their own tax advisors regarding information reporting requirements relating to their ownership of Theravance Biopharma shares.

Passive Foreign Investment Company Status

The treatment of U.S. holders of our common stock in some cases could be materially different from that described above if, at any relevant time, Theravance Biopharma was "a passive foreign investment company" or "PFIC" for U.S. federal income tax purposes. We believe it is likely that Theravance Biopharma will be a PFIC for its first year of existence. The following sections will generally describe the U.S. federal income tax consequences to a U.S. holder of the receipt, ownership, and disposition of our common shares, if Theravance Biopharma is considered to be a "passive foreign investment company" under the meaning of Section 1297 of the Code (a "PFIC") at any time during a U.S. holder's holding period.

PFIC Status of Theravance Biopharma

Theravance Biopharma generally will be a PFIC under Section 1297 of the Code if, for a taxable year, (a) 75% or more of the gross income of Theravance Biopharma for such taxable year is passive income or (b) 50% or more of the assets held by Theravance Biopharma either produce passive income or are held for the production of passive income, based on the fair market value of such assets. "Gross income" generally means all revenues less the cost of goods sold, and "passive income" includes, for example, dividends, interest, certain rents and royalties, certain gains from the sale of stock and securities, and certain gains from commodities transactions. Active business gains arising from the sale of commodities generally are excluded from passive income if substantially all of a foreign corporation's commodities are (a) stock in trade of such foreign corporation or other property of a kind which would properly be included in inventory of such foreign corporation, or property held by such foreign corporation primarily for sale to customers in the ordinary course of business, (b) property used in the trade or business of such foreign corporation that would be subject to the allowance for depreciation under Section 167 of the Code, or (c) supplies of a type regularly used or consumed by such foreign corporation in the ordinary course of its trade or business.

Under certain attribution rules, if Theravance Biopharma is a PFIC, U.S. holders will be deemed to own their proportionate share of any subsidiary of Theravance Biopharma which is also a PFIC (a "Subsidiary PFIC"), and will be subject to U.S. federal income tax on (i) a distribution on the shares of a Subsidiary PFIC and (ii) a disposition of shares of a Subsidiary PFIC, both as if the holder directly held the shares of such Subsidiary PFIC.

Theravance Biopharma believes that it will be classified as a PFIC during its first the taxable year, and based on current business plans and financial expectations, Theravance Biopharma expects that it will be a PFIC for at least some subsequent taxable years. The determination of whether Theravance Biopharma (or a Subsidiary PFIC) was, or will be, a PFIC for a taxable year depends, in part, on the

application of complex U.S. federal income tax rules, which are subject to differing interpretations. In addition, whether Theravance Biopharma (or a Subsidiary PFIC) will be a PFIC for any taxable year depends on the assets and income of Theravance Biopharma (and each Subsidiary PFIC) over the course of each such taxable year and, as a result, cannot be predicted with certainty as of the date of this Information Statement. Each U.S. holder should consult its own tax advisor regarding the PFIC status of Theravance Biopharma and each Subsidiary PFIC.

Default PFIC Rules under Section 1291 of the Code

The U.S. federal income tax consequences to a U.S. holder of the receipt, ownership, and disposition of our common shares will depend on whether such U.S. holder makes an election to treat Theravance Biopharma as a "qualified electing fund" or "QEF" under Section 1295 of the Code (a "QEF Election") or a mark-to-market election under Section 1296 of the Code (a "Mark-to-Market Election"). A U.S. holder that does not make either a QEF Election or a Mark-to-Market Election will be referred to in this summary as a "Non-Electing U.S. Holder."

A Non-Electing U.S. Holder will be subject to the rules of Section 1291 of the Code with respect to (a) any gain recognized on the sale or other taxable disposition of our common shares and (b) any excess distribution received on the our common shares. A distribution generally will be an "excess distribution" to the extent that such distribution (together with all other distributions received in the current taxable year) exceeds 125% of the average distributions received during the three preceding taxable years (or during a U.S. holder's holding period for the our common shares, if shorter).

Under Section 1291 of the Code, any gain recognized on the sale or other taxable disposition of our common shares, and any "excess distribution" (as defined in Section 1291(b) of the Code) received on our common shares, must be ratably allocated to each day in a Non-Electing U.S. Holder's holding period for the respective shares. The amount of any such gain or excess distribution allocated to prior years of such Non-Electing U.S. Holder's holding period for the our common shares generally will be subject to U.S. federal income tax at the highest tax applicable to ordinary income in each such prior year. A Non-Electing U.S. Holder will be required to pay interest on the resulting tax liability for each such prior year, calculated as if such tax liability had been due in each such prior year. Such a Non-Electing U.S. Holder that is not a company must treat any such interest paid as "personal interest," which is not deductible. The amount of any such gain or excess distribution allocated to the current year of such Non-Electing U.S. Holder's holding period for the our common shares will be treated as ordinary income in the current year, and no interest charge will be incurred with respect to the resulting tax liability for the current year.

For any taxable year during which a Non-Electing U.S. Holder holds our common shares, Theravance Biopharma will continue to be treated as a PFIC with respect to such Non-Electing U.S. Holder, regardless of whether Theravance Biopharma ceases to be a PFIC in one or more subsequent taxable years. A Non-Electing U.S. Holder may terminate this deemed PFIC status by electing to recognize gain (which will be taxed under the rules of Section 1291 of the Code discussed above) as if such our common shares were sold on the last day of the last taxable year for which Theravance Biopharma was a PFIC.

QEF Election

A U.S. holder that makes a QEF Election for the first taxable year in which its holding period of its common shares begins, generally, will not be subject to the rules of Section 1291 of the Code discussed above with respect to our common shares. However, a U.S. holder that makes a QEF Election will be subject to U.S. federal income tax on such U.S. holder's pro rata share of (a) the net capital gain of Theravance Biopharma, which will be taxed as long-term capital gain to such U.S. Holder, and (b) and the ordinary earnings of Theravance Biopharma, which will be taxed as ordinary

income to such U.S. holder. Generally, "net capital gain" is the excess of (a) net long-term capital gain over (b) net short-term capital loss, and "ordinary earnings" are the excess of (a) "earnings and profits" over (b) net capital gain. A U.S. holder that makes a QEF Election will be subject to U.S. federal income tax on such amounts for each taxable year in which Theravance Biopharma is a PFIC, regardless of whether such amounts are actually distributed to such U.S. holder by Theravance Biopharma. However, a U.S. holder that makes a QEF Election may, subject to certain limitations, elect to defer payment of current U.S. federal income tax on such amounts, subject to an interest charge. If such U.S. holder is not a company, any such interest paid will be treated as "personal interest," which is not deductible.

A U.S. holder that makes a QEF Election generally (a) may receive a tax-free distribution from Theravance Biopharma to the extent that such distribution represents "earnings and profits" of Theravance Biopharma that were previously included in income by the U.S. holder because of such QEF Election and (b) will be required to adjust such U.S. holder's tax basis in our common shares to reflect the amount included in income or allowed as a tax-free distribution because of such QEF Election. In addition, a U.S. holder that makes a QEF Election generally will recognize capital gain or loss on the sale or other taxable disposition of our common shares.

The procedure for making a QEF Election, and the U.S. federal income tax consequences of making a QEF Election, will depend on whether such QEF Election is timely. A QEF Election will be treated as "timely" if such QEF Election is made for the first year in the U.S. holder's holding period for our common shares in which Theravance Biopharma was a PFIC. A U.S. holder may make a timely QEF Election by filing the appropriate QEF Election documents at the time such U.S. Holder files a U.S. federal income tax return for such year.

A QEF Election will apply to the taxable year for which such QEF Election is made and to all subsequent taxable years, unless such QEF Election is invalidated or terminated or the IRS consents to revocation of such QEF Election. If a U.S. holder makes a QEF Election and, in a subsequent taxable year, Theravance Biopharma ceases to be a PFIC, the QEF Election will remain in effect (although it will not be applicable) during those taxable years in which Theravance Biopharma is not a PFIC. Accordingly, if Theravance Biopharma ceases to be a PFIC in a particular year and becomes a PFIC again in another subsequent taxable year, the QEF Election will be effective and the U.S. holder will be subject to the QEF rules described above during any subsequent taxable year in which Theravance Biopharma qualifies as a PFIC.

Mark-to-Market Election

A U.S. holder may make a Mark-to-Market Election only if our common shares are marketable stock. Our common shares generally will be "marketable stock" if our common shares are regularly traded on (a) a national securities exchange that is registered with the Securities and Exchange Commission, (b) the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or (c) a foreign securities exchange that is regulated or supervised by a governmental authority of the country in which the market is located, provided that (i) such foreign exchange has trading volume, listing, financial disclosure, and other requirements and the laws of the country in which such foreign exchange is located, together with the rules of such foreign exchange, ensure that such requirements are actually enforced and (ii) the rules of such foreign exchange ensure active trading of listed stocks. If such stock is traded on such a qualified exchange or other market, such stock generally will be "regularly traded" for any calendar year during which such stock is traded, other than in de minimis quantities, on at least 15 days during each calendar quarter.

A U.S. holder that makes a Mark-to-Market Election with respect to our common shares generally will not be subject to the rules of Section 1291 of the Code discussed above with respect to our common shares. However, if a U.S. holder does not make a Mark-to-Market Election beginning in the

first taxable year of such U.S. holder's holding period for our common shares or such U.S. holder has not made a timely QEF Election, the rules of Section 1291 of the Code discussed above will apply to certain dispositions of, and distributions on, our common shares.

A U.S. holder that makes a Mark-to-Market Election will include in ordinary income, for each taxable year in which Theravance Biopharma is a PFIC, an amount equal to the excess, if any, of (a) the fair market value of our common shares, as of the close of such taxable year over (b) such U.S. holder's tax basis in such common shares. A U.S. holder that makes a Mark-to-Market Election will be allowed a deduction in an amount equal to the excess, if any, of (i) such U.S. holder's adjusted tax basis in our common shares, over (ii) the fair market value of such common shares (but only to the extent of the net amount of previously included income a result of the Mark-to-Market Election for prior taxable years).

A U.S. holder that makes a Mark-to-Market Election generally also will adjust such U.S. holder's tax basis in our common shares to reflect the amount included in gross income or allowed as a deduction because of such Mark-to-Market Election. In addition, upon a sale or other taxable disposition of our common shares, a U.S. holder that makes a Mark-to-Market Election will recognize ordinary income or ordinary loss (not to exceed the excess, if any, of (a) the amount included in ordinary income because of such Mark-to-Market Election for prior taxable years over (b) the amount allowed as a deduction because of such Mark-to-Market Election for prior taxable years).

A Mark-to-Market Election applies to the taxable year in which such Mark-to-Market Election is made and to each subsequent taxable year, unless our common shares cease to be "marketable stock" or the IRS consents to revocation of such election. Each U.S. holder should consult its own tax advisor regarding the availability of, and procedure for making, a Mark-to-Market Election.

Although a U.S. holder may be eligible to make a Mark-to-Market Election with respect to our common shares, no such election may be made with respect to the stock of any Subsidiary PFIC that a U.S. holder is treated as owning, because such stock is not marketable. Hence, the Mark-to-Market Election will not be effective to eliminate the interest charge described above with respect to deemed dispositions of Subsidiary PFIC stock or distributions from a Subsidiary PFIC.

Other PFIC Rules

Under Section 1291(f) of the Code, the IRS has issued proposed Treasury Regulations that, subject to certain exceptions, would cause a U.S. holder that had not made a timely QEF Election to recognize gain (but not loss) upon certain transfers of our common shares that would otherwise be tax-deferred (e.g., gifts and exchanges pursuant to corporate reorganizations). However, the specific U.S. federal income tax consequences to a U.S. holder may vary based on the manner in which our common shares are transferred.

Certain additional adverse rules may apply with respect to a U.S. holder for years in which Theravance Biopharma is a PFIC, regardless of whether such U.S. holder makes a QEF Election. For example under Section 1298(b)(6) of the Code, a U.S. holder that uses our common shares as security for a loan will, except as may be provided in Treasury Regulations, be treated as having made a taxable disposition of such our common shares. In addition, a U.S. holder who acquires our common shares from a decedent will not receive a "step up" in tax basis of such common shares to fair market value. Special rules also apply to the amount of foreign tax credit that a U.S. holder may claim on a distribution from a PFIC.

The PFIC rules are complex, and each U.S. holder should consult its own tax advisor regarding the PFIC rules and how the PFIC rules may affect the U.S. federal income tax consequences of the receipt, ownership, and disposition of our common shares.

Market for Our Common Shares; Trading of Our Common Shares in Connection with the Spin-Off

There is currently no trading market for our common shares. We will apply to have our common shares listed on the Nasdaq Global Market under the symbol " ". We expect that a limited market, commonly known as a "when-issued" trading market, for our common shares will develop on or shortly after , 2013, the record date of the distribution. The term "when-issued" means that our shares will trade even though Theravance has not yet issued and distributed the Theravance Biopharma shares. "When-issued" trading in our common shares will end and "regular way" trading will begin either on the distribution date or the first trading date after the distribution date. "Regular way" trading with respect to our common shares refers to trading after Theravance has issued and distributed Theravance Biopharma shares to Theravance's stockholders. Neither Theravance nor we will set the initial trading price of our common shares; the public markets will establish our trading price.

We cannot predict the price at which our common shares will trade either in the "when-issued" trading market or in the "regular way" trading market after the spin-off. In fact, the combined trading prices of our common share, adjusted for the distribution ratio, and a share of Theravance common stock after the spin-off may not equal or exceed the trading price of a share of Theravance common stock immediately prior to the spin-off. The price at which our common shares trades is likely to fluctuate significantly, particularly until an orderly public market develops. Prices for our common shares will be determined in the public markets and may be influenced by many factors, many of which are beyond our control. See "Risk Factors—Risks relating to Our Common Shares."

We have appointed Computershare Shareowner Services to serve as transfer agent and registrar for our common shares.

Our common shares distributed to holders of Theravance common stock in connection with the spin-off will be transferable under the Securities Act, except for shares received by persons who may be deemed to be our affiliates. Persons who may be deemed to be our affiliates after the spin-off generally include individuals or entities that control, are controlled by or are under common control with us and may include certain of our officers, directors or principal shareholders. After we become a publicly traded company, securities held by our affiliates will be subject to the resale restrictions under the Securities Act. Our affiliates will be permitted to sell our common shares only pursuant to an effective registration statement or an exemption from the registration requirements of the Securities Act, such as the exemption afforded by Rule 144 under the Securities Act.

Trading of Theravance Common Stock After the Record Date and Prior to the Ex-Dividend Date

Beginning on the record date and through the day prior to the ex-dividend date, Theravance common stock will trade "regular way" with the symbol "THRX". On the "regular way" market, from the record date through the date before the ex-dividend date set by Nasdaq, shares of Theravance common stock will trade with an entitlement to our common shares distributed in connection with the spin-off. After the ex-dividend date, shares of Theravance common stock will trade without an entitlement to our common shares distributed in connection with the spin-off. Therefore, if you own shares of Theravance common stock at 5:00 p.m. Eastern Time on the record date and sell those shares on the regular way market prior to the ex-dividend date, you also will be selling your right to receive our common shares that would have been distributed to you in connection with the spin-off. If you hold those shares of Theravance common stock held on the record date through the ex-dividend date, then Theravance will distribute to you our common shares with respect to your ownership of those shares of Theravance common stock, even if you sell the shares of Theravance common stock thereafter.

During the time period between the record date and the ex-dividend date, we anticipate that Theravance common stock will also be available to trade on an "ex-distribution when-issued market" with the symbol " ". On an "ex-distribution" market, shares of Theravance common stock would trade

without an entitlement to our common shares distributed in connection with the spin-off. The "ex-distribution when-issued market" will cease to exist as of the ex-dividend date.

Distribution Conditions and Termination

We expect that the distribution will be effective, and the spin-off complete, on the distribution date, , 2013, provided that, among other things:

- the Securities and Exchange Commission, or SEC, shall have declared effective our registration statement on Form 10, of which this Information Statement is a part, under the Securities Exchange Act of 1934, as amended, or Exchange Act, and no stop order relating to the registration statement shall be in effect;
- all permits, registrations and consents required under the securities or blue sky laws of states or other political subdivisions of the United States or of other foreign jurisdictions in connection with the distribution shall have been received;
- all permits, registrations and consents required under the securities or blue sky laws of states or other political subdivisions of the United States or of other foreign jurisdictions in connection with the distribution shall have been received;
- the listing of our common shares on the Nasdaq Global Market shall have been approved, subject to official notice of issuance;
- all material government and third party approvals and other consents necessary to consummate the distribution shall have been received;
- the transfers of the assets and liabilities contemplated by the Separation and Distribution Agreement shall be in effect; and
- no order, injunction or decree issued by any court of competent jurisdiction or other legal restraint or prohibition preventing consummation of the distribution or any of the transactions related thereto, including those contemplated by the Separation and Distribution Agreement, shall be in effect.

The fulfillment of the foregoing conditions will not create any obligation on Theravance's part to effect the distribution, and the Theravance board of directors has reserved the right to amend, modify or abandon the distribution and the related transactions at any time prior to the distribution date. The Theravance board of directors may waive any of these conditions in its sole and absolute discretion.

Treatment of Outstanding Theravance Equity Awards in Connection with the Spin-Off

The following discussion describes the expected treatment of outstanding Theravance equity awards, including stock options, restricted stock awards ("RSAs") and restricted stock units ("RSUs"), in connection with the spin-off and is subject to the approval of Theravance's compensation committee.

For purposes of this section, "Theravance Biopharma Employees" refers to persons who are or will be officers, employees or non-employee directors of Theravance Biopharma or its subsidiaries on or after the spin-off, including any of the foregoing who will also continue to serve as officers, employees and/or non-employee directors of Theravance, and "Remaining Theravance Employees" refers to current or former employees and non-employee directors of Theravance who will not become Theravance Biopharma Employees.

Stock Options. It is expected that the exercise price and number of shares subject to each stock option to purchase Theravance common stock that is outstanding on the date of the spin-off (a "Theravance Option") will be adjusted using a formula designed to generally preserve the intrinsic value of the original stock option prior to the spin-off.

- *Remaining Theravance Employees.* No other changes are expected to Theravance Options held by Remaining Theravance Employees. Each outstanding Theravance Option that is held by a Remaining Theravance Employee will remain a Theravance Option, subject to its existing terms and conditions.

- *Theravance Biopharma Employees.*

  - *Vested Theravance Options.* It is expected that vested Theravance Options held by Theravance Biopharma Employees, other than any that are incentive stock options (or ISOs) under the Federal tax laws, will be amended to remain outstanding and exercisable based on the Theravance Biopharma Employee's service to Theravance Biopharma and its subsidiaries and affiliates following the spin-off. All other terms and conditions of such options, including the maximum term of the option, will generally remain unchanged. No changes are expected to vested ISOs. As a result, if a Theravance Biopharma Employee's service with Theravance will terminate on the date of the spin-off, Theravance Options held by such employee that are vested ISOs must be exercised within the applicable post-termination exercise period following the spin-off.

  - *Unvested Theravance Options.* It is expected that unvested Theravance Options held by Theravance Biopharma Employees will be amended to provide that they will remain outstanding and continue to vest based on service to Theravance Biopharma and its subsidiaries and affiliates following the spin-off. It is further expected that unvested Theravance Options held by Theravance Biopharma Employees other than non-employee directors will be amended to provide that they will fully vest in the event the Theravance Biopharma Employee holding such option is subject to an involuntary termination in connection with or following a change in control of Theravance Biopharma. For Theravance Biopharma Employees who are non-employee directors, the unvested Theravance Options that they hold will be amended to provide that they will fully vest in the event of a change in control of Theravance Biopharma before their service with Theravance Biopharma terminates. All other terms and conditions of such options will generally remain unchanged.

RSAs and RSUs. It is expected that the number of shares subject to each RSU covering shares of Theravance common stock outstanding on the date of the spin-off (a "Theravance RSU") will be adjusted using a formula designed to generally preserve the intrinsic value of the RSU prior to the spin-off. No adjustments will be made to the number of shares of Theravance restricted stock outstanding on the date of the spin-off ("Theravance RSAs") as the holders of Theravance RSAs will receive Theravance Biopharma common shares in the spin-off. The Theravance Biopharma common shares received by the holders of Theravance RSAs will be subject to the same terms and conditions, including vesting, as apply to the applicable Theravance RSAs.

- *Remaining Theravance Employees.* Except as described below with respect to the Six-Year Performance RSAs, no other changes are expected to unvested Theravance RSAs and RSUs held by Remaining Theravance Employees. Each outstanding RSA and RSU held by a Remaining Theravance Employee will continue to be subject to its existing terms and conditions.

- *Theravance Biopharma Employees.* Except as described below with respect to the Six-Year Performance RSAs, it is expected that unvested Theravance RSAs and RSUs held by Theravance Biopharma Employees will be amended to provide that they remain outstanding and continue to vest based on service to Theravance Biopharma and its subsidiaries and affiliates following the spin-off. It is further expected that unvested Theravance RSAs and RSUs held by Theravance Biopharma Employees other than non-employee directors will be amended to provide that they will fully vest in the event the Theravance Biopharma Employee holding such Theravance RSA or RSU is subject to an involuntary termination in connection with or following a change in control of Theravance Biopharma. For Theravance Biopharma Employees

who are non-employee directors, the unvested Theravance RSUs that they hold will be amended to provide that they will fully vest in the event of a change in control of Theravance Biopharma before their service with Theravance Biopharma terminates. All other terms and conditions of such Theravance RSAs and RSUs will generally remain unchanged.

- *Six-Year Performance RSAs.* It is expected that the special long-term retention and incentive performance-contingent RSAs granted by Theravance in February 2011 to members of senior management (the "Six-Year Performance RSAs") will be modified as follows:

  - A portion of the Six-Year Performance RSAs subject to each award will be accelerated as of the spin-off based on the number of milestones and corresponding achievement points that have been met as of the spin-off;

  - An additional portion of the Six-Year Performance RSAs subject to each award will be converted to time-based vesting, determined based on the increase from the base performance price assigned to such award (which, in all instances, was $24.73) to the 30 day average closing price of a share of Theravance common stock preceding the date of the spin-off. Such portion of the Six-Year Performance RSAs will be eligible to vest on the one year anniversary of the spin-off, subject to the holder's continued service with Theravance Biopharma or Theravance, as applicable, following the spin-off; and

  - New performance goals will be established for the remaining portion of each award that relate to the entity employing the holder of the award following the spin-off.

Reason for Furnishing this Information Statement

This Information Statement is being furnished solely to provide information to stockholders of Theravance who will receive Theravance Biopharma common shares in connection with our spin-off. It is not provided as an inducement or encouragement to buy or sell any of our securities. You should not assume that the information contained in this Information Statement is accurate as of any date other than the date set forth on the cover. Changes to the information contained in this Information Statement may occur after that date, and we undertake no obligation to update the information.

Dividend Policy

We do not currently anticipate paying any dividends for the foreseeable future. The declaration and payment of dividends are subject to the discretion of our board of directors. Any future determination to pay dividends will depend on our financial condition, earnings, capital requirements, legal requirements, regulatory constraints, contractual restrictions and other factors deemed relevant at the time by our board of directors.

Capitalization

The following table sets forth Theravance Biopharma's capitalization as of March 31, 2013 on a historical basis and on a pro forma basis to give effect to the pro forma adjustments included in our unaudited pro forma combined balance sheet. The pro forma adjustments are based upon available information and assumptions that management believes are reasonable. While such adjustments are subject to change based on the finalization of the terms of the spin-off and the transaction agreements, in management's opinion, the pro forma adjustments are not expected to materially differ from the final adjustments. In addition, such adjustments are estimates and may not prove to be accurate or indicative of future adjustments.

You should read this table together with "Historical Selected Financial Data," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Unaudited Pro Forma Combined Balance Sheet" and our historical combined financial statements and the notes thereto included elsewhere in this Information Statement.

(in thousands, except per share amounts)	March 31, 2013		
	Historical	Pro Forma	
	(Unaudited)		
Cash and cash equivalents	$ —	$ 300,000	(1)
Shareholders' equity (deficit):			
Common shares, $0.00001 par value; none authorized, issued and outstanding; million shares authorized pro forma; million shares issued and outstanding pro forma	$ —	$	(2)
Parent company equity (deficit)	(4,375)	—	
Additional paid-in capital	—	295,625	(3)
Total parent company equity (deficit)	(4,375)	295,625	
Total capitalization	$ (4,375)	$ 295,625	

(1) Amount represents the pro forma cash contribution by Theravance of approximately $300 million as of March 31, 2013. In addition, under the Separation and Distribution Agreement, Theravance will remain responsible for all operating expenses and related liabilities that were incurred prior to the spin-off.

(2) Represents the distribution of million shares of our common shares to holders of Theravance common stock based on the number of shares of Theravance common stock outstanding at March 31, 2013.

(3) The pro forma adjustment to additional paid-in capital is equal to the amount of net assets recorded by Theravance Biopharma plus the reclassification of parent company deficit on the spin-off date.

Our Business

Overview

Theravance Biopharma is a biopharmaceutical company with one approved product that was discovered and developed internally, a pipeline of internally discovered product candidates and strategic collaborations with pharmaceutical companies. We also have an economic interest in future payments that may be made by GSK pursuant to agreements with Theravance relating to certain drug programs, including UMEC/VI/FF (or the Closed Triple) and the MABA program, as monotherapy with GSK961081 ('081) and as a combination with '081/FF . We are focused on the discovery, development and commercialization of small molecule medicines across a number of therapeutic areas including bacterial infections, central nervous system ("CNS")/pain, respiratory disease, and gastrointestinal ("GI") motility dysfunction. By leveraging our proprietary insight of multivalency to drug discovery, we are pursuing a best-in-class strategy designed to discover superior medicines in areas of significant unmet medical need. The principal office of our Delaware wholly-owned subsidiary is located at 901 Gateway Boulevard, South San Francisco, California 94080. Theravance Biopharma was incorporated in the Cayman Islands in July 2013 under the name Theravance Biopharma, Inc. and will begin operations upon the spin-off through a wholly-owned subsidiary organized as a Delaware corporation.

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

Our Programs

The table below summarizes the status of our approved product and our most advanced product candidates for internal development or co-development. The table also includes the status of the respiratory programs in which we have an economic interest that are being developed and commercialized by GSK pursuant to agreements with Theravance, which we refer to as the GSK-partnered respiratory programs. We have an economic interest in these programs through our non-voting interest in Theravance Respiratory Company LLC ("TRC"), a Delaware limited liability company controlled by Theravance. See "The Spin-Off—Formation of Theravance Respiratory Company LLC" and "Business-Economic Interests in GSK Respiratory Programs Partnered with Theravance."

Programs

THERAPEUTIC AREA	STATUS				
	Phase 1	Phase 2	Phase 3	Filed	Approved
ECONOMIC INTERESTS IN GSK RESPIRATORY PROGRAMS PARTNERED WITH THERAVANCE					
UMEC/VI/FF		(1)			
GSK961081 (MABA)					
THERAVANCE BIOPHARMA PRODUCT AND DEVELOPMENT PROGRAMS					
BACTERIAL INFECTIONS					
VIBATIV®					
TD-1792					
TD-1607					
CNS/PAIN					
TD-1211: Opioid-Induced Constipation					
TD-9855: ADHD					
TD-9855: Fibromyalgia					
RESPIRATORY					
TD-4208 (LAMA)					
GI MOTILITY DYSFUNCTION					
Velusetrag					
TD-8954					

Legend:

Demonstrated Proof-of-Concept

Proof-of-Concept demonstrated for each of the individual components of the programs

Pre Proof-of-Concept

(1) If Phase 1 studies of these triple-component product candidates demonstrate pharmacokinetic and pharmacodynamic equivalence to the dual-component product candidates, then these triple-component product candidates would be expected to progress to Phase 3 without the need for Phase 2 studies.

Key: **ADHD:** Attention Deficit Hyperactivity Disorder; **CNS:** Central Nervous System; **FF:** Fluticasone Furoate; **GI:** Gastrointestinal; **LAMA:** Long-Acting Muscarinic Antagonist; **MABA:** Bifunctional Muscarinic Antagonist-Beta$_2$ Agonist; **UMEC:** Umeclidinium; **VI:** Vilanterol

In the table above:

Status indicates the most advanced stage of development that has been completed or is in process.

Phase 1 indicates initial clinical safety testing in healthy volunteers, or studies directed toward understanding the mechanisms of action of the drug.

Phase 2 indicates further clinical safety testing and preliminary efficacy testing in a limited patient population.

Phase 3 indicates evaluation of clinical efficacy and safety within an expanded patient population.

Filed indicates that a marketing application has been submitted to a regulatory authority.

Approved indicates the drug has been approved for marketing in at least one jurisdiction.

We consider programs in which at least one compound has successfully completed a Phase 2a study showing efficacy and tolerability as having achieved Proof-of-Concept.

Program Highlights

Economic Interests in GSK Respiratory Programs Partnered with Theravance

Prior to the spin-off, Theravance will assign to TRC its strategic alliance agreement with GSK and all of its rights and obligations under its collaboration agreement with GSK other than with respect to RELVAR™ ELLIPTA™/BREO™ ELLIPTA™ and vilanterol monotherapy. Our equity interest in TRC will entitle us a 98% economic interest in any future payments made by GSK under the strategic alliance agreement with GSK and under the portion of the collaboration agreement with GSK assigned to TRC other than ANORO™ ELLIPTA™. These other drug programs include UMEC/VI/FF (or the Closed Triple) and the MABA program, as monotherapy and in combination with other therapeutically active components, such as an inhaled corticosteroid (ICS), and any other product or combination of products that may be discovered and developed in the future under these GSK agreements (other than ANORO™ ELLIPTA™). Our economic interest will not include any payments associated with RELVAR™ ELLIPTA™/BREO™ ELLIPTA™, ANORO™ ELLIPTA™ or vilanterol monotherapy. See "The Spin-Off—Formation of Theravance Respiratory Company LLC."

UMEC/VI/FF (or the Closed Triple)

The UMEC/VI/FF program seeks to provide the activity of two bronchodilators (UMEC and VI) plus an inhaled corticosteroid (FF) in a single delivery device. In this program, the LABA and LAMA molecules that comprise GSK's ANORO™ ELLIPTA™ will be co-formulated in a single blister pack, and the inhaled corticosteroid, FF, will be administered from an adjacent blister pack—both of which would be administered together in GSK's ELLIPTA™ inhaler. The royalty rates applicable to worldwide net sales of UMEC/VI/FF under the collaboration agreement are upward-tiering from 6.5% to 10%.

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

GSK961081 ('081) is an investigational, single molecule bifunctional bronchodilator discovered by Theravance with both muscarinic antagonist and beta$_2$ receptor agonist activities. GSK has recently initiated preclinical Phase 3 enabling studies in the combination '081/FF program, and has informed Theravance that the Phase 3 study will not be initiated for '081 monotherapy in 2013.

In 2005, GSK licensed Theravance's bifunctional muscarinic antagonist-beta$_2$ agonist (MABA) program under the strategic alliance agreement, which agreement will be assigned to TRC, and in October 2011, Theravance and GSK expanded the MABA program by adding six additional Theravance-discovered preclinical MABA compounds (the "Additional MABAs"). GSK is obligated to use diligent efforts to develop and commercialize at least one MABA within the MABA program, but may terminate progression of any or all Additional MABAs at any time and return them to TRC, at

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

Bacterial Infections Programs

VIBATIV® (telavancin)

VIBATIV® (telavancin) is a bactericidal, once-daily injectable antibiotic discovered by Theravance in a research program dedicated to finding new antibiotics for serious infections due to *Staphylococcus aureus* and other Gram-positive bacteria, including methicillin—resistant (MRSA) strains. VIBATIV® is approved in the U.S. and Canada for the treatment of adult patients with complicated skin and skin structure infections (cSSSI) caused by susceptible Gram-positive bacteria. VIBATIV® is also approved in the U.S. for the treatment of adult patients with hospital-acquired and ventilator-associated bacterial pneumonia (HABP/VABP) caused by susceptible isolates of *Staphylococcus aureus* when alternative treatments are not suitable.

In May 2012, Theravance entered into a Technology Transfer and Supply Agreement with Hospira Worldwide, Inc. ("Hospira") for VIBATIV® drug product supply. In June 2013, the U.S. Food and Drug Administration ("FDA") approved Hospira as a VIBATIV® drug product manufacturer. This agreement with Hospira will be assigned to us and we plan to make VIBATIV® available through wholesalers in the third quarter of 2013 and we are continuing to evaluate other commercialization alternatives for the U.S. market.

In September 2011, the European Commission granted marketing authorization for VIBATIV® for the treatment of adults with nosocomial pneumonia (NP), including ventilator-associated pneumonia, known or suspected to be caused by MRSA when other alternatives are not suitable. However, in May 2012, the European Commission suspended this marketing authorization because the previous single-source drug product supplier did not meet the current Good Manufacturing Practice ("cGMP") requirements for the manufacture of VIBATIV®. Now that the FDA has approved Hospira as a drug product manufacturer for VIBATIV®, we intend to work with the European Commission to remove the suspension on the European Union marketing authorization.

Commercialization Agreement with Clinigen. In March 2013, Theravance entered into a commercialization agreement with Clinigen Group plc ("Clinigen") to commercialize VIBATIV® for the treatment of nosocomial pneumonia, including ventilator-associated pneumonia, known or suspected to be caused by MRSA when other alternatives are not suitable. Under the agreement, Theravance granted Clinigen exclusive commercialization rights in the European Union and certain other European countries (including Switzerland and Norway). Theravance received a $5.0 million

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

Development and Commercialization Agreements with R-Pharm. In October 2012, Theravance entered into two separate development and commercialization agreements with R-Pharm CJSC ("R-Pharm"): one to develop and commercialize VIBATIV® and the other to develop and commercialize TD-1792, one of Theravance's investigational glycopeptide-cephalosporin heterodimer antibiotics for the treatment of Gram-positive infections. Under each agreement, Theravance granted R-Pharm exclusive development and commercialization rights in Russia, Ukraine, other member countries of the Commonwealth of Independent States, and Georgia. Theravance received $1.1 million in upfront payments for each agreement. These agreements with R-Pharm will be assigned to us. Following the spin-off, we will be eligible to receive potential future contingent payments totaling up to $10.0 million for both agreements and royalties on net sales by R-Pharm of 15% from TD-1792 and 25% from VIBATIV®.

Commercialization Agreement with Hikma. In May 2013, Theravance entered into a commercialization agreement with Hikma Pharmaceuticals LLC ("Hikma") providing Hikma with the right to commercialize telavancin for the treatment of Gram-positive bacterial infections, including MRSA. Under the agreement, Theravance granted Hikma exclusive commercialization rights in the Middle East and North Africa ("MENA") region to register, and upon regulatory approval, market and distribute telavancin in 16 countries across MENA. This agreement with Hikma will be assigned to us. We will be responsible, either directly or through our vendors or contractors, for supplying drug product for Hikma's commercialization activities for 15 years.

Glycopeptide-Cephalosporin Heterodimer Program

Through our glycopeptide-cephalosporin heterodimer program we intend to discover and develop a multivalent antibiotic for serious Gram-positive bacterial infections.

TD-1792

TD-1792 is an investigational glycopeptide-cephalosporin heterodimer antibiotic for the treatment of Gram-positive infections. TD-1792 has successfully completed a Phase 2 proof-of concept study in complicated skin and skin structure infections and a human bronchoalveolar lavage study. Our partner, R-Pharm, currently intends to initiate Phase 2 studies in Russia for hospital-acquired pneumonia.

TD-1607

TD-1607 is our second investigational glycopeptide-cephalosporin heterodimer antibiotic for the treatment of Gram-positive infections. It is structurally distinct from TD-1792 but demonstrates a similar potent and rapidly bactericidal profile in vitro. In April 2013, we initiated a Phase 1 randomized, double-blind, placebo-controlled single-ascending dose study designed to evaluate the safety, tolerability and pharmacokinetics of TD-1607, administered intravenously. This study is expected to complete in the second half of 2013. Provided that an acceptable profile for TD-1607 is observed in this study, we may proceed with a multiple ascending dose study in healthy subjects in late 2013.

Central Nervous System/Pain Programs

Oral Peripheral Mu Opioid Receptor Antagonist—TD-1211

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

Monoamine Reuptake Inhibitor—TD-9855

We are developing TD-9855, an investigational norepinephrine and serotonin reuptake inhibitor discovered by Theravance, for the treatment of central nervous system conditions such as Attention-Deficit/Hyperactivity Disorder ("ADHD") and chronic pain. TD-9855 is currently being evaluated in an ongoing Phase 2 safety and efficacy study in adults with ADHD and in an ongoing Phase 2 study in patients with fibromyalgia. Both studies are progressing and results from the Phase 2 study in ADHD and fibromyalgia are anticipated to be reported late this year and the first half of 2014, respectively.

Theravance Biopharma Respiratory Program

Long-Acting Muscarinic Antagonist (LAMA)—TD-4208

We are developing TD-4208, a once-daily inhaled nebulized muscarinic antagonist discovered by Theravance, for the treatment of a subset of COPD patients whom we believe are underserved by current hand-held products. We believe that such a medicine could serve as a foundation for several combination nebulized products as well as potential metered dose inhaler ("MDI") or dry powder inhaler ("DPI") products. In November 2011, Theravance announced positive topline results from a Phase 2a single-dose COPD study of TD-4208. In this study, TD-4208 met the primary endpoint by demonstrating a statistically significant mean change from baseline in peak forced expiratory volume in one second ("FEV1") compared to placebo, and was generally well tolerated. In December 2012, Theravance initiated a Phase 2b study to evaluate the safety and pharmacokinetics of multiple doses of TD-4208. We anticipate this study will complete in the second half of 2013.

Gastrointestinal (GI) Motility Dysfunction Programs

Velusetrag

Velusetrag is an oral, investigational medicine discovered by Theravance and developed for gastrointestinal motility disorders. It is a highly selective agonist with high intrinsic activity at the human 5-HT4 receptor. In October 2012, Theravance entered into a development and collaboration arrangement with Alfa Wassermann società per azioni (S.p.A.) ("Alfa Wassermann") for velusetrag, under which the parties agreed to collaborate in the execution of a two-part Phase 2 program to test the efficacy, safety and tolerability of velusetrag in the treatment of patients with gastroparesis (a medical condition consisting of a paresis (partial paralysis) of the stomach, resulting in food remaining in the stomach for a longer time than normal). In January 2013, we and Alfa Wassermann announced the initiation of a Phase 2 proof-of-concept study to evaluate the efficacy and safety of velusetrag for the treatment of patients with diabetic or idiopathic gastroparesis. This agreement with Alfa Wassermann will be assigned to us. Alfa Wassermann has an exclusive option to develop and commercialize velusetrag in the European Union, Russia, China, Mexico and certain other countries, while we retain full rights to velusetrag in the U.S., Canada, Japan and certain other countries. We will

be entitled to receive funding for the Phase 2a study and a subsequent Phase 2b study if the parties agree to proceed. If Alfa Wassermann exercises its license option at the completion of the Phase 2 program, then we will be entitled to receive a $10.0 million option fee. If velusetrag is successfully developed and commercialized, we will be entitled to receive potential future contingent payments totaling up to $53.5 million, and royalties on net sales by Alfa Wassermann ranging from the low teens to 20%.

TD-8954

TD-8954, like velusetrag, is a highly selective agonist with high intrinsic activity at the human 5-HT4 receptor. We are investigating the development potential of TD-8954 for acute use in the hospital setting for patients who require rapid restoration of upper and lower GI motility. We believe that TD-8954 may help hospitalized patients with enteral feeding intolerance and other similar GI disorders such as acute gastroparesis, prolonged post-operative ileus and Ogilvie's Syndrome (abdominal distention and associated pain). TD-8954 has successfully completed Phase 1 studies and is ready to proceed to Phase 2.

Preclinical Research Programs

In October 2012, Theravance entered into a research collaboration and license agreement with Merck, known as MSD outside the United States and Canada, to discover, develop and commercialize novel small molecule therapeutics directed towards a target being investigated for the treatment of hypertension and heart failure. Under the agreement, Theravance granted Merck a worldwide, exclusive license to Theravance's therapeutic candidates. Theravance received a $5.0 million upfront payment in November 2012. Also, Theravance will receive funding for research and be eligible for potential future contingent payments totaling up to $148.0 million for the first indication and royalties on worldwide annual net sales of any products derived from the collaboration. The initial research term is twelve months, with optional extensions by mutual agreement, and Merck can terminate the agreement at any time. If the agreement with Merck is extended, it will be assigned to us.

We also have a number of other early-stage research programs in a wide range of therapeutic areas.

Our Approach

Our strategy focuses on the discovery, development and commercialization of medicines with superior efficacy, convenience, tolerability and/or safety using our proprietary insight in chemistry, biology and multivalency, where applicable. Multivalency refers to the simultaneous attachment of a single molecule to multiple binding sites on one or more biological targets. When compared to monovalency, whereby a molecule attaches to only one binding site, multivalency can significantly increase a compound's potency, duration of action and/or selectivity. Multivalent compounds generally consist of several individual small molecules, at least one of which is biologically active when bound to its target, joined by linking components.

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

- many targets have multiple binding sites and/or exist in clusters with similar or different targets;
- biological targets with multiple binding sites and/or those that exist in clusters lend themselves to multivalent drug design;
- molecules that simultaneously attach to multiple binding sites can exhibit considerably greater potency, duration of action and/or selectivity than molecules that attach to only one binding site; and

- greater potency, duration of action and/or selectivity provides the basis for superior therapeutic effects, including enhanced convenience, tolerability and/or safety compared to conventional drugs.

Our Strategy

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

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

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

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

Partner with pharmaceutical companies. Our strategy is to seek collaborations with pharmaceutical companies to accelerate development and commercialization of our product candidates at the strategically appropriate time.

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

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

Manufacturing

We have limited in-house active pharmaceutical ingredient ("API") production capabilities, and we rely primarily on a number of third parties, including contract manufacturing organizations and our collaborative partners, to produce our active pharmaceutical ingredient and drug product.

We believe that we have in-house expertise to manage a network of third party manufacturers. We believe that we will be able to continue to negotiate third-party manufacturing arrangements on

commercially reasonable terms and that it will not be necessary for us to obtain internal manufacturing capacity in order to develop or commercialize our products. However, if we are unable to obtain contract manufacturing or obtain such manufacturing on commercially reasonable terms, or if manufacturing is interrupted at one of our suppliers, whether due to regulatory or other reasons, we may not be able to develop or commercialize our products as planned.

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

Government Regulation

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

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

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

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

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

The results of product development, preclinical studies and clinical studies must be submitted to the FDA as part of a new drug application, or NDA. The NDA also must contain extensive manufacturing information. NDAs for new chemical entities are subject to performance goals defined in the Prescription Drug User Fee Act ("PDUFA") which suggests a goal for FDA action within six months of the 60-day filing date for applications that are granted priority review and ten months of the 60-day filing date for applications that receive standard review. For a product candidate no active ingredient of which has been previously approved by the FDA, the FDA must either refer the product candidate to an advisory committee for review or provide in the action letter on the application for the product candidate a summary of the reasons why the product candidate was not referred to an advisory

committee prior to approval. In addition, under the 2009 Food and Drug Administration Amendments Act, the FDA has authority to require submission of a formal Risk Evaluation and Management Strategy ("REMS") to ensure safe use of the product. At the end of the review period, the FDA communicates an approval of the NDA or issues a complete response listing the application's deficiencies.

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

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

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

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

Patents and Proprietary Rights

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

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

As of June 30, 2013, Theravance owned 346 issued United States patents and 1,323 granted foreign patents, as well as additional pending United States patent applications and foreign patent applications. We anticipate that all or substantially all of the patents and patent applications related to our business will be assigned by Theravance to Theravance Biopharma or to its wholly-owned Cayman Islands subsidiary. The claims in these various patents and patent applications are directed to compositions of matter, including claims covering product candidates, lead compounds and key intermediates, pharmaceutical compositions, methods of use and processes for making our compounds along with methods of design, synthesis, selection and use relevant to multivalency in general and to our research and development programs in particular. In particular, we will be assigned ownership of the following U.S. patents which are listed in the FDA *Approved Drug Products with Therapeutic Equivalence Evaluations* (Orange Book) for telavancin: U.S. Patent No. 6,635,618 B2, expiring on September 11, 2023; U.S. Patent No. 6,858,584 B2, expiring on August 24, 2022; U.S. Patent No. 6,872,701 B2, expiring on June 5, 2021; U.S. Patent No. 7,008,923 B2, expiring on May 6, 2021; U.S. Patent No. 7,208,471 B2, expiring on May 1, 2021; U.S. Patent No. 7,351,691 B2, expiring on May 1, 2021; U.S. Patent No. 7,531,623 B2, expiring on January 1, 2027; U.S. Patent No. 7,544,364 B2, expiring on May 1, 2021; U.S. Patent No. 7,700,550 B2, expiring on May 1, 2021; U.S. Patent No. 8,101,575 B2, expiring on May 1, 2021; and U.S. Patent No. 8,158,580 B2, expiring on May 1, 2021.

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

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

Competition

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

Many of our potential competitors have substantially greater financial, technical and personnel resources than we have. In addition, many of these competitors have significantly greater commercial

infrastructures than we have. Our ability to compete successfully will depend largely on our ability to leverage our experience in drug discovery and development to:

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

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

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

Employees

After giving effect to the spin-off, we expect our U.S. operating subsidiary to have approximately employees, of which are expected to be engaged primarily in research and development activities. We anticipate that after the spin-off, three of our executive officers will also continue to serve as executive officers of Theravance and some of our employees will provide services to Theravance pursuant to agreements between our companies. None of our employees are expected to be represented by a labor union. We consider our employee relations to be good.

Historical Selected Financial Data

The tables below set forth selected historical financial data of Theravance Biopharma. This information has been derived from our (i) audited combined financial statements as of December 31, 2012 and 2011 and for each of the two years then ended, and (ii) unaudited combined financial statements as of March 31, 2013 and for the three months ended March 31, 2013 and 2012, which are included elsewhere in this Information Statement. During these periods, Theravance Biopharma was an integrated business of Theravance. The historical financial information may not be indicative of the results of operations or financial position that we would have obtained if we had been an independent company during the periods presented or of our future performance as an independent company. See "Risk Factors." Per share data has not been presented as no common shares were outstanding during the periods presented and such information would not be meaningful.

The selected historical financial data should be read in conjunction with the combined financial statements and the notes thereto and "Management's Discussion and Analysis of Financial Condition and Results of Operations," included elsewhere in this Information Statement.

Combined Statements of Operations Data

(in thousands)	Year Ended December 31,		Three Months Ended March 31,	
	2011	2012	2012	2013
			(Unaudited)	
Revenue	$ 14,854	$ 130,145	$ 125,669	$ 22
Operating expenses:				
Research and development	98,850	113,995	32,148	25,408
General and administrative	25,339	25,725	6,486	6,788
Total operating expenses(1)	124,189	139,720	38,634	32,196
Net income (loss)	$ (109,335)	$ (9,575)	$ 87,035	$ (32,174)

Combined Balance Sheet Data

(in thousands)	December 31,		March 31,
	2011	2012	2013
			(Unaudited)
Cash and cash equivalents	$ —	$ —	$ —
Restricted cash	893	833	833
Working capital (deficit)	(33,565)	(11,837)	(9,207)
Total assets	13,821	20,962	23,530
Long-term liabilities(2)	118,664	5,280	5,151
Total parent company (deficit)	(140,724)	(6,990)	(4,375)

(1) The following table discloses the allocation of stock- based compensation expense included in total operating expenses:

(in thousands)	Year Ended December 31,		Three Months Ended March 31,	
	2011	2012	2012	2013
			(Unaudited)	
Research and development	$ 12,696	$ 13,192	$ 3,402	$ 3,688
General and administrative	8,767	8,131	2,144	1,828
Total stock-based compensation	$ 21,463	$ 21,323	$ 5,546	$ 5,516

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

(in thousands)	December 31, 2011	December 31, 2012	March 31, 2013 (Unaudited)
Deferred revenue	$ 112,843	$ 206	$ 279

Management's Discussion and Analysis of Financial Condition and Results of Operations

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

Overview

We are a biopharmaceutical company with one approved product that was discovered and developed internally, a pipeline of internally discovered product candidates and strategic collaborations with pharmaceutical companies. We are focused on the discovery, development and commercialization of small molecule medicines across a number of therapeutic areas including bacterial infections, central nervous system ("CNS")/pain, respiratory disease, and gastrointestinal ("GI") motility dysfunction. By leveraging our proprietary insight of multivalency to drug discovery, we are pursuing a best-in-class strategy designed to discover superior medicines in areas of significant unmet medical need.

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

We believe that strategic collaborations and licensing activities also will help us succeed at implementing our research, development and commercialization strategy for our product and product candidates. Through such strategic collaborations or licensing activities, we believe that we can enhance our ability to develop and expand our pipeline as well as commercialize products once approved.

We have never operated as a separate, stand-alone entity. In addition, there have been a number of events over the past several years that have had a significant impact on our operations. As a result of these factors, our historical financial results are not likely to be indicative of our future financial performance.

Program Highlights

Economic Interests in GSK Respiratory Programs Partnered with Theravance

Prior to the spin-off, Theravance will assign to TRC its strategic alliance agreement with GSK and all of its rights and obligations under its collaboration agreement with GSK other than with respect to RELVAR™ ELLIPTA™/BREO™ ELLIPTA™ and vilanterol monotherapy. Theravance will guarantee the performance by TRC of the strategic alliance agreement and all obligations under the collaboration agreement assigned to TRC. Our equity interest in TRC will entitle us a 98% economic interest in any future payments made by GSK under the strategic alliance agreement with GSK and under the portion of the collaboration agreement with GSK assigned to TRC other than ANORO™ ELLIPTA™. These other drug programs include UMEC/VI/FF (or the Closed Triple) and the MABA program, as monotherapy and in combination with other therapeutically active components, such as an inhaled corticosteroid (ICS), and any other product or combination of products that may be discovered and developed in the future under these GSK agreements (other than ANORO™ ELLIPTA™). Our economic interest will not include any payments associated with RELVAR™ ELLIPTA™/BREO™ ELLIPTA™, ANORO™ ELLIPTA™ or vilanterol monotherapy. See "The Spin-Off—Formation of Theravance Respiratory Company LLC.

UMEC/VI/FF

The UMEC/VI/FF program seeks to provide the activity of two bronchodilators (UMEC and VI) plus an inhaled corticosteroid (FF) in a single delivery device. In this program, the LABA and LAMA molecules that comprise GSK's ANORO™ ELLIPTA™ will be co-formulated in a single blister pack, and the inhaled corticosteroid, FF, will be administered from an adjacent blister pack—both of which would be administered together in GSK's ELLIPTA™ inhaler. The royalty rates applicable to worldwide net sales of UMEC/VI/FF under the collaboration agreement are upward-tiering from 6.5% to 10%.

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

GSK961081 ('081) is an investigational, single molecule bifunctional bronchodilator discovered by Theravance with both muscarinic antagonist and beta$_2$ receptor agonist activities. GSK has recently initiated Phase 3 enabling studies in the combination '081/FF program, and has informed Theravance that the Phase 3 study will not be initiated for '081 monotherapy in 2013.

In 2005, GSK licensed Theravance's bifunctional muscarinic antagonist-beta$_2$ agonist (MABA) program under the strategic alliance agreement, which agreement will be assigned to TRC, and in October 2011, Theravance and GSK expanded the MABA program by adding six additional Theravance-discovered preclinical MABA compounds (the "Additional MABAs"). GSK is obligated to use diligent efforts to develop and commercialize at least one MABA within the MABA program, but may terminate progression of any or all Additional MABAs at any time and return them to TRC, at which point TRC may develop and commercialize such Additional MABAs alone or with a third party. Both GSK and Theravance have agreed not to conduct any MABA clinical studies outside of the strategic alliance agreement so long as GSK is in possession of the Additional MABAs. If a single-agent MABA medicine containing '081 is successfully developed and commercialized, TRC is entitled to receive royalties from GSK of between 10% and 20% of annual global net sales up to $3.5 billion, and 7.5% for all annual global net sales above $3.5 billion. If a MABA medicine containing '081 is commercialized only as a combination product, such as '081/FF, the royalty rate is 70% of the rate applicable to sales of the single-agent MABA medicine. For single-agent MABA medicines containing an Additional MABA, TRC is entitled to receive royalties from GSK of between 10% and 15% of annual global net sales up to $3.5 billion, and 10% for all annual global net sales above $3.5 billion. For combination products containing an Additional MABA, such as a MABA/ICS combination, the royalty rate is 50% of the rate applicable to sales of the single-agent MABA medicine. If a MABA

medicine containing '081 is successfully developed and commercialized in multiple regions of the world, TRC could earn total contingent payments of up to $125.0 million for a single-agent medicine and up to $250.0 million for both a single-agent and a combination medicine. If a MABA medicine containing an Additional MABA is successfully developed and commercialized in multiple regions of the world, TRC could earn total contingent payments of up to $129.0 million.

Bacterial Infections Programs

VIBATIV® (telavancin)

VIBATIV® (telavancin) is a bactericidal, once-daily injectable antibiotic discovered by Theravance in a research program dedicated to finding new antibiotics for serious infections due to *Staphylococcus aureus* and other Gram-positive bacteria, including methicillin—resistant (MRSA) strains. VIBATIV® is approved in the U.S. and Canada for the treatment of adult patients with complicated skin and skin structure infections (cSSSI) caused by susceptible Gram-positive bacteria. VIBATIV® is also approved in the U.S. for the treatment of adult patients with hospital-acquired and ventilator-associated bacterial pneumonia (HABP/VABP) caused by susceptible isolates of *Staphylococcus aureus* when alternative treatments are not suitable.

In May 2012, Theravance entered into a Technology Transfer and Supply Agreement with Hospira for VIBATIV® drug product supply. In June 2013, the FDA approved Hospira as a VIBATIV® drug product manufacturer. This agreement with Hospira will be assigned to us and we plan to make VIBATIV® available through wholesalers in the third quarter of 2013 and we are continuing to evaluate other commercialization alternatives for the U.S. market.

In September 2011, the European Commission granted marketing authorization for VIBATIV® for the treatment of adults with nosocomial pneumonia (NP), including ventilator-associated pneumonia, known or suspected to be caused by MRSA when other alternatives are not suitable. However, in May 2012, the European Commission suspended this marketing authorization because the previous single-source drug product supplier did not meet the current Good Manufacturing Practice ("cGMP") requirements for the manufacture of VIBATIV®. Now that the FDA has approved Hospira as a drug product manufacturer for VIBATIV®, we intend to work with the European Commission to remove the suspension on the European Union marketing authorization.

Central Nervous System/Pain Programs

Oral Peripheral Mu Opioid Receptor Antagonist—TD-1211

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

Monoamine Reuptake Inhibitor—TD-9855

We are developing TD-9855, an investigational norepinephrine and serotonin reuptake inhibitor discovered by Theravance, for the treatment of central nervous system conditions such as Attention-Deficit/Hyperactivity Disorder ("ADHD") and chronic pain. TD-9855 is currently being evaluated in an ongoing Phase 2 safety and efficacy study in adults with ADHD and in an ongoing Phase 2 study in

patients with fibromyalgia. Both studies are progressing and results from the Phase 2 study in ADHD and fibromyalgia are anticipated to be reported late this year and the first half of 2014, respectively.

Theravance Biopharma Respiratory Program

Long-Acting Muscarinic Antagonist (LAMA)—TD-4208

We are developing TD-4208, a once-daily inhaled nebulized muscarinic antagonist discovered by Theravance, for the treatment of a subset of COPD patients whom we believe are underserved by current hand-held products. We believe that such a medicine could serve as a foundation for several combination nebulized products as well as potential metered dose inhaler ("MDI") or dry powder inhaler ("DPI") products. In November 2011, Theravance announced positive topline results from a Phase 2a single-dose COPD study of TD-4208. In this study, TD-4208 met the primary endpoint by demonstrating a statistically significant mean change from baseline in peak forced expiratory volume in one second ("FEV1") compared to placebo, and was generally well tolerated. In December 2012, Theravance initiated a Phase 2b study to evaluate the safety and pharmacokinetics of multiple doses of TD-4208. We anticipate this study will complete in the second half of 2013.

Summary Financial Results

Our total revenues were $14.9 million in 2011 and $130.1 million in 2012. Net income in 2012 reflects the recognition of deferred revenue of $125.8 million from Theravance's global collaboration arrangement with Astellas Pharma Inc. ("Astellas") for the development and commercialization of VIBATIV®. This recognition resulted from Astellas' January 6, 2012 termination of Theravance's agreement with them. Our total operating expenses increased from $124.2 million in 2011 to $139.7 million in 2012. Our research and development expenses increased from 2011 to 2012 primarily due to the advancement of our clinical development programs for opioid induced constipation with TD-1211 and in our CNS/Pain MARIN program with TD-9855. General and administrative expenses also increased, but to a lesser extent, over this same period to support the growth of our research and development business our strategic initiatives. We recognized net losses of $109.3 million in 2011, $9.6 million in 2012 and $32.2 million for the three months ended March 31, 2013.

The Separation of Theravance Biopharma from Theravance

On April 25, 2013, Theravance announced its intention to separate its Drug Discovery and Development Business into an independent, publicly traded company through a spin-off of 100% of our shares to Theravance stockholders. Completion of the spin-off is expected in of 2013, subject to certain conditions, including final approval from Theravance's board of directors to complete the spin-off. Following the distribution, Theravance's stockholders will own 100% of the equity in both companies. The separation will not require a vote by Theravance stockholders. The Drug Discovery and Development Business discussed herein represents the historical combined operating results and financial condition of Theravance Biopharma. Any references to "we," "us," "Theravance Biopharma" or the "Company" refer to the Drug Discovery and Development Business as operated as a part of Theravance prior to the spin-off.

Basis of Presentation

The combined financial statements have been prepared using Theravance's historical cost basis of the assets, liabilities, revenues, and expenses of the various activities that comprise the Drug Discovery and Development Business as a component of Theravance and reflect the results of operations, financial condition and cash flows of the Drug Discovery and Development Business as a component of Theravance. The statements of operations include expense allocations for general corporate overhead functions historically shared with Theravance, including finance, legal, human resources, information

technology and other administrative functions, which include the costs of salaries, benefits and other related costs, as well as consulting and other professional services. Where appropriate, these allocations were made on a specific identification basis. Otherwise, the expenses related to services provided to the Drug Discovery and Development Business by Theravance were allocated to Theravance Biopharma based on the relative percentages, as compared to Theravance's other businesses, of headcount or square footage usage.

The costs historically allocated to us by Theravance for the services it has shared with us may not be indicative of the costs we will incur for these services following the spin-off. Certain anticipated incremental costs and other adjustments that give effect to the spin-off are not reflected in our historical combined financial statements.

Critical Accounting Policies and Significant Judgments and Estimates

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

We are an emerging growth company. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards until such time as those standards apply to private companies. We may avail ourselves of this exemption from new or revised accounting standards and, therefore, we may not be subject to the same new or revised accounting standards as other public companies that are not "emerging growth companies."

We believe that the following accounting policies relating to revenue recognition, accrued research and development expenses, the fair value of stock-based compensation awards, and inventories require us to make significant estimates, assumptions and judgments.

Revenue Recognition

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

On January 1, 2011, we adopted an accounting standards update that amends the guidance on accounting for new or materially modified multiple-element arrangements that we enter into subsequent to January 1, 2011. This guidance removed the requirement for objective and reliable

evidence of fair value of the undelivered items in order to consider a deliverable a separate unit of accounting. It also changed the allocation method such that the relative-selling-price method must be used to allocate arrangement consideration to all the units of accounting in an arrangement. This guidance established the following hierarchy that must be used in estimating selling price under the relative-selling-price method: (1) vendor-specific objective evidence of fair value of the deliverable, if it exists, (2) third-party evidence of selling price, if vendor-specific objective evidence is not available or (3) vendor's best estimate of selling price ("BESP") if neither vendor-specific nor third-party evidence is available.

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

For multiple element arrangements entered into prior to January 1, 2011, Theravance determined whether the elements had stand-alone value and whether there was objective and reliable evidence of fair value. When the delivered element did not have stand-alone value or there was insufficient evidence of fair value for the undelivered element(s), Theravance recognized the consideration for the combined unit of accounting ratably over the estimated period of performance, which was the same manner in which the revenue was recognized for the final deliverable. For each unit of accounting identified within an arrangement, we determine the period over which the performance obligation occurs. Revenue is then recognized using either a proportional performance or straight-line method. We recognize revenue using the proportional performance method when the level of effort to complete our performance obligations under an arrangement can be reasonably estimated. Direct labor hours or full time equivalents are typically used as the measurement of performance. The total amount of deferred revenue based on BESP at March 31, 2013 was $7.6 million. Any changes in the remaining estimated performance obligation periods under these collaborative arrangements will not have a significant impact on the results of operations, except for a change in estimated performance period resulting from the termination of a collaborative arrangement, which would result in immediate recognition of the related deferred revenue.

The former Collaboration Arrangement with Astellas was entered into prior to January 1, 2011. The deliverables under this collaboration agreement did not meet the criteria required to be accounted for as separate accounting units for the purposes of revenue recognition. As a result revenue from non-refundable, upfront fees and development contingent payments was recognized ratably over the term of our performance period under the agreements. These upfront or contingent payments received, pending recognition as revenue, were recorded as deferred revenue and are classified as a short-term or long-term liability on our combined balance sheet and amortized over the estimated performance period. In accordance with ASC Subtopic 808-10, "Collaborative Arrangements," and pursuant to our agreement with Astellas, we recognized as revenue the net impact of transactions with Astellas related to VIBATIV® inventories including revenue specifically attributable to any sales, and cost of inventories either transferred or expensed as unrealizable. This collaboration agreement was terminated on January 6, 2012. The termination resulted in the recognition of deferred revenue of $125.8 million.

On January 1, 2011, we also adopted an accounting standards update that provides guidance on revenue recognition using the milestone method. Payments that are contingent upon achievement of a substantive milestone are recognized in their entirety in the period in which the milestone is achieved.

Milestones are defined as events that can be achieved based only on our performance and as to which, at the inception of the arrangement, there is substantive uncertainty about whether the milestone will be achieved. Events that are contingent only on the passage of time or only on third-party performance are not considered milestones subject to this guidance. Further, the amounts received must relate solely to prior performance, be reasonable relative to all of the deliverables and payment terms in the agreement and commensurate with our performance to achieve the milestone after commencement of the agreement. Under this guidance, total contingent payments that may become payable to us under our collaborative agreements with Merck and R-Pharm were $158.0 million at March 31, 2013 and are considered non-substantive.

Amounts related to research and development funding is recognized as the related services or activities are performed, in accordance with the contract terms. Payments may be made to us based on the number of full-time equivalent researchers assigned to the collaborative project and the related research and development expenses incurred. Accordingly, reimbursement of research and development expenses pursuant to the cost-sharing provisions of our agreements with Merck, Alfa Wassermann and R-Pharm are recognized as a reduction of research and development expenses. For the three months ended March 31, 2013, we recorded a reduction in our research and development expenses of $1.7 million for reimbursement of research and development expenses received from Merck, Alfa Wassermann, and R-Pharm.

Accrued Research and Development Expenses

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

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

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

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

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

incur or if we underestimate or overestimate the level of services performed or the costs of these services, our actual expenses could differ from our estimates.

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

Fair Value of Stock-Based Compensation Awards

We have not issued any Theravance Biopharma stock-based awards to our employees. However, our employees have in the past received Theravance stock-based compensation awards.

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

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

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

In 2011, Theravance granted special long-term retention and incentive performance-contingent RSAs to members of senior management, which have dual triggers of vesting based upon the achievement of certain performance conditions over a six-year timeframe from 2011 through December 31, 2016 and continued employment. The maximum potential expense associated with these RSAs is $31.9 million, which would be recognized in increments based on achievement of the performance conditions. As of March 31, 2013, we determined that the achievement of the requisite performance conditions was not probable and, as a result, no compensation expense has been recognized. If sufficient performance conditions are achieved in 2013, then we would recognize up to $7.6 million in stock-based compensation expense associated with these RSAs in 2013.

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

Inventories

Inventories are stated at the lower of cost or market value. Inventories include VIBATIV® API and other raw materials of $5.7 million and $3.5 million and work-in-process of $1.8 million and $4.5 million at December 31, 2012 and March 31, 2013, respectively. Work-in-process consists of third party manufacturing costs and associated labor costs relating to our personnel directly involved in the production process. If information becomes available that suggests the inventories may not be realizable, we may be required to expense a portion or all of the previously capitalized inventories.

Results of Operations

Revenues

We recognized revenue from the amortization of upfront license fees and contingent payments related to our Merck collaboration, and the telavancin collaboration arrangement with Astellas, which was terminated on January 6, 2012. In addition, we recognized revenue related to our Astellas telavancin collaboration from royalties from net sales of VIBATIV® and from the impact of VIBATIV® inventory transfers or dispositions.

	Year Ended December 31,		Change		Three Months Ended March 31,		Change	
(in thousands, except percentages)	2011	2012	$	%	2012	2013	$	%
Collaborative arrangements:								
Astellas collaboration arrangement	$ 14,854	$ 125,788	$ 110,934	747%	$ 125,669	$ —	$ (125,669)	**
Merck collaboration arrangement	—	4,358	4,358	**	—	*	**	**
Total Revenue	$ 14,854	$ 130,146	$ 115,292	776%	$ 125,699	$ *	$ (125,669)	**

* Amount is less than $50,000.

** Calculation not meaningful.

Revenue increased 776% to $130.1 million in 2012 from 2011. The increase in 2012 reflects the accelerated recognition of deferred revenue of $125.8 million from our global collaboration arrangement with Astellas for the development and commercialization of VIBATIV® in 2012. This accelerated recognition was the result of the termination of the Astellas agreement on January 6, 2012. Also, in 2012 we recognized $4.4 million from our collaboration arrangement with Merck.

Revenues decreased in the first quarter of 2013, from the comparable period in 2012. The revenues recognized in the first quarter of 2012 reflect the accelerated recognition of deferred revenue of $125.8 million from our global collaboration arrangement with Astellas for the development and commercialization of VIBATIV®. This accelerated recognition was the result of the termination of the Astellas agreement on January 6, 2012.

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

Merck

Under the Research Collaboration and License Agreement, the significant deliverables were determined to be the license, committee participation and research services.

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

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

Former Collaboration Arrangement with Astellas

In November 2005, Theravance entered into a License, Development and Commercialization Agreement with Astellas for VIBATIV®. Under this agreement, Astellas paid Theravance non-refundable cash payments totaling $191.0 million. In January 2012, Astellas exercised its right to terminate the collaboration agreement. The rights previously granted to Astellas ceased upon termination of the agreement and Astellas stopped all promotional sales efforts. Pursuant to the terms of the agreement, Astellas is entitled to a ten-year, 2% royalty on future net sales of VIBATIV®. Net revenue recognized under this collaboration agreement was $125.8 million for the three months ended March 31, 2012 and is related to the acceleration of the deferred revenue due to the termination of the agreement. We are no longer eligible to receive any further contingent payments from Astellas.

Costs and Expenses

Research and Development Expenses

Our R&D activities include (1) research and discovery, (2) clinical and preclinical operations and (3) product operations. Our research and discovery activities include research, drug discovery and target validation. Our product operations activities include process development, purification, formulation, stability and internal and contract manufacturing. Clinical and preclinical operations include preclinical development, toxicology, pharmacokinetics, bioanalytics and clinical development, which include regulatory, safety, medical writing, biometry, U.S. and outside U.S. clinical operations, compliance, quality and program management. R&D expenses consist primarily of costs of personnel to support these R&D activities, as well as costs of preclinical studies, costs of conducting our clinical trials, such

as fees to CROs and clinical investigators, monitoring costs, data management and drug supply costs and R&D funding provided to third parties.

(in thousands, except percentages)	Year Ended December 31, 2011	2012	Change $	Change %	Three Months Ended March 31, 2012	2013	Change $	Change %
Employee-related	$ 34,437	$ 36,391	$ 1,954	6%	$ 9,960	$ 9,102	$ (858)	(9)%
External research and development	30,439	42,980	12,541	41%	13,109	7,001	(6,108)	(47)%
Facilities, depreciation and other allocation	21,278	21,432	154	1%	5,677	5,617	(60)	(1)%
Stock-based compensation	12,696	13,192	496	4%	3,402	3,688	286	8%
Total research and development expenses	$ 98,850	$ 113,995	$ 15,145	15%	$ 32,148	$ 25,408	$ (6,740)	(21)%

R&D expenses increased 15% to $114.0 million in 2012 from 2011. This increase was primarily due to increases in outside services costs related to our Phase 2 studies in our program for opioid-induced constipation with TD-1211 and in our MARIN program with TD-9855, higher employee-related expenses and costs related to VIBATIV® advisory committee activities. R&D reimbursements under our collaborative arrangements have been reflected as a reduction of R&D expense of $0.9 million in 2012 and $0.4 million in 2011.

R&D expenses decreased 21% to $25.4 million in the first quarter of 2013, from the comparable period in 2012. The decrease in the first quarter of 2013 was primarily due to lower external R&D costs resulting from the completion of our Phase 2 studies in our program for opioid-induced constipation with TD-1211 in 2012 and, to a lesser extent, from an increase in collaborative partner R&D reimbursements. R&D reimbursements under our collaborative arrangements have been reflected as a reduction of R&D expense of $1.7 million in the first quarter of 2013 and nil in the first quarter of 2012.

We have not provided program costs in detail because we do not track, and have not tracked, all of the individual components (specifically the internal cost components) of our research and development expenses on a program basis. We do not have the systems and processes in place to accurately capture these costs on a program basis.

We currently do not have reliable estimates of total costs for a particular drug candidate to reach the market. Our product candidates are subject to a lengthy and uncertain regulatory process that may involve unanticipated additional clinical trials and may not result in receipt of the necessary regulatory approvals. Failure to receive the necessary regulatory approvals would prevent us from commercializing the product candidates affected. In addition, clinical trials of our potential products may fail to demonstrate safety and efficacy, which could prevent or significantly delay regulatory approval.

The length of time that a development program is in a given phase varies substantially according to factors relating to the development program, such as the type and intended use of the potential product, the clinical trial design, and the ability to enroll patients. For partnered programs, advancement from one phase to the next and the related costs to do so is also dependent upon certain factors that are controlled by our partners. According to industry statistics, it generally takes 10 to 15 years to research, develop and bring to market a new prescription medicine in the United States. In light of the steps and complexities involved, the successful development of our potential products is highly uncertain. Actual timelines and costs to develop and commercialize a product are subject to enormous variability and are very difficult to predict. In addition, various statutes and regulations also govern or influence the manufacturing, safety reporting, labeling, storage, record keeping and marketing of each product.

General and Administrative Expenses

General and administrative ("G&A") expenses generally consist of costs of personnel, professional services, consulting and other expenses related to our administrative and commercial functions, and an allocation of facility and overhead costs.

	Year Ended December 31,		Change		Three Months Ended March 31,		Change	
(in thousands, except percentages)	2011	2012	$	%	2012	2013	$	%
General and administrative	$ 25,339	$ 25,725	$ 386	2%	$ 6,486	$ 6,788	$ 302	5%

G&A expenses increased 2% to $25.7 million in 2012 from 2011. An increase in consulting services costs, as well as higher facility-related costs, were partially offset by a decrease in employee-related expenses that was driven by lower stock-based compensation expense. Stock-based compensation expense was $8.1 million in 2012, compared to $8.8 million in 2011.

G&A expenses increased 5% to $6.8 million in the first quarter of 2013, from the comparable period in 2012. The increase in the first quarter of 2013 was primarily due to higher consulting services costs and higher facilities-related costs partially offset by a decrease in employee related costs driven by a decrease in stock-based compensation expense. Stock-based compensation expense for the first quarter of 2013 was $1.8 million compared with $2.1 million for the same period in 2012.

Liquidity and Capital Resources

At the closing of the spin-off, Theravance will provide Theravance Biopharma, from its cash reserves on hand, cash and cash equivalents of approximately $300 million. We expect this initial cash will fund Theravance Biopharma's operations through significant potential corporate milestones for approximately the next two to three years after the completion of the spin-off, based on current operating plans and financial forecasts. Prior to the spin-off, the Drug Discovery and Development Business of Theravance is being funded entirely by Theravance.

We expect to continue to incur net losses over the next several years as we continue our drug discovery and development activities and incur significant preclinical and clinical development and commercialization costs. We expect to incur substantial expenses as we continue our drug discovery and development efforts, particularly to the extent we advance our product candidates into and through clinical studies, which are very expensive. For example, TD-9855 in our MARIN program is in Phase 2 studies for both ADHD and fibromyalgia and our LAMA compound TD-4208 commenced a Phase 2b study in December 2012. Also, in July 2012, we announced positive results from the key study in our Phase 2b program with TD-1211 in our Peripheral Mu Opioid Receptor Antagonist program for opioid-induced constipation. Though we seek to partner this program, we may choose to progress TD-1211 into Phase 3 studies by ourselves, which would increase our anticipated operating expenses substantially. Furthermore, should we decide to commercialize VIBATIV® in the United States without a partner, we will incur costs and expenses associated with creating an independent sales and marketing organization with appropriate technical expertise, supporting infrastructure and distribution capabilities.

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

If our current operating plans or financial forecasts change, we may require additional funding sooner in the form of public or private equity offerings, debt financings or additional collaborations and licensing arrangements. Furthermore, if in our view favorable financing opportunities arise, we may seek additional funding at any time. However, future financing may not be available in amounts or on terms acceptable to us, if at all. This could leave us without adequate financial resources to fund our operations as presently conducted.

Cash Flows

	Year Ended December 31,		Three Months Ended March 31,	
(in thousands)	2011	2012	2012	2013
			(Unaudited)	
Net cash used in operating activities	$ (83,428)	$ (119,107)	$ (38,344)	$ (28,491)
Net cash used in investing activities	$ (3,052)	$ (2,430)	$ (1,103)	$ (640)
Net cash provided by financing activities	$ 86,480	$ 121,537	$ 39,447	$ 29,131

Cash Flows from Operating Activities

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

Net cash used in operating activities in 2012 was $119.1 million, which was primarily due to:

- $115.7 million used in operating expenses, after adjusting for non-cash related items of $24.0 million consisting primarily of stock-based compensation expense of $21.3 million and depreciation and amortization expenses of $3.3 million, partially offset by a reduction of rent expense of $0.7 million;
- $4.8 million used to increase work-in-process inventory;
- $4.4 million received from the Merck collaboration arrangement recognized as license fee revenue; and
- $3.2 million used to reduce accrued liabilities due to $1.7 million decrease in accrued personnel related expenses and other accrued liabilities primarily and $1.5 million decrease in accounts payable primarily due to timing of payment.

Net cash used in operating activities in 2011 was $83.4 million, which was primarily due to:

- $96.4 million used in operating expenses, after adjusting for non-cash related items of $27.8 million consisting primarily of stock-based compensation expense of $21.5 million, depreciation and amortization expenses of $3.8 million and rent expense of $2.4 million;
- $8.7 million used to increase accrued liabilities due to $5.4 million decrease in accrued personnel related expenses and other accrued liabilities primarily due to increase in clinical studies completed towards the end of the year and $3.3 million increase in accounts payable primarily due to increase in clinical and development activities; and
- $3.9 million received from our former collaboration arrangement with Astellas, $2.7 million in royalty payments received from sales of VIBATIV® and $1.2 million in proceeds from VIBATIV® delivered to Astellas.

Net cash used in operating activities in the three months ended March 31, 2013 was $28.5 million, which was primarily due to:

- $26.2 million used in operating expenses, after adjusting for non-cash related items of $6.0 million consisting primarily of stock-based compensation expense of $5.5 million and depreciation and amortization expenses of $0.7 million, partially offset by a reduction of rent expense of $0.2 million;
- $6.1 million received in upfront fees from collaboration agreements with Clinigen and R-Pharm;
- $3.7 million used to reduce accrued personnel related expenses and other accrued liabilities primarily due to the pay out of the 2012 bonus plan;
- $2.5 million used to increase work-in-process inventory; and
- $1.0 million used to increase receivables from collaborative arrangements related to reimbursement of R&D services.

Net cash used in operating activities in the three months ended March 31, 2012 was $38.3 million, which was primarily due to:

- $32.3 million used in operating expenses, after adjusting for non-cash related items of $6.3 million consisting primarily of stock-based compensation expense of $5.5 million and depreciation and amortization expenses of $0.9 million, partially offset by a reduction of rent expense of $0.1 million; and
- $5.7 million used to reduce accrued personnel related expenses and other accrued liabilities primarily due to the pay out of the 2011 bonus plan.

Cash Flows from Investing Activities

Net cash used in investing activities in 2012 was $2.4 million, which was primarily due to purchases of property and equipment of $2.6 million. Net cash used in investing activities in 2011 was $3.1 million, which was primarily due to purchases of property and equipment of $3.6 million, partially offset by payments received on notes payable of $0.7 million.

Net cash used in investing activities in the three months ended March 31, 2013 was $0.6 million, which was primarily due to purchases of property and equipment of $0.7 million, partially offset by payments received on notes payable of $0.1 million.

Net cash used in investing activities in the three months ended March 31, 2012 was $1.1 million, which was due to purchases of property and equipment.

Cash Flows from Financing Activities

Net cash provided by financing activities in 2012 was $121.5 million, which was primarily due to transfers from Theravance.

Net cash provided by financing activities in 2011 was $86.5 million, which was primarily due to transfers from Theravance.

Net cash provided by financing activities in the three months ended March 31, 2013 was $29.1 million, which was primarily due to transfers from Theravance.

Net cash provided by financing activities in the three months ended March 31, 2012 was $39.4 million, which was primarily due to transfers from Theravance.

Off-Balance Sheet Arrangements

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

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

Commitments and Contingencies

The Company indemnifies its officers and directors for certain events or occurrences, subject to certain limits. The Company may be subject to contingencies that may arise from matters such as product liability claims, legal proceedings, shareholder suits and tax matters, as such, the Company is unable to estimate the potential exposure related to these indemnification agreements. The Company has not recognized any liabilities relating to these agreements as of March 31, 2013.

In 2011, Theravance granted the Six-Year Performance RSAs to members of senior management and special long-term retention and incentive cash bonus awards to certain employees, which have dual triggers of vesting based upon the achievement of certain performance conditions over a six-year timeframe from 2011 through December 31, 2016 and continued employment. The maximum potential expense associated with this program is $31.9 million related to stock-based compensation expense and $38.2 million related to cash bonus expense, which would be recognized in increments based on achievement of the performance conditions. As of March 31, 2013, it was determined that the achievement of the requisite performance conditions was not probable and, as a result, no compensation expense has been recognized. If sufficient performance conditions are achieved in 2013, then we would recognize up to $7.6 million in stock-based compensation expense associated with these RSAs and $9.5 million related to cash bonus expense in 2013.

Contractual Obligations and Commercial Commitments

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

(in thousands)	Total	Less than 1 year	1 - 3 years	4 - 5 years	After 5 years
Facility operating leases(1)	$ 37,515	$ 4,877	$ 9,937	$ 10,542	$ 12,159
Purchase obligations	3,653	3,071	575	7	—
Total	$ 41,168	$ 7,948	$ 10,512	$ 10,549	$ 12,159

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

Interest Rate Risk

We expect to invest the cash and cash equivalents contributed to us by Theravance consistent with Theravance's current investment policies. Therefore, we expect to maintain a non-trading investment portfolio of investment grade, highly liquid debt securities, which are designed to limit the amount of credit exposure to any one issue, issuer or type of instrument. We do not plan to use derivative

financial instruments for speculative or trading purposes. We expect to carry our investments in debt securities at fair value, estimated as the amount at which an asset or liability could be bought or sold in a current transaction between willing parties. We expect to diversify our credit risk and invest in debt securities with high credit quality. We will continue to monitor our credit risks and evaluate the potential need for impairment charges related to credit risks in future periods.

Our Relationship with Theravance, Inc. after the Spin-Off

General

Immediately prior to the spin-off, we will be a wholly owned subsidiary of Theravance. After the spin-off, Theravance will not have any ownership interest in our common shares, and we will be an independent, publicly traded company.

We will enter into agreements with Theravance prior to and concurrently with the spin-off to govern the terms of the spin-off and to define our ongoing relationship following the spin-off, allocating responsibility for obligations arising before and after the spin-off, including obligations with respect to liabilities relating to Theravance's business and to Theravance Biopharma's business and obligations with respect to our employees, certain transition services and taxes. We will enter into these agreements with Theravance while we are still a wholly owned subsidiary of Theravance, and certain terms of these agreements are not necessarily the same as could have been negotiated between independent parties.

The following descriptions are summaries of the terms of the agreements. Any of these agreements that are material will be filed as exhibits to the registration statement into which this Information Statement is incorporated and the summaries of such agreements are qualified in their entirety by reference to the full text of such agreements. We encourage you to read, in their entirety, each of the material agreements when they become available. The terms of these agreements have not yet been finalized; changes, some of which may be material, may be made prior to the spin-off.

Separation and Distribution Agreement

The Separation and Distribution Agreement will set forth our agreements with Theravance regarding the principal transactions necessary to separate us from Theravance. It will also set forth other agreements that govern certain aspects of our relationship with Theravance after the completion of the separation. Concurrently with our separation from Theravance, we will enter into the Separation and Distribution Agreement with Theravance.

Transfer of Assets and Assumption of Liabilities. The Separation and Distribution Agreement will identify assets to be transferred, liabilities to be assumed and contracts to be assigned to us as part of the separation of Theravance into two independent companies, and will describe when and how these transfers, assumptions and assignments will occur. In particular, the Separation and Distribution Agreement will provide that, subject to the terms and conditions contained in the Separation and Distribution Agreement:

- Theravance will assign to us all of the assets and liabilities of Theravance related to the Drug Discovery and Development Business, including:
  - VIBATIV® (telavancin), a bactericidal, once-daily injectable antibiotic discovered by Theravance;
  - Theravance's small-molecule product candidate pipeline currently focused on bacterial infections, CNS/pain, respiratory disease, and GI motility dysfunction;
  - Equity interests in UMEC/VI/FF (or the Closed Triple), and the MABA program, as monotherapy and in combination with other therapeutically active components, such as an inhaled corticosteroid (ICS), and any other product or combination of products that may be discovered and developed in the future under the GSK agreements (other than ANORO™ ELLIPTA™); and
  - Cash and cash equivalents in the amount of approximately $300 million in the aggregate.

- Theravance, directly or through TRC, will retain all of the assets and liabilities of the Royalty Business, including all rights under the collaboration agreement with GSK related to the following drug programs:

    - RELVAR™ ELLIPTA™/ BREO™ ELLIPTA™;
    - ANORO™ ELLIPTA™; and
    - Vilanterol monotherapy.

Except as may be expressly set forth in the Separation and Distribution Agreement or any ancillary agreement, all assets will be transferred to us on an "as is," "where is" basis and so long as Theravance is in compliance with the terms of the Separation and Distribution Agreement relating to the transfer, we will bear the economic and legal risks that any conveyance will prove to be insufficient to vest in us good title, free and clear of any security interest, that any necessary consents or government approvals are not obtained and that any requirements of laws or judgments are not complied with.

Information in this Information Statement with respect to the assets and liabilities of the parties following the separation is presented based on the allocation of such assets and liabilities pursuant to the Separation and Distribution Agreement, unless the context otherwise requires.

Further Assurances. To the extent that any transfers contemplated by the Separation and Distribution Agreement have not been consummated on or prior to the date of the separation, the parties will agree to cooperate to affect such transfers as promptly as practicable following the date of the separation. In addition, each of the parties will agree to cooperate with each other and use reasonable best efforts to take or to cause to be taken all actions, and to do, or to cause to be done, all things reasonably necessary under applicable law or contractual obligations to consummate and make effective the transactions contemplated by the Separation and Distribution Agreement and the ancillary agreements.

The Distribution. The Separation and Distribution Agreement will also govern the rights and obligations of the parties regarding the proposed distribution. Prior to the distribution, we will distribute to Theravance as a stock dividend the number of our common shares distributable in the distribution. Theravance will cause the distribution agent to distribute to Theravance stockholders that hold shares of Theravance common stock as of the applicable record date all the issued and outstanding shares of our common shares. Theravance will have the sole and absolute discretion to determine the terms of, and whether to proceed with, the distribution.

Releases and Indemnification. Except as otherwise provided in the Separation and Distribution Agreement or any ancillary agreement, each party will release and forever discharge the other party from all liabilities existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the separation. The releases will not extend to obligations or liabilities under any agreements between the parties that remain in effect following the separation pursuant to the Separation and Distribution Agreement or any ancillary agreement.

Legal Matters. Except as otherwise set forth in the Separation and Distribution Agreement, we will assume the liability for, and control of, all pending and threatened legal matters related to our business or assumed liabilities and we will indemnify Theravance for any liability arising out of or resulting from such assumed legal matters. Each party to a claim will agree to cooperate in defending any claims against the other party for events that took place prior to, on or after the date of separation. Theravance will retain liability for pending and threatened legal matters related to the Royalty Business.

Insurance. The Separation and Distribution Agreement will provide for the rights of the parties to report claims under existing insurance policies for occurrences prior to the separation and set forth procedures for the administration of insured claims. In addition, the Separation and Distribution Agreement will allocate among the parties the right to insurance policy proceeds based on reported claims and the obligations to incur deductibles under certain insurance policies.

Other Matters. Other matters governed by the Separation and Distribution Agreement include, among others, access to financial and other records and information, legal privilege, confidentiality and resolution of disputes between the parties relating to the Separation and Distribution Agreement and the ancillary agreements and the agreements and transactions contemplated thereby.

Transition Services Agreement

Concurrently with our separation from Theravance, we will enter into a Transition Services Agreement with Theravance pursuant to which Theravance and Theravance Biopharma will provide each other with a variety of administrative services for a period of time following the spin-off. Among the principal services we will provide to Theravance are:

- record-keeping support;
- finance, tax and accounting support to assist Theravance in a secondary capacity to Theravance personnel through financial and administrative support for audits and inquiries related to Theravance Biopharma's historical combined financial statements;
- legal support;
- human resources support; and
- facilities support to the extent Theravance occupies space at current South San Francisco, California facilities.

Among the principal services Theravance will provide to us are access to certain historical information and financial systems and the supporting documentation and other services to be determined.

Theravance and Theravance Biopharma will agree to make each service available to the other for periods of time following the date the spin-off is completed as are provided in the Transition Services Agreement.

Employee Matters Agreement

Concurrently with our separation from Theravance, it is anticipated that we will enter into an Employee Matters Agreement, which will govern the employee benefit obligations of Theravance and us as they relate to current and former employees. The Employee Matters Agreement allocates liabilities and responsibilities relating to employee benefit matters, including 401(k) plan matters that are subject to ERISA in connection with the separation, as well as other employee benefit programs.

The Employee Matters Agreement will also provide the mechanics for the adjustment on the distribution date of equity awards (including stock options, stock appreciation rights, restricted stock, and restricted stock units) granted under Theravance's equity compensation programs. See "The Spin-Off—Treatment of Outstanding Theravance Equity Awards in Connection with the Spin-Off" above.

Tax Sharing and Indemnification Agreement

Concurrently with our separation from Theravance, we will enter into a Tax Sharing and Indemnification Agreement that generally will govern Theravance's and our respective rights, responsibilities and obligations after the separation with respect to taxes. Under the Tax Sharing and

Indemnification Agreement, all tax liabilities (including tax refunds and credits) (1) attributable to Theravance's Drug Discovery and Development Business for any and all periods or portions thereof ending prior to or on, the distribution date, (2) resulting or arising from the contribution of Theravance's Drug Discovery and Development Business to us, the distribution of our common shares and the other separation transactions and (3) otherwise attributable to Theravance, will be borne solely by Theravance. As a result, we generally expect to be liable only for tax liabilities attributable to, or incurred with respect to, the biotechnology business after the distribution date.

TRC Operating Agreement

Prior to our separation from Theravance, we and Theravance will enter into the Theravance Respiratory Company LLC Operating Agreement that will govern the operation of TRC. See "The Spin-Off—Formation of Theravance Respiratory Company LLC."

Actual and Potential Conflicts of Interest

After the spin-off, certain of our officers and one of our directors will also serve as officers and/or as a director of Theravance and have significant financial interests as holders of Theravance equity. In particular, Rick E Winningham, who will serve as our Chairman and Chief Executive Officer, Michael W. Aguiar, who will serve as our Senior Vice President and Chief Financial Officer, and Bradford J. Shafer, who will serve as our Senior Vice President, General Counsel and Secretary, will each hold the same respective positions for Theravance. See "Risk Factors—Risks Relating to the Spin-Off—After the spin-off, certain of our directors and officers may have actual or potential conflicts of interest because of their equity ownership in Theravance, and certain of our directors and officers may have actual or potential conflicts of interest because they also serve as officers and/or on the board of directors of Theravance, which may harm our business, prospects and financial condition and result in the diversion of corporate opportunities to Theravance" and "Compensation of Named Executive Officers." We plan to implement policies and procedures to identify and address such actual and potential conflicts of interest.

Unaudited Pro Forma Combined Balance Sheet

The unaudited pro forma combined balance sheet information presented below has been prepared from Theravance Biopharma's unaudited balance sheet as of March 31, 2013. The pro forma adjustments and notes to the pro forma financial information give effect to the legal formation and capitalization of Theravance Biopharma and the contribution of the assets and liabilities of Theravance Biopharma by Theravance as described below. The unaudited pro forma combined balance sheet should be read together with the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Theravance Biopharma's historical financial statements and notes related to those financial statements included elsewhere in the Information Statement.

The unaudited pro forma balance sheet as of March 31, 2013 has been prepared as if the spin-off had occurred on March 31, 2013. The pro forma adjustments are based on the best information available and assumptions that management believes are reasonable given the information available; however, such adjustments are subject to change based upon the finalization of the terms of the separation and the underlying separation agreements. The historical balance sheet is derived from our unaudited combined financial statement as of March 31, 2013, which is included elsewhere in this Information Statement. The historical balance sheet of Theravance Biopharma includes allocations of expenses from Theravance, and such costs may not be representative of our future costs to be incurred as a separate public company. At this time, management cannot make any estimates of the costs that Theravance Biopharma would expect to incur as a separate public company that are reasonably estimable and factually supportable. As a result, a pro forma statement of operations has not been presented.

The unaudited pro forma combined balance sheet is for illustrative and information purposes only and is not intended to represent, or be indicative of, what Theravance Biopharma's financial position would have been had the spin-off occurred on the date indicated.

Theravance Biopharma, Inc.
(a wholly-owned subsidiary of Theravance, Inc.)

Unaudited Pro Forma Combined Balance Sheet
(In thousands)

	March 31, 2013		
	Historical	Pro Forma Adjustments	Pro Forma
ASSETS			
Current assets:			
Cash and cash equivalents	$ —	$ 300,000(1)	$ 300,000
Receivables from collaborative arrangements	1,963		1,963
Prepaid and other current assets	3,535		3,535
Inventories	8,049		8,049
Total current assets	13,547	300,000	313,547
Restricted cash	833		833
Property and equipment, net	9,010		9,010
Notes receivable, non-current	140		140
TOTAL ASSETS	$ 23,530	$ 300,000	$ 323,530
LIABILITIES AND PARENT COMPANY EQUITY (DEFICIT)			
Current liabilities:			
Accounts payable	$ 3,444	$ —	$ 3,444
Accrued personnel-related expenses	3,715		3,715
Accrued clinical and development expenses	6,054		6,054
Other accrued liabilities	2,227		2,227
Deferred revenue, current	7,314		7,314
Total current liabilities	22,754		22,754
Deferred rent	4,872		4,872
Deferred revenue, non-current	279		279
Total liabilities	27,905		27,905
Commitments and contingencies			
Parent company equity (deficit):			
Parent company equity (deficit)	(4,375)	4,375(1)	—
Additional paid in capital	—	295,625(1)	295,625
Total parent company equity (deficit)	(4,375)	300,000	295,625
TOTAL LIABILITIES AND PARENT COMPANY EQUITY (DEFICIT)	$ 23,530	$ 300,000	$ 323,530

(1) Cash and cash equivalents pro forma include a cash capital contribution by Theravance, Inc. of approximately $300 million based on the anticipated post-separation capital structure as of March 31, 2013.

Management

The following table sets forth information as of June 30, 2013 regarding individuals who are expected to serve as Theravance Biopharma's executive officers after the spin-off, including their anticipated positions.

Name	Age	Expected Position
Rick E Winningham	53	Chief Executive Officer
Michael W. Aguiar	46	Senior Vice President and Chief Financial Officer
Leonard M. Blum	52	Senior Vice President and Chief Commercial Officer
Mathai Mammen	45	Senior Vice President, Research
Bradford J. Shafer	53	Senior Vice President, General Counsel and Secretary

Rick E Winningham joined Theravance as Chief Executive Officer and a member of the Theravance board of directors in October 2001. From 1997 to 2001 he served as President, Bristol-Myers Squibb Oncology/Immunology/Oncology Therapeutics Network (OTN) and also as President of Global Marketing from 2000 to 2001. In addition to operating responsibility for U.S. Oncology/Immunology/OTN at Bristol-Myers Squibb, Mr. Winningham also had full responsibility for Global Marketing in the Cardiovascular, Infectious Disease, Immunology, Oncology/ Metabolics and GU/GI/Neuroscience therapeutic areas. Mr. Winningham held various management positions with Bristol-Myers Squibb and its predecessor, Bristol-Myers, since 1986. Mr. Winningham is a member of the board of directors of Jazz Pharmaceuticals, Inc. and the California Healthcare Institute. Mr. Winningham holds an M.B.A. from Texas Christian University and a B.S. degree from Southern Illinois University. We believe that it is appropriate and desirable for our Chief Executive Officer to serve on our board of directors. Mr. Winningham's demonstrated leadership in his field, his prior senior management experience in our industry and his experience as our Chief Executive Officer contributed to our conclusion that he should serve as a director.

Michael W. Aguiar joined Theravance as Senior Vice President and Chief Financial Officer in March 2005. Prior to joining Theravance, Mr. Aguiar served as Vice President of Finance at Gilead Sciences, Inc., a biopharmaceutical company, since 2002. Prior to Gilead Sciences, Inc., Mr. Aguiar served as Vice President of Finance at Immunex Corporation, a biopharmaceutical company, from 2001 to 2002. From 1995 to 2001, he was with Honeywell International in a variety of positions, including, most recently CFO and Vice President Finance for Honeywell Electronic Materials Strategic Business Unit. Mr. Aguiar earned a B.S. in Biology from UC Irvine and an M.B.A. in Finance from the University of Michigan.

Leonard M. Blum joined Theravance as Senior Vice President and Chief Commercial Officer in July 2007. Prior to joining Theravance, Mr. Blum served as Senior Vice President of Sales and Marketing at ICOS Corporation. From 1987-2000, Mr. Blum held positions of increasing responsibility in marketing and sales management at Merck in both U.S. and international markets. Mr. Blum earned an M.B.A. from Stanford University, studied Finance as a Fulbright Fellow at the University of Zurich, and received an A.B. in Economics, magna cum laude, from Princeton University. Mr. Blum served as an officer in the U.S. Army Special Forces.

Mathai Mammen, M.D., Ph.D. co-founded Theravance in 1996. He was promoted to Senior Vice President, Research in January 2008 and has been Senior Vice President, Research & Early Clinical Development since February 2009. He has served in various positions in both the Medicinal Chemistry Department and the Molecular and Cellular Biology Department, most recently as Vice President, Molecular and Cellular Biology, responsible for all molecular pharmacology, molecular biology, cell biology, microbiology and enzymology activities in support of projects in both Research and Development. Dr. Mammen obtained his M.D. from Harvard Medical School/Massachusetts Institute of

Technology, and his Ph.D. in Physical Organic Chemistry from Harvard University. Dr. Mammen obtained his B.S. in Chemistry from Dalhousie University in Halifax, Nova Scotia.

Bradford J. Shafer joined Theravance as Senior Vice President, General Counsel and Secretary in August 1999. From 1996 to 1999 he served as General Counsel of Heartport, Inc., a cardiovascular medical device company. From 1993 to 1996 Mr. Shafer was a partner in the Business and Technology Group at the law firm of Brobeck, Phleger & Harrison LLP. Mr. Shafer holds a J.D. from the University of California, Hastings College of the Law, where he was Editor-in-Chief of The Hastings Constitutional Law Quarterly, and a B.A. from the University of the Pacific, where he graduated magna cum laude.

Employment Arrangements

We have or will have at the effective date of the spin-off entered into employment offer letters with each of our named executive officers in connection with their start of employment with us. None of these employment offer letters provides for or will provide for a specific term of employment, each officer is an "at-will" employee and each officer's employment may be terminated by either party at any time.

Board of Directors

Members of the Board of Directors

Our board of directors currently is expected to be comprised of between to members in the near term after the spin-off. Currently, Rick E Winningham is the sole director of Theravance Biopharma and has been appointed to serve in such capacity solely for administrative purposes to effect the intentions of the Theravance board of directors until such time as the continuing directors of Theravance Biopharma are formally appointed. Any appointment of additional Theravance Biopharma directors prior to the spin-off shall be made by Theravance as the sole shareholder with authorization by the Theravance board of directors. Any appointment of additional Theravance Biopharma directors after completion of the spin-off shall be authorized by the board of directors of Theravance Biopharma. We expect to have a classified board of directors at the time of the spin-off consisting of three classes of directors, each serving staggered three-year terms. Our directors will be divided among classes as follows:

- Class I directors, whose initial term will expire at the annual general meeting of shareholders to be held in 2015, will consist of ;
- Class II directors, whose initial term will expire at the annual general meeting of shareholders to be held in 2016, will consist of ; and
- Class III directors, whose initial term will expire at the annual general meeting of shareholders to be held in 2017, will consist of .

Independence of Directors

We expect a majority of the members of our board of directors will qualify as independent directors as defined in Rule 5605 of the Nasdaq Marketplace rules for listed companies.

Each expected member of each of our Compensation, Nominating and Governance and Audit Committees is also expected to qualify as an independent director under Nasdaq's Marketplace rules for listed companies.

Board Committees

Our board of directors plans to establish the following five standing committees: Audit Committee, Compensation Committee, Nominating/Corporate Governance Committee, Science and Technology Advisory Committee and Stock Option Committee.

The Audit Committee of the board of directors will oversee our accounting practices, systems of internal controls and financial reporting processes. For this purpose, the functions of our Audit Committee will include:

- Approving the engagement of the independent auditors;
- Determining whether to retain or terminate the existing independent auditors or to appoint and engage new independent auditors;
- Reviewing and approving all audit and permissible non-audit services provided by the independent auditors;
- Conferring with management and the independent auditors regarding the effectiveness of internal controls, financial reporting processes and disclosure controls;
- Consulting with management and the independent auditors regarding our policies governing financial risk management;
- Reviewing and discussing reports from the independent auditors on critical accounting policies;
- Establishing procedures, as required under applicable law, for the receipt, retention and treatment of complaints received regarding accounting, internal accounting controls or auditing matters and the confidential and anonymous submission by employees of concerns regarding questionable accounting or auditing matters;
- Reviewing the financial statements to be included in our Annual Report on Form 10-K;
- Discussing with management and the independent auditors the results of the annual audit and the results of quarterly reviews and any significant changes in our accounting principles; and
- Reviewing and approving related-person transactions in accordance with our policies and procedures with respect to related-person transactions and applicable Nasdaq rules.

Compensation Committee

The Compensation Committee of the board of directors will review and approve the overall compensation strategy and policies for the Company. The functions of the Compensation Committee will include:

- Reviewing and approving corporate performance goals and objectives relevant to the compensation of our executive officers and other senior management;
- Reviewing and approving the compensation and other terms of employment of our principal executive officer and other executive officers;
- Approving the individual bonus programs in effect for the principal executive officer, other executive officers and key employees for each fiscal year;
- Recommending to the board of directors the compensation of the directors;
- Recommending to the board of directors the adoption or amendment of equity and cash incentive plans and approving the adoption of and amendments to these plans;
- Granting stock options and other equity awards; and

- Administering our equity incentive plans and similar programs.

We expect that the Compensation Committee will retain an independent compensation consultant to advise on various matters related to compensation of officers and directors and general compensation programs and matters, including in connection with planning for the spin-off. We expect that the Compensation Committee will continue the engagement of an independent compensation consultant to advise on these matters for us after the spin-off.

Our Compensation Committee would generally engage independent compensation consultants to provide:

- Assistance in selecting a peer group of companies for executive compensation comparison purposes;
- Comparative market data on officer and board director compensation practices and programs of peer companies and competitors;
- Guidance on industry best practices and emerging trends and developments in officer and board director compensation;
- Preparation of tally sheets for each officer; and
- Advice on determining the total compensation of each of our officers and the material elements of total compensation, including (1) annual base salaries, (2) target cash bonus amounts, (3) stock option awards and (4) restricted share awards.

We expect that any independent compensation consultant will serve at the pleasure of the Compensation Committee rather than our management and its fees will be approved by the Compensation Committee. The Compensation Committee will assess the independence of compensation consultants pursuant to SEC rules and to confirm that no conflict of interest exists that would prevent compensation consultants from independently representing the Compensation Committee. The Compensation Committee, in consultation with its compensation consultants, reviews and approves the overall strategy for compensating members of the board of directors. Specifically, the Compensation Committee reviews the compensation of the directors and recommends to the board of directors any changes to the compensation of the directors.

Nominating/Corporate Governance Committee

The Nominating/Corporate Governance Committee of the board of directors is responsible for:

- Identifying, reviewing and evaluating candidates to serve as directors of the Company (consistent with criteria to be approved by the board of directors);
- Reviewing and evaluating incumbent directors;
- Recommending to the board of directors for selection candidates for election to the board of directors, making recommendations to the board of directors regarding the membership of the committees of the board of directors; and
- Assessing the performance of the board of directors and advising the board of directors on corporate governance principles.

The Nominating/Corporate Governance Committee will work to ensure that candidates for director have certain minimum qualifications, including being able to read and understand basic financial statements and having the highest personal integrity and ethics. The committee will also consider such factors as having relevant expertise upon which to be able to offer advice and guidance to management, sufficient time to devote to our affairs, demonstrated excellence in his or her field, the ability to exercise sound business judgment and the commitment to rigorously represent the long-term interests

of our shareholders. However, the Nominating/Corporate Governance Committee will retain the right to modify these qualifications from time to time.

Candidates for director nominees will be reviewed in the context of the current composition of our board of directors, our operating requirements and the long-term interests of our shareholders. While we will not have a formal policy on diversity, our Nominating/Corporate Governance Committee will consider diversity of experience as one of the factors it considers in conducting its assessment of director nominees, along with such other factors as it deems appropriate given the then current needs of the board of directors and the Company, to maintain a balance of knowledge, experience and capability. In the case of incumbent directors, our Nominating/Corporate Governance Committee will review such directors' overall service during their term, including the number of meetings attended, level of participation, quality of performance, and any other relationships and transactions that might impair such directors' independence. In the case of new director candidates, the committee will also determine whether the nominee must be independent for Nasdaq purposes, which determination is based upon applicable Nasdaq listing standards, applicable SEC rules and regulations and the advice of counsel, if necessary.

The committee will use its network of contacts to compile a list of potential candidates, but may also engage, if it deems appropriate, a professional search firm. The committee will conduct appropriate and necessary inquiries into the backgrounds and qualifications of possible candidates after considering the function and needs of the board of directors. The committee will meet to discuss and consider such candidates' qualifications and then select a nominee for recommendation to the board of directors by majority vote.

The Nominating/Corporate Governance Committee will consider director candidates recommended by shareholders and evaluate them using the same criteria as candidates identified by the board of directors or the Nominating/Corporate Governance Committee for consideration. If a shareholder of the Company wishes to recommend a director candidate for consideration by the Nominating/Corporate Governance Committee, the shareholder recommendation should be delivered to the Secretary of the Company in writing at the principal executive offices of the Company, and must include information regarding the candidate and the shareholder making the recommendation as required by a to be established communications policy.

Science and Technology Advisory Committee

The Science and Technology Advisory Committee of the board of directors will review and discuss scientific and technological matters affecting the Company. The Science and Technology Advisory Committee will also identify scientific and technological matters that may affect Theravance Biopharma in the future, and will develop strategies to address these issues in our research plans.

Stock Option Committee

The primary purpose of the Stock Option Committee, of which Rick E Winningham will be the sole member, will be to approve and grant stock option and other equity grants to employees who are not executive officers. Grants to executive officers will be made by our Compensation Committee.

Compensation of Non-Employee Directors

We have not yet established arrangements to compensate our non-employee directors for their services to us following the spin-off; however, we anticipate that the compensation will be composed of both cash and equity awards, the latter of which will be granted under an equity incentive plan that we intend to establish in connection with the spin-off.

In addition, as described in "The Spin-Off—Treatment of Outstanding Theravance Equity Awards in Connection with the Spin-Off" above, we expect that the Theravance stock options and RSUs held by Theravance non-employee directors who transfer to our board of directors will be amended so that they remain outstanding and continue to vest based on service on our board of directors following the spin-off and will fully vest in the event we are subject to a change in control before the director's service on our board of directors terminates.

Compensation of Named Executive Officers

2012 Summary Compensation Table

The following table sets forth all of the compensation awarded to, earned by, or paid to the persons we expect to be our "principal executive officer" and our two other highest paid executive officers based on the compensation they received from Theravance (our "named executive officers") for fiscal years 2012 and 2011. The amounts and forms of compensation set forth in the table below reflect compensation from Theravance and are not necessarily indicative of the compensation the officers may receive following the spin-off.

Name and Principal Position	Year	Salary ($)(1)	Bonus ($)(2)	Stock Awards ($)(3)	Non-Equity Incentive Plan Compensation ($)(4)	All Other Compensation ($)(5)	Total ($)
Rick E Winningham	2012	833,280	35,112	199,210	450,888	500	1,518,990
Chief Executive Officer	2011	812,796	0	5,440,600	586,521	1,025	6,840,942
Michael W. Aguiar	2012	441,726	20,740	90,550	199,260	500	752,776
Senior Vice President, Chief Financial Officer	2011	428,692	0	2,473,000	257,942	843	3,160,477
Mathai Mammen	2012	411,925	19,183	90,550	185,817	500	707,975
Senior Vice President, Research & Early Clinical Development	2011	399,158	0	2,473,000	240,540	843	3,113,541

(1) Includes amounts deferred pursuant to Theravance's 401(k) plan.

(2) The amounts in this column reflect credit awarded at the discretion of the Theravance Compensation Committee with respect to two of the performance goals applicable to Theravance's 2012 annual cash bonus program and additional bonus amounts awarded to Mr. Aguiar and Dr. Mammen for their individual contributions, as discussed in greater detail in the "Annual Cash Incentive Compensation" section of the "Compensation Discussion and Analysis" of the Theravance proxy statement filed with the SEC on March 12, 2013.

(3) The amounts in this column represent the aggregate grant date fair value of stock awards granted to the officer in the applicable fiscal year computed in accordance with FASB ASC Topic 718. See Note 8 of the notes to Theravance's consolidated financial statements in Theravance's Annual Report on Form 10-K filed on February 26, 2013 for a discussion of all assumptions made by Theravance in determining the grant date fair values of its equity awards. Each named executive officer was granted RSAs by Theravance in February 2012, the vesting of 50% of which was tied to the achievement of one of three possible performance goals, as described in greater detail in the "Performance-Based Vesting in 2012 and 2013" section of the "Compensation Discussion and Analysis" of the Theravance proxy statement filed with the SEC on March 12, 2013. The grant date fair value of the performance-contingent portion of these awards assuming that one of the milestones was achieved is $199,210 in the case of Mr. Winningham and $90,550 in the case of the other named executive officers. In accordance with SEC rules, the grant date fair value of any award subject to a performance condition is based on the probable outcome of the performance conditions. At the time these awards were made, it was not probable that any of the performance milestones would be achieved and therefore no amount attributable to the performance-contingent portion of these awards is included in the "stock awards" column. One of the performance goals applicable to these awards has since been achieved.

(4) The amounts in this column reflect cash bonus awards earned by the named executive officers under Theravance's 2011 and 2012 annual cash bonus plans, which were paid in the first quarter of the following year. The 2012 annual cash bonus plan is discussed in greater detail in the "Annual Cash Incentive Compensation" section of the "Compensation Discussion and Analysis" of the Theravance proxy statement filed with the SEC on March 12, 2013.

(5) Reflects a tax-gross up payment in 2011 on an iPad gift given as a reward for approval of VIBATIV® (telavancin) by regulatory authorities in the European Union, and a $500 401(k) matching contribution by Theravance in each of 2011 and 2012. The gross-up payment on the iPad gift and the 401(k) matching contributions were provided to all Theravance employees.

Narrative Disclosure to Summary Compensation Table

Named Executive Officer Compensation Following the Spin-Off

While compensation programs for Theravance Biopharma employees, including our named executive officers, have not yet been finalized, following the spin-off we anticipate that the compensation paid to our named executive officers will consist of the same elements that were provided to our named executive officers by Theravance prior to the spin-off, namely base salary, annual cash incentive compensation, equity incentive compensation and post-termination protection.

Base salary. We anticipate that the initial base salaries for our named executive officers will be the same as those set by Theravance's Compensation Committee for fiscal 2013, which are as follows: Mr. Winningham, $864,202; Mr. Aguiar, $458,298; and Dr. Mammen, $427,379; provided, however, that it is anticipated that the base salaries of Messrs. Winningham and Aguiar will be adjusted to reflect their part-time employment with us.

Annual Cash Incentive Compensation. Currently our named executive officers are eligible for annual cash incentives pursuant to Theravance's company-wide bonus program. We anticipate that our named executive officers will continue to be eligible for annual cash incentives pursuant to a company-wide bonus program that we adopt. We anticipate that the target bonus percentages for our named executive officers will remain the same as those set by Theravance's Compensation Committee for fiscal 2013.

Equity Incentive Compensation. We anticipate that our employees, including our named executive officers, will be granted initial stock options for Theravance Biopharma common shares pursuant to our equity incentive plan following the spin-off and will thereafter be considered for annual replenishment equity awards. As described above in "The Spin-Off—Treatment of Outstanding Theravance Equity Awards in Connection with the Spin-Off," we also expect that our employees will continue to vest in their outstanding Theravance equity awards based on service to us following the spin-off.

Post-Termination Protection. Currently our named executive officers participate in Theravance's change in control plan, as described below in "Change in Control Severance Plan." We anticipate that we will adopt a similar change in control plan that our named executive officers will be eligible to participate in.

Theravance Biopharma Employment Arrangements

Prior to the spin-off, we expect to enter into employment offer letters with each of our named executive officers. We expect that these offer letters will set forth the officer's initial base salary, target bonus opportunity and initial stock option award and will provide that the officer's employment will be "at will" and may be terminated by either party at any time.

Outstanding Theravance Equity Awards at 2012 Fiscal Year-End

The following table sets forth information regarding each unexercised option to purchase shares of Theravance's common stock, all restricted common stock of Theravance and all restricted stock units for shares of Theravance's common stock held by each of our named executive officers as of December 31, 2012. The treatment of outstanding Theravance equity awards in connection with the spin-off is described in greater detail in the section titled "The Spin-Off —Treatment of Outstanding Theravance Equity Awards in Connection with the Spin-Off" above. All equity awards granted under Theravance's equity plans will fully vest in the event of a change in control of Theravance unless the awards are assumed by the successor corporation or replaced with comparable awards. For additional information regarding other vesting acceleration provisions applicable to the outstanding Theravance equity awards held by our named executive officers, please see the section titled "Change in Control Severance Plan" below.

	Option Awards				Stock Awards			
Name	Number of Securities Underlying Unexercised Options Exercisable (#)	Number of Securities Underlying Unexercised Options Unexercisable (#)	Option Exercise Price ($)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested ($)(1)	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested ($)(2)
(a)	(b)	(c)	(e)	(f)	(g)	(h)	(i)	(j)
Rick E Winningham	385,161(3)	—	9.6875	3/28/2014	—	—	—	—
	69,355(4)	—	29.65	2/7/2016	—	—	—	—
	69,355(5)	—	34.00	2/13/2017	—	—	—	—
	—	—	—	—	5,000(6)	111,200	—	—
	—	—	—	—	34,375(7)	764,500	—	—
	—	—	—	—	143,000(8)	3,180,320	82,500(9)	1,834,800
	—	—	—	—	22,000(10)	489,280	—	—
Michael W. Aguiar	170,879(11)	—	17.91	3/6/2015	—	—	—	—
	30,250(4)	—	29.65	2/7/2016	—	—	—	—
	20,000(12)	—	27.56	4/25/2016	—	—	—	—
	70,000(5)	—	34.00	2/13/2017	—	—	—	—
	—	—	—	—	2,312(6)	51,419	—	—
	—	—	—	—	15,624(7)	347,478	—	—
	—	—	—	—	65,000(8)	1,445,600	37,500(9)	834,000
	—	—	—	—	10,000(10)	222,400	—	—
Mathai Mammen	14,510(13)	—	3.10	1/23/2013	—	—	—	—
	4,570(14)	—	3.10	2/24/2014	—	—	—	—
	19,354(14)	—	12.40	9/2/2014	—	—	—	—
	48,000(15)	—	16.00	10/3/2014	—	—	—	—
	21,900(16)	—	18.37	2/9/2015	—	—	—	—
	9,900(4)	—	29.65	2/7/2016	—	—	—	—
	13,200(5)	—	34.00	2/13/2017	—	—	—	—
	16,500(17)	—	32.78	7/1/2017	—	—	—	—
	100,000(18)	—	19.80	1/28/2018	—	—	—	—
	—	—	—	—	2,312(6)	51,419	—	—
	—	—	—	—	15,624(7)	347,478	—	—
	—	—	—	—	65,000(8)	1,445,600	37,500(9)	834,000
	—	—	—	—	10,000(10)	222,400	—	—

(1) Computed in accordance with SEC rules as the number of unvested RSUs or RSAs, as applicable, multiplied by the closing market price of Theravance's common stock at the end of the 2012 fiscal year, which was $22.24 on December 31, 2012 (the last business day of the 2012 fiscal year). The actual value (if any) to be realized by the officer depends on whether the shares vest and the future performance of Theravance's common stock.

(2) Computed in accordance with SEC rules as the number of unvested RSAs multiplied by the closing market price of Theravance's common stock at the end of the 2012 fiscal year, which was $22.24 on December 31, 2012. The actual value (if any) to be realized by the officer depends on whether the performance milestones related thereto are achieved, whether the shares vest following achievement of the performance milestones, and the future performance of Theravance's common stock.

(3) Mr. Winningham received a grant of an option to purchase shares of Theravance common stock under Theravance's 1997 Stock Option Plan on March 29, 2004. This option vested over a five-year period from the date of grant and became fully vested on March 29, 2009.

(4) Messrs. Winningham and Aguiar and Dr. Mammen received grants of options to purchase shares of Theravance common stock under Theravance's 2004 Incentive Plan on February 8, 2006. These options vested over a four-year period from the date of grant and became fully vested on February 8, 2010.

(5) Messrs. Winningham and Aguiar and Dr. Mammen received grants of options to purchase shares of Theravance common stock under Theravance's 2004 Incentive Plan on February 14, 2007. These options vested over a four-year period from the date of grant and became fully vested on February 14, 2011.

(6) Messrs. Winningham and Aguiar, and Dr. Mammen received RSUs under Theravance's 2004 Incentive Plan on March 20, 2009. Each RSU vested in equal quarterly installments over approximately four years from the date of grant and became fully vested on February 20, 2013.

(7) Messrs. Winningham and Aguiar and Dr. Mammen received RSUs under Theravance's 2004 Incentive Plan on February 10, 2010. Each RSU vests in equal quarterly installments over approximately four years from the date of grant, provided the holder remains in continuous service with Theravance through each vesting date. Includes 17,188 RSUs in the case of Mr. Winningham and 7,812 RSUs in the case of the other officers that were subject to achievement of performance goals by December 31, 2011 that have already been achieved.

(8) Messrs. Winningham and Aguiar and Dr. Mammen received RSAs under Theravance's 2004 Incentive Plan on February 11, 2011. 20% of the RSAs vested on February 20, 2012, and the remaining 80% of the RSAs vest in equal quarterly installments over the next four years, provided the holder remains in continuous service with Theravance through each vesting date.

(9) Messrs. Winningham and Aguiar and Dr. Mammen received performance-contingent RSAs under Theravance's 2004 Incentive Plan on February 11, 2011, which we refer to herein as the Six-Year Performance RSAs. The vesting of these RSAs is contingent upon the achievement of performance milestones by December 31, 2016 as well as continued employment with Theravance, as described in detail in the "Equity Incentive Compensation" section of the Theravance proxy statement filed with the SEC on April 16, 2012. In accordance with SEC rules, the number of shares in column (i) and the value of those shares in column (j) reflects threshold performance assuming milestones that add up to ten points are achieved.

(10) Messrs. Winningham and Aguiar and Dr. Mammen received RSAs under Theravance's 2004 Incentive Plan on February 15, 2012. The first 25% of the RSAs vested on February 20, 2013, and the remaining 75% of the RSAs vest in equal quarterly installments over three years thereafter, provided the holder remains in continuous service with Theravance through each vesting date. Includes 11,000 RSAs in the case of Mr. Winningham and 5,000 RSAs in the case of the other officers that were subject to achievement of a performance goal by December 31, 2013 that has already been achieved.

(11) Mr. Aguiar received a grant of an option to purchase shares of Theravance common stock under Theravance's 2004 Incentive Plan at the commencement of his employment on March 7, 2005. This option vested over a four-year period and became fully vested on March 7, 2009.

(12) Mr. Aguiar received a grant of an option to purchase shares of Theravance common stock under Theravance's 2004 Incentive Plan on April 26, 2006. This option vested over a four-year period from the date of grant and became fully vested on February 8, 2010.

(13) Dr. Mammen received a grant of an option to purchase shares of Theravance common stock under Theravance's 1997 Stock Plan on January 24, 2003. This option vested over a four-year period from the date of grant and became fully vested on January 24, 2007.

(14) Dr. Mammen received grants of options to purchase shares of Theravance common stock under Theravance's 1997 Stock Plan on each of February 25, 2004 and September 3, 2004. These options each vested monthly over a five-year period from the date of grant and have fully vested.

(15) Dr. Mammen received a grant of an option to purchase shares of Theravance common stock under Theravance's 1997 Stock Option Plan on October 4, 2004. 40% of the option shares vested on September 13, 2007 and an additional 30% of the option shares vested on October 4, 2008. The final 30% of the option shares vested on October 4, 2009.

(16) Dr. Mammen received a grant of an option to purchase shares of Theravance common stock under Theravance's 2004 Incentive Plan on February 10, 2005. This option vested in 48 equal monthly installments upon completion of each month of continuous service after the date of grant until it became fully vested on February 10, 2009.

(17) Dr. Mammen received a grant of an option to purchase shares of Theravance common stock under Theravance's 2004 Incentive Plan on July 2, 2007. This option vested over a four-year period from the date of grant and became fully vested on July 2, 2011.

(18) Dr. Mammen received a grant of an option to purchase shares of Theravance common stock under Theravance's 2004 Incentive Plan on January 29, 2008. The option vested in 48 equal monthly installments and became fully vested on January 29, 2012.

Change in Control Severance Plan

Currently, our named executive officers participate in Theravance's change in control severance plan, which provides for the following benefits if a named executive officer is subject to an involuntary termination within 3 months prior to or 24 months after a change in control of Theravance, provided the officer signs a release of claims:

- In the case of Theravance's Senior Vice Presidents (including Mr. Aguiar and Dr. Mammen), a lump sum payment equal to 150% of the officer's annual base salary and target bonus.

- In the case of Theravance's Chief Executive Officer, Mr. Winningham, a lump sum payment equal to 200% of the officer's annual base salary and target bonus.

- A pro-rata portion of the named executive officer's target bonus based on the number of full months of employment completed in the year of termination.

- Continuation of the officer's health and welfare benefits for the shorter of 18 months (in the case of Theravance's Senior Vice Presidents) or 24 months (in the case of Theravance's Chief Executive Officer) or the expiration of the officer's continuation coverage under COBRA.

- Full vesting of any unvested stock options, RSAs and RSUs held by the officer; provided, however, that the Six-Year Performance RSAs for which the performance milestones have not been achieved as of the date vesting would occur under Theravance's change in control severance plan would be subject to reduced vesting acceleration if the per share value to be received by a holder of Theravance common stock is less than $49.46.

- In the case of named executive officers eligible to participate in the change in control severance plan prior to December 16, 2009, a tax gross-up payment in the event an independent accounting firm selected by Theravance determines that the named executive officer would be subject to excise taxes under Section 4999 of the Code as a result of payments under the change in control severance plan or otherwise.

Following the spin-off, we expect that Messrs. Winningham and Aguiar, who are expected to also remain officers of Theravance, will continue to be eligible to participate in the Theravance change in control severance plan; however, we do not expect that Dr. Mammen will be eligible to continue to participate in such plan. As a result, we anticipate adopting a similar severance plan in connection with the spin-off that will provide such benefits in the event we undergo a change in control after the spin-off. In addition, as described in "The Spin-Off—Treatment of Outstanding Theravance Equity Awards in Connection with the Spin-Off" above, we expect that outstanding Theravance equity awards held by Theravance Biopharma Employees, including our named executive officers, will be amended so that they will fully vest in the event the Theravance Biopharma Employee is subject to an involuntary termination in connection with or following a change in control of Theravance Biopharma.

The following definitions are used in Theravance's change in control severance plan:

A "change in control" includes:

- The consummation of a merger or consolidation if persons who were not Theravance's stockholders prior to the merger or consolidation own 50% or more of the voting securities of the surviving company and its parent.

- A sale, transfer or other disposition of all or substantially all of Theravance's assets.

- A change in the composition of Theravance's board of directors as a result of which fewer than 50% of the incumbent directors either were directors on the date 24 months prior to the change in control (the "Original Directors") or were appointed or nominated for election to the board of directors by a majority of the Original Directors or directors whose appointment or nomination was approved by at least 50% of the Original Directors.

- A transaction as a result of which any person becomes the beneficial owner of 50% or more of Theravance's outstanding voting securities.

A transaction shall not constitute a change in control of Theravance if its sole purpose is to change the state of Theravance's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held Theravance's securities immediately before such transaction. In addition, except with respect to a GSK Change In Control (defined below), the following stock purchases by GSK will not constitute a change in control:

- The exercise by GSK of any of its rights under the Amended and Restated Governance Agreement, dated as of June 4, 2004, as amended, among Theravance, GSK,

GlaxoSmithKline LLC and Glaxo Group Limited (the "Governance Agreement") to representation on Theravance's board of directors (and its committees).

- Any acquisition by GSK of securities of Theravance (whether by merger, tender offer, private or market purchases or otherwise) not prohibited by the Governance Agreement.

A "GSK Change In Control" means the acquisition by GSK, in compliance with the provisions of the Governance Agreement, of 100% of Theravance's outstanding voting stock.

An "involuntary termination" means a termination of an officer's employment by Theravance for reasons other than misconduct, or an officer's resignation following (1) a material diminution in the officer's authority, duties or responsibilities, (2) a material reduction in the officer's base compensation, (3) a material change in the officer's work location or (4) a material breach of the officer's employment agreement by Theravance. In order to qualify as an involuntary termination, the officer must give written notice to Theravance within 90 days after the initial existence of one of the conditions described above and Theravance must not have cured such condition within 30 days thereafter.

"Misconduct" means an officer's (1) commission of any material act of fraud, embezzlement or dishonesty, (2) material unauthorized use or disclosure of Theravance's confidential information or trade secrets or (3) other material intentional misconduct adversely affecting the business or affairs of Theravance.

Retirement Benefits

We anticipate establishing a 401(k) tax-deferred savings plan that permits participants, including our named executive officers, to make contributions by salary deduction pursuant to Section 401(k) of the Code.

Equity Plans

We anticipate establishing an equity incentive plan that will allow us to grant equity incentive awards to our employees, non-employee directors and consultants, including our named executive officers. We also anticipate establishing an employee stock purchase plan for the benefit of our employees, including our named executive officers, that is intended to qualify under Section 423 of the Code.

Security Ownership of Certain Beneficial Owners and Management

As of the date of this Information Statement, all of our outstanding common shares are owned by Theravance. In connection with the spin-off, Theravance will distribute to its stockholders all of our outstanding common shares and will immediately thereafter own none of our common shares. The following table provides information with respect to the expected beneficial ownership of our common shares immediately upon the spin-off by (1) each of our shareholders who we believe would be a beneficial owner of more than 5% of our outstanding common shares based on currently available information, (2) each member of our board of directors, (3) each named executive officer and (4) all of our executive officers and directors as a group. We based the share amounts on each person's ownership of Theravance common stock as of , 2013, unless we indicate some other basis for the share amounts, and assuming a distribution ratio of one of our common shares for every shares of Theravance common stock. To the extent our directors and officers own Theravance common stock at the time of the separation, they will participate in the distribution on the same terms as other holders of Theravance common stock; however since Theravance options or RSUs are not converted to options or RSUs of Theravance Biopharma in connection with the spin-off, the options and RSUs for Theravance common stock held by our directors and officers will not affect their beneficial ownership of our common shares at the time of the spin-off unless such options and RSUs are exercised or settled prior to the record date for the spin-off. Except as otherwise noted in the footnotes below, each person or entity identified below has sole voting and investment power with respect to such securities. As used in this Information Statement, "beneficial ownership" means that a person has, or may have within 60 days, the sole or shared power to vote or direct the voting of a security and/or the sole or shared investment power with respect to a security (i.e., the power to dispose or direct the disposition of a

security). Unless otherwise specified, the address of each named individual in the table below is the address of Theravance Biopharma.

Name of Beneficial Owner or Identity of Group(1)	Percent of Outstanding
GlaxoSmithKline plc(2) 980 Great West Road Brentford Middlesex TW8 9GS United Kingdom	
The Baupost Group, L.L.C.(3) 10 St. James Avenue, Suite 1700 Boston, Massachusetts 02116	
FMR LLC(4) 82 Devonshire Street Boston, MA 02109	
T. Rowe Price Associates, Inc.(5) 100 East Pratt Street Baltimore, MD 21202	
Rick E Winningham	
Michael W. Aguiar	*
Leonard M. Blum	*
Mathai Mammen, M.D., Ph.D.	*
Bradford J. Shafer	*
All directors and executive officers as a group (persons)	*

* Less than 1%

(1) Unless otherwise indicated, the address for each beneficial owner is c/o Theravance, Inc., 901 Gateway Boulevard, South San Francisco, California 94080.

(2) Based on a Form 4 filed with the Securities and Exchange Commission on , 2013. Shares are held of record by Glaxo Group Limited, a limited liability company organized under the laws of England and Wales and a wholly owned subsidiary of GlaxoSmithKline plc, an English public limited company.

(3) Based on a Schedule 13G/A filed with the Securities and Exchange Commission on February 13, 2013. The Baupost Group, L.L.C. ("Baupost") is a registered investment adviser. SAK Corporation is the Manager of Baupost. Seth A. Klarman, as the sole director and sole officer of SAK Corporation and a controlling person of Baupost, may be deemed to have beneficial ownership under Section 13(d) of the securities beneficially owned by Baupost.

(4) The various individuals, funds and entities that are deemed to be the beneficial owners of these shares, and the individuals, funds and entities having sole and shared voting power over these shares, are set forth in the Schedule 13G/A filed on February 14, 2013 and on which the information reported herein is based.

(5) Based on a Schedule 13G/A filed with the Securities and Exchange Commission on February 6, 2013. These securities are owned by various individual and institutional investors for which T. Rowe Price Associates, Inc. ("Price Associates") serves as investment advisor with power to direct investments and/or sole power to vote the securities. For purposes of the Exchange Act, Price Associates is deemed to be a beneficial owner of such securities; however, Price Associates expressly disclaims that it is, in fact, the beneficial owner of such securities.

Description of Share Capital

General

In July 2013, we were incorporated as an exempted limited liability company under the laws of the Cayman Islands. As such, our affairs will be governed by our amended and restated memorandum and articles of association to be effective following the spin-off, which we refer to as our amended and restated memorandum and articles of association, and the Companies Law, 2012 Revision, as amended (the "Companies Law"), and the common law of the Cayman Islands. Our shareholders who are non-residents of the Cayman Islands may freely hold and vote their shares. A Cayman Islands exempted company:

- is a company that conducts its business mainly outside of the Cayman Islands;
- is exempted from certain requirements of the Companies Law, including a filing of an annual return of its shareholders with the Registrar of Companies or the Immigration Board;
- does not have to make its register of shareholders open to inspection; and
- may obtain an undertaking against the imposition of any future taxation.

As of the date of this Information Statement, we are authorized to issue common shares, par value $0.00001 per share, and preferred shares, par value $0.00001 per share. As of , 2013 there were common shares outstanding, held of record by shareholders, no preferred shares outstanding and outstanding options to purchase common shares.

The following description summarizes the most important terms of our share capital. Because it is only a summary, it does not contain all the information that may be important to you. For a complete description, you should refer to our amended and restated memorandum and articles of association, a copy of which has been filed as an exhibit to our registration statement on Form 10, and the applicable provisions of the Companies Law.

Meetings of Shareholders

Subject to our regulatory requirements, an annual general meeting and any extraordinary general meeting shall be called by not less than ten days' nor more than 60 days' notice. Notice of every general meeting will be given to all of our shareholders, our directors and our principal external auditors. Extraordinary general meetings may be called only by the chairman of our board of directors or a majority of our board of directors, and may not be called by any other person.

Alternatively, subject to applicable regulatory requirements, a meeting will be deemed to have been duly called if it is so agreed (i) in the case of a meeting called as an annual general meeting, by all of our shareholders entitled to attend and vote at the meeting, or (ii) in the case of an extraordinary meeting, by a majority in number of our shareholders having a right to attend and vote at the meeting, being a majority together holding not less than 95% in par value of the shares giving that right.

At any general meeting, shareholders entitled to vote and present in person or by proxy that represent not less than one-third of our issued and outstanding voting shares will constitute a quorum. No business may be transacted at any general meeting unless a quorum is present at the commencement of business.

A corporation being a shareholder shall be deemed for the purpose of our amended and restated memorandum and articles of association to be present in person if represented by its duly authorized representative being the person appointed by resolution of the directors or other governing body of such corporation to act as its representative at the relevant general meeting or at any relevant general meeting of any class of our shareholders. Such duly authorized representative shall be entitled to

exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual shareholder.

The quorum for a separate general meeting of the holders of a separate class of shares is described in "Modification of Rights" below.

Voting Rights Attaching to the Shares

Subject to any special rights or restrictions as to voting then attached to any shares, at any general meeting every shareholder who is present in person or by proxy (or, in the case of a shareholder being a corporation, by its duly authorized representative) shall have one vote per common share.

No shareholder shall be entitled to vote or be deemed to be part of a quorum, in respect of any share, unless such shareholder is registered as our shareholder at the applicable record date for that meeting and all calls or installments due by such shareholder to us, if any, have been paid.

If a clearing house or depository (or its nominee(s)) is our shareholder, it may authorize such person or persons as it thinks fit to act as its representative(s) at any meeting or at any meeting of any class of shareholders, provided that, if more than one person is so authorized, the authorization shall specify the number and class of shares in respect of which each such person is so authorized. A person authorized pursuant to this provision is entitled to exercise the same powers on behalf of the recognized clearing house or depositary (or its nominee(s)) as if such person was the registered holder of our shares held by that clearing house or depositary (or its nominee(s)), including the right to vote individually on a show of hands.

While there is nothing under the laws of the Cayman Islands that specifically prohibits or restricts the creation of cumulative voting rights for the election of our directors, unlike the requirement under Delaware law that cumulative voting for the election of directors is permitted only if expressly authorized in the certificate of incorporation, it is not a concept that is accepted as a common practice in the Cayman Islands, and we have made no provisions in our amended and restated memorandum and articles of association to allow cumulative voting for such elections.

Protection of Minority Shareholders

The Grand Court of the Cayman Islands may, on the application of shareholders holding not less than one fifth of our shares in issue, appoint an inspector to examine our affairs and report thereon in a manner as the Grand Court shall direct.

Any shareholder may petition the Grand Court of the Cayman Islands which may make a winding up order, if the court is of the opinion that it is just and equitable that we should be wound up.

Claims against us by our shareholders must, as a general rule, be based on the general laws of contract or tort applicable in the Cayman Islands or their individual rights as shareholders as established by our amended and restated memorandum and articles of association.

Our Cayman Islands counsel, Maples and Calder, is not aware of any reported class action having been brought in a Cayman Islands court. Derivative actions have been brought in the Cayman Islands courts, and the Cayman Islands courts have confirmed the availability for such actions. In most cases, the company will be the proper plaintiff in any claim based on a breach of duty owed to it, and a claim against (for example) the company's officers or directors usually may not be brought by a shareholder. However, based on English authorities, which would in all likelihood be of persuasive authority and be applied by a court in the Cayman Islands, exceptions to the foregoing principle apply in circumstances in which:

- a company is acting, or proposing to act, illegally or beyond the scope of its authority;

- the act complained of, although not beyond the scope of the authority, could be effected if duly authorized by more than the number of votes which have actually been obtained; or

- those who control the company are perpetrating a "fraud on the minority."

A shareholder may have a direct right of action against the company where the individual rights of that shareholder have been infringed or are about to be infringed.

Pre-emption Rights

There are no pre-emption rights applicable to the issue of new shares under either Cayman Islands law or our amended and restated memorandum and articles of association.

Liquidation Rights

Subject to any special rights, privileges or restrictions as to the distribution of available surplus assets on liquidation applicable to any class or classes of shares (i) if we are wound up and the assets available for distribution among our shareholders are more than sufficient to repay the whole of the capital paid up at the commencement of the winding up, the excess shall be distributed pari passu among our shareholders in proportion to the amount paid up at the commencement of the winding up on the shares held by them, respectively, and (ii) if we are wound up and the assets available for distribution among our shareholders as such are insufficient to repay the whole of the paid-up capital, those assets shall be distributed so that, as nearly as may be, the losses shall be borne by our shareholders in proportion to the capital paid up at the commencement of the winding up on the shares held by them, respectively.

If we are wound up, the liquidator may with the sanction of an ordinary resolution and any other sanction required by the Companies Law, divide among our shareholders in specie or kind the whole or any part of our assets (whether they shall consist of assets of the same kind or not) and may, for such purpose, set such value as the liquidator deems fair upon any assets to be divided and may determine how such division shall be carried out as between the shareholders or different classes of shareholders. The liquidator may also, with the sanction of an ordinary resolution, vest any part of these assets in trustees upon such trusts for the benefit of our shareholders as the liquidator shall think fit, but so that no shareholder will be compelled to accept any assets, shares or other securities upon which there is a liability.

Modification of Rights

Except with respect to share capital (as described below), alterations to our amended and restated memorandum and articles of association may only be made by special resolution of no less than two-thirds of votes cast at a meeting of our shareholders at which a quorum is present.

Subject to the Companies Law and our amended and restated memorandum and articles of association, all or any of the special rights attached to shares of any class (unless otherwise provided for by the terms of issue of the shares of that class) may be varied, modified or abrogated with the sanction of a resolution passed by a majority of not less than two-thirds of the votes cast passed at a separate meeting of the holders of the shares of that class at which a quorum is present. The provisions of our amended and restated memorandum and articles of association relating to general meetings shall apply similarly to every such separate general meeting, but so that the quorum for the purposes of any such separate general meeting or at its adjourned meeting shall be a person or persons together holding (or represented by proxy) not less than one-third in nominal value of the issued shares of that class, every holder of shares of the class shall be entitled on a poll to one vote for every such share held by such holder and that any holder of shares of that class present in person or by proxy may demand a poll.

The special rights conferred upon the holders of any class of shares shall not, unless otherwise expressly provided in the rights attaching to or the terms of issue of such shares, be deemed to be varied by the creation or issue of further shares with the same rights and privileges.

Alteration of Capital

We may from time to time by ordinary resolution:

- increase our capital by such sum, to be divided into shares of such amounts, as the resolution shall prescribe;
- consolidate and divide all or any of our share capital into shares of larger amount than our existing shares;
- cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person, and diminish the amount of our share capital by the amount of the shares so cancelled, subject to the provisions of the Companies Law;
- subdivide our shares or any of them into shares of a smaller amount than is fixed by our amended and restated memorandum and articles of association, subject to the Companies Law, and so that the resolution whereby any share is subdivided may determine that, as between the holders of the share resulting from such subdivision, one or more of the shares may have any such preference or other special rights over, or may have such deferred rights or be subject to any such restrictions as compared with, the others as we have power to attach to unissued or new shares; and
- divide shares into several classes and without prejudice to any special rights previously conferred on the holders of existing shares, attach to the shares respectively as preferential, deferred, qualified or special rights, privileges, conditions or such restrictions which in the absence of any such determination in general meeting may be determined by our directors.

We may, by special resolution, subject to any confirmation or consent required by the Companies Law, reduce our share capital or any capital redemption reserve in any manner authorized by law.

Transfer of Shares

Subject to any applicable restrictions set forth in our amended and restated memorandum and articles of association, any of our shareholders may transfer all or a portion of their shares by an instrument of transfer in the usual or common form or in a form prescribed by the Nasdaq Global Market or in any other form which our directors may approve.

Our directors may, in their absolute discretion, decline to register any transfer of shares, subject to any applicable requirements imposed from time to time by the U.S. Securities and Exchange Commission, the Nasdaq Global Market or any recognized stock exchange on which our securities are listed. If our directors refuse to register a transfer, they shall, within two months after the date on which the instrument of transfer was lodged, send to each of the transferor and the transferee notice of such refusal.

The registration of transfers may be suspended and the register closed at such times and for such periods as our directors may from time to time determine; provided, however, that the registration of transfers shall not be suspended nor the register closed for more than 45 days in any year.

Share Repurchase

We are empowered by the Companies Law and our amended and restated memorandum and articles of association to purchase our own shares, subject to certain restrictions. Our directors may

only exercise this power on our behalf, subject to the Companies Law, our amended and restated memorandum and articles of association and to any applicable requirements imposed from time to time by the U.S. Securities and Exchange Commission, the Nasdaq Global Market or any recognized stock exchange on which our securities are listed.

Dividends

Subject to the Companies Law, we may declare dividends in any currency to be paid to our shareholders but no dividend shall be declared in excess of the amount recommended by our directors. Dividends may be declared and paid out of our profits, realized or unrealized, or from any reserve set aside from profits that our directors determine is no longer needed. Our board of directors may also declare and pay dividends out of the share premium account or any other fund or account which can be authorized for this purpose in accordance with the Companies Law.

Differences in Corporate Law

The Companies Law is modeled after similar laws in the United Kingdom but does not follow recent changes in United Kingdom laws. In addition, the Companies Law differs from laws applicable to U.S. corporations and their shareholders. Set forth below is a summary of the significant differences between the provisions of the Companies Law applicable to us and the laws applicable to companies incorporated in the United States and their shareholders.

Mergers and Similar Arrangements

The Companies Law permits mergers and consolidations between Cayman Islands companies and between Cayman Islands companies and non-Cayman Islands companies.

For these purposes, (a) "merger" means the merging of two or more constituent companies and the vesting of their undertaking, property and liabilities in one of such companies as the surviving company and (b) a "consolidation" means the combination of two or more constituent companies into a consolidated company and the vesting of the undertaking, property and liabilities of such companies to the consolidated company. In order to effect such a merger or consolidation, the directors of each constituent company must approve a written plan of merger or consolidation, which must then be authorized by a special resolution of the shareholders of each constituent company and such other authorization, if any, as may be specified in such constituent company's articles of association. The plan must be filed with the Registrar of Companies together with a declaration as to the solvency of the consolidated or surviving company, a list of the assets and liabilities of each constituent company and an undertaking that a copy of the certificate of merger or consolidation will be given to the members and creditors of each constituent company and published in the Cayman Islands Gazette.

Dissenting shareholders have the right to be paid the fair value of their shares (which, if not agreed between the parties, will be determined by the Cayman Islands court) if they follow the required procedures, subject to certain exceptions. Court approval is not required for a merger or consolidation which is effected in compliance with these statutory procedures.

In addition, there are statutory provisions that facilitate the reconstruction and amalgamation of companies, provided that the arrangement in question is approved by a majority in number representing 75% in value of each class of shareholders and creditors with whom the arrangement is to be made that are present and voting either in person or by proxy at a meeting, or meetings convened for that purpose. The convening of the meetings and subsequently the arrangement must be sanctioned by the Grand Court of the Cayman Islands. While a dissenting shareholder would have the right to

express to the court the view that the transaction should not be approved, the court can be expected to approve the arrangement if it satisfies itself that:

- we are not proposing to act illegally or ultra vires and the statutory provisions as to majority vote have been complied with;
- the shareholders have been fairly represented at the meeting in question;
- the arrangement is such as a businessman would reasonably approve; and
- the arrangement is not one that would more properly be sanctioned under some other provision of the Companies Law or that would amount to a "fraud on the minority."

When a takeover offer is made and accepted by holders of at least 90% of the shares within four months, the offeror may, within a two-month period, require the holders of the remaining shares to transfer such shares on the terms of the offer. An objection may be made to the Grand Court of the Cayman Islands but is unlikely to succeed unless there is evidence of fraud, bad faith or collusion.

If the arrangement and reconstruction are thus approved, any dissenting shareholders would have no rights comparable to appraisal rights, which might otherwise ordinarily be available to dissenting shareholders of U.S. corporations and allow such dissenting shareholders to receive payment in cash for the judicially determined value of their shares.

Shareholders' Suits

We are not aware of any reported class action or derivative action having been brought in a Cayman Islands court. However, a class action suit could nonetheless be brought in a U.S. court pursuant to an alleged violation of U.S. securities laws and regulations. Our Cayman Islands counsel, Maples and Calder, is not aware of any reported class action having been brought in a Cayman Islands court. Derivative actions have been brought in the Cayman Islands courts, and the Cayman Islands courts have confirmed the availability for such actions. In most cases, the company will be the proper plaintiff in any claim based on a breach of duty owed to it, and a claim against (for example) the company's officers or directors usually may not be brought by a shareholder. However, based on English authorities, which would in all likelihood be of persuasive authority and be applied by a court in the Cayman Islands, exceptions to the foregoing principle apply in circumstances in which:

- a company is acting, or proposing to act, illegally or beyond the scope of its authority;
- the act complained of, although not beyond the scope of the authority, could be effected if duly authorized by more than the number of votes which have actually been obtained; or
- those who control the company are perpetrating a "fraud on the minority."

A shareholder may have a direct right of action against the company where the individual rights of that shareholder have been infringed or are about to be infringed.

Corporate Governance

Cayman Islands laws do not restrict transactions with directors, requiring only that directors exercise a duty of care and owe fiduciary duties to the companies for which they serve. Under our amended and restated memorandum and articles of association, subject to any separate requirement for audit committee approval under the applicable rules of the Nasdaq Global Market or unless disqualified by the chairman of the relevant board meeting, so long as a director discloses the nature of his interest in any contract or arrangement which he is interested in, such a director may vote in respect of any contract or proposed contract or arrangement in which such director is interested and may be counted in the quorum at such meeting.

Board of Directors

We are managed by our board of directors. Our amended and restated memorandum and articles of association will provide that the number of our directors will be fixed from time to time by our board of directors but may not consist of more than 15 directors. Each director holds office until the expiration of his or her term, until his or her successor has been duly elected and qualified or until his or her death, resignation or removal. Our directors may only be removed for cause by our board of directors. Any vacancies on our board of directors or additions to the existing board of directors can only be filled by the affirmative vote of a simple majority of the remaining directors, although this may be less than a quorum. Any director so appointed by the board of directors shall hold office only for the remaining term of the director which he or she replaces and shall then be eligible for re-election. Our directors are not required to hold any of our shares to be qualified to serve on our board of directors.

Meetings of our board of directors may be convened at any time deemed necessary by our secretary on request of the chairman of our board of directors, our chief executive officer, if not the chairman of our board of directors, or a majority of our board of directors. Advance notice of a meeting is not required if each director entitled to attend consents to the holding of such meeting.

Issuance of Additional Common Shares or Preferred Shares

Our amended and restated memorandum and articles of association authorize our board of directors to issue additional common shares from time to time as our board of directors shall determine, to the extent available, authorized but unissued shares. The issuance of additional common shares may, subject to applicable law, be used as an anti-takeover device without further action on the part of our shareholders. Such issuance may dilute the voting power of existing holders of common shares.

Our board of directors may authorize by resolution or resolutions from time to time the issuance of one or more classes or series of preferred shares and to fix the designations, powers, preferences and relative, participating, optional and other rights, if any, and the qualifications, limitations and restrictions thereof, if any, including, without limitation, the number of shares constituting each such class or series, dividend rights, conversion rights, redemption privileges, voting powers, full or limited or no voting powers, and liquidation preferences, and to increase or decrease the size of any such class or series (but not below the number of shares of any class or series of preferred shares then outstanding) to the extent permitted by applicable law. The resolution or resolutions providing for the establishment of any class or series of preferred shares may, to the extent permitted by applicable law, provide that such class or series shall be superior to, rank equally with or be junior to the preferred shares of any other class or series. Additionally, the issuance of preference shares may have the effect of decreasing the market price of the common shares and may adversely affect the voting and other rights of the holders of common shares.

Our board of directors may issue series of preferred shares without action by our shareholders to the extent authorized but unissued. Accordingly, the issuance of preferred shares may adversely affect the enjoyment of the rights of the holders of our common shares. In addition, the issuance of preferred shares may be used as an anti-takeover device without further action on the part of our shareholders, subject to applicable law. Issuance of preferred shares may dilute the voting power of holders of common shares.

Transfer Agent and Registrar

No Dissenters' Rights

Shareholders of Theravance Biopharma are not entitled to appraisal or dissenters' rights with respect to the spin-off under Cayman Islands law or our amended and restated memorandum and articles of association.

Indemnification of Directors and Officers

Cayman Islands law does not limit the extent to which a company's memorandum and articles of association may provide for indemnification of directors and officers, except to the extent any such provision may be held by the Cayman Islands courts to be contrary to public policy, such as to provide indemnification against civil fraud or the consequences of committing a crime. The registrant's amended and restated memorandum and articles of association provide for indemnification of directors and officers for actions, costs, charges, losses, damages and actual expenses incurred in their capacities as such, except that such indemnification does not extend to any matter in respect of any actual fraud or willful default that may attach to any of them.

We expect to enter into indemnification agreements with our directors and officers providing for indemnification to the fullest extent permitted by Cayman Islands law and, in certain respects, the indemnification agreements may provide greater protection than that specifically provided for by Cayman Islands law. The indemnification agreements will not provide indemnification for, among other things, conduct which is found to be knowingly fraudulent or deliberately dishonest, or for willful misconduct. We also intend to obtain policies that insure our directors and officers against certain liabilities they may incur in their capacity as directors and officers. Under these policies, the insurer, on our behalf, may pay amounts for which we have granted indemnification to the directors or officers.

Related Person Transactions

Following Theravance's distribution of our common shares to Theravance's stockholders, we will have a continuing relationship with Theravance as a result of the agreements we are entering into in connection with the distribution, including the Separation and Distribution Agreement, the Transition Services Agreement, the Employee Matters Agreement, and the Tax Sharing and Indemnification Agreement. For a detailed discussion of each of these agreements, please see "Our Relationship with Theravance, Inc. after the Spin-Off."

Procedures for Approval of Related Person Transactions

The Audit Committee will establish procedures for the review, approval or ratification of related party transactions. We expect that pursuant to these procedures, the Audit Committee will review and approve (i) all related party transactions when and if required to do so by applicable rules and regulations, (ii) all transactions between us and any of our executive officers, directors, director nominees, directors emeritus or any of their immediate family members and (iii) all transactions between us and any security holder who is known by us to own of record or beneficially more than 5% of any class of our voting securities, other than transactions that (a) have an aggregate dollar amount or value of less than $120,000 (either individually or in combination with a series of related transactions) and (b) are made in the ordinary course of business of our company and such related party. See "Board of Directors—Board Committees—Review and Approval of Transactions with Related Persons."

Distribution of Information Statement

We will pay the costs of distributing this Information Statement. The distribution will be made by mail.

Where to Obtain More Information

We have filed with the SEC a registration statement on Form 10 under the Exchange Act the common shares being issued to you in the distribution of our common shares. This Information Statement, filed as an exhibit to the registration statement and incorporated therein by reference, omits certain information contained in the registration statement and the other exhibits and schedules thereto, to which reference is hereby made. Statements contained herein concerning the provisions of any documents filed as exhibits to the registration statement are not necessarily complete, and are qualified by reference to the copy of such document. The registration statement, including exhibits and schedules filed therewith, may be inspected and copied at the public reference facilities maintained by the SEC at 100 F Street, N.E., Washington, D.C. 20549. Copies of such materials may be obtained at prescribed rates by writing to the SEC. The SEC also maintains a website (www.sec.gov) that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC.

We are not currently subject to the informational requirements of the Exchange Act. Following the distribution, we will be subject to such informational requirements, and in accordance therewith, we will file reports, proxy and Information Statements and other information with the SEC. Such reports, proxy and Information Statements and other information can be inspected and copied at the address set forth above. We intend to furnish our shareholders with annual reports containing financial statements audited by our independent accountants and quarterly reports for the first three quarters of each fiscal year containing unaudited summary financial information.

We will maintain an Internet site at www.facetbiotech.com, which we expect to be operational on or before the date that the Form 10 is declared effective. Our website and the information contained on that site, or connected to that site, are not incorporated into this Information Statement or the registration statement on Form 10.

INDEX TO COMBINED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Shareholders
Theravance Biopharma, Inc.

We have audited the accompanying combined balance sheets of Theravance Biopharma, Inc. (the "Company") (a wholly-owned subsidiary of Theravance, Inc.) as of December 31, 2011 and 2012, and the related combined statements of operations and comprehensive income (loss), changes in parent company deficit, and cash flows for each of the two years in the period ended December 31, 2012. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the combined financial position of the Company at December 31, 2011 and 2012, and the combined results of its operations and its cash flows for each of the two years in the period ended December 31, 2012, in conformity with U.S. generally accepted accounting principles.

/s/ Ernst & Young LLP

Redwood City, California
August 1, 2013

THERAVANCE BIOPHARMA, INC.
(a wholly-owned subsidiary of Theravance, Inc.)

COMBINED BALANCE SHEETS

(In thousands)

	December 31, 2011	December 31, 2012	March 31, 2013 (Unaudited)
ASSETS			
Current assets:			
Receivables from collaborative arrangements	$ 324	$ 941	$ 1,963
Notes receivable, current	100	100	—
Prepaid and other current assets	1,892	2,280	3,535
Inventories	—	7,514	8,049
Total current assets	2,316	10,835	13,547
Restricted cash	893	833	833
Property and equipment, net	10,372	9,154	9,010
Notes receivable, non-current	240	140	140
TOTAL ASSETS	$ 13,821	$ 20,962	$ 23,530
LIABILITIES AND PARENT COMPANY DEFICIT			
Current liabilities:			
Accounts payable	$ 5,714	$ 5,225	$ 3,444
Accrued personnel-related expenses	8,507	7,974	3,715
Accrued clinical and development expenses	6,956	6,550	6,054
Other accrued liabilities	1,659	1,804	2,227
Notes payable and capital lease, current	69	—	—
Deferred revenue, current	12,976	1,119	7,314
Total current liabilities	35,881	22,672	22,754
Deferred rent	5,821	5,074	4,872
Deferred revenue, non-current	112,843	206	279
Total liabilities	154,545	27,952	27,905
Commitments and contingencies (Notes 3, 5 and 7)			
Parent company deficit:			
Parent company deficit	(140,724)	(6,990)	(4,375)
Total parent company deficit	(140,724)	(6,990)	(4,375)
TOTAL LIABILITIES AND PARENT COMPANY DEFICIT	$ 13,821	$ 20,962	$ 23,530

See accompanying notes to combined financial statements.

THERAVANCE BIOPHARMA INC.
(a wholly-owned subsidiary of Theravance, Inc.)

COMBINED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)

(In thousands)

	Year Ended December 31,		Three Months Ended March 31,	
	2011	2012	2012	2013
			(Unaudited)	
Revenue	$ 14,854	$ 130,145	$ 125,669	$ 22
Operating expenses:				
Research and development	98,850	113,995	32,148	25,408
General and administrative	25,339	25,725	6,486	6,788
Total operating expenses	124,189	139,720	38,634	32,196
Net and comprehensive income (loss)	$ (109,335)	$ (9,575)	$ 87,035	$ (32,174)

See accompanying notes to combined financial statements.

THERAVANCE BIOPHARMA, INC.
(a wholly-owned subsidiary of Theravance, Inc.)

COMBINED STATEMENTS OF CHANGES IN PARENT COMPANY DEFICIT

(In thousands)

	Changes in Parent Company Deficit
Balance as of December 31, 2010	$ (139,538)
Net loss	(109,335)
Parent allocation—stock-based compensation	21,463
Transfers from parent company	86,686
Balance as of December 31, 2011	(140,724)
Net loss	(9,575)
Parent allocation—stock-based compensation	21,703
Transfers from parent company	121,606
Balance as of December 31, 2012	(6,990)
Net loss (unaudited)	(32,174)
Parent allocation—stock-based compensation (unaudited)	5,658
Transfers from parent company (unaudited)	29,131
Balance as of March 31, 2013 (unaudited)	$ (4,375)

See accompanying notes to combined financial statements.

THERAVANCE BIOPHARMA, INC.
(a wholly-owned subsidiary of Theravance, Inc.)

COMBINED STATEMENTS OF CASH FLOWS

(In thousands)

	Year Ended December 31,		Three Months Ended March 31,	
	2011	2012	2012	2013
			(Unaudited)	
CASH FLOWS FROM OPERATING ACTIVITIES				
Net income (loss)	$ (109,335)	$ (9,575)	$ 87,035	$ (32,174)
Adjustments to reconcile net income (loss) to net cash used in operating activities:				
Depreciation and amortization	3,844	3,251	933	703
Stock-based compensation	21,463	21,323	5,546	5,516
Loss on disposal of equipment	—	196	—	—
Forgiveness of notes receivable	16	—	—	—
Changes in operating assets and liabilities:				
Receivables from collaborative arrangements	1,303	(617)	324	(1,022)
Prepaid and other current assets	(548)	(388)	(705)	(1,255)
Inventories	1,709	(4,822)	—	(2,481)
Accounts payable	3,312	(1,532)	38	(150)
Accrued personnel-related expenses and other accrued liabilities	5,355	(1,702)	(5,703)	(3,694)
Deferred rent	2,429	(747)	(143)	(202)
Deferred revenue	(12,976)	(124,494)	(125,669)	6,268
Net cash used in operating activities	(83,428)	(119,107)	(38,344)	(28,491)
CASH FLOWS FROM INVESTING ACTIVITIES				
Purchases of property and equipment	(3,627)	(2,590)	(1,103)	(740)
Release of restricted cash	—	60	—	—
Issuance of notes receivable	(140)	(140)	—	—
Payments received on notes receivable	715	240	—	100
Net cash used in investing activities	(3,052)	(2,430)	(1,103)	(640)
CASH FLOWS FROM FINANCING ACTIVITIES				
Payments on note payable and capital leases	(206)	(69)	(56)	—
Transfers from parent company	86,686	121,606	39,503	29,131
Net cash provided by financing activities	86,480	121,537	39,447	29,131
CHANGE IN CASH AND CASH EQUIVALENTS	—	—	—	—
CASH AND CASH EQUIVALENTS AT BEGINNING OF PERIOD	—	—	—	—
CASH AND CASH EQUIVALENTS AT END OF PERIOD	$ —	$ —	$ —	$ —

See accompanying notes to combined financial statements.

THERAVANCE BIOPHARMA, INC.
(a wholly-owned subsidiary of Theravance, Inc.)

NOTES TO COMBINED FINANCIAL STATEMENTS

1. Description of Operations

In April 2013, Theravance, Inc. ("Theravance") announced its intent to spin off its drug discovery and development business which is focused on discovery, development and commercialization of small-molecule medicines in areas of significant unmet medical need ("Drug Discovery and Development Business") from its development and commercial responsibilities under the 2002 collaboration agreement and the 2004 strategic alliance agreement, each with Glaxo Group Limited, (which we refer to, together with its affiliates, as "GSK") and associated potential royalty revenues from RELVAR™ ELLIPTA™/BREO™ ELLIPTA™ (fluticasone furoate/vilanterol: FF/VI), ANORO™ ELLIPTA™ (umeclidinium bromide/vilanterol: UMEC/VI) and vilanterol monotherapy.

If the spin-off is completed, the result will be two independent, publicly traded companies with different business models enabling investors to align their investment philosophies with the strategic opportunities and financial objectives of the two independent companies: the drug discovery and development business and the royalty business. To effect the spin-off, Theravance plans to distribute as a dividend to its stockholders, one common share of Theravance Biopharma, Inc. ("Theravance Biopharma" or "we", "us", "our", and "Company") for every shares of Theravance common stock outstanding on the record date for the dividend.

In connection with and prior to the spin-off, Theravance incorporated Theravance Biopharma in July 2013 as a Cayman Islands exempted company for the purpose of transferring to Theravance Biopharma the Drug Discovery and Development Business and completing the spin-off. Theravance Biopharma will, at a later date, form a wholly-owned Cayman Islands subsidiary to hold most of the assets received from Theravance and a wholly-owned Delaware subsidiary that will employ most of the Theravance employees that become employees of the Drug Discovery and Development Business.

Prior to the spin-off, the Drug Discovery and Development Business was not organized in a separate legal entity and a direct ownership relationship did not exist among all the components comprising the Drug Discovery and Development Business. Theravance's investment in the Drug Discovery and Development Business is shown in lieu of stockholders' equity in the combined financial statements.

Theravance Biopharma is a biopharmaceutical company with a pipeline of internally discovered product candidates, strategic collaborations with pharmaceutical companies and an approved product. The Company is focused on the discovery, development and commercialization of small molecule medicines across a number of therapeutic areas including bacterial infections, central nervous system ("CNS")/pain, respiratory disease, and gastrointestinal ("GI") motility dysfunction. We also have an economic interest in future payments that may be made by GSK under prior Theravance agreements relating to certain drug programs, including UMEC/VI/FF (or the Closed Triple) and the MABA program, as monotherapy with GSK961081 ('081) and as a combination with '081/FF.

In connection with the spin-off, the Theravance board of directors is expected to approve a series of agreements, including a separation and distribution agreement, transition services agreement, employee matters agreement, and tax sharing and indemnification agreement between Theravance Biopharma and Theravance which will provide for the transfer of certain assets and liabilities relating to the businesses previously conducted by Theravance to Theravance Biopharma and will establish contractual arrangements between Theravance and Theravance Biopharma. Theravance will continue to own the royalty patents and the related business ("Royalty Business").

1. Description of Operations (Continued)

Formation of Theravance Respiratory Company LLC

Prior to the spin-off, Theravance will form Theravance Respiratory Company LLC ("TRC"), a Delaware limited liability company, and assign to TRC its strategic alliance agreement with GSK and all of its rights and obligations under its collaboration agreement with GSK other than with respect to RELVAR™ ELLIPTA™/BREO ELLIPTA™ and vilanterol monotherapy.

Theravance shall own an equity interest in TRC entitling it to 100% of the economic interest in all future payments made by GSK under the GSK agreement relating to ANORO™ ELLIPTA™ and 2% of the economic interest in all future payments made by GSK under the GSK agreements relating to the other drug programs assigned to TRC (collectively, the "Other TRC Drug Programs"). Theravance Biopharma will own an equity interest entitling us to receive 98% of the economic interest in all future payments made by GSK under the GSK agreements relating to the Other TRC Drug Programs. These other drug programs include UMEC/VI/FF (or the Closed Triple) and the MABA program, as monotherapy and in combination with other therapeutically active components, such as an inhaled corticosteroid (ICS), and any other product or combination of products that may be discovered and developed in the future under the GSK agreements (other than ANORO™ ELLIPTA ™).

Basis of Presentation

The accompanying combined financial statements have been prepared using Theravance's historical cost basis of the assets and liabilities of the various activities that comprise the Drug Discovery and Development Business of Theravance and reflect the combined results of operations, financial condition and cash flows of Theravance Biopharma as a wholly-owned subsidiary of Theravance in conformity with U.S. generally accepted accounting principles ("GAAP"). The various assets, liabilities, revenues and expenses associated with Theravance have been allocated to the historical combined financial statements of Theravance Biopharma in a manner expected to be consistent with the separation and distribution agreement. Changes in parent company deficit represent Theravance's net investment in Theravance Biopharma, after giving effect to Theravance Biopharma's net income (loss), parent company expense allocations, and net cash transfers to and from Theravance.

For purposes of preparing combined financial statements, the Drug Discovery and Development Business was derived from Theravance's historical consolidated financial statements, allocations of revenues, research and development expenses, and non-operating income and expenses to Theravance Biopharma were made on a specific identification basis. For purposes of allocating general and administrative expenses from Theravance's historical consolidated financial statements, costs directly related to the Drug Discovery and Development Business were allocated to Theravance Biopharma on a specific identification basis or based on the substance of the underlying effort. Theravance Biopharma's general and administrative expenses also include allocations of Theravance's general corporate overhead expenses, including finance, legal, human resources, information technology and other administrative functions. These allocations of general corporate overhead expenses were primarily based on the substance of the underlying effort or an estimated number of full-time employees that worked with the Drug Discovery and Development Business. The combined balance sheets of Theravance Biopharma include assets and liabilities that were allocated to Theravance Biopharma principally on a specific identification basis.

Management believes that the statements of operations include a reasonable allocation of costs incurred by Theravance which benefited Theravance Biopharma. However, such expenses may not be

1. Description of Operations (Continued)

indicative of the actual level of expense that would have been incurred by Theravance Biopharma if it had operated as an independent, publicly traded company or of the costs expected to be incurred in the future. As such, the financial information herein may not necessarily reflect the financial position, results of operations, and cash flows of Theravance Biopharma in the future or what it would have been had Theravance Biopharma been an independent, publicly traded company during the periods presented.

As Theravance Biopharma was not a separate legal entity until July 2013, no separate cash accounts for the Drug Discovery and Development Business were historically maintained and, therefore, Theravance is presumed to have funded Theravance Biopharma's operating, investing and financing activities as necessary. For purposes of the historical combined financial statements, funding of Theravance Biopharma's expenditures is reflected in the combined financial statements as a component of parent company equity (deficit). In connection with the asset transfer and spin-off discussed above, Theravance will provide Theravance Biopharma cash and cash equivalents of approximately $300 million. In addition, under the terms of the separation and distribution agreement between Theravance and Theravance Biopharma, Theravance is responsible for all operating expenses and related liabilities that were incurred prior to the spin-off. However, for ease of administration and in connection with the assignment of certain rights and obligations from Theravance to Theravance Biopharma under the separation and distribution agreement, Theravance Biopharma will assume the obligation to pay for certain of the current liabilities upon the spin-off. Theravance and Theravance Biopharma will determine the amount of such current liabilities in accordance with the separation and distribution agreement within business days after the date of the spin-off, and Theravance will deliver to Theravance Biopharma a payment to reimburse Theravance Biopharma for assuming the obligation to pay such liabilities.

We describe the Theravance Biopharma business transferred to us by Theravance in connection with the Spin-off as though it was our business for all historical periods described. However, Theravance Biopharma is a newly-formed entity that has not conducted any operations prior to the Spin-off and some of the actions necessary to transfer assets and liabilities of Theravance to us have not occurred but will occur before the effectiveness of the Spin-off. References in this Information Statement to the historical assets, liabilities, products, business or activities of our business are intended to refer to the historical assets, liabilities, products, business or activities of Theravance Biopharma as those were conducted as part of Theravance prior to the Spin-off.

Unaudited Interim Combined Financial Information

The combined financial information as of March 31, 2013, and for the three months ended March 31, 2012 and 2013 is unaudited but includes all adjustments (consisting only of normal recurring adjustments) which the Company considers necessary for a fair presentation of the financial position at such date and of the operating results and cash flows for those periods, and have been prepared in accordance with GAAP for interim financial information. Accordingly, they do not include all of the information and notes required by GAAP for complete financial statements. Financial results for the three months ended March 31, 2013 are not necessarily indicative of results expected for the entire year.

1. Description of Operations (Continued)

Management Estimates

The preparation of combined financial statements in conformity with GAAP requires the use of management's estimates and assumptions that affect the amounts reported in the combined financial statements and accompanying notes. Actual results could differ from those estimates.

2. Summary of Significant Accounting Policies

Segment Reporting

The Company has determined that it operates in a single segment which is the discovery (research), development and commercialization of human therapeutics. Revenues are generated primarily from the Company's collaboration agreement with Astellas Pharma Inc. ("Astellas") (through January 6, 2012), located in Japan, and Merck located in the United States. All long-lived assets, which were comprised of property and equipment, are maintained in the United States.

Restricted Cash

Under certain lease agreements and letters of credit, the Company has pledged cash as collateral. Restricted cash related to such agreements was $0.9 million, $0.8 million and $0.8 million (unaudited) as of December 31, 2011 and 2012 and March 31, 2013.

Fair Value of Financial Instruments

Financial instruments include restricted cash, receivables, accounts payable, and accrued liabilities. The carrying value of these instruments approximates their estimated fair value due to the relatively short nature of these instruments.

Notes Receivable

The Company provided loans to certain employees to assist them primarily with the purchase of a primary residence, which collateralizes the resulting loans. There was no interest receivable related to the loans as of December 31, 2011 and 2012 and March 31, 2013. As of December 31, 2012, the outstanding loans have maturity dates ranging from January 2013 through May 2014. As of March 31, 2013, there remains one outstanding loan with a maturity date of May 2014.

Inventories

Inventories consist of raw materials and work-in-process related to the production of VIBATIV® (telavancin). Raw materials include the VIBATIV® active pharmaceutical ingredient ("API"). Work-in-process includes third party manufacturing and associated labor costs relating to the Company's personnel directly involved in the production process. Included in inventories are raw materials and work-in-process that may be used as clinical products, which are charged to research and development expense when consumed. In addition, under certain commercialization agreements, the Company may sell VIBATIV® packaged in unlabeled vials that are recorded in work-in-process.

2. Summary of Significant Accounting Policies (Continued)

Inventories are stated at the lower of cost or market value. If information becomes available that suggests the inventories may not be realizable, the Company may be required to expense a portion or all of the previously capitalized inventories. Inventories are summarized as follows:

(in thousands)	December 31, 2012	March 31, 2013 (Unaudited)
Raw materials	$ 5,668	$ 3,531
Work-in-process	1,846	4,518
Total inventories	$ 7,514	$ 8,049

There were no inventories as of December 31, 2011.

Property and Equipment

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

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

Capitalized Software

The Company capitalizes certain costs related to direct material and service costs for software obtained for internal use. Capitalized software costs are depreciated over three years.

Impairment of Long-Lived Assets

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

Bonus Accruals

Theravance has short-term bonus programs for eligible Theravance Biopharma employees. Bonuses are determined based on various criteria, including the achievement of corporate, departmental and individual goals. Bonus accruals are estimated based on various factors, including target bonus percentages per level of employee and probability of achieving the goals upon which bonuses are based. Theravance management periodically reviews the progress made towards the goals under the bonus programs. As bonus accruals are dependent upon management's judgments of the likelihood of achieving the various goals, it is possible for bonus expense to vary significantly in future periods if changes occur in those estimates.

During the year ended December 31, 2011, Theravance granted special long-term retention and incentive cash bonus awards to certain employees. The awards have dual triggers of vesting based upon the achievement of certain performance conditions over a six-year timeframe from 2011 through December 31, 2016 and continued employment. As of December 31, 2012 and March 31, 2013,

2. Summary of Significant Accounting Policies (Continued)

Theravance's management determined that the achievement of the requisite performance conditions was not probable and, as a result, no compensation expense has been recognized.

Deferred Rent

Deferred rent consists of the difference between cash payments and the recognition of rent expense on a straight-line basis for the buildings the Company occupies. Rent expense is being recognized ratably over the life of the leases. Because the Company's facility operating leases provide for rent increases over the terms of the leases, average annual rent expense during the first 1.5 years of the leases exceeded the Company's actual cash rent payments. Also included in deferred rent are lease incentives of $2.6 million as of December 31, 2012, which is being recognized ratably over the life of the leases.

Revenue Recognition

The Company's revenues are related primarily to its collaborative arrangements. The Company's arrangements provide for various types of payments to the Company, including upfront, non-refundable fees, contingent payments and royalty payments.

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

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

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

2. Summary of Significant Accounting Policies (Continued)

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

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

Under certain collaborative arrangements, the Company has been reimbursed for a portion of its research and development expenses. These reimbursements have been reflected as a reduction of research and development expense in the Company's combined statements of operation, as the Company does not consider performing research and development services to be a part of its ongoing and central operations. Therefore, the reimbursement of research and developmental services and any amounts allocated to the Company's research and development services are recorded as a reduction of research and development expense.

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

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

In accordance with FASB Subtopic ASC 808-10, "Collaborative Arrangement," and pursuant to the Company's agreement with Astellas, the Company recognized as revenue the net impact of transactions

2. Summary of Significant Accounting Policies (Continued)

with Astellas related to VIBATIV® inventories including revenue specifically attributable to any sales, and cost of inventories either transferred or expensed as unrealizable.

The Company recognizes royalty revenue on licensee net sales in the period in which the royalties are earned.

Research and Development Costs

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

Preclinical Study and Clinical Study Expenses

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

Fair Value of Stock-Based Compensation Awards

As of March 31, 2013, the Company has not issued any Theravance Biopharma stock-based awards to its employees. However, the Company's employees have in the past received Theravance stock-based compensation awards.

The following disclosures pertain to stock-based compensation that has been allocated to Theravance Biopharma related to Theravance stock-based equity awards.

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

2. Summary of Significant Accounting Policies (Continued)

Theravance estimated the fair value of Restricted Stock Units ("RSUs") and Restricted Stock Awards ("RSAs") based on the fair market values of the underlying Theravance stock on the dates of grant. The estimated fair value of RSUs and RSAs is expensed on a straight-line basis over the expected term of the grant and the estimated fair value of performance-contingent RSUs and RSAs is expensed using an accelerated method over the term of the award once Theravance determines that it is probable that those performance milestones will be achieved. Compensation expense for RSUs and RSAs that contain performance conditions is based on the grant date fair value of the award. Compensation expense is recorded over the requisite service period based on management's best estimate as to whether it is probable that the shares awarded are expected to vest. The Company assesses the probability of the performance indicators being met on a continuous basis.

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

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

Income Taxes

The Company accounts for income on a separate tax return basis although Theravance Biopharma's operations have historically been included in the tax returns filed by Theravance of which Theravance Biopharma is a part of. In the future, as a stand-alone entity, Theravance Biopharma will file tax returns on its own behalf and its deferred taxes and effective income tax rate may differ from those in the historical periods indicated herein.

Foreign Currency

The Company uses the U.S. dollar as the functional currency for its foreign subsidiary. Monetary and non-monetary assets and liabilities are remeasured into U.S. dollars at the applicable period end exchange rate. Operating expenses are remeasured at average exchange rates in effect during each period, except for those expenses related to non-monetary assets which are remeasured at historical exchange rates. Gains or losses from remeasurement of foreign currency financial statements into U.S. dollars are included in the combined statements of operations and were insignificant for all periods presented, as was the effect of exchange rate changes on cash and cash equivalents.

Related Party

Robert V. Gunderson, Jr. is a director of Theravance. Theravance has engaged Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP, of which Mr. Gunderson is a partner, as its primary legal counsel. Fees incurred in the ordinary course of business were $0.4 million in 2012, $0.1 million in 2011.

3. Collaborative Arrangements

Theravance entered into the collaborative arrangements listed below and these collaborative arrangements will be assigned to Theravance Biopharma, Inc.

Merck

Research Collaboration and License Agreement

In October 2012, Theravance entered into a research collaboration and license agreement (the "Research Collaboration and License Agreement") with Merck, known as MSD outside the United States and Canada, to discover, develop and commercialize novel small molecule therapeutics directed towards a target being investigated for the treatment of hypertension and heart failure. Under the agreement, Theravance granted Merck a worldwide, exclusive license to Theravance's therapeutic candidates. Theravance received a $5.0 million upfront payment in November 2012. Also, Theravance will receive funding for research and be eligible for potential future contingent payments totaling up to $148.0 million for the first indication and royalties on worldwide annual net sales of any products derived from the collaboration. The initial research term is twelve months, with optional extensions by mutual agreement, and Merck can terminate the agreement at any time. If the agreement with Merck is extended beyond November 2013, it will be assigned to the Company.

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

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

Revenue recognized from Merck under the collaboration agreement was $4.4 million and $5,000 (unaudited) for the year ended December 31, 2012 and the three months ended March 31, 2013.

3. Collaborative Arrangements (Continued)

Amounts received and reflected as a reduction of research and development expense was $0.8 million and $1.5 million (unaudited) for the year ended December 31, 2012 and the three months ended March 31, 2013.

Clinigen Group

Commercialization Agreement

In March 2013, Theravance entered into a commercialization agreement (the "Clinigen Commercialization Agreement") with Clinigen Group plc ("Clinigen") to commercialize VIBATIV® for the treatment of hospital acquired nosocomial pneumonia, including ventilator-associated pneumonia, known or suspected to be caused by methicillin resistant *Staphylococcus aureus* (MRSA) when other alternatives are not suitable. Under the agreement, Theravance granted Clinigen exclusive commercialization rights in the European Union and certain other European countries (including Switzerland and Norway). Theravance received a $5.0 million (unaudited) upfront payment in March 2013. This agreement with Clinigen will be assigned to the Company. After the spin-off, the Company will be eligible to receive tiered royalty payments on net sales of VIBATIV®, ranging from 20% to 30%. The Company is responsible, either directly or through its vendors or contractors, for supplying at Clinigen's expense both API and finished drug product for Clinigen's commercialization activities. The agreement has a term of at least 15 years, with an option to extend exercisable by Clinigen. However, Clinigen may terminate the agreement at any time after it has initiated commercialization upon 12 months' advance notice.

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

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

3. Collaborative Arrangements (Continued)

R-Pharm CJSC

Development and Commercialization Agreements

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

TD-1792

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

The $1.1 million upfront payment for the TD-1792 agreement received by Theravance was allocated to the license and committee participation units of accounting based on the relative selling price method as follows: $0.9 million to the license and $0.1 million to the committee participation. The amount allocated to the license was deferred and will be recognized as revenue upon completion of technical transfer for the underlying license. The amount allocated to committee participation was deferred and is being recognized as revenue over the estimated performance period. Amounts to be received under the supply agreement described above will be recognized as revenue to the extent R-Pharm purchases API compound from Theravance.

3. Collaborative Arrangements (Continued)

Reduction of R&D expense was $36,000 for the three months ended March 31, 2013.

VIBATIV®

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

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

Alfa Wassermann

Development and Collaboration Arrangement

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

Reduction of research and development expense was $0.2 million and $0.2 million (unaudited) for the year ended December 31, 2012 and the three months ended March 31, 2013.

3. Collaborative Arrangements (Continued)

Former Collaboration Arrangement with Astellas

License, Development and Commercialization Agreement

In November 2005, Theravance entered into a global collaboration arrangement with Astellas for the license, development and commercialization of VIBATIV®. Under this agreement, Astellas paid Theravance non-refundable cash payments totaling $191.0 million. In January 2012, Astellas exercised its right to terminate the collaboration agreement. The rights previously granted to Astellas ceased upon termination of the agreement and Astellas stopped all promotional sales efforts. Pursuant to the terms of the agreement, Astellas is entitled to a ten-year, 2% royalty on future net sales of VIBATIV®. Net revenue recognized under this collaboration agreement was $125.7 million (unaudited) for the three months ended March 31, 2012, and $125.8 million in 2012. Theravance is not eligible to receive any further contingent payments from Astellas

In addition, beginning July 1, 2012, Theravance was responsible to fund governmental rebate and governmental chargeback claims for Astellas-labeled product sales. As a result of the termination of the VIBATIV® collaboration agreement, Theravance recognized $31,000 and $0 (unaudited) in governmental rebate and governmental chargeback claims for the year ended December 31, 2012 and for the three months ended March 31, 2013.

Through January 6, 2012, Theravance had received $191.0 million in upfront license, contingent payments and other fees from Astellas. Theravance previously recorded these payments as deferred revenue and amortized them ratably over its estimated performance period (development and commercialization period). As a result of the termination of the VIBATIV® collaboration agreement, the development and commercialization period ended on January 6, 2012. As such, Theravance recognized into revenue $125.8 million of deferred revenue related to Astellas in the first quarter of 2012, and Theravance is not eligible to receive any further contingent payments from Astellas.

Net revenue recognized under this collaboration agreement was as follows (in thousands):

	Year Ended December 31,		Three Months Ended March 31,	
	2011	2012	2012	2013
			(Unaudited)	
Recognition of deferred revenue	$ —	$ 125,819	$ 125,819	$ —
Amortization of deferred revenue	12,975	—	—	—
Royalties from net sales of VIBATIV®	2,422	—	—	—
Proceeds from VIBATIV® delivered to Astellas	1,171	—	—	—
Cost of VIBATIV® delivered to Astellas	(1,177)	—	—	—
Cost of unrealizable VIBATIV® inventories	(537)	—	—	—
Astellas-labeled product sales allowance	—	(31)	(150)	—
Total net revenue	$ 14,854	$ 125,788	$ 125,669	$ —

Under the Astellas collaboration arrangement, Theravance was reimbursed for a portion of its research and development expenses. These reimbursements have been reflected as a reduction of research and development expense of $0.4 million for the year ended December 31, 2011.

4. Property and Equipment

Property and equipment consists of the following (in thousands):

	December 31,		March 31,
	2011	2012	2013
			(Unaudited)
Computer equipment	$ 3,158	$ 3,027	$ 3,056
Software	4,628	5,073	5,094
Furniture and fixtures	3,821	3,829	3,829
Laboratory equipment	28,894	29,229	29,710
Leasehold improvements	17,263	17,416	17,444
Property and equipment, gross	57,764	58,574	59,133
Less: accumulated depreciation and amortization	(47,392)	(49,420)	(50,123)
Property and equipment, net	$ 10,372	$ 9,154	$ 9,010

Depreciation expense was $3.8 million and $3.3 million for the years ended December 31, 2011 and 2012 and $0.9 million (unaudited) and $0.7 million (unaudited) for the three months ended March 31, 2012 and 2013. The change in accumulated depreciation is net of asset retirements. For the year ended December 31, 2012, the Company recorded a write-off of $0.2 million related to assets that could no longer be used in operations. For the year ended December 31, 2011 and the three months ended March 31, 2012 (unaudited) and 2013 (unaudited), the Company recognized no such write-offs.

5. Share-Based Compensation

As of March 31, 2013, Theravance Biopharma has not issued any share-based awards to its employees. However, our employees have in the past received Theravance share-based compensation awards, and therefore, the following disclosures pertain to share-based compensation that has been allocated to Theravance Biopharma related to Theravance stock-based equity awards. Accordingly, the amounts presented are not necessarily indicative of future performance and do not necessarily reflect the results that Theravance Biopharma would have experienced as an independent, publicly-traded company for the periods presented.

Equity Incentive Plans

In May 2012, Theravance adopted the 2012 Equity Incentive Plan ("2012 Plan"). The number of shares of Theravance's common stock available for issuance under the 2012 Plan is equal to 6,500,000 shares plus up to 12,667,411 additional shares that may be added to the 2012 Plan in connection with the forfeiture, repurchase, cash settlement or termination of awards outstanding under the 2004 Equity Incentive Plan ("2004 Plan"), the 2008 New Employee Equity Incentive Plan, the 1997 Stock Plan and the Long-Term Stock Option Plan (collectively, the "Prior Plans") as of December 31, 2011.

The 2012 Plan provides for the grant of incentive stock options, nonstatutory stock options, restricted stock awards, stock unit awards and stock appreciation rights ("SARs") to employees, non-employee directors and consultants of Theravance. Stock options may be granted with an exercise price not less than the fair market value of the common stock on the grant date. Stock options granted to employees generally have a maximum term of 10 years and vest over a four year period from the

5. Share-Based Compensation (Continued)

date of grant; 25% vest at the end of one year, and 75% vest monthly over the remaining three years. Theravance may grant options with different vesting terms from time to time. Unless an employee's termination of service is due to disability or death, upon termination of service, any unexercised vested options will be forfeited at the end of three months or the expiration of the option, whichever is earlier.

Employee Stock Purchase Plan

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

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

Performance-Contingent Restricted Stock Awards

In 2013, the Compensation Committee of Theravance's board of directors approved the grant of 44,500 performance-contingent RSAs to senior management. These awards have dual triggers of vesting based upon the achievement of one of three possible performance goals by December 31, 2014, as well as a requirement for continued employment through early 2017. As of March 31, 2013, Theravance had determined that the achievement of the requisite performance condition was not probable and, as a result, no compensation expense has been recognized.

In 2012, the Compensation Committee of Theravance's board of directors approved the grant of 44,500 performance-contingent RSAs to senior management. These awards have dual triggers of vesting based upon the achievement of one of three possible performance goals by December 31, 2013, as well as a requirement for continued employment through early 2016. In the fourth quarter of 2012 one of the performance goals was deemed achieved and time-based vesting commenced with respect to these awards. As a result, compensation expense of $0.4 million and $87,000 (unaudited) was recognized for the year ended December 31, 2012 and the three months ended March 31, 2013, and the remaining unrecognized expense will be recognized over the remaining vesting period through early-2016 using the graded vesting expense attribution method.

In 2011, the Compensation Committee of Theravance's board of directors approved the grant of 1,290,000 special long-term retention and incentive performance-contingent RSAs to senior management. These awards have dual triggers of vesting based upon the achievement of certain

5. Share-Based Compensation (Continued)

performance conditions over a six-year timeframe from 2011-2016 and continued employment, both of which must be satisfied in order for the RSAs to vest. Expense associated with these RSAs would be recognized, if at all, during these years depending on the probability of meeting the performance conditions. The maximum potential expense associated with the RSAs could be up to approximately $31.9 million (allocated as $6.3 million for research and development expense and $25.6 million for general and administrative expense) if all of the performance conditions are achieved on time. As of December 31, 2012 and March 31, 2013, Theravance had determined that the achievement of the requisite performance conditions was not probable and, as a result, no compensation expense has been recognized. As the RSAs are dependent upon the achievement of certain performance conditions, the expense associated with the RSAs may vary significantly from period to period. If sufficient performance conditions are achieved in the remainder of 2013, then the Company would recognize up to $7.6 million in stock-based compensation expense associated with these RSAs in 2013.

In 2011, the Compensation Committee of Theravance's board of directors approved the grant of a 25,000 performance-contingent RSA to a non-executive officer that has dual triggers of vesting based upon the achievement of a performance condition over a timeframe from 2012-2013 and continued employment through 2014, both of which must be satisfied in order for the award to vest in full. The maximum potential expense associated with this award is approximately $475,000, which would be recognized in increments based on the achievement of the performance condition. As of December 31, 2012 and March 31, 2013, Theravance had determined that the achievement of the requisite performance condition was not probable and, as a result, no compensation expense has been recognized. As the vesting of the RSAs is contingent upon the achievement of the performance condition, the expense associated with the RSA may vary significantly from period to period.

Performance-Contingent Restricted Stock Units

In 2010, the Compensation Committee of Theravance's board of directors approved the grant of 210,000 performance-contingent RSUs to senior management. These awards have dual triggers of vesting based upon the successful achievement of certain corporate operating milestones during 2010 and 2011, as well as a requirement for continued employment through early 2014. In the first quarter of 2011 both performance milestones were deemed achieved, and time-based vesting commenced with respect to all of the performance-contingent RSU shares. As a result, compensation expense was $1.3 million and $0.3 million, for the years ended December 31, 2011 and 2012, and $96,000 (unaudited) and $41,000 (unaudited) for the three months ended March 31, 2012 and 2013, and the remaining unrecognized expense will be recognized over the remaining vesting period through early-2014 using the graded vesting expense attribution method.

Director Compensation Program

Non-employee directors of Theravance receive compensation for services provided as a director. Each member of Theravance's board of directors who is not an employee receives an annual retainer as well as a fee for each board and committee meeting attended. Commencing on April 27, 2011, chairpersons of the various committees of the board of directors, the Audit Committee, the Compensation Committee, Nominating/Corporate Governance Committee and the Science and Technology Advisory Committee receives a fixed retainer. The lead independent director also receives a fixed retainer.

5. Share-Based Compensation (Continued)

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

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

Stock-Based Compensation Expense

The allocation of stock-based compensation expense included in the combined statements of operations was as follows (in thousands):

	Year Ended December 31,		Three Months Ended March 31,	
	2011	2012	2012	2013
			(Unaudited)	
Research and development	$ 12,696	$ 13,192	$ 3,402	$ 3,688
General and administrative	8,767	8,131	2,144	1,828
Total stock-based compensation expense	$ 21,463	$ 21,323	$ 5,546	$ 5,516

Total stock-based compensation expense capitalized to inventory was nil and $0.4 million for the years ended December 31, 2011 and 2012, respectively, and nil (unaudited) and $0.1 million (unaudited) for the three months ended March 31, 2012 and 2013, respectively.

5. Share-Based Compensation (Continued)

Valuation Assumptions

The range of weighted-average assumptions Theravance used to estimate the fair value of stock options granted was as follows:

	Year Ended December 31,		Three Months Ended March 31,	
	2011	2012	2012	2013
			(Unaudited)	
Employee Stock Options:				
Risk-free interest rate	1.10 - 2.57%	0.74% - 1.17%	1.00% - 1.17%	1.01% - 1.14%
Expected life (in years)	5 - 6	5 - 6	6	6
Expected volatility	49% - 55%	55% - 60%	55%	58%
Dividend yield	—	—	—	—

The range of weighted-average assumptions Theravance used to estimate the fair value of employee stock purchase plan issuances was as follows:

	Year Ended December 31,	
	2011	2012
Employee Stock Purchase Plan Issuances:		
Risk-free interest rate	0.05% - 0.54%	0.14% - 0.29%
Expected life (in years)	0.5 - 2.0	0.5 - 2.0
Expected volatility	48% - 59%	51% - 64%
Dividend yield	—	—

There were no employee purchases of Theravance stock under the employee stock purchase plan for the three months ended March 31, 2012 or 2013.

6. Income Taxes

Theravance Biopharma accounts for income taxes on a separate tax return basis although Theravance Biopharma's operations have historically been included in the tax returns filed by Theravance. Due to ongoing operating losses and the inability to recognize any income tax benefit, there is no provision for income taxes for any periods presented. Loss before income taxes was $109.3 million for the year ended December 31, 2011 and $9.6 million for the year ended December 31, 2012. Although income before income taxes was $87.0 million for the three months ended March 31, 2012, no income tax provision was recorded based upon the Theravance Biopharma recording a loss for the full year 2012.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes.

These deferred tax assets are hypothetical amounts that would have existed if Theravance Biopharma had operated as a separate company. The actual deferred tax assets after the separation is

6. Income Taxes (Continued)

completed will not equal these amounts. The significant, hypothetical deferred tax assets and liabilities for Theravance Biopharma are as follows (in thousands):

	December 31, 2011	December 31, 2012
Deferred tax assets:		
Net operating loss carryforwards	$ 38,078	$ 85,319
Deferred revenues	50,119	520
Capitalized research and development expenditures	4,988	9,729
Research and development tax credit carryforwards	3,150	4,768
Fixed assets and acquired intangible assets	4,587	4,702
Deferred compensation	22,867	22,916
Accruals	5,567	5,046
Gross deferred tax assets	129,356	133,000
Valuation allowance	(129,356)	(133,000)
Net deferred tax assets	$ —	$ —

The differences between the U.S. Federal statutory income tax rate to Theravance Biopharma's effective tax are as follows (in thousands):

	Year ended December 31,	
	2011	2012
U.S. federal statutory income tax rate	34.00%	34.00%
State income taxes, net of federal benefit	—	(0.04)
Stock-based compensation	(0.33)	(2.63)
Non-deductible executive compensation	(0.74)	(10.09)
Federal research credits	1.64	—
Meals & entertainment	(0.12)	(0.60)
Change in valuation allowance	(34.53)	(20.68)
Other	0.08	0.04
Effective tax rate	(0.00)%	(0.00)%

Due to Theravance Biopharma's lack of earnings history, the net deferred tax assets have been fully offset by a valuation allowance. The valuation allowance increased by $3.6 million from 2011 to 2012.

Federal and state net operating loss, research and other credit carryforwards for Theravance Biopharma have been determined assuming the business began on January 1, 2011. None of Theravance's net operating loss and credit carry forwards will be transferred to Theravance Biopharma upon the separation as Theravance Biopharma will be a new company with no net operating loss or credit carry-forwards.

If Theravance Biopharma had operated as a separate entity, it would have had federal and state net operating loss carry forwards of $276 million and $100 million, respectively and Federal and

6. Income Taxes (Continued)

California research and other tax credit carry forwards of $3.7 million and $9.2 million respectively as of December 31, 2012.

Theravance Biopharma federal net operating loss carryforwards will expire from 2031 through 2032, federal research and development tax credit carryforwards will expire in 2031. Theravance Biopharma state net operating loss carryforwards will begin expiring in the years 2031 through 2032 and state research tax credits of approximately will not expire.

In addition, the net operating loss deferred tax asset balances for Theravance Biopharma as of December 31, 2011 and December 31, 2012 do not include excess tax benefits from stock option exercises.

Uncertain Tax Positions

Theravance Biopharma's practice is to recognize interest and/or penalties related to uncertain tax positions in income tax expense. As of December 31, 2012 and 2011, Theravance Biopharma had no accrued interest or penalties due to having net operating losses available to offset any tax adjustment.

A reconciliation of total unrecognized tax benefits is as follows (in thousands):

Balance as of January 1, 2011	$ —
Increases related to 2011 tax positions	4,043
Balance as of December 31, 2011	4,043
Increases related to 2012 tax positions	2,598
Balance as of December 31, 2012	$ 6,641

If Theravance Biopharma eventually is able to recognize these uncertain positions, most of the $6.6 million would reduce the effective tax rate, except for excess tax benefits related to stock based payments. Theravance Biopharma currently has a full valuation allowance against its deferred tax assets which would impact the timing of the effective tax rate benefit should any of these uncertain positions be favorably settled in the future. Theravance Biopharma does not believe it is reasonably possible that its unrecognized tax benefits will significantly change within the next 12 months.

7. Commitments and Contingencies

Operating Leases and Subleases

Theravance leases its South San Francisco, California facilities under non-cancelable operating leases. The facilities are approximately 130,000 square feet of office and laboratory space in two buildings. The lease terms are through May 2020.

7. Commitments and Contingencies (Continued)

Future minimum lease payments under this lease, exclusive of executory costs, as of December 31, 2012, were as follows (in thousands):

Years Ending December 31:	Future Minimum Lease Payments
2013	$ 5,029
2014	4,859
2015	5,005
2016	5,155
2017	5,310
Thereafter	13,497
Total future minimum lease payments	$ 38,855

Expenses and income associated with operating leases were as follows (in thousands):

	Year Ended December 31,	
	2011	2012
Rent expense	$ 6,400	$ 5,469
Sublease income, net	(637)	(160)

Special Long-Term Retention and Incentive Cash Bonus Awards Program

In 2011, Theravance granted special long-term retention and incentive RSAs to members of senior management and special long-term retention and incentive cash bonus awards to certain employees. The awards have dual triggers of vesting based upon the achievement of certain performance conditions over a six-year timeframe from 2011 through December 31, 2016 and continued employment. The maximum potential expense associated with this program is $31.9 million related to stock-based compensation expense and $38.2 million related to cash bonus expense, which would be recognized in increments based on achievement of the performance conditions. As of December 31, 2012 and March 31, 2013, Theravance's management determined that the achievement of the requisite performance conditions was not probable and, as a result, no bonus expense has been recognized. If sufficient performance conditions are achieved in the remainder of 2013, then the Company would recognize up to $7.6 million in stock-based compensation expense associated with these RSAs and $9.5 million related to cash bonus expense in 2013.

The Company indemnifies its officers and directors for certain events or occurrences, subject to certain limits. The Company may be subject to contingencies that may arise from matters such as product liability claims, legal proceedings, shareholder suits and tax matters, as such, the Company is unable to estimate the potential exposure related to these indemnification agreements. The Company has not recognized any liabilities relating to these agreements as of March 31, 2013.

8. Subsequent Event

In May 2013, Theravance entered into a commercialization agreement with Hikma Pharmaceuticals LLC ("Hikma") providing Hikma with the right to commercialize telavancin for the

8. Subsequent Event (Continued)

treatment of Gram-positive bacterial infections, including MRSA (the "Hikma Commercialization Agreement"). Under the agreement, Theravance granted Hikma exclusive commercialization rights in the Middle East and North Africa ("MENA") region to register, and upon regulatory approval, market and distribute telavancin in 16 countries across MENA. Theravance received a $0.5 million upfront payment in June 2013. This agreement with Hikma will be assigned to Theravance Biopharma. Following the spin-off, Theravance Biopharma will be eligible to receive contingent payments of up to $0.5 million related to the successful commercialization of telavancin. Theravance Biopharma will be responsible, either directly or through its vendors or contractors, for supplying drug product for Hikma's commercialization activities for 15 years.

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