FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2022

OR

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

For the transition period from to

Commission File Number: 001-38112

ATHENEX, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**43-1985966**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
1001 Main Street, Suite 600 Buffalo, NY	**14203**
(Address of principal executive offices)	**(Zip Code)**

(716) 427-2950
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.001 per share	ATNX	The Nasdaq Global Select Market

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

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

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

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

Emerging growth company ☐

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

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

As of July 22, 2022, the registrant had 121,608,388 shares of common stock, $0.001 par value per share, outstanding.

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PART I—FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements.

ATHENEX, INC. AND SUBSIDIARIES

Condensed Consolidated Balance Sheets

(unaudited)

(In thousands, except share and per share data)

	June 30, 2022	December 31, 2021
Assets		
Current assets:		
Cash and cash equivalents	$ 22,139	$ 35,202
Restricted cash	13,825	16,500
Short-term investments	1,189	10,207
Accounts receivable, net of chargebacks and other deductions of $26,662 and $22,868, respectively, and provision for credit losses of $9,795 and $9,196, respectively	33,824	26,286
Inventories	37,851	27,049
Prepaid expenses and other current assets	3,975	5,321
Discontinued operations, current portion	4,943	12,831
Total current assets	117,746	133,396
Property and equipment, net	4,194	5,181
Intangible assets, net	72,472	71,896
Operating lease right-of-use assets, net	4,885	5,509
Other assets	991	1,087
Discontinued operations, non-current portion	21,599	50,379
Total assets	$ 221,887	$ 267,448
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	$ 21,397	$ 14,519
Accrued expenses	39,285	23,892
Current portion of operating lease liabilities	2,077	2,393
Current portion of long-term debt and finance lease obligations	23,738	46,096
Discontinued operations, current portion	3,674	9,147
Total current liabilities	90,171	96,047
Long-term liabilities:		
Long-term operating lease liabilities	3,898	4,411
Long-term debt and finance lease obligations	22,226	95,607
Royalty financing liability	75,006	—
Deferred tax liabilities	1,751	1,751
Contingent consideration	24,129	24,076
Other long-term liabilities	2,689	3,046
Discontinued operations, non-current portion	7,490	8,058
Total liabilities	227,360	232,996
Commitments and contingencies (See Note 18)		
Stockholders' equity:		
Common stock, par value $0.001 per share, 250,000,000 shares authorized at June 30, 2022 and December 31, 2021; 119,323,823 and 111,802,968 shares issued at June 30, 2022 and December 31, 2021, respectively; 117,650,903 and 110,130,048 shares outstanding at June 30, 2022 and December 31, 2021, respectively	119	111
Additional paid-in capital	980,819	972,404
Accumulated other comprehensive income (loss)	1,471	(487)
Accumulated deficit	(962,989)	(913,412)
Less: treasury stock, at cost; 1,672,920 shares at June 30, 2022 and December 31, 2021	(7,485)	(7,485)
Total Athenex, Inc. stockholders' equity	11,935	51,131
Non-controlling interests	(17,408)	(16,679)
Total stockholders' (deficit) equity	(5,473)	34,452
Total liabilities and stockholders' (deficit) equity	$ 221,887	$ 267,448

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

ATHENEX, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Operations and Comprehensive Loss
(unaudited)
(In thousands, except share and per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Revenue:				
Product sales, net	$ 25,786	$ 20,394	$ 54,154	$ 38,881
License and other revenue	5,730	304	6,504	20,969
Total revenue	31,516	20,698	60,658	59,850
Cost of sales	23,092	19,117	45,613	34,158
Gross Profit	8,424	1,581	15,045	25,692
Operating expenses:				
Research and development expenses	13,094	20,646	27,179	42,390
Selling, general, and administrative expenses	17,172	17,641	30,979	36,840
Total operating expenses	30,266	38,287	58,158	79,230
Operating loss	(21,842)	(36,706)	(43,113)	(53,538)
Interest income	46	32	122	61
Interest expense	4,307	5,608	8,820	10,538
(Gain) loss on partial extinguishment of debt	(2,051)	—	1,450	—
Loss before income tax expense	(24,052)	(42,282)	(53,261)	(64,015)
Income tax expense (benefit)	(19)	(11,035)	8	(10,881)
Net loss from continuing operations	(24,033)	(31,247)	(53,269)	(53,134)
Loss (gain) from discontinued operations (Note 4)	8,341	3,368	(2,963)	7,084
Net loss	(32,374)	(34,615)	(50,306)	(60,218)
Less: net loss attributable to non-controlling interests	(217)	(341)	(729)	(894)
Net loss attributable to Athenex, Inc.	$ (32,157)	$ (34,274)	$ (49,577)	$ (59,324)
Unrealized gain (loss) on investment, net of income taxes	443	(19)	470	(3)
Foreign currency translation adjustment, net of income taxes	953	(263)	1,488	14
Comprehensive loss	$ (30,761)	$ (34,556)	$ (47,619)	$ (59,313)
Basic and diluted loss per Athenex, Inc. common share (Note 15):				
Net loss from continuing operations	$ (0.21)	$ (0.30)	$ (0.47)	$ (0.53)
Net (loss) gain from discontinued operations	(0.07)	(0.03)	0.03	(0.07)
Net loss per share attributable to Athenex, Inc. common stockholders, basic and diluted (See Note 15)	$ (0.28)	$ (0.33)	$ (0.44)	$ (0.60)
Weighted-average shares used in computing net loss per share attributable to Athenex, Inc. common stockholders, basic and diluted (See Note 15)	113,006,158	103,370,268	111,762,029	98,427,561

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

ATHENEX, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Stockholders' Deficit
(unaudited)
(In thousands, except share data)

	Common Stock		Additional paid-in capital	Accumulated deficit	Accumulated other comprehensive loss	Treasury Stock		Total Athenex, Inc. stockholders' equity	Non-controlling interests	Total stockholders' equity
	Shares	Amount				Shares	Amount			
Balance at January 1, 2021	95,066,195	$ 95	$ 901,864	$ (713,644)	$ (1,134)	(1,672,920)	$ (7,406)	$ 179,775	$ (14,427)	$ 165,348
Stock-based compensation cost	—	—	2,205	—	—	—	—	2,205	—	2,205
Restricted stock expense	—	—	29	—	—	—	—	29	—	29
Stock options exercised	119,425	—	852	—	—	—	—	852	—	852
Net loss	—	—	—	(25,050)	—	—	—	(25,050)	(553)	(25,603)
Other comprehensive income, net of tax	—	—	—	—	293	—	—	293	—	293
Balance at March 31, 2021 (unaudited)	95,185,620	95	904,950	(738,694)	(841)	(1,672,920)	(7,406)	158,104	(14,980)	143,124
Sale of common stock	33,373	—	133	—	—	—	—	133	—	133
Issuance of common stock in connection with acquisition of Kuur and settlement of transaction incentive liability assumed	15,601,667	16	58,412	—	—	—	—	58,428	—	58,428
Stock-based compensation cost	—	—	2,387	—	—	—	—	2,387	—	2,387
Restricted stock expense	—	—	57	—	—	—	—	57	—	57
Stock options exercised	160,000	—	727	—	—	—	—	727	—	727
Treasury stock repurchase	—	—	—	—	—	—	(79)	(79)	—	(79)
Net loss	—	—	—	(34,274)	—	—	—	(34,274)	(341)	(34,615)
Other comprehensive loss, net of tax	—	—	—	—	(282)	—	—	(282)	—	(282)
Balance at June 30, 2021 (unaudited)	110,980,660	111	$ 966,666	$ (772,968)	$ (1,123)	(1,672,920)	$ (7,485)	$ 185,201	$ (15,321)	$ 169,880

	Common Stock		Additional paid-in capital	Accumulated deficit	Accumulated other comprehensive (loss) income	Treasury Stock		Total Athenex, Inc. stockholders' equity	Non-controlling interests	Total stockholders' equity (deficit)
	Shares	Amount				Shares	Amount			
Balance at January 1, 2022	111,802,968	111	$ 972,404	$ (913,412)	$ (487)	(1,672,920)	$ (7,485)	$ 51,131	$ (16,679)	$ 34,452
Sale of common stock through ATM, net of costs of $52	1,646,026	2	1,693	—	—	—	—	1,695	—	1,695
Stock-based compensation cost	—	—	1,623	—	—	—	—	1,623	—	1,623
Restricted stock expense	—	—	251	—	—	—	—	251	—	251
Issuance of warrant	—	—	148	—	—	—	—	148	—	148
Net loss	—	—	—	(17,420)	—	—	—	(17,420)	(512)	(17,932)
Other comprehensive income, net of tax	—	—	—	—	562	—	—	562	—	562
Balance at March 31, 2022 (unaudited)	113,448,994	113	976,119	(930,832)	75	(1,672,920)	(7,485)	37,990	(17,191)	20,799
Sale of common stock through ATM, net of costs of $86	5,501,866	5	2,775	—	—	—	—	2,780	—	2,780
Sale of common stock through ESPP	372,963	1	187	—	—	—	—	188	—	188
Stock-based compensation cost	—	—	1,358	—	—	—	—	1,358	—	1,358
Restricted stock expense	—	—	245	—	—	—	—	245	—	245
Issuance of warrant	—	—	135	—	—	—	—	135	—	135
Net loss	—	—	—	(32,157)	—	—	—	(32,157)	(217)	(32,374)
Other comprehensive income, net of tax	—	—	—	—	1,396	—	—	1,396	—	1,396
Balance at June 30, 2022 (unaudited)	119,323,823	119	$ 980,819	$ (962,989)	$ 1,471	(1,672,920)	$ (7,485)	$ 11,935	$ (17,408)	$ (5,473)

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

ATHENEX, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Cash Flows
(unaudited)
(In thousands)

	Six Months Ended June 30,	
	2022	**2021**
Cash flows from operating activities:		
Net loss from continuing operations	$ (53,269)	$ (53,134)
Net gain (loss) from discontinued operations	2,963	(7,084)
Adjustments to reconcile net loss to net cash used in operating activities of continuing operations:		
Depreciation and amortization	1,470	1,986
Stock-based compensation expense	3,477	4,678
Amortization of debt discount	1,029	1,533
Change in fair value of contingent consideration	53	398
Loss on disposal of assets and impairment charges	78	—
Loss on extinguishment of debt and write off of deferred issuance costs	1,450	648
Deferred income taxes	—	(10,940)
Changes in operating assets and liabilities:		
Receivables, net	(7,538)	520
Prepaid expenses and other assets	1,443	(261)
Inventories	(10,802)	(613)
Accounts payable and accrued expenses	25,798	(8,579)
Net cash used in operating activities of continuing operations	(36,811)	(63,764)
Cash flows from investing activities of continuing operations:		
Purchase of property and equipment	(360)	(491)
Payments for licenses	(668)	(1,588)
Cash acquired from Kuur acquisition	—	1,425
Purchases of short-term investments	(9,488)	(67,600)
Sales and maturities of short-term investments	18,976	152,950
Net cash provided by investing activities of continuing operations	8,460	84,696
Cash flows from financing activities of continuing operations:		
Proceeds from sale of stock	4,663	133
Proceeds from issuance of royalty financing liability	80,000	—
Proceeds from exercise of stock options	—	1,579
Repurchase of treasury stock	—	(79)
Costs incurred related to the issuance of royalty financing liability	(4,982)	—
Costs incurred related to the prepayment of debt	(5,625)	—
Repayment of finance lease obligations and long-term debt and royalty financing liability	(92,584)	(99)
Net cash (used in) provided by financing activities of continuing operations	(18,528)	1,534
Net (decrease) increase in cash, cash equivalents, and restricted cash from continuing operations	(46,879)	22,466
Net cash used in operating activities of discontinued operations	(7,535)	(5,326)
Net cash provided by (used in) investing activities of discontinued operations	37,747	(9,968)
Net cash used in financing activities of discontinued operations	(792)	(85)
Net increase (decrease) in cash and cash equivalents from discontinued operations	29,420	(15,379)
Cash, cash equivalents, and restricted cash, beginning of period	51,702	86,087
Effect of exchange rate changes on cash, cash equivalents, and restricted cash	1,721	267
Cash, cash equivalents, and restricted cash, end of period (See Note 5)	$ 35,964	$ 93,441
Supplemental cash flow disclosures		
Interest paid	$ 7,702	$ 7,708
Interest paid by discontinued operations	$ 15	$ 7
Non-cash investing and financing activities:		
Accrued purchases of property and equipment from continuing operations	$ 17	$ 123
Accrued purchases of property and equipment from discontinued operations	$ 1,213	$ 2,585
Accrued purchases of licenses	$ 1,925	$ 1,600
ROU assets derecognized from modification of operating lease obligations	$ (128)	$ —
ROU assets recognized in exchange for operating lease obligations	$ 78	$ —

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

1. Company and Nature of Business

Organization and Description of Business

Athenex, Inc. and subsidiaries (the "Company" or "Athenex"), originally under the name Kinex Pharmaceuticals LLC ("Kinex"), formed in November 2003, commenced operations on February 5, 2004, and operated as a limited liability company until it was incorporated in the State of Delaware under the name Kinex Pharmaceuticals, Inc. on December 31, 2012. The Company changed its name to Athenex, Inc. on August 26, 2015.

Athenex is a biopharmaceutical company dedicated to becoming a leader in the discovery, development, and commercialization of next generation drugs for the treatment of cancer. The Company's mission is to improve the lives of cancer patients by creating more effective, safer, and accessible treatments. The Company has assembled a strong and experienced leadership team and has established operations across the pharmaceutical value chain to execute our goal of becoming a leader in bringing innovative cancer treatments to the market and improving health outcomes.

The Company is organized around three operating segments: (1) its Oncology Innovation Platform, dedicated to the research and development of our proprietary drugs; (2) its Commercial Platform, focused on the sales and marketing of our specialty drugs and the market development of our proprietary drugs; and (3) its Global Supply Chain Platform, providing sterile injectable drugs to hospital pharmacies across the U.S. The Company's current clinical pipeline in the Oncology Innovation Platform is derived mainly from the following core technologies: (1) Cell Therapy, based on natural killer T ("NKT") cells, and (2) Orascovery, based on a P-glycoprotein ("P-gp") pump inhibitor.

The Company is primarily engaged in conducting research and development activities through corporate collaborators, in-licensing and out-licensing pharmaceutical compounds and technology, conducting preclinical and clinical testing, identifying and evaluating additional drug candidates for potential in-licensing or acquisition, and raising capital to support development and commercialization activities. The Company also conducts commercial sales of specialty products through its wholly owned subsidiary, Athenex Pharmaceutical Division ("APD"), and 503B products through its wholly owned subsidiary, Athenex Pharma Solutions ("APS").

Going Concern

These condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles applicable to a going concern, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business.

The Company has incurred operating losses since its inception and, as a result, as of June 30, 2022 and December 31, 2021 had an accumulated deficit of $963.0 million and $913.4 million, respectively. As of June 30, 2022, the Company had cash and cash equivalents of $22.1 million, restricted cash of $13.8 million, and short-term investments of $1.2 million. The Company projects insufficient liquidity to fund its operations through the next twelve months beyond the date of the issuance of these condensed consolidated financial statements. This condition raises substantial doubt about the Company's ability to continue as a going concern.

Additionally, the Company has financial covenants associated with its Senior Credit Agreement with Oaktree that are measured each quarter. The Company is in compliance with such financial covenants as of June 30, 2022. However, the Company is forecasting that it will be in violation of the minimum liquidity covenant included within the Senior Credit Agreement during the twelve month period subsequent to the date of this filing. Pursuant to ASC 205-40-50, the Company's forecast does not reflect management's plans that are outside of the Company's control as described below. Violation of any covenant under the Credit Agreement provides the lenders with the option to accelerate the maturity of the Credit Facility, which carried an outstanding principal balance of $57.5 million as of June 30, 2022. Should the lenders accelerate the maturity of the Credit Facility, the Company would not have sufficient cash on hand or available liquidity to repay the outstanding debt in the event of default. These conditions and events raise substantial doubt about the Company's ability to continue as a going concern.

In response to these conditions, management's plans include seeking additional funding through planned product launches, raising capital, including leveraging the existing sales agreement with SVB Securities LLC (described below), asset monetization and/or seeking funding through alternative means. There can be no assurances, however, that additional funding will be available on favorable terms, or at all. Because management's plans have not yet been finalized and are not within the Company's control, such plans cannot be considered probable of being achieved. As a result, the Company has concluded that management's plans do not alleviate substantial doubt about the Company's ability to continue as a going concern.

These condensed consolidated financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts or the amounts and classification of liabilities that might result from the outcome of this uncertainty.

Other Significant Risks and Uncertainties

In February 2021, the Company received a Complete Response Letter ("CRL") from the U.S. Food and Drug Administration ("FDA") regarding the Company's New Drug Application ("NDA") for oral paclitaxel and encequidar ("Oral Paclitaxel") for the treatment of metastatic breast cancer ("mBC"). The FDA issues a CRL to indicate that the review cycle for an application is complete and that the application is not ready for approval in its present form. In the CRL, the FDA indicated its concern of safety risk to patients in terms of an increase in neutropenia-related sequelae on the Oral Paclitaxel arm compared with the IV paclitaxel arm in the Phase III study. The FDA also expressed concerns regarding the uncertainty over the results of the primary endpoint of objective response rate (ORR) at week 19 conducted by blinded independent central review ("BICR"). The FDA stated that the BICR reconciliation and re-read process may have introduced unmeasured bias and influence on the BICR. The FDA recommended that Athenex conduct a new adequate and well-conducted clinical trial in a patient population with mBC representative of the population in the U.S. The FDA determined that adequate risk mitigation strategies to improve toxicity, which may involve dose optimization as well as, or in addition to, exclusion of patients deemed to be at higher risk of toxicity, would be required in any new clinical trial of Oral Paclitaxel. During the second quarter of 2021, the Company held a Type A meeting with the FDA. At the meeting, the Company provided additional analyses, including overall survival (OS) data on patient subgroups, to provide a more comprehensive summary of the risk/benefit assessment. The Company also proposed to collect additional OS data that could inform the design of a new clinical study. In October 2021, the Company held another Type A meeting with the FDA, and the purpose of the meeting was to review with the FDA a proposed design for a new clinical trial intended to address the deficiencies raised in the CRL and discuss the potential regulatory path forward for Oral Paclitaxel in mBC in the U.S. After careful consideration of the feedback provided by the FDA, the Company decided that it will not currently be pursuing regulatory approval for Oral Paclitaxel monotherapy for the treatment of mBC in the U.S. and determined to redeploy its resources to focus on its cell therapy platform and other ongoing studies of Oral Paclitaxel.

The Company is subject to a number of risks, including, but not limited to, the lack of available capital; the possible delisting of our common stock from Nasdaq, possible failure of preclinical testing or clinical trials; inability to obtain regulatory approval of product candidates; competitors developing new technological innovations; potential interruptions in the manufacturing and commercial supply operations; unsuccessful commercialization strategy and launch plans for its proprietary drug candidates; risks inherent in litigation, including purported class actions; market acceptance of the Company's products; and protection of proprietary technology. If the Company or its partners do not successfully commercialize any of the Company's product candidates, it will be unable to generate sufficient revenue and might not, if ever, achieve profitability and positive cash flow.

Recent Financing Activity

Sale of U.S. and European tirbanibulin royalty and milestone interests

On June 21, 2022, the Company and ATNX SPV, LLC, its newly-formed subsidiary (the "SPV"), entered into a Revenue Interest Purchase Agreement (the "RIPA") with affiliates of Sagard Healthcare Partners ("Sagard") and funds managed by Oaktree Capital Management, L.P. ("Oaktree" and together with Sagard, the "Purchasers"), for the sale of revenues from U.S. and European royalty and milestone interests in Klisyri® (tirbanibulin) for an aggregate purchase price of $85.0 million ("Purchase Price"). On June 29, 2022, the Purchasers paid the Company the Purchase Price. Of the total Purchase Price, $5.0 million was placed into escrow to be paid to the Company upon the satisfaction of certain manufacture and supply milestones for Klisyri prior to December 31, 2025, $5.0 million was used to pay for transaction expenses, $56.6 million was used to pay down principal, interest, and fees on the Company's Senior Credit Agreement with Oaktree, and $7.5 million was deposited and held in a segregated account of the Company (the "Segregated Funds"). Subject to the satisfaction of certain conditions, the Segregated Funds will either be distributed to the Company as a cash payment or distributed to Oaktree Fund Administration, LLC as administrative agent to pay down the Company's existing indebtedness under the Senior Credit Agreement. The remaining proceeds of $10.9 million were available for the Company's operations. Refer to Note 11 - *Debt and Lease Obligations* for additional information.

In connection with this transaction, the Company formed the Subsidiary and contributed its interest in the License and Development Agreement with Almirall S.A. relating to Klisyri (the "License Agreement") and certain related assets to the Subsidiary. Oaktree and Sagard each own a 10% equity interest in the Subsidiary. Pursuant to the RIPA, the Subsidiary will sell its right to the cash received in respect of certain royalties and certain milestone interests under the License Agreement to the Purchasers. The Subsidiary will retain the right to receive 50% of certain of the milestone interests under the License Agreement, equal to $155.0 million in the aggregate if those milestones are achieved, and 50% of the royalties paid under the License Agreement for sales of Klisyri once net sales of Klisyri exceed a certain dollar amount. Under its operating agreement, the Subsidiary will be governed by a five-member board of directors to which the Company will appoint three directors, Oaktree will appoint one director, and Sagard will appoint one director.

At-the-market offering

On August 20, 2021, the Company entered into a sales agreement (the "Sales Agreement") with SVB Securities LLC, in connection with the offer and sale of up to $100,000,000 of shares of the Company's common stock, par value $0.001 per share ("ATM Shares"). The ATM Shares to be offered and sold under the Sales Agreement will be issued and sold pursuant to a registration

statement on Form S-3 (File No. 333-258185) that became effective on August 12, 2021. During the year ended December 31, 2021, the Company sold 762,825 shares of its common stock for an average price of $1.49 per share under the Sales Agreement. During the six months ended June 30, 2022, the Company sold 7,147,892 shares of its common stock for an average price of $0.63 per share under the Sales Agreement.

Senior Secured Loan Agreement and Detachable Warrants

On June 19, 2020, the Company entered into a senior secured loan agreement and related security agreements (the "Senior Credit Agreement") with Oaktree to borrow up to $225.0 million in five tranches with a maturity date of June 19, 2026, bearing interest at a fixed annual rate of 11.0%. The first tranche of $100.0 million was drawn by the Company prior to June 30, 2020, with the proceeds used in part to repay in full the outstanding loan and fees under the credit agreement with Perceptive Advisors LLC and its affiliates ("Perceptive"). The second and third tranches of $25.0 million each were drawn by the Company prior to December 31, 2020. The additional debt tranches amounting to an aggregate of $75.0 million were subject to the approval Oral Paclitaxel in the treatment of mBC, and therefore, became unavailable to the Company when it decided to no longer pursue regulatory approval in the U.S. The Company is required to make quarterly interest-only payments until June 19, 2022, after which the Company is required to make quarterly amortizing payments, with the remaining balance of the principal plus accrued and unpaid interest due at maturity. The loan agreement contains specified financial maintenance covenants. The Company was in compliance with such covenants as of June 30, 2022.

In connection with the Senior Credit Agreement, the Company granted warrants to Oaktree to purchase an aggregate of up to 908,393 shares of the Company's common stock at an initial purchase price of $12.63 per share. This transaction was accounted for as a detachable warrant at its fair value, using the relative fair value method, which is based on a number of unobservable inputs, and is recorded as an increase to additional paid-in-capital on the consolidated statement of stockholders' equity. The fair value of the warrants was reflected as a discount to the term loan and amortized over the life of the term loan.

On January 19, 2022, the Company entered into an amendment to the Senior Credit Agreement with Oaktree (the "Third Amendment"). The Third Amendment also amended the warrants held by Oaktree and Sagard that were issued on June 19, 2020 and August 4, 2020. The Third Amendment became effective on February 14, 2022, upon the closing of the Company's sale of its leasehold interest in the manufacturing facility in Dunkirk, New York and certain other related assets (the "Dunkirk Transaction," see Note 4 - *Discontinued Operations*). The Third Amendment required the Company to make a mandatory prepayment of principal to Oaktree equal to 62.5% of the cash proceeds of the Dunkirk Transaction. The Company was also required to pay (i) accrued and unpaid interest and (ii) a 7.0% fee, allocated as a 2.0% Exit Fee and a 5.0% Prepayment Fee (each as defined in the Senior Credit Agreement), on the principal amount being repaid. The Company was required to pay Oaktree an amendment fee of $0.3 million and certain related expenses upon the closing of the Dunkirk Transaction. The Third Amendment required the Company to make an additional mandatory prepayment of $12.5 million in principal plus the costs and fees described above by June 14, 2022, within 120 days of the closing of the Dunkirk Transaction. Consistent with the Company's decision to not pursue regulatory approval for Oral Paclitaxel monotherapy for the treatment of mBC in the United States, the Third Amendment reduced to zero the amount of the last two tranches of borrowing that had been available under the Senior Credit Agreement upon the achievement of commercial milestones. The warrants were amended to change the exercise price to be paid per share upon exercise of the warrants. The original exercise price of the warrants was $12.63 per share; 50% of the shares underlying the warrants were repriced to $1.10 per share under the Third Amendment. The Dunkirk Transaction closed on February 14, 2022. The Company received proceeds of $40.0 million and used these proceeds to repay $27.4 million, inclusive of principal, fees, and accrued interest, of the Senior Credit Agreement with Oaktree according to the terms of the Third Amendment. The Company recorded a $3.5 million loss on the partial extinguishment of debt as the result of this prepayment. During June 2022, the Company made the additional prepayment under the Third Amendment in the aggregate amount of $13.7 million, inclusive of principal, fees, and accrued interest, as provided in the Fourth Amendment, described below.

In June 2022, the Company entered into additional amendments to the Senior Credit Agreement with Oaktree (the "Fourth Amendment" and the "Fifth Amendment" or the "Amendments"), in connection with the execution of the RIPA with Sagard and Oaktree. Under the Fourth Amendment, Oaktree permitted the Company to pay $7.5 million in principal amount due pursuant to the Third Amendment on the closing date of the RIPA. Under the Fifth Amendment, the Company agreed to make an additional prepayment of principal to Oaktree of $10.0 million on or before July 1, 2022. The Company was also required to pay (i) accrued and unpaid interest and (ii) a 5.0% fee, allocated as a 2.0% Exit Fee and a 3.0% Prepayment Fee (each as defined in the Senior Credit Agreement), on the principal amount being repaid pursuant to the Amendments.

The Fourth Amendment also amended the warrants held by Oaktree and Sagard that were issued on June 19, 2020 and August 4, 2020, as previously amended on January 19, 2022. The warrants were amended to change the exercise price to be paid per share upon exercise of the warrants. The original exercise price of the warrants was $12.63 per share. The Third Amendment had reduced the exercise price of 50% of the shares underlying the Warrants to $1.10 per share, with the remaining 50% exercisable at $12.63 per share. The Fourth Amendment reduced the exercise price of all of the warrants to $0.50 per share.

As of June 30, 2022 and December 31, 2021, the Company's outstanding principal on the Senior Credit Agreement with Oaktree amounted to $57.5 million, and $150.0 million, respectively. Refer to Note 11 - *Debt and Lease Obligations* for additional information.

2. Summary of Significant Accounting Policies

Basis of Presentation and Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles in the United States of America ("GAAP") for interim financial information (Accounting Standards Codification ("ASC") 270, *Interim Reporting*) and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, these financial statements do not include all of the information necessary for a full presentation of financial position, results of operations, and cash flows in conformity with GAAP. In the opinion of management, the condensed consolidated financial statements reflect all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation of the results of the Company for the periods presented. These condensed consolidated financial statements reflect the accounts and operations of Athenex, Inc. and those of its subsidiaries in which Athenex, Inc. has a controlling financial interest. Intercompany transactions and balances have been fully eliminated in consolidation.

Results of the Company's operations for the three and six months ended June 30, 2022 are not necessarily indicative of the results expected for the year ending December 31, 2022, or for any other future annual or interim period. These condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2021, filed with the Securities and Exchange Commission ("SEC") on March 16, 2022.

The Company has consolidated its newly-formed subsidiary, ATNX SPV, LLC into the accompanying unaudited condensed consolidated financial statements under the variable interest model.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the consolidated financial statements and the reported amount of revenue and expenses during the reporting period. Such management estimates include those relating to assumptions used in clinical research accruals, chargebacks, measurement of acquired assets and assumed liabilities in business combinations, provision for credit losses, inventory reserves, deferred income taxes, the estimated useful life and recoverability of long-lived assets, contingent consideration, accounting for debt extinguishment and the royalty financing liability, and the valuation of stock-based awards and other items as appropriate. Actual results could differ from those estimates.

Contingent Consideration

Contingent consideration arising from a business acquisition is included as part of the purchase price and is recorded at fair value as of the acquisition date. Subsequent to the acquisition date, the Company remeasures contingent consideration arrangements at fair value at each reporting period until the contingency is resolved. The changes in fair value are recognized within selling, general, and administrative expenses in the Company's consolidated statement of operations and comprehensive loss. Changes in fair values reflect new information about the likelihood of the payment of the contingent consideration and the passage of time.

Liability related to the sale of future royalties

The Company treats the liability related to the sale of future royalties, as discussed further in Note 11 - *Debt and Lease Obligations*, as a debt instrument, amortized under the effective interest rate method over the estimated life of the revenue streams. The Company recognizes interest expense thereon using the effective rate, which is based on its current estimates of future revenues over the life of the arrangement. The Company periodically assesses its expected revenues using internal projections, imputes interest on the carrying value of the deferred royalty obligation, and records interest expense using the imputed effective interest rate. To the extent its estimates of future revenues are greater or less than previous estimates or the estimated timing of such payments is materially different than previous estimates, the Company will account for any such changes by adjusting the effective interest rate on a prospective basis, with a corresponding impact to the reclassification of the royalty financing liability. The assumptions used in determining the expected repayment term of the royalty financing liability and amortization period of the issuance costs require that the Company makes significant estimates that could impact the short-term and long-term classification of the royalty financing liability, interest recorded on such liability, as well as the period over which such costs will be amortized.

Concentration of Credit Risk, Other Risks and Uncertainties

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and cash equivalents, restricted cash, and short-term investments. The Company deposits its cash equivalents in interest-bearing money market accounts and certificates of deposit, invests in highly liquid U.S. treasury notes, commercial paper, and corporate bonds. The Company deposits its cash with multiple financial institutions. Cash balances exceed federally insured limits. The primary focus of the Company's investment strategy is to preserve capital and meet liquidity requirements. The Company's investment policy addresses the level of credit exposure by limiting the concentration in any one corporate issuer and establishing a minimum allowable credit rating. The Company also has significant assets and liabilities held in its overseas manufacturing facility, and research and development facility in China, and therefore is subject to foreign currency fluctuation and regulatory uncertainties.

3. Business Combination

On May 4, 2021, the Company entered into an Agreement and Plan of Merger (the "Merger Agreement") with Kuur Therapeutics, Inc., a Delaware corporation ("Kuur") whereby it acquired 100% of the outstanding shares of Kuur (the "Merger"). Under the terms of the Merger Agreement, the Company's wholly owned subsidiary, Athenex Pharmaceuticals LLC, a Delaware limited liability company, merged with and into Kuur, with Kuur surviving as a wholly owned subsidiary of the Company. Kuur is a leading developer of off-the-shelf CAR-NKT cell immunotherapies for the treatment of solid and hematological malignancies. The Company believes the acquisition strategically combines its TCR technology with the groundbreaking NKT cell platform to provide a solution that may address some of the known limitations associated with the first generation of cell therapy treatments focused on autologous CAR-T.

Pursuant to the Merger Agreement, an upfront fee of $70.0 million was paid to Kuur shareholders and its former employees and directors, comprised primarily of equity in the Company's common stock. Additionally, Kuur shareholders and its former employees and directors are eligible to receive up to $115.0 million of milestone payments, which may be paid, at the Company's sole discretion, in either cash or additional common stock of the Company (or a combination of both). On June 10, 2022, the Company's shareholders approved the issuance of shares of common stock as milestone payments under the Merger Agreement.

The Company identified the Merger as a business combination pursuant to ASC 805 and used the acquisition method of accounting to account for the transaction. The purchase price, after adjusted for closing conditions, consisted of 14,228,066 shares of the Company's common stock issued at $3.71 per share with a fair value of $52.8 million, plus the fair value of the future milestone payments amounting to $19.8 million, recorded as contingent consideration. The Company recorded the fair value of this contingent consideration as a liability based on the probabilities of Kuur achieving the milestones and the present value of such payments. These inputs are not observable in the market and therefore are considered Level 3 inputs.

The Company estimated fair values on May 4, 2021 for the allocation of consideration to the net tangible and intangible assets acquired and liabilities assumed in connection with the Merger. During the measurement period, the Company continued to obtain information to assist in finalizing the fair value of assets acquired and liabilities assumed. Measurement period adjustments were applied in the reporting period in which the adjustments were determined. During the year ended December 31, 2021, the Company recorded a measurement period adjustment to reflect the estimated fair value of in-process research and development ("IPR&D"), as a result of changes in the underlying assumptions, including projected expenses and the estimated discount rate. This measurement period adjustment resulted in the increase of IPR&D of $1.4 million, a decrease in the deferred tax liability assumed of $0.2 million, and a decrease in goodwill of $1.6 million from the initial measurement reported as of June 30, 2021. To estimate the fair value of the identifiable intangible assets acquired, the Company used projected discounted cash flow method, which requires assumptions of projected revenues and expenses and an estimated discount rate, among other inputs, each of which is not observable in the market and thus are considered Level 3 inputs. The Company assumed $8.9 million of transaction incentive liability to Kuur's key employees and independent company directors, of which $3.3 million was paid in cash and $5.6 million was paid in 1,373,601 shares of the

Company's common stock at $4.11 per share. The following table summarizes the final purchase price allocation to the fair value of assets and liabilities acquired at the date of acquisition (in thousands):

Allocation of Consideration:		
Stock issued (14,228,066 shares at $3.71)	$	52,786
Contingent consideration		19,839
Purchase price:	$	72,625
Net assets acquired:		
Cash and cash equivalents	$	1,425
Prepaid expenses and other current assets		133
In-process research & development		64,900
Accounts payable		(39)
Accrued expenses		(1,037)
Deferred income tax liability		(12,543)
Transaction incentive liability		(8,925)
Total identifiable net assets		43,914
Goodwill		28,711
Total purchase price allocation	$	72,625

Goodwill in the amount of $28.7 million was recorded for the excess of the purchase price over the fair value of the assets acquired and liabilities assumed. The goodwill recorded in connection with this acquisition is not deductible for income tax purposes. A deferred tax liability in the amount of $12.5 million was recorded related to the future taxable income as a result of the book to tax basis difference arising from the IPR&D.

The fair value of the acquired IPR&D relates to two products, including (a) an allogenic product in which NKT cells are engineered with a CAR targeting CD19, and (b) an allogenic product in which NKT cells are engineered with a CAR targeting GPC3. These IPR&D projects were valued using an income approach, specifically a projected discounted cash flow method, adjusted for the probability of technical success (PTS). The projected discounted cash flow models used to estimate the Company's IPR&D reflect significant assumptions regarding the estimates a market participant would make in order to evaluate a drug development asset including the following:

- Estimates of potential cash flows to be generated by the project and resulting asset, which was developed utilizing estimates of total patient population, market penetration rates, demand risk adjustment factors, and product pricing;
- Estimates regarding the timing of and the expected cost of goods sold, research and development expenses, selling, general, and administrative expenses to advance the clinical programs to commercialization;
- Estimates of profit sharing and cash flow adjustments;
- The projected cash flows were then adjusted using PTS factors that were selected considering both the current state of development and the nature of the proposed indication; and
- Finally, the resulting probability-adjusted cash flows were discounted to present value using a risk-adjusted discount rate, developed considering the market risk present in the forecast and the size of the asset.

This acquisition was made to benefit the Company's R&D efforts, providing synergies with other assets in the Company's pipeline and therefore, is included in the Oncology Innovation Platform. The operating results of Kuur have been included within the Company's Oncology Innovation Platform operating segment from the date of acquisition. Kuur added revenue of $0.1 for both the three and six months ended June 30, 2022 and contributed a net loss of $3.7 million and $6.1 million for the three and six months ended June 30, 2022, respectively. Kuur added revenue of $0 for both the three and six months ended June 30, 2021 and contributed a net loss of $0.6 million for the three and six months ended June 30, 2021.

No acquisition-related costs were incurred during the six months ended June 30, 2022. Acquisition-related costs, including legal, regulatory, and consulting costs, amounted to $3.5 million for the six months ended June 30, 2021, and are included within selling, general, and administrative expenses in the Company's consolidated statement of operations and comprehensive loss.

Unaudited Pro Forma Financial Results

The following table presents supplemental unaudited pro forma information for the acquisition as if it had occurred on January 1, 2021. The unaudited pro forma financial results for the six months ended June 30, 2022 do not include proforma adjustments, as the results of Kuur have been consolidated within the Company's financial statements for that period. The unaudited pro forma financial results for the three and six months ended June 30, 2021 include the following adjustments: (1) removal of direct acquisition-related costs which would not have been incurred had the businesses been owned on the beginning of the prior reporting period, (2) the

deferred tax effect if the intangible assets and purchase accounting were recorded as of the beginning of the prior reporting period, and (3) the removal of the change in fair value of Kuur convertible debt which was converted prior to the consummation of the acquisition. The pro forma results do not include any anticipated synergies or other expected benefits of the acquisitions. The unaudited pro forma financial information is for informational purposes only and is not necessarily indicative of either future results of operations of the combined entity or results that might have been achieved had the acquisitions been consummated as of the beginning of the prior reporting period. The following table presents the unaudited pro forma consolidated financial information for the three and six months ended June 30, 2022 (in thousands):

Unaudited pro forma financial information (Athenex and Kuur Consolidated)	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850
Consolidated net loss	$ (32,157)	$ (31,261)	$ (49,577)	$ (58,197)

4. Discontinued Operations

On January 7, 2022, the Company entered into a definitive agreement (the “Dunkirk Agreement”) with ImmunityBio, Inc. (the "Dunkirk Buyer") whereby the Company agreed to sell to the Dunkirk Buyer its leasehold interest in a manufacturing facility in Dunkirk, New York (the “Dunkirk Facility”) and certain other related assets, as described below, in exchange for reimbursement of certain expenditures that the Company made in the Dunkirk Facility totaling $40.0 million. The transaction closed on February 14, 2022 and was subject to approval from the Company's lender, Oaktree. The provisions of this approval included prepayment of the senior secured loans, as described in Note 11 - *Debt and Lease Obligations*. The Dunkirk Buyer has agreed to manufacture 503B products for the Company on mutually agreed upon commercial terms.

In addition to the leasehold interest in the Dunkirk Facility, the Dunkirk Buyer purchased the Company’s interests in certain leased manufacturing equipment and personal property, and owned personal property and inventory at the Dunkirk Facility, along with the Company’s rights in and obligations under its agreements relating to the Dunkirk Facility with Empire State Development ("ESD"), Fort Schuyler Management Corporation ("FSMC"), and County of Chautauqua Industrial Development Agency ("CCIDA") and other parties (collectively, the "Dunkirk Operations"). The Dunkirk Buyer assumed all capital expenditure and hiring obligations of the Company related to the Dunkirk Operations pursuant to the Company’s existing agreements with ESD and FSMC. The Company did not assign any of its rights to its corporate headquarters in Buffalo, New York, under the Dunkirk Agreement and retained all of its rights and obligations with respect to its corporate headquarters.

As of June 30, 2022, the Dunkirk Operations met all conditions required to be classified as discontinued operations. Therefore, the operating results of the Dunkirk Operations are reported as gain (loss) from discontinued operations in the accompanying consolidated statements of operations and comprehensive loss. The assets and liabilities related to the Dunkirk Operations are reported as assets and liabilities of discontinued operations in the accompanying balance sheets as of June 30, 2022 and December 31, 2021. These assets are recorded at the lesser of cost or fair value less cost to sell. The Dunkirk Operations have historically been included within the Global Supply Chain Platform on the Company's consolidated financial statements.

Additionally, on July 7, 2022, the Company entered into an Equity Purchase Agreement with TiHe Capital (Beijing) Co. Ltd. (the "API Buyer") pursuant to which the Company agreed to sell 100% of the equity interests in Chongqing Taihao Pharmaceutical Co., Ltd. and Athenex Pharmaceuticals (Chongqing) Limited (the “Equity Interests”) for RMB124.4 million, or approximately $19 million (“EPA Purchase Price”). The Equity Interests primarily represent the Company’s ownership of its active pharmaceutical ingredient (“API”) manufacturing business in China, including the right to operate the Taihao API facility in Chongqing, China, and its lease for the Sintaho API facility in Chongqing, China, with Chongqing Maliu Riverside Development and Investment Co., LTD (“CQ”), (collectively "China API Operations"). At the closing of this transaction (“Closing Date”) the Buyer will pay at least 70% of the EPA Purchase Price to the Company in cash. The remainder of the EPA Purchase Price will be paid in cash, with 20% of the EPA Purchase Price to be paid within three months after the Closing Date and the remaining balance of the EPA Purchase Price to be paid within six months after the Closing Date. On the Closing Date, the Company and the Buyer are expected to enter into a supply agreement and an agreement granting the Buyer the right of first negotiation for certain of the Company’s products in China. The deal is subject to customary closing conditions, including obtaining certain regulatory approvals in China. Refer to Note 19 - *Subsequent Events* for additional information.

As of June 30, 2022, the China API Operations met all conditions required to be classified as discontinued operations. Therefore, the operating results of the China API Operations are reported within loss (gain) from discontinued operations in the accompanying consolidated statements of operations and comprehensive loss. The assets and liabilities related to the China API Operations are reported as assets and liabilities of discontinued operations in the accompanying balance sheets as of June 30, 2022 and December 31, 2021. These assets are recorded at the lesser of cost or fair value less cost to sell. The China API Operations have historically been included within the Global Supply Chain Platform on the Company's consolidated financial statements.

The following table presents the financial results of the discontinued operations (in thousands):

	Three Months Ended June 30, 2022	2021	Six months ended June 30, 2022	2021
Discontinued Dunkirk operations:				
Selling, general, and administrative expenses	$ —	$ (2,425)	$ (1,927)	$ (3,808)
Gain on sale of discontinued operations	—	—	14,464	—
(Loss) gain from discontinued Dunkirk operations	—	(2,425)	12,537	(3,808)
Discontinued China API operations:				
Revenue	$ 424	$ 1,225	$ 1,007	$ 3,098
Cost of sales	(7,343)	(546)	(8,118)	(1,910)
Research and development expenses	(157)	(481)	(613)	(1,807)
Selling, general, and administrative expenses	(1,540)	(1,165)	(2,669)	(2,703)
Other income	280	24	832	46
Interest expense	(5)	—	(13)	—
Loss from discontinued China API operations	$ (8,341)	$ (943)	$ (9,574)	$ (3,276)
(Loss) gain from discontinued operations	$ (8,341)	$ (3,368)	$ 2,963	$ (7,084)

The Dunkirk operations selling, general, and administrative costs during the periods presented was comprised primarily of compensation and consultant expenses, as well as operating expenses needed to prepare the facility.

The gain on sale of the Dunkirk discontinued operation was the result of the $40.0 million cash proceeds from the sale, less the net book value of assets and liabilities transferred to the Dunkirk Buyer, including property and equipment of $27.1 million, accounts payable and accrued expenses of $1.3 million and current and long-term finance lease obligations of $0.2 million.

The revenue and cost of sales of the China API discontinued operation arose from the sales of API. Cost of sales of the China API discontinued operation includes a write-off of excess and obsolete inventory of $7.1 million for the three and six months ended June 30, 2022. Research and development costs of the China API discontinued operation represent development of API manufacturing methods and API product development for the Company's Orascovery platform. Other income of the China API discontinued operation includes the sale of pilot product which was previously developed at the facility and included within research and development expense.

The consolidated statements of cash flows include cash flows related to the discontinued operations due to the Company's centralized treasury and cash management processes. The following table presents additional cash flow information for the discontinued operations (in thousands):

	Six months ended June 30, 2022	2021
Supplemental information for discontinued Dunkirk operations:		
Depreciation expense	$ 185	$ 29
Cash paid for capital expenditures	(1,949)	(7,185)
Repayment of finance lease obligations	(7)	(85)
Supplemental information for discontinued China API operations:		
Depreciation expense	$ 30	$ 348
Impairment of PPE	230	—
Write-off of inventory	7,120	—
Cash paid for capital expenditures	(327)	(2,783)
Proceeds from issuance of debt	—	783
Repayment of long-term debt	(785)	(783)

The following table presents the aggregate carrying amounts of the classes of assets and liabilities of discontinued operations (in thousands):

	June 30, 2022	December 31, 2021
Discontinued Dunkirk operations:		
Prepaid expenses and other current assets	$ —	$ 1,280
Property and equipment, net	—	26,848
Discontinued China API operations:		
Accounts receivable	362	351
Inventories	2,204	7,636
Prepaid expenses and other current assets	2,393	3,564
Property and equipment, net	21,120	22,797
Operating lease right-of-use assets, net	463	734
Total assets attributable to discontinued operations	$ 26,542	$ 63,210
Discontinued Dunkirk operations:		
Accounts payable	$ —	$ 3,763
Accrued expenses	—	1,198
Current portion of finance lease obligation	—	101
Long-term finance lease obligation	—	126
Discontinued China API operations:		
Accounts payable	$ 2,725	$ 2,223
Accrued expenses	716	561
Current portion of operating lease liabilities	233	516
Current portion of long-term debt	—	785
Long-term debt and lease obligations	7,490	7,932
Total liabilities attributable to discontinued operations	$ 11,164	$ 17,205

5. Restricted Cash

The Company had a restricted cash balance of $13.8 million and $16.5 million as of June 30, 2022 and December 31, 2021, respectively, held in a controlled bank account in connection with the Senior Credit Agreement with Oaktree and the RIPA. The Senior Credit Agreement requires the Company to maintain, in a debt service reserve account, a minimum cash balance equal to twelve months of interest on the outstanding loans under the Senior Credit Agreement, which amounted to $6.3 million and $16.5 million as of June 30, 2022 and December 31, 2021, respectively. Further, the Company holds $7.5 million of the proceeds from the RIPA as Segregated Funds, classified as restricted cash, which may be released to the Company upon satisfaction of certain milestone events under the RIPA.

6. Inventories

Inventories consist of the following (in thousands):

	June 30, 2022	December 31, 2021
Raw materials and purchased parts	$ 8,637	$ 5,490
Work in progress	69	66
Finished goods	29,145	21,493
Total inventories	$ 37,851	$ 27,049

7. Intangible Assets, net

The Company's identifiable intangible assets, net, consist of the following (in thousands):

	June 30, 2022			
	Cost/Fair Value	Accumulated Amortization	Impairments	Net
Amortizable intangible assets:				
Licenses	$ 13,946	$ 6,987	$ —	$ 6,959
Indefinite-lived intangible assets:				
CDE in-process research and development (IPR&D)	728	—	78	650
Kuur IPR&D	64,900	—	—	64,900
Effect of currency translation adjustment	(37)	—	—	(37)
Total intangible assets, net	$ 79,537	$ 6,987	$ 78	$ 72,472

	December 31, 2021			
	Cost/Fair Value	Accumulated Amortization	Impairments	Net
Amortizable intangible assets				
Licenses	$ 12,654	$ 6,376	$ —	$ 6,278
Indefinite-lived intangible assets:				
CDE in-process research and development (IPR&D)	728	—	—	728
Kuur IPR&D	64,900	—	—	64,900
Effect of currency translation adjustment	(10)	—	—	(10)
Total intangibles, net	$ 78,272	$ 6,376	$ —	$ 71,896

In connection with the acquisition of Kuur, the Company identified three drug candidate projects and two were classified as IPR&D and recorded at their fair value on the acquisition date. Included in the IPR&D is the historical know-how, cell treatment protocols, and procedures expected to be needed to complete the related phase of testing. The fair value of IPR&D was determined for each project, or unit of account, using unobservable, level 3 inputs (see Note 3—*Business Combination*). IPR&D intangible assets are not amortized, but rather are reviewed for impairment on an annual basis or more frequently if indicators of impairment are present, until the project is completed, abandoned, or transferred to a third party.

As of June 30, 2022, licenses at cost include an Orascovery license of $0.4 million, licenses purchased from Gland Pharma Limited ("Gland") of $3.8 million, a license purchased from MAIA Pharmaceuticals, Inc. ("MAIA") for $4.0 million, licenses purchased from Ingenus Pharmaceuticals, LLC ("Ingenus") for $3.0 million, and licenses of other specialty products with various licensors of $2.8 million. The Orascovery license with Hanmi Pharmaceuticals Co. Ltd. ("Hanmi") was purchased directly from Hanmi and is being amortized on a straight-line basis over a period of 12.75 years, the remaining life of the license agreement at the time of purchase. The licenses purchased from Gland are being amortized on a straight-line basis over a period of 5 years, the remaining life of the license agreement at the time of purchase. The license purchased from MAIA is being amortized over a period of 7 years, the remaining life of the license agreement at the time of purchase. Of the $3.0 million licenses purchased from Ingenus, a $2.0 million license is being amortized over a period of 5 years, the estimated useful life of the license agreement and a $1.0 million license purchased from Ingenus is being amortized over a period of 3 years, the remaining life of the license agreement at the time of purchase.

The remaining intangible asset was acquired in connection with the acquisitions of Comprehensive Drug Enterprises ("CDE"). The CDE IPR&D will not be amortized until the related projects are completed. IPR&D is tested annually for impairment, unless conditions exist causing an earlier impairment test (e.g., abandonment of project). The Company recorded impairment of a project within CDE IPR&D during the six months ended June 30, 2022, amounting to $0.1 million, which is included within research and development expenses on the Company's condensed consolidated statements of operations and comprehensive loss. The weighted-average useful life for all intangible assets was 6.0 years as of June 30, 2022.

The Company recorded $0.3 million and $0.5 million of amortization expense for the three months ended June 30, 2022 and 2021, respectively and recorded $0.6 million and $1.1 million of amortization expense for the six months ended June 30, 2022 and 2021, respectively.

The Company's previous goodwill balance is the result of prior period acquisitions and is allocated to the Global Supply Chain Platform reporting unit and the Oncology Innovation Platform reporting unit. During the fourth quarter of 2021, the Company performed a goodwill impairment test and, based on the results, determined that the carrying value of each of our reporting units exceeded their fair value and the goodwill was determined to be impaired. As a result, $26.6 million, representing the full amount of goodwill allocated to the Global Supply Chain Platform, and $41.1 million, representing the full amount of goodwill allocated to the Oncology Innovation Platform was recorded as impairment expense during the fourth quarter of 2021. No such impairments were recorded during the six months ended June 30, 2022.

8. Fair Value Measurements

Financial instruments consist of cash and cash equivalents, restricted cash, short-term investments, an available-for-sale equity investment, accounts receivable, accounts payable, accrued liabilities, contingent consideration, and debt. Short-term investments, the equity investment, and contingent consideration are stated at fair value. Cash and cash equivalents, restricted cash, accounts receivable, accounts payable and accrued liabilities, and debt, are stated at their carrying value, which approximates fair value due to the short time to the expected receipt or payment date of such amounts. The Company believes that the carrying value of its long-term debt approximates fair value based on current interest rates.

ASC 820, *Fair Value Measurements*, establishes a framework for measuring fair value. That framework provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to unobservable inputs (level 3 measurements). The three levels of the fair value hierarchy under the ASC 820 are described as follows:

Level 1—Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Company has the ability to access.

Level 2—Inputs to the valuation methodology include:

•Quoted prices for similar assets or liabilities in active markets;

•Quoted prices for identical or similar assets or liabilities in inactive markets;

•Inputs other than quoted prices that are observable for the asset or liability;

•Inputs that are derived principally from or corroborated by observable market data by correlation or other means; and

•If the asset or liability has a specified (contractual) term, the Level 2 input must be observable for substantially the full term of the asset or liability.

Level 3—Inputs to the valuation methodology are unobservable, supported by little or no market activity, and are significant to the fair value measurement.

Transfers between levels, if any, are recorded as of the beginning of the reporting period in which the transfer occurs. There were no transfers between Levels 1, 2 or 3 for any of the periods presented.

The following tables represent the fair value hierarchy for those assets and liabilities that the Company measures at fair value on a recurring basis (in thousands):

	Fair Value Measurements at June 30, 2022 Using:			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Financial assets included within cash and cash equivalents				
Short-term investments - money market funds	$ 2,561	$ 2,561	$ —	$ —
Short-term investments - certificates of deposit	401	—	401	
Available-for-sale investment	1,189	1,189	—	—
Total assets	$ 4,151	$ 3,750	$ 401	$ —
Liabilities:				
Contingent consideration - Kuur	$ 24,129	$ —	$ —	$ 24,129
Total liabilities	$ 24,129	$ —	$ —	$ 24,129

	Fair Value Measurements at December 31, 2021 Using:			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Financial assets included within cash and cash equivalents				
Money market funds	$ 7,937	$ 7,937	$ —	$ —
Short-term investments - certificates of deposit	2,000	—	2,000	—
Short-term investments - commercial paper	10,446	—	10,446	—
Financial assets included within short-term investments				
Short-term investments - certificates of deposit	9,488	—	9,488	—
Available-for-sale investment	719	719	—	—
Total assets	$ 30,590	$ 8,656	$ 21,934	$ —
Liabilities:				
Contingent Consideration - Kuur	$ 24,076	$ —	$ —	$ 24,076
Total assets	$ 24,076	$ —	$ —	$ 24,076

The Company classifies its money market funds within Level 1 because it uses quoted market prices to determine their fair value. The Company classifies its commercial paper, corporate notes, certificates of deposit, and U.S. government bonds within Level 2 because it uses quoted prices for similar assets or liabilities in active markets and each has a specified term and all Level 2 inputs are observable for substantially the full term of each instrument.

The Company owns 68,000 shares of PharmaEssentia, a company publicly traded on the Taiwan OTC Exchange. As of June 30, 2022 and December 31, 2021, the Company's investment in PharmaEssentia was valued at the reported closing price on such dates. This investment is classified as a Level 1 investment and is recorded as an available-for-sale investment within short-term investments on the Company's condensed consolidated balance sheets.

The Company accounted for the acquisition of Kuur as business combinations under the acquisition method of accounting. All assets and liabilities were measured at fair value as of the acquisition date. As a result of the purchases, the Company became liable for contingent consideration payable to certain previous owners of Kuur. This contingent consideration is measured at fair value using unobservable level 3 inputs, including (a) the estimated amount and timing of projected cash flows; (b) the probability of the achievement of the regulatory events on which the contingency is based; and (c) the risk-adjusted discount rate used to present value the probability-weighted cash flows. Significant increases (decreases) in any of those inputs could result in a lower or higher fair value measurement, and such changes in fair value measurement could have an impact on future earnings. The total undiscounted amount of the milestone payments underlying this liability is $115.0 million. These payments are contingent on the achievement of various regulatory milestones which are expected to occur between 2023 and 2027, and may be paid, at the Company's sole discretion, in either cash or common stock (or a combination of both). The milestone payments have been adjusted based on a weighted average probability of occurrence of 40.4%, and the discount rates used to calculate the present value of future payments were based on risk-free rates plus risk-adjusted spreads based on the Company's estimated incremental borrowing rate and was between 20.1% and 20.4% for the valuation of the contingent consideration as of June 30, 2022. The acquisition of Kuur is described in Note 3—*Business Combination* and the fair value of the contingent consideration is discussed further in Note 12 – *Contingent Consideration*.

9. Accrued Expenses

Accrued expenses consist of the following (in thousands):

	June 30, 2022	December 31, 2021
Accrued selling fees, rebates, and royalties	13,035	6,890
Accrued inventory purchases	7,632	4,217
Accrued clinical expenses	6,140	3,116
Accrued wages and benefits	4,796	2,034
Deferred revenue	2,781	2,799
Accrued operating expenses	3,117	2,654
Accrued tax withholdings	1,668	1,800
Accrued interest	—	266
Accrued R&D licensing fees	116	116
Total accrued expenses	$ 39,285	$ 23,892

10. Income Taxes

The Company did not record a provision for U.S. federal income taxes for the six months ended June 30, 2022 because it expects to generate a loss for the year ending December 31, 2022 and the Company's net deferred tax assets continue to be fully offset by a valuation allowance. Income tax expense for the six months ended June 30, 2022 is primarily the result of the taxes payable in foreign jurisdictions.

11. Debt and Lease Obligations

Debt

The Company's debt as of June 30, 2022 and December 31, 2021, consists of the following (in thousands):

	June 30, 2022	December 31, 2021
Current portion of senior secured loan	$ 23,600	$ 45,938
Current portion of finance lease obligations	138	158
Current portion of operating lease obligations	2,077	2,393
Long-term portion of finance lease obligations	152	207
Long-term portion of operating lease obligations	3,898	4,411
Senior secured loan, net of debt discount and financing fees of $11,825 and $8,663, respectively	22,074	95,400
Royalty financing liability, long-term, net of financing fees of $4,982	75,006	—
Total	$ 126,945	$ 148,507

Senior Credit Agreement

On June 19, 2020, the Company entered into the Senior Credit Agreement with Oaktree to borrow up to $225.0 million in five tranches, with a maturity date of June 19, 2026. Three tranches ("Tranche A", "Tranche B", and "Tranche D") of the term loans with an aggregate principal amount of $150.0 million were drawn by the Company in 2020. The last two tranches ("Tranche C" and "Tranche E"), amounting to an aggregate of $75.0 million, were dependent on the approval of oral paclitaxel for the treatment of mBC. Under the Third Amendment on January 19, 2022, the amount of these tranches was reduced to $0 and are no longer available to the Company. The loan bears interest at a fixed annual rate of 11.0%. The Company allocated the proceeds of the drawn tranches between liability and equity components and the fair value of such equity components, along with the direct costs related to the issuance of the debt were recorded as an offset to long-term debt on the consolidated balance sheets. The debt discount and financing fees are amortized on a straight-line basis, which approximates the effective interest method, over the remaining maturity of the Senior Credit Agreement. The effective interest rate of Tranches A, B and D, including the amortization of debt discount and financing fees amounts to 13.3% annually. The Company is required to make quarterly interest-only payments until June 19, 2022, after which the Company is required to make quarterly amortizing payments, with the remaining balance of the principal plus accrued and unpaid interest due at maturity. Beginning on September 17, 2020, the Company was required to pay a commitment fee on any undrawn commitments equal to 0.6% per annum, payable on each subsequent funding date or the commitment termination date. These commitments were terminated pursuant to the Third Amendment.

Under the Third Amendment, the Company was required to make a mandatory prepayment of principal to Oaktree equal to 62.5% of the cash proceeds of the Dunkirk Transaction. The Company was also required to pay (i) accrued and unpaid interest and (ii) a 7.0% fee, allocated as a 2.0% Exit Fee and a 5.0% Prepayment Fee, on the principal amount being repaid. The Company was required to pay Oaktree an amendment fee of $0.3 million and certain related expenses upon the closing of the Dunkirk Transaction. The Third Amendment required the Company to make an additional mandatory prepayment of $12.5 million in principal plus the costs and fees described above by June 14, 2022, of which $5.0 million in principal was paid on June 14, 2022 and $7.5 million was paid on the closing date of the RIPA pursuant to the terms of the Fourth Amendment. Using proceeds from the RIPA, the Company made additional prepayments of principal to Oaktree of $42.5 million. The Company was also required to pay (i) accrued and unpaid interest and (ii) a 5.0% fee, allocated as a 2.0% Exit Fee and a 3.0% Prepayment Fee, on the principal amount being repaid. The Company made payments, inclusive of principal, interest, and fees, to Oaktree in the aggregate amount of $97.6 million pursuant to the Third Amendment, Fourth Amendment, and Fifth Amendment during the six months ended June 30, 2022. Additional prepayments of the loan, in whole or in part, will be subject to early prepayment fee which declines each year until June 2024, after which no prepayment fee is required. Upon the final payment, the Company must also pay an exit fee calculated based on a percentage of the aggregate principal amount of all tranches advanced to the Company, and as of June 30, 2022, the Company has reflected an exit fee liability of $1.2 million. As of June 30, 2022, the Company has classified $23.6 million of the senior secured loan as current portion of long-term debt, comprised of one quarterly payment of $3.1 million and three quarterly payments of $2.8 million each, due within 12 months of June 30, 2022, and $12.0 million expected to be due from funds received in connection with the sale of the China API operations (see Note 4 - *Discontinued Operations*). The Company has classified $22.1 million of the senior secured loan as long-term debt on the consolidated balance sheet, comprised of the remaining principal due, less debt discount and financing fees of $11.8 million.

The Senior Credit Agreement contains certain representations and warranties, affirmative covenants, negative covenants and conditions that were customarily required for similar financings. The Company is subject to certain financial covenants under the Senior Credit Agreement, including (1) a minimum liquidity amount in cash or permitted cash equivalent investments, which initially was $20.0 million from the closing date until the date on which the aggregate principal amount of loans outstanding is greater than or equal to $150.0 million (the “First Step-Up Date”), $25.0 million from the First Step-Up Date until the date on which the aggregate principal amount of loans outstanding balance is equal to $225.0 million (the “Second Step-Up Date”), and $30.0 million from the Second Step-up Date until the maturity date; (2) minimum revenue no less than 50% of target revenue beginning with the fiscal quarter ended on December 31, 2020 and with respect to each such subsequent fiscal quarter prior to the revenue covenant termination date; (3) leverage ratio covenant not to exceed 4.50 to 1.00 as of the last day of any fiscal quarter beginning with the first fiscal quarter following the revenue covenant termination date. The minimum liquidity amount was decreased to $10.0 million under the Fifth Amendment. The minimum revenue targets were modified in the Fourth Amendment to reflect the Company's current business, and the minimum revenue covenant was similarly modified to require the Company to have minimum revenue of no less than 70% of target revenue at the end of any fiscal quarter in which the leverage ratio exceeds 4.50 to 1.00. As of June 30, 2022, the Company was in compliance with all applicable debt covenants.

Royalty Financing Liability

On June 21, 2022, the Company and the SPV entered into the RIPA with the Purchasers for the sale of revenues from U.S. and European royalty and milestone interests in Klisyri® (tirbanibulin) for an aggregate Purchase Price of $85.0 million. Of the total Purchase Price $5.0 million was placed into escrow to be paid to the Company upon the satisfaction of certain manufacture and supply milestones for Klisyri prior to December 31, 2025, $5.0 million was used to pay for transaction expenses, $52.5 million was used to pay down the Company's Senior Credit Agreement with Oaktree, and $7.5 million in segregated funds was deposited and held in a segregated account of the Company. Subject to the satisfaction of certain conditions, the Segregated Funds will either be distributed to the Company as a cash payment or distributed to the Lenders to pay down the Company’s existing indebtedness under the Credit Agreement. The remaining proceeds were available for the Company's operations.

In connection with this transaction, the Company formed the SPV and contributed its interest in the License Agreement with Almirall S.A. relating to Klisyri and certain related assets to the SPV. Oaktree and Sagard each own a 10% equity interest in the SPV. Pursuant to the RIPA, the SPV sold its right to the cash received in respect of certain royalties and certain milestone interests under the License Agreement to the Purchasers. The SPV retained the right to receive 50% of certain of the milestone interests under the License Agreement, equal to $155.0 million in the aggregate if those milestones are achieved, and 50% of the royalties paid under the License Agreement for sales of Klisyri once net sales of Klisyri exceed a certain dollar amount.

The Company has evaluated the terms of the RIPA and concluded that the features of the transaction, namely the Company's significant involvement in the cash flows due to the Purchasers, are similar to those of a debt instrument. The Company received funds of $75.0 million, net of transaction costs of $5.0 million, during June 30, 2022, and the Company recorded such amount as long-term debt as of June 30, 2022. This purchase price of this transaction reflected its fair value. The $5.0 million which is held in escrow represents a loan commitment which the Company may be entitled to in the event that certain manufacturing and supply milestones are met.

The Company amortizes the royalty financing liability using the effective interest rate method over the estimated life of the revenue streams. The Company recognizes interest expense thereon using the effective rate, which is based on its current estimates of future revenues over the life of the arrangement. The Company periodically assesses its expected revenues using internal projections, imputes interest on the carrying value of the deferred royalty obligation, and records interest expense using the imputed effective interest rate. To the extent its estimates of future revenues are greater or less than previous estimates or the estimated timing of such payments is materially different than previous estimates, the Company will account for any such changes by adjusting the effective interest rate on a prospective basis, with a corresponding impact to the reclassification of the deferred royalty obligation. The assumptions used in determining the expected repayment term of the royalty financing liability and amortization period of the issuance costs require that the Company makes significant estimates that could impact the short-term and long-term classification of the royalty financing liability, interest recorded on such liability, as well as the period over which such costs will be amortized. The Company's estimated royalty cash flows extend through 2035 and imply an effective annual interest rate of 28.6%. Changes to these estimates may have a material effect on the Company's financial statements. During the six months ended June 30, 2022, the Company received Klisyri royalties of $0.5 million, which were remitted to the Purchasers.

Gain/Loss on Extinguishment of Debt

The Company considered the combined effect of the RIPA and the Fourth and Fifth Amendment to the Senior Credit Agreement, both of which are held with Sagard and Oaktree under ASC 470. The Company performed a cash flow test on a lender-by-lender basis and concluded that these transactions represented an extinguishment of debt. The Company extinguished the previous balance of its Senior Credit Agreement commensurate with the prepayments under the Fourth and Fifth Amendments and recorded the surviving debt at its fair value. To determine the fair value of the remaining debt, the Company utilized an estimate of its incremental borrowing rate. As of June 30, 2022, the Company's incremental borrowing rate was 20.57%, which was utilized as the effective interest rate of the balance outstanding on the Senior Credit Agreement. Accordingly, the Company recorded a liability of $45.7 million, net of debt discount of $11.8 million. The extinguishment of debt and recording the surviving debt at its fair value resulted in a gain on extinguishment of debt of of $2.1 million during the three months ended June 30, 2022.

Credit Agreements, Bank Loan and Mortgage

During the second quarter of 2019, the Company entered into a credit agreement which amended the existing partnership agreement with Chongqing Maliu Riverside Development and Investment Co., LTD (“CQ”), for a Renminbi ¥50.0 million (USD $7.5 million at June 30, 2022) line of credit to be used for the construction of the new API plant in China. The Company is required to repay the principal amount with accrued interest within three years after the plant receives the cGMP certification, with 20% of the total loan with accrued interest due within the first twelve months following receiving the certification, 30% of the total loan with accrued interest due within twenty-four months, and the remaining balance with accrued interest due within thirty-six months. Interest accrues at the three-year loan interest rate by the People’s Bank of China for the same period on the date of the deposit of the full loan amount, which is expected to approximate 4.75% annually. If the Company fails to obtain the cGMP certification within three years upon the acceptance of the plant, it shall return all renovation costs with the accrued interest to CQ in a single transaction within the first ten business days. As of June 30, 2022, the balance due to CQ was $7.5 million, which was included within long-term liabilities attributable to discontinued operations on the Company's condensed consolidated balance sheet.

On May 15, 2020, the Company entered into a credit agreement with China Merchants Bank, enabling the Company to draw up to Renminbi ¥5.0 million (USD $0.8 million at June 30, 2022) through May 14, 2021. The Company drew the entire available credit in July 2020 and repaid the credit agreement in full on May 14, 2021. On May 28, 2021, the Company entered into a credit agreement on the same terms as that which was repaid, and withdrew the full Renminbi ¥5.0 million (USD $0.8 million at June 30, 2022) on that date. This loan had a maturity date of May 28, 2022 and was paid in full during the three months ended June 30, 2022. This repayment is included within net cash used in financing activities of discontinued operations on the Company's condensed consolidated statement of cash flows.

Lease Obligations

The Company has operating leases for office and manufacturing facilities in several locations in the U.S., Asia, and Latin America and has a finance lease for equipment used in its facility in Buffalo, NY. The components of lease expense are as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Operating lease cost	$ 538	$ 607	$ 1,099	$ 1,213
Finance lease cost:				
Amortization of assets	42	32	85	64
Interest on lease liabilities	9	2	19	6
Total net lease cost	$ 589	$ 641	$ 1,203	$ 1,283

The Company has elected to exclude short-term leases from its operating lease right-of-use ("ROU") assets and lease liabilities. Lease costs for short-term leases were not material to the financial statements for the three and six months ended June 30, 2022 and 2021. Variable lease costs for the three and six months ended June 30, 2022 were not material to the financial statements.

Supplemental balance sheet information related to leases is as follows (in thousands, except lease term and discount rate):

	June 30, 2022	December 31, 2021
Finance leases:		
Property and equipment, at cost	$ 1,203	$ 1,203
Accumulated amortization, net	(901)	(585)
Property and equipment, net	$ 302	$ 618
Current obligations of finance leases	$ 138	$ 158
Long-term portion of finance leases	152	207
Total finance lease obligations	$ 290	$ 365
Weighted average remaining lease term (in years):		
Operating leases	3.37	3.53
Finance leases	2.00	2.25
Weighted average discount rate:		
Operating leases	13.0%	12.9%
Finance leases	10.1%	9.8%

Supplemental cash flow information related to leases is as follows (in thousands):

	Six Months Ended June 30, 2022	Six Months Ended June 30, 2021
Cash paid for amount included in the measurements of lease liabilities:		
Operating cash flows from operating leases	$ (1,309)	$ (1,360)
Operating cash flows from finance leases	(9)	$ (10)
Financing cash flows from finance leases	(79)	$ (67)
ROU assets derecognized from modification of operating lease obligations	$ (128)	$ —
ROU assets recognized in exchange for operating lease obligations	$ 78	$ —

Future minimum payments and maturities of leases is as follows (in thousands):

Year ending December 31:	Operating Leases	Finance Leases
2022 (remaining six months)	$ 1,117	$ 73
2023	2,090	147
2024	2,034	109
2025	1,472	—
2026	347	—
Thereafter	132	—
Total lease payments	7,192	329
Less: Imputed interest	(1,217)	(39)
Total lease obligations	5,975	290
Less: Current obligations	(2,077)	(138)
Long-term lease obligations	$ 3,898	$ 152

On January 5, 2021, Chongqing Sintaho Pharmaceuticals Co., Ltd. (“CQ Sintaho”), a subsidiary of the Company in China, entered into a lease agreement with Chongqing International Biological City Development & Investment Co., Ltd (“CQ D&I”). Under the lease agreement, the provisions of which are consistent with those agreed upon in the 2015 Agreement, CQ Sintaho leased the newly constructed API facility, or Sintaho API Facility, of 34,517 square meters rent-free, for the first 10-year term, with an option to extend the lease for an additional 10-year term, during which, if CQ Sintaho is profitable, it will pay a monthly rent of 5 RMB per square meter of space occupied. The Company determined the lease commenced in the first quarter of 2021, as it was operational and CQ Sintaho could direct the use of the facility. The Company also evaluated the probability of exercising the renewal and purchase options, and determined that it is not reasonably certain whether it will exercise those options. Therefore, the lease term is comprised only of the rent-free period and the recognition of the right-of-use asset and liability did not have a significant effect on the Company’s consolidated financial statements. This lease is expected to be assumed by the China API Buyer, refer to Note 19 - *Subsequent Events* for additional information.

The Company exercises judgment in determining the discount rate used to measure the lease liabilities. When rates are not implicit within an operating lease, the Company uses its incremental borrowing rate as its discount rate, which is based on yield trends in the biotechnology and healthcare industry and debt instruments held by the Company with stated interest rates. The Company re-assesses its incremental borrowing rate when new leases arise, or existing leases are modified.

12. Contingent Consideration

The fair value measurements of contingent consideration liabilities are determined using unobservable Level 3 inputs. These inputs include (a) the estimated amount and timing of projected cash flows; (b) the probability of the achievement of the factors on which the contingency is based; and (c) the risk-adjusted discount rate used to present value the probability-weighted cash flows. Significant increases (decreases) in any of those inputs could result in a lower or higher fair value measurement. The Company expects that these milestones will be achieved at varying times between 2023 and 2027.

The following table represents a reconciliation of the contingent consideration liability related to the acquisition of Kuur measured on a recurring basis using level 3 inputs as of June 30, 2022 (in thousands):

Balance as of May 4, 2021	$	19,839
Adjustment to fair value		4,237
Balance as of December 31, 2021		24,076
Adjustment to fair value		53
Balance as of June 30, 2022	$	24,129

The increase of the contingent consideration was due to the time value of money from the initial measurement date (Kuur acquisition date) to June 30, 2022, as well as updated probabilities of future cash flows related to R&D milestones. The discount rate used in measuring the fair value of this liability is the Company's incremental borrowing rate, which is updated on a quarterly basis. The probabilities of the R&D milestones represent the probability of technical success for each therapy to which the milestones are related, and these probabilities are updated on a quarterly basis, based on the clinical stage of the therapy, along with consideration of any additional clinical data obtained during each quarter. The adjustment to the contingent consideration liability is included within selling, general, and administrative expenses in the Company’s condensed consolidated statements of operations and comprehensive loss. Refer to Note 8 - *Fair Value Measurements* for additional information on the inputs used in the measurement of contingent consideration.

13. Related Party Transactions

During the six months ended June 30, 2022 and 2021, the Company entered into transactions with individuals and companies that have financial interests in the Company. Related party transactions included the following:

a)In June 2018, the Company entered into two in-licensing agreements with Avalon BioMedical (Management) Limited and its affiliates (“Avalon”) wherein the Company obtained certain IP from Avalon to develop and commercialize the underlying products. Under these agreements the Company is required to pay upfront fees and future milestone payments and sales-based royalties. During the six months ended June 30, 2022 and 2021, no fees were paid to Avalon in connection with the license agreements. Certain members of the Company’s board and management collectively have a controlling interest in Avalon. The Company does not hold any interest in Avalon and does not have any obligations to absorb losses or any rights to receive benefits from Avalon. As of June 30, 2022, and December 31, 2021, Avalon held 786,061 shares of the Company’s common stock, which represented less than 1% of the Company’s total issued shares for both periods. Balances due from Avalon recorded on the condensed consolidated balance sheets were not significant. In July 2021, the Company made $2.0 million milestone payment to Avalon pursuant to its license agreement. No such payments were made during the six months ended June 30, 2022.

In June 2019, the Company entered into an agreement whereby Avalon would hold a 90% ownership interest and the Company would hold a 10% ownership interest of the newly formed entity under the name Nuwagen Limited ("Nuwagen"), incorporated under the laws of Hong Kong. Nuwagen is principally engaged in the development and commercialization of herbal medicine products for metabolic, endocrine, and other related indications. The Company contributed nonmonetary assets in exchange for the 10% ownership interest. In July 2020, the transaction closed. The activities of Nuwagen were not material to the financial statements for the three and six months ended June 30, 2022 or 2021.

b)The Company earns licensing revenue from PharmaEssentia, an entity in which the Company has an investment classified as available-for-sale (see Note 8—*Fair Value Measurements*). During the six months ended June 30, 2022 and 2021, respectively, the Company recorded $0 and a $0.5 million milestone fee earned from PharmaEssentia under a license agreement. The Company received less than $0.1 million under the cost-sharing agreements during the six months ended June 30, 2022. There were no funds paid to PharmaEssentia under the cost-sharing agreements for the six months ended June 30, 2022 or 2021.

In September 2020, Axis Therapeutics Limited ("Axis"), a majority-owned subsidiary of the Company, entered into a collaboration agreement with PharmaEssentia, pursuant to which Axis granted to PharmaEssentia an exclusive, non-transferrable and revocable sublicense of TCR-engineered T-Cell therapy for the development of the technology in Taiwan. Axis received license fees of $1.0 million, net of $0.3 million withholding tax, in each of the fourth quarter of 2020 and the third quarter of 2021. These fees, amounting to $2.0 million, were recorded as deferred revenue as of June 30, 2022.

c)Certain directors and family members of executives perform consulting services for the Company. Such services were not significant to the condensed consolidated financial statements.

14. Stock-Based Compensation

Common Stock Option Plans

The Company has four equity compensation plans, adopted in 2017, 2013, 2007 and 2004 (the "Plans") which, taken together, authorize the grant of up to 16,000,000 shares of common stock to employees, directors, and consultants. On May 23, 2019, the board of directors approved the amendment and restatement of the 2017 Omnibus Incentive Plan (the "2017 Plan"), which increases the number of shares available for issuance under the 2017 Plan by up to 3,500,000 shares, which was approved by the Company's stockholders at the Company's 2020 annual meeting of stockholders. On April 26, 2021, the board of directors approved an amendment to the 2017 Plan, which increases the number of shares available for issuance under the 2017 Plan by 5,000,000 shares, which was approved by the Company's stockholders at the Company's 2021 annual meeting of stockholders. The Company also has an employee stock purchase plan, the 2017 Employee Stock Purchase Plan (the "ESPP"), adopted on June 14, 2017, which authorizes the issuance of up to 1,000,000 shares of common stock for future issuances to eligible employees.

During 2022, the Company entered into Salary Deduction and Stock Purchase Agreements (the "Purchase Agreements") with certain of its directors and executive officers. Under the Purchase Agreements, on each payroll date, the Company is authorized by the director or executive officer, in advance, to deduct a certain amount of the individual's after-tax base salary. This deducted amount is used to purchase a number of shares of the Company's common stock determined using the Nasdaq Official Closing Price per share on the applicable payroll date.

Stock Options

The total fair value of stock options vested and recorded as compensation expense during the three months ended June 30, 2022 and 2021 was $1.3 million and $2.3 million, respectively, and was $2.9 million and $4.5 million during the six months ended June 30, 2022 and 2021, respectively. As of June 30, 2022, $10.2 million of unrecognized cost related to non-vested stock options was expected to be recognized over a weighted-average period of approximately 1.2 years. The total intrinsic value of options exercised was approximately $0 and $0.2 million for the six months ended June 30, 2022 and 2021, respectively.

The following table summarizes the status of the Company's stock option activity granted under the Plans to employees, directors, and consultants (aggregate intrinsic value in thousands):

	Stock Options	Weighted-Average Exercise price	Weighted-Average Remaining Contractual Term	Aggregate Intrinsic Value
Outstanding at December 31, 2021	12,662,070	$ 8.96	4.88	$ —
Granted	171,500	0.60	—	—
Forfeited and expired	(647,365)	7.84	—	—
Outstanding at June 30, 2022	12,186,205	$ 8.90	4.45	$ —
Vested and exercisable at June 30, 2022	10,029,540	$ 9.08	3.64	$ —

The Company determines the fair value of stock-based awards on the grant date using the Black-Scholes option pricing model, which is impacted by assumptions regarding several highly subjective variables. The following table summarizes the weighted-average assumptions used as inputs to the Black-Scholes model during the periods indicated:

	Six Months Ended June 30,	
	2022	2021
Weighted average grant date fair value	$ 0.60	$ 6.18
Expected dividend yield	—%	—%
Expected stock price volatility	66%	68%
Risk-free interest rate	2.72%	1.45%
Expected life of options (in years)	5.3	6.3

Restricted Stock Awards

The total fair value of restricted stock awards vested and recorded as compensation expense during the three months ended June 30, 2022 and 2021 was $0.2 million and $0.1 million, respectively. The total fair value of restricted awards vested and recorded as compensation expense during the six months ended June 30, 2022 and 2021 was $0.5 million and $0.1 million, respectively. Restricted stock awards cliff vest on the anniversaries of their grant date. As of June 30, 2022, $2.4 million of unrecognized cost related to non-vested restricted stock awards were expected to be recognized over a weighted-average period of approximately 2.90 years.

The following table summarizes the status of the Company's restricted stock awards.

	Shares of Restricted Stock	Weighted Average Fair Value
Nonvested at December 31, 2021	924,595	$ 3.86
Granted	50,000	0.83
Forfeited	(151,540)	3.64
Nonvested at June 30, 2022	823,055	$ 3.52

Employee Stock Purchase Plan

The ESPP is available to eligible employees (as defined in the plan document). Under the ESPP, shares of the Company's common stock may be purchased at a discount (15%) of the lesser of the closing price of the Company's common stock on the first trading or the last trading day of the offering period. The current offering period extends from June 1, 2022 to November 30, 2022. The Company expects to offer six-month offering periods after the current period. The ESPP reserved 1,000,000 shares of common stock for issuance under the ESPP. Stock-based compensation related to the ESPP amounted to less than $0.1 million for each of the three months ended June 30, 2022 and 2021 and amounted to $0.1 million for each of the six months ended June 30, 2022 and 2021.

Stock-Based Compensation Cost

The components of stock-based compensation and the amounts recorded within cost of sales, research and development expenses and selling, general, and administrative expenses in the Company's consolidated statements of operations and comprehensive loss consisted of the following for the three and six months ended June 30, 2022 and 2021 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Stock options	$ 1,321	$ 2,341	$ 2,924	$ 4,500
Restricted stock expense	245	57	496	86
Employee stock purchase plan	37	46	57	92
Total stock-based compensation expense	$ 1,603	$ 2,444	$ 3,477	$ 4,678
Cost of sales	$ 52	$ 59	$ 78	$ 115
Research and development expenses	395	671	964	1,272
Selling, general, and administrative expenses	1,156	1,714	2,435	3,291
Total stock-based compensation expense	$ 1,603	$ 2,444	$ 3,477	$ 4,678

15. Net Loss per Share Attributable to Athenex, Inc. Common Stockholders

Basic net loss per share is calculated by dividing net loss attributable to Athenex, Inc. common stockholders by the weighted-average number of common shares issued, outstanding, and vested during the period. Diluted net loss per share is computed by dividing net loss attributable to common stockholders by the weighted-average number of common stock and common stock equivalents for the period using the treasury-stock method. For the purposes of this calculation, warrants to purchase common stock and stock options are considered common stock equivalents but are only included in the calculation of diluted net loss per share when their effect is dilutive.

The following outstanding shares of common stock equivalents were excluded from the calculation of diluted net loss per share attributable to common stockholders for the periods presented because including them would have been antidilutive:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Stock options and other common stock equivalents	13,629,787	13,568,672	13,601,134	13,560,708
Unvested restricted shares	847,051	52,566	844,607	37,616
Total potential dilutive shares	14,476,838	13,621,238	14,445,741	13,598,324

16. Business Segment, Geographic, and Concentration Risk Information

The Company has three operating segments, which are organized based mainly on the nature of the business activities performed and regulatory environments in which they operate. The Company also considers the types of products from which the reportable segments derive their revenue (only applicable to two reportable segments). Each operating segment has a segment manager who is held accountable for operations and has discrete financial information that is regularly reviewed by the Company's chief operating decision-maker. Consequently, the Company has concluded each operating segment to be a reportable segment. The Company's operating segments are as follows:

Oncology Innovation Platform— This operating segment performs research and development on certain of the Company's proprietary drugs, from the preclinical development of its chemical compounds, to the execution and analysis of its several clinical trials. It focuses specifically on cell therapy programs and the Orascovery research platform.

Global Supply Chain Platform— This operating segment includes APS, a manufacturing company that supplies sterile injectable drugs to hospital pharmacies across the U.S. APS manufactures products under Section 503B of the Compounding Quality Act within the Federal Food, Drug & Cosmetic Act ("FDCA"). Additionally, APS provides tirbanibulin product to our partners and provides products for the development and manufacturing of the Company's proprietary drug candidates as well as providing the Company with a cGMP analytical services function.

Commercial Platform— This operating segment includes APD, which focuses on the manufacturing, distribution, and sales of specialty pharmaceuticals. This segment provides services and products to external customers based mainly in the U.S.

The Company's Oncology Innovation Platform segment operates and holds long-lived assets located in the U.S., Hong Kong, mainland China, the United Kingdom, and Latin America. The Global Supply Chain Platform segment operates and holds long-lived assets located in the U.S. The Commercial Platform segment operates and holds long-lived assets located in the U.S. For geographic segment reporting, product sales have been attributed to countries based on the location of the customer.

Segment information is as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenue:				
Oncology Innovation Platform	$ 5,730	$ 307	$ 6,504	$ 20,970
Global Supply Chain Platform	6,263	4,887	13,056	11,221
Commercial Platform	19,943	15,791	42,653	29,050
Total revenue for reportable segments	31,936	20,985	62,213	61,241
Intersegment revenue	(420)	(287)	(1,555)	(1,391)
Total consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850

Intersegment revenue eliminated in the above table for the three and six months ended June 30, 2022 reflects $0.4 million and $1.6 million in sales from the Global Supply Chain Platform to the Oncology Innovation Platform.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenue by product group:				
License fees	$ 5,723	$ 296	$ 6,490	$ 20,953
Commercial product sales	25,347	19,970	53,271	38,033
Contract manufacturing revenue	439	427	883	857
Other revenue	7	5	14	7
Total consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850

Intersegment revenue is recognized by the selling segment when its customer obtains control of promised goods or services, in an amount that reflects the consideration which it expects to receive in exchange for those goods or services. Upon consolidation, all intersegment revenue and related cost of sales are eliminated from the selling segment's ledger.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Net loss attributable to Athenex, Inc.:				
Oncology Innovation Platform	$ (18,062)	$ (20,122)	$ (47,947)	$ (25,563)
Global Supply Chain Platform	(3,324)	(576)	(4,096)	(542)
Commercial Platform	(2,430)	(10,208)	(497)	(26,135)
Segment total	(23,816)	(30,906)	(52,540)	(52,240)
Discontinued operations	(8,341)	(3,368)	2,963	(7,084)
Total consolidated net loss attributable to Athenex, Inc.	$ (32,157)	$ (34,274)	$ (49,577)	$ (59,324)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total depreciation and amortization:				
Oncology Innovation Platform	$ 125	$ 224	$ 337	$ 438
Global Supply Chain Platform	243	266	499	542
Commercial Platform	301	461	634	1,006
Segment total	669	951	1,470	1,986
Discontinued operations	42	242	215	481
Total consolidated depreciation and amortization	$ 711	$ 1,193	$ 1,685	$ 2,467

	June 30, 2022	December 31, 2021
Total assets:		
Oncology Innovation Platform	$ 112,759	$ 131,432
Global Supply Chain Platform	19,143	19,693
Commercial Platform	63,443	53,113
Segment total	195,345	204,238
Discontinued operations	26,542	63,210
Total consolidated assets	$ 221,887	$ 267,448

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenue:				
United States	$ 31,509	$ 20,679	$ 60,644	$ 59,323
Other foreign countries	7	19	14	527
Total consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850

	June 30, 2022	December 31, 2021
Total property and equipment, net:		
United States	$ 3,757	$ 4,196
China	437	985
Total consolidated property and equipment, net	$ 4,194	$ 5,181

Customer revenue and accounts receivable concentration amounted to the following for the identified periods. These customers relate to the Commercial Platform segment and the Global Supply Chain Platform segment.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Percentage of total revenue by customer:				
Customer A	18%	0%	10%	33%
Customer B	16%	15%	14%	14%
Customer C	15%	16%	15%	16%
Customer D	13%	13%	13%	13%

	June 30, 2022	December 31, 2021
Percentage of total accounts receivable by customer:		
Customer A	27%	35%
Customer B	23%	29%
Customer C	17%	2%
Customer D	12%	15%

17. Revenue Recognition

The Company records revenue in accordance with ASC, Topic 606 "*Revenue from Contracts with Customers*." Under Topic 606, the Company recognizes revenue when its customer obtains control of promised goods or services, in an amount that reflects the consideration which it expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that the Company determines are within the scope of Topic 606, the entity performs the following five steps: (i) identifies the contract(s) with a customer; (ii) identifies the performance obligations in the contract; (iii) determines the transaction price; (iv) allocates the transaction price to the performance obligations in the contract; and (v) recognizes revenue when (or as) the entity satisfies a performance obligation. The Company only applies the five-step model to contracts when it is probable that the entity will collect the consideration it is entitled to in exchange for the goods or services it transfers to the customer. Below is a description of principal activities – separated by reportable segments – from which the Company generates its revenue.

1.Oncology Innovation Platform

The Company out-licenses certain of its IP to other pharmaceutical companies in specific territories that allow the customer to use, develop, commercialize, or otherwise exploit the licensed IP. In accordance with Topic 606, the Company analyzes the contracts to identify its performance obligations within the contract. Most of the Company's out-license arrangements contain multiple performance obligations and variable pricing. After the performance obligations are identified, the Company determines the transaction price, which generally includes upfront fees, milestone payments related to the achievement of developmental, regulatory, or commercial goals, and royalty payments on net sales of licensed products. The Company considers whether the transaction price is fixed or variable, and whether such consideration is subject to return. Variable consideration is only included in the transaction price to the extent that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration is subsequently resolved. If any portion of the transaction price is constrained, it is excluded from the transaction price until the constraint no longer exists. The Company then allocates the transaction price to the performance obligation to which the consideration is related. Where a portion of the transaction price is received and allocated to continuing performance obligations under the terms of the arrangement, it is recorded as deferred revenue and recognized as revenue when (or as) the underlying performance obligation is satisfied.

The Company's contracts may contain one or multiple promises, including the license of IP and development services. The licensed IP is capable of being distinct from the other performance obligations identified in the contract and is distinct within the context of the contract, as upon transfer of the IP, the customer is able to use and benefit from it, and the customer could obtain the development services from other parties. The Company also considers the economic and regulatory characteristics of the licensed IP and other promises in the contract to determine if it is a distinct performance obligation. The Company considers if the IP is modified or enhanced by other performance obligations through the life of the agreement and whether the customer is contractually or practically required to use updated IP. The IP licensed by the Company has been determined to be functional IP. The IP is not modified during the license period and therefore, the Company recognizes revenues from any portion of the transaction price allocated to the licensed IP when the license is transferred to the customer and they can benefit from the right to use the IP. For the six month period ended June 30, 2021, the Company recognized license revenue of $21.0 million, of which $20.0 million was recognized upon the achievement of the first commercial milestone pursuant to the 2017 Almirall out-license arrangement upon the launch of Klisyri in the U.S., and $0.5 million was recognized for an upfront fee upon transferring IP to the customer upon execution of the second amendment to the 2011 PharmaEssentia license agreement. No such revenue was recorded for the six months ended June 30, 2022. Under the collaboration agreement between Axis Therapeutics and PharmaEssentia, the Company received $2.0 million of upfront fees allocated to its performance obligation to deliver functional IP to the Customer. As of June 30, 2022, the Company had not satisfied this performance obligation by delivering the license with the data necessary for the customer to benefit from the right to use the IP and, therefore, the amount was recorded as deferred revenue.

Other performance obligations included in most of the Company's out-licensing agreements include performing development services to reach clinical and regulatory milestone events. The Company satisfies these performance obligations at a point-in-time, because the customer does not simultaneously receive and consume the benefits as the development occurs, the development does not create or enhance an asset controlled by the customer, and the development does not create an asset with no alternative use. The Company considers milestone payments to be variable consideration measured using the most likely amount method, as the entitlement to the consideration is contingent on the occurrence or nonoccurrence of future events. The Company allocates each variable milestone payment to the associated milestone performance obligation, as the variable payment relates directly to the Company's efforts to satisfy the performance obligation and such allocation depicts the amount of consideration to which the Company expects to be entitled for satisfying the corresponding performance obligation. The Company re-evaluates the probability of achievement of such performance obligations and any related constraint and adjusts its estimate of the transaction price as appropriate. To date, no amounts have been constrained in the initial or subsequent assessments of the transaction price. During the three and six months ended June 30, 2022, the Company recognized license revenue of $5.0 million related to a line extension milestone in connection with its license agreement with Almirall. The Company did not recognize revenue from other performance obligations included in the Company's out-licensing agreements during the three and six months ended June 30, 2021.

Certain out-license agreements include performance obligations to manufacture and provide drug product in the future for commercial sale when the licensed product is approved. For the commercial, sales-based royalties, the consideration is predominantly related to the licensed IP and is contingent on the customer's subsequent sales to another commercial customer. Consequently, the sales- or usage-based royalty exception would apply. Revenue will be recognized for the commercial, sales-based milestones as the underlying sales occur. The Company recorded $0.6 million and $1.2 million of royalty revenue related to sales of Tirbanibulin during the three and six months ended June 30, 2022, respectively. During the three and six months ended June 30, 2021, the Company recorded $0.2 million of royalty revenue related to sales of Tirbanibulin.

The Company exercises significant judgment when identifying distinct performance obligations within its out-license arrangements, determining the transaction price, which often includes both fixed and variable considerations, and allocating the transaction price to the proper performance obligation. The Company did not use any other significant judgments related to out-licensing revenue during the six months ended June 30, 2022 and 2021.

2.Global Supply Chain Platform

The Company's Global Supply Chain Platform generates revenue by providing small to mid-scale cGMP manufacturing of clinical and commercial products for pharmaceutical and biotech companies and selling pharmaceutical products under 503B regulations set forth by the U.S. FDA.

Revenue earned by the Global Supply Platform is recognized when the Company has satisfied its performance obligation, which is the shipment or the delivery of drug products. The underlying contracts for these sales are generally purchase orders and the Company recognizes revenue at a point-in-time. Any remaining performance obligations related to product sales are the result of customer deposits and are reflected in the deferred revenue contract liability balance.

3.Commercial Platform

The Company's Commercial Platform generates revenue by distributing specialty products through independent pharmaceutical wholesalers. The wholesalers then sell to an end-user, normally a hospital, alternative healthcare facility, or an independent pharmacy, at a lower price previously established by the end-user and the Company. Upon the sale by the wholesaler to the end-user, the wholesaler will chargeback the difference, if any, between the original list price and price at which the product was sold to the end-user. The Company also offers cash discounts, which approximate 2.3% of the gross sales price, as an incentive for prompt customer payment, and, consistent with industry practice, the Company's return policy permits customers to return products within a window of time before and after the expiration of product dating. Further, the Company offers contractual allowances, generally in the form of rebates or administrative fees, to certain wholesale customers, group purchasing organizations ("GPOs"), and end-user customers, consistent with pharmaceutical industry practices. Revenues are recorded net of provisions for variable consideration, including discounts, rebates, GPO allowances, price adjustments, returns, chargebacks, promotional programs and other sales allowances. Accruals for these provisions are presented in the consolidated financial statements as reductions in determining net sales and as a contra asset in accounts receivable, net (if settled via credit) and other current liabilities (if paid in cash). As of June 30, 2022, and December 31, 2021, the Company's total provision for chargebacks and other deductions included as a reduction of accounts receivable totaled $26.7 million and $22.9 million, respectively. The Company's total provision for chargebacks and other revenue deductions was $43.2 million, and $26.9 million for the three months ended June 30, 2022, and 2021, respectively and was $80.9 million and $52.5 million for the six months ended June 30, 2022 and 2021, respectively.

The Company exercises significant judgment in its estimates of the variable transaction price at the time of the sale and recognizes revenue when the performance obligation is satisfied. Factors that determine the final net transaction price include chargebacks, fees for service, cash discounts, rebates, returns, warranties, and other factors. The Company estimates all of these variables based on historical data obtained from previous sales finalized with the end-user customer on a product-by-product basis. At the time of sale, revenue is recorded net of each of these deductions. Through the normal course of business, the wholesaler will sell the product to the end-user, determining the actual chargeback, return products, and take advantage of cash discounts, charge fees for services, and claim warranties on products. The final transaction price per product is compared to the initial estimated net sale price and reviewed for accuracy. The final prices and other factors are immediately included in the Company's historical data from which it will estimate the transaction price for future sales. The underlying contracts for these sales are generally purchase orders including a single performance obligation, generally the shipment or delivery of products and the Company recognizes this revenue at a point-in-time.

Disaggregation of revenue

The following represents the Company's revenue for its reportable segment by country, based on the locations of the customer.

	For the Three Months Ended June 30, 2022 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidated Total
United States	$ 5,723	$ 5,843	$ 19,943	$ 31,509
Other foreign countries	7	—	—	7
Total revenue	$ 5,730	$ 5,843	$ 19,943	$ 31,516

	For the Three Months Ended June 30, 2021 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidated Total
United States	$ 288	$ 4,600	$ 15,791	$ 20,679
China	9	—	—	9
Other foreign countries	10	—	—	10
Total revenue	$ 307	$ 4,600	$ 15,791	$ 20,698

The Company also disaggregates its revenue by product group which can be found in Note 16 – *Business Segment, Geographic, and Concentration Risk Information*.

Contract balances

The following table provides information about receivables and contract liabilities from contracts with customers by reportable segments. The Company has not recorded any contract assets from contracts with customers.

	June 30, 2022 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidated Total
Accounts receivable, gross	$ 14,971	$ 4,704	$ 50,606	$ 70,281
Chargebacks and other deductions	—	—	(26,662)	(26,662)
Provision for credit losses	(8,919)	(642)	(234)	(9,795)
Accounts receivable, net	$ 6,052	$ 4,062	$ 23,710	$ 33,824
Deferred revenue	2,739	42	—	2,781
Total contract liabilities	$ 2,739	$ 42	$ —	$ 2,781

	December 31, 2021 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidated Total
Accounts receivable, gross	$ 10,069	$ 3,983	$ 44,298	$ 58,350
Chargebacks and other deductions	—	—	(22,868)	(22,868)
Provision for credit losses	(8,919)	(180)	(97)	(9,196)
Accounts receivable, net	$ 1,150	$ 3,803	$ 21,333	$ 26,286
Deferred revenue	2,739	60	—	2,799
Total contract liabilities	$ 2,739	$ 60	$ —	$ 2,799

As of June 30, 2022 and December 31, 2021, the deferred revenue balances relate to customer deposits made by customers of the Oncology Innovation Platform and Global Supply Chain Platform and are included within accrued expenses on the condensed consolidated balance sheets.

There were no other material changes to contract balances during the six months ended June 30, 2022.

18. Commitments and Contingencies

Future minimum payments under the non-cancelable operating leases consists of the following as of June 30, 2022 (in thousands):

Year ending December 31:	Minimum payments
2022 (remaining six months)	$ 1,117
2023	2,090
2024	2,034
2025	1,472
2026	347
Thereafter	132
	$ 7,192

Legal Proceedings

Following our receipt of the CRL in February 2021 and the subsequent decline of the market price of the Company's common stock, two purported securities class action lawsuits were filed in the U.S. District Court for the Western District of New York on March 3, 2021 and March 22, 2021, respectively, against the Company and certain members of its management team seeking to recover damages for alleged violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934.

The complaints generally allege that between August 7, 2019 and February 26, 2021 (the purported class period), the Company and the individual defendants made materially false and misleading statements regarding the Company's business in connection with the Company's development of Oral Paclitaxel for the treatment of metastatic breast cancer and the likelihood of FDA approval, and that the plaintiffs suffered losses when the Company's stock price dropped after its announcement on February 26, 2021 regarding receipt of the CRL. The complaints seek class certification, damages, fees, costs, and expenses. On August 5, 2021, the Court consolidated the two actions and appointed a lead plaintiff and lead counsel. Pursuant to a stipulated scheduling order, the lead plaintiff filed an amended complaint on November 19, 2021. Defendants filed their motion to dismiss on January 25, 2022. Plaintiffs filed their opposition to that motion on March 28, 2022 and the defendants filed their reply brief on May 20, 2022. The motion to dismiss is now fully briefed and awaits the Court's decision. The Company and the individual defendants believe that the claims in the consolidated lawsuits are without merit, and the Company has not recorded a liability related to these shareholder class actions as the risk of loss is remote. The Company and the individual defendants intend to vigorously defend against these claims but there can be no assurances as to the outcome.

Shareholder Derivative Lawsuit

On June 3, 2021, a shareholder derivative lawsuit was filed in the United States District Court for the District of Delaware by Timothy J. Wonnell, allegedly on behalf of the Company, that piggy-backs on the securities class actions referenced above. The complaint names Johnson Lau, Rudolf Kwan, Timothy Cook, and members of the Board as defendants, and generally alleges that they caused or failed to prevent the securities law violations asserted in the securities class actions. On September 13, 2021, the Court (i) granted the defendants' motion to stay the derivative action until after resolution of the motion to dismiss the consolidated securities class actions, and (ii) administratively closed the derivative litigation, directing the parties to promptly notify the Court when the related securities class action has been resolved so the derivative action can be reopened. The Company and the individual defendants believe the claims in the shareholder derivative action are without merit, and the Company has not recorded a liability related to this lawsuit as the risk of loss is remote. The Company and the individual defendants intend to vigorously defend against these claims should the case be reopened, but there can be no assurances as to the outcome.

19. Subsequent Events

On July 7, 2022, the Company entered into an agreement to sell all of its equity interests in its China subsidiaries, which are primarily engaged in API manufacturing operations, to TiHe Capital (Beijing) Co., Ltd. for RMB 124.4 million, or approximately $19.0 million in cash. The Company will receive at least 70% of the proceeds on the Closing Date, followed by 20% within three months after the Closing Date, and the remaining balance within six months after the Closing Date. Proceeds from the transaction will be used in part toward repaying existing debt and operating the business. The transaction is subject to customary closing conditions, including obtaining certain regulatory approvals in China. The Company evaluated the China API Operations as a discontinued operation. Refer to Note 4 - *Discontinued Operations* for additional information. The Company has recorded this transaction as a discontinued operation and has recorded its discontinued assets at the lesser of cost or fair value less cost to sell.

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

The following discussion contains management's discussion and analysis of our financial condition and results of operations and should be read together with the unaudited condensed consolidated financial statements and the notes thereto included in Part I, Item 1 of this Quarterly Report on Form 10-Q and with our audited consolidated financial statements and related notes thereto for the year ended December 31, 2021 included in our Annual Report on Form 10-K for the year ended December 31, 2021. Unless the context indicates otherwise, as used in this Quarterly Report, the terms "Athenex," the "Company," "we," "us," and "our" refer to Athenex, Inc., a Delaware corporation, and its subsidiaries taken as a whole, unless otherwise noted. This discussion and other parts of this Quarterly Report contain forward-looking statements that involve risks and uncertainties, such as our plans, objectives, expectations, intentions and beliefs. Our actual results could differ materially from those discussed in these forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those discussed in the section entitled "Risk Factors" included in our Annual Report on Form 10-K for the year ended December 31, 2021 and in Part II—Item 1A—Risk Factors below.

NOTE ABOUT FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and section 27A of the Securities Act of 1933, as amended (the "Securities Act"). All statements other than statements of historical fact are "forward-looking statements" for purposes of this Quarterly Report. These forward-looking statements may include, but are not limited to, statements regarding our future results of operations and financial position, ability to continue as a going concern, business strategy, the timing and results of clinical trials, our ability to maintain the listing of our common stock on Nasdaq, the impact of macroeconomic factors, such as the Russian invasion of Ukraine and the COVID-19 pandemic on our business, and potential regulatory approval of product candidates. In some cases, forward-looking statements may be identified by terminology such as "anticipate," "believe," "continue," "could," "estimate," "expect," "forecast," "goal," "intend," "may," "might," "mission," "outlook," "plan," "potential," "predict," "project," "seek," "should," "strategy," "will," "would," and similar expressions and variations thereof. These words are intended to identify forward-looking statements.

We have based these forward-looking statements largely on our current expectations and projections about future events and trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives and financial needs. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described in the "Risk Factors" section included in our Annual Report on Form 10-K for the year ended December 31, 2021 and the additional risk factors described herein. Moreover, we operate in a very competitive and rapidly changing environment, and new risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business. In light of these risks, uncertainties and assumptions, actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee that the future results, levels of activity, performance or events and circumstances reflected in the forward-looking statements will be achieved or occur. We undertake no obligation to update publicly any forward-looking statements for any reason after the date hereof to conform these statements to actual results or to changes in our expectations, except as required by law.

Overview and Recent Developments

We are a biopharmaceutical company dedicated to becoming a leader in the discovery, development, and commercialization of next generation drugs for the treatment of cancer. Our mission is to improve the lives of cancer patients by creating more effective, safer, and accessible treatments. We have assembled a strong and experienced leadership team and have established operations across the pharmaceutical value chain to execute our goal of becoming a global leader in bringing innovative cancer treatments to the market and improving health outcomes.

We are organized around three operating segments: (1) our Oncology Innovation Platform, dedicated to the research and development of our proprietary drugs; (2) our Commercial Platform, focused on the sales and marketing of our specialty drugs and the market development of our proprietary drugs; and (3) our Global Supply Chain Platform, providing sterile injectable drugs to hospital pharmacies across the U.S. Our current clinical pipeline in the Oncology Innovation Platform is derived mainly from the following core technologies: (1) Cell Therapy, based on natural killer T ("NKT") cells, and (2) Orascovery, based on a P-glycoprotein ("P-gp") pump inhibitor.

Oncology Innovation Platform Developments

Through our acquisition of Kuur Therapeutics, Inc. (formerly known as Cell Medica, "Kuur") in 2021, we acquired rights to intellectual property to further the development of autologous and allogeneic, or "off-the-shelf", NKT cell immunotherapies for the

treatment of solid and hematological malignancies. We are advancing the following product candidates: KUR-501, KUR-502, and KUR-503.

KUR-501 is an autologous product in which NKT cells are engineered with a chimeric antigen receptor (“CAR”) targeting GD2 (“GINAKIT” cells). GD2 is expressed on almost all neuroblastoma tumors and certain other malignancies. KUR-501 is currently being evaluated in a phase 1 clinical trial (GINAKIT2) treating children with relapsed-refractory (“R/R”) high risk neuroblastoma. The Company presented updated clinical data from this trial at the American Society of Gene & Cell Therapy (ASGCT) 2022 Annual Meeting in May 2022. The data demonstrated expansion of CAR-NKT cells post-transfer in all patients and objective responses in patients with relapsed/refractory neuroblastoma. Overall Response Rate (“ORR”) was 25%, or three out of twelve responses, and Disease Control Rate (“DCR”) was 58% with four stable disease (“SD”), two partial responses (“PR”) and one complete response (“CR”). There were two out of three responses at a dose of 100 million cells/m2. We also observed one durable complete response persisting 12 months. During this evaluation, KUR-501 was well-tolerated with no dose limiting toxicity (“DLT”). There was no evidence of immune effector cell-associated neurotoxicity syndrome (“ICANS”) in any of the patients at the first four dose levels and one case of grade 2 cytokine release syndrome (“CRS”). GINATKIT2 will continue enrolling patients at higher dose level cohorts with a goal to identify an optimal dose that we may take into a pivotal study.

KUR-502 is an allogeneic (“off-the-shelf”) product in which NKT cells are engineered with a CAR targeting CD19. KUR-502 is currently being evaluated in a phase 1 clinical trial (ANCHOR) treating adults with R/R CD19 positive malignancies, including B cell lymphoma, acute lymphoblastic leukemia (“ALL”), and chronic lymphocytic leukemia (“CLL”). The Company presented an interim data update on seven evaluable patients at the Tandem Meetings of the American Society of Transplantation and Cellular Therapy (ASTCT), and the Center for International Blood & Marrow Transplant Research (CIBMTR) in April 2022. In the lymphoma cohort, there were five patients and the data showed 2 CR and 1 PR for an ORR of 60%. Both complete responses were durable and persisted for more than 6 months, with one still ongoing at 34 weeks. The leukemia cohort consisted of two patients, and 1 CR and 1 PD for a 50% ORR was observed. Responses at the lowest doses in these heavily pre-treated patients were observed, and two responses (1 CR and 1 PR) were observed in patients who failed previous autologous CAR-T therapy. Allogeneic CD19 CAR-NKT cells were well tolerated with three cases of grade 1 CRS, all observed in the ALL patients. There were also no ICANS and no graft versus host disease (GvHD) attributable to CAR-NKT cells. In March 2022, the Company’s Investigational New Drug (“IND”) application to expand the ANCHOR study to a multi-center study was allowed to proceed by the FDA.

KUR-503 is an allogeneic (“off-the-shelf”) product in which NKT cells are engineered with a CAR targeting glypican-3 (“GPC3”). GPC3 is a molecule that is highly expressed on most hepatocellular carcinomas (“HCC”) but not normal liver or other non-neoplastic tissue. KUR-503 is currently in preclinical development, and we are planning to submit an IND application in 2023.

With respect to TCRT-ESO-A2, an autologous T cell receptor (“TCR”)-T cell therapy targeting solid tumors that are NY-ESO-1 positive in HLA-A*02:01 positive patients, we have made the strategic decision to de-prioritize the development and plan to close the U.S. Phase 1 clinical trial.

On February 26, 2021, we received a Complete Response Letter ("CRL") from the U.S. Food and Drug Administration (“FDA”) regarding our New Drug Application (“NDA”) for oral paclitaxel and encequidar (“Oral Paclitaxel”) for the treatment of metastatic breast cancer (“mBC”). Following the CRL, we held two Type A meetings with the FDA to discuss the deficiencies raised in the CRL, review a proposed design for a new clinical trial intended to address the deficiencies raised in the CRL, and discuss the potential regulatory path forward for Oral Paclitaxel in mBC in the U.S. In October 2021, after careful consideration of the FDA feedback, we determined to redeploy our resources to focus on our Cell Therapy platform and other ongoing studies of Oral Paclitaxel. On November 29, 2021, we announced the U.K. Medicines and Healthcare products Regulatory Agency (“MHRA”) validation of the Marketing Authorization Application (“MAA”) for Oral Paclitaxel, for review. The Phase 3 study of Oral Paclitaxel in mBC (KX-ORAX-001) served as the basis of the MAA.

We are continuing to evaluate Oral Paclitaxel in combination with check point inhibitors. In May 2022, we announced a clinical trial collaboration and supply agreement with Merck (known as MSD outside the US and Canada). The agreement applies to the expansion phase of the Phase 1 clinical trial evaluating Oral Paclitaxel in combination with Merck’s anti-PD-1 therapy KEYTRUDA® (pembrolizumab) for certain non-small cell lung cancer (“NSCLC”) patients. Oral Paclitaxel is also being evaluated in combination with dostarlimab +/- carboplatin in neoadjuvant breast cancer, as part of the I-SPY2 TRIAL (Investigation of Serial studies to Predict Your Therapeutic Response with Imaging And moLecular analysis 2).

On June 21, 2022, the Company and ATNX SPV, LLC, its newly-formed subsidiary (the "SPV"), entered into a Revenue Interest Purchase Agreement (the “RIPA”) with affiliates of Sagard Healthcare Partners (“Sagard”) and funds managed by Oaktree Capital Management, L.P. (“Oaktree” and together with Sagard, the “Purchasers”), for the sale of revenues from U.S. and European royalty and milestone interests in Klisyri® (tirbanibulin) for an aggregate purchase price of $85.0 million (“Purchase Price”). On June 29, 2022, the Purchasers paid the Company the Purchase Price. Of the total Purchase Price, $5.0 million was placed into escrow to be paid to the Company upon the satisfaction of certain manufacture and supply milestones for Klisyri prior to December 31, 2025, $5.0 million was used to pay for transaction expenses, $42.5 million was used to pay down the Company's senior secured loan agreement and related security agreements (the "Senior Credit Agreement") with Oaktree, and $7.5 million was deposited and held in a segregated account of the Company (the “Segregated Funds”). Subject to the satisfaction of certain conditions, the Segregated Funds

will either be distributed to the Company as a cash payment or distributed to the Lenders to pay down the Company's existing indebtedness under the Credit Agreement. The remaining proceeds were available for the Company's operations. Refer to Part I, Item 1. Note 1 - *Company and Nature of Business* and Note 11 - *Debt and Lease Obligations* for additional information.

In connection with this transaction, the Company formed the Subsidiary and contributed its interest in the License and Development Agreement with Almirall S.A. relating to Klisyri (the "License Agreement") and certain related assets to the Subsidiary. Oaktree and Sagard each own a 10% equity interest in the Subsidiary. Pursuant to the RIPA, the Subsidiary will sell its right to the cash received in respect of certain royalties and certain milestone interests under the License Agreement to the Purchasers. The Subsidiary will retain the right to receive 50% of certain of the milestone interests under the License Agreement, equal to $155.0 million in the aggregate if those milestones are achieved, and 50% of the royalties paid under the License Agreement for sales of Klisyri once net sales of Klisyri exceed a certain dollar amount. Under its operating agreement, the Subsidiary will be governed by a five-member board of directors to which the Company will appoint three directors, Oaktree will appoint one director, and Sagard will appoint one director.

Global Supply Chain Platform Developments

We suspended production activities at our Taihao API facility in Chongqing, China, in May 2019, based on concerns raised by the Department of Emergency Management of Chongqing ("DEMC") related to the location of our plant. We subsequently resumed producing API at the Taihao API facility primarily for our ongoing clinical studies and commercial launches of proprietary drugs in accordance with local regulatory guidance, while we started building out Sintaho, a new API facility in Chongqing. In July 2021, we received verbal notice from the DEMC that we will be required to terminate the production activities at its Taihao API facility. We are continuing to engage in dialogue with the DEMC. While we are able to continue producing certain API at the Taihao API facility in limited quantities and a certain extent of our operations are now being conducted at Sintaho, we are in the process of moving the remainder of the operations and production activities to Sintaho and exploring other sources of API, in the event we are unable to reach an agreement with the DEMC for the continued production activities of the Taihao API facility. The Sintaho facility continues to conduct and complete product qualification activities. On July 7, 2022, we entered into an agreement to sell all of our equity interests in our China subsidiaries, which are primarily engaged in API manufacturing operations (the "China API Operations"), to TiHe Capital (Beijing) Co. Ltd. ("China API Buyer") for RMB 124.4 million, or approximately $19.0 million in cash. The transactions is subject to customary closing conditions, including obtaining certain regulatory approvals in China. Athenex and the China API Buyer also plan to enter into a long-term supply agreement for the manufacture and supply of certain API products at or before the closing of the transaction. See Part I, Item 1. Note 19 - *Subsequent Events* for additional information.

On February 14, 2022, we completed the sale of our leasehold interest in the 409,000 square feet, newly constructed cGMP ISO Class 5 high potency pharmaceutical manufacturing facility located in Dunkirk, NY (the "Dunkirk Transaction"). We sold our interest in the Dunkirk facility and certain other assets to ImmunityBio, Inc. for approximately $40.0 million. Of these proceeds, we used approximately $27.4 million to make a mandatory prepayment of $25.0 million in principal, accrued and unpaid interest, and associated fees to the lenders under our Senior Credit Agreement with Oaktree. See "Liquidity and Capital Resources" below for more information about the Senior Credit Agreement.

The sale of the Dunkirk facility and the planned sale of our China API Operations are part of our strategy to dispose of non-core assets intended to extend our cash runway in 2022 as we pivot to focusing on our Cell Therapy platform.

COVID-19 related measures

Since early 2020, after monitoring developments related to the spread of COVID-19, we have undertaken a number of measures in response to the COVID-19 pandemic, with a goal to prioritize the health and safety of our employees and ensure continuity in our business. We adhere to all state, federal and local requirements as the same may be in force from time to time.

With respect to our clinical development program, we have experienced and may continue to experience slowed enrollment for our clinical trials as well as suspensions in our clinical trials as healthcare resources are diverted to address the COVID-19 pandemic. We remain committed to advancing our pipeline in line with our Mission as described below while ensuring the safety of all participants as well as the integrity of the data. We will continue to monitor developments with respect to the COVID-19 pandemic as well as industry and regulatory best practices for continuing clinical development programs during the pandemic, including, if and where appropriate, the use of virtual communications, interviews, and visits as well as self-administration and remote monitoring techniques to address health and safety concerns while minimizing disruptions and delays to our clinical development timelines.

There is still uncertainty regarding the pandemic's overall duration and the severity of any future outbreaks, including any potential impact on our operations in China. The scope and impact of any such measures is not yet known and will depend on a number of factors, including but not limited to the ultimate spread and severity of the outbreaks and the scope, duration and impact of

containment measures on individuals and businesses. If our partners experience significant or extended disruptions to their business due to COVID-19, it could result in supply shortages and harm our specialty drug business, as well as our overall financial condition. We are actively monitoring our operations and supply chain across the globe and are making adjustments to respond to challenges that arise due to the pandemic where appropriate.

Going Concern Considerations

We have three operating segments: our Oncology Innovation Platform, Global Supply Chain Platform, and Commercial Platform. Since inception, we have devoted a substantial amount of our resources to research and development of our lead product candidates under our Orascovery and Cell Therapy platforms, while building up our commercial infrastructure. We have incurred significant net losses since inception.

We have incurred operating losses since inception and, as a result, as of June 30, 2022 and December 31, 2021, we had an accumulated deficit of $963.0 million and $913.4 million, respectively. We expect to incur significant expenses and operating losses for the foreseeable future. We project insufficient liquidity to fund our operations through the next twelve months beyond the date of this report and project that we will be in violation of a financial covenant included within the Senior Credit Agreement during the twelve-month period subsequent to the date of this filing. This projection does not reflect management's plans that are outside of the Company's control, pursuant to ASC 205. These conditions raise substantial doubt about our ability to continue as a going concern. See Part I, Item 1. Note 1—*Company and Nature of Business* for further information regarding our ability to continue as a going concern.

We have funded our operations to date primarily from the issuance and sale of our common stock through public offerings, senior secured loans, private placements, and to a lesser extent, from convertible bond financing, revenue, and grant funding. As of June 30, 2022, we had cash and cash equivalents of $22.1 million, restricted cash of $13.8 million, and short-term investments of $1.2 million.

On August 20, 2021, we entered into a sales agreement (the “Sales Agreement”) with SVB Securities LLC, in connection with the offer and sale of up to $100,000,000 of shares of our common stock, par value $0.001 per share (“ATM Shares”). The ATM Shares to be offered and sold under the Sales Agreement will be issued and sold pursuant to a registration statement on Form S-3 (File No. 333-258185) that became effective on August 12, 2021. During the year ended December 31, 2021, we sold 762,825 shares of our common stock for an average price of $1.49 per share under the Sales Agreement. During the six months ended June 30, 2022, we sold 7,147,892 shares of our common stock for an average price of $0.63 per share under the Sales Agreement.

Nasdaq Deficiency Notice

On March 18, 2022, we received a letter from the Listing Qualifications Staff of The Nasdaq Stock Market LLC indicating that, based upon the closing bid price of our common stock, we no longer meet the Nasdaq listing standard requiring listed companies to maintain a minimum bid price of at least $1.00 per share. Nasdaq Listing Rule 5810(c)(3)(A) provides a compliance period of 180 calendar days, or until September 14, 2022, in which to regain compliance with the minimum bid price requirement. If our common stock maintains a closing bid price of at least $1.00 per share for a minimum of 10 consecutive business days during the 180-day compliance period, we will automatically regain compliance. In the event we do not regain compliance with the $1.00 bid price requirement by September 14, 2022, we may be eligible for consideration of a second 180-day compliance period. To qualify for this additional compliance period, we would be required to meet the continued listing requirement for market value of publicly held shares and all other initial listing standards for Nasdaq’s Global Select Market, other than the minimum bid price requirement. In addition, we would also be required to notify Nasdaq of our intent to cure the minimum bid price deficiency. We are diligently working to evidence compliance with the minimum bid price requirement for continued listing on Nasdaq. If we fail to regain compliance with the Nasdaq continued listing standards, Nasdaq will provide notice that our common stock will be subject to delisting. We would then be entitled to appeal that determination to a Nasdaq hearings panel.

The notification has no immediate effect on the listing of our common stock on Nasdaq’s Global Select Market. We intend to monitor the closing bid price of our common stock and consider our available options in the event the closing bid price of our common stock remains below $1.00 per share.

Outlook

Our Company’s mission is to become a leader in bringing innovative cancer treatments to the market and to improve patient health outcomes. We are focused on our innovative cell therapy platform, which is based on NKT cells. NKT cells have unique biology that has potential advantages over current T cell and NK cell-based technologies. We believe these advantages include the following:

(1)There is still a major unmet need in hematological and solid tumors in that even in those indications where autologous CAR-T cells have been previously approved, up to 60% of patients receiving CAR-T therapy do not achieve long term durable responses.

(2)Cellular therapies have generally not been effective in the treatment of solid tumors. NKT cells are an ideal platform for treatment of solid tumors because NKT cells home to tumors, and we have data demonstrating that CAR-NKT cells are superior in tumor homing compared to CAR-T cells.

(3)Our allogeneic ("off-the-shelf") CAR-NKT cell therapy products may be produced at larger scale than autologous products, potentially at lower cost.

(4)Our allogeneic CAR-NKT cells are manufactured starting with the lymphocytes of healthy donors. Use of healthy donors, rather than patients (who are the source of autologous cell therapy starting materials), results in a more robust and consistent product, because patient lymphocytes are usually dysfunctional due to previous cancer therapy.

NKT cells demonstrate anti-tumor activity, even without a CAR. This is because NKT cells can kill immune suppressive cells in the local tumor microenvironment. Thus, when we add a CAR to NKT cells they are now equipped with two different anti-tumor mechanisms, which may lead to more potent anti-tumor activity and reduce the potential for relapse.

Advancing KUR-501 CAR-NKT Targeting GD2 – KUR-501 is an autologous product in which NKT cells are engineered with a CAR targeting GD2 and is currently being evaluated in a phase 1 clinical trial (GINAKIT2) treating children with R/R high risk neuroblastoma. Neuroblastoma is a rare pediatric cancer and patients with R/R high risk neuroblastoma have very poor outcomes. Therefore, we believe there is a significant unmet need for better treatment options. Interim data to be presented at the ASGCT 2022 Annual Meeting showed 25% overall response rate and 58% disease control rate, two out of three responses at dose level 4 (100 million cells/m^2), and one durable complete response persisting 12 months. Previous data updates also demonstrated long-term persistence of CAR-NKT cells and CAR-NKT cell localization at the tumor site. The safety profile of KUR-501 was shown to be well-tolerated and the product is being administered in the outpatient setting. GINATKIT2 will continue enrolling patients at higher dose level cohorts with a goal to identify an optimal dose that we may take into a pivotal study.

Advancing KUR-502 CAR-NKT Targeting CD19 – Interim data, as presented at the ASTCT and CIBMTR Tandem Meetings in April of 2022, indicated that, of the first seven evaluable patients, there was a promising overall response rate of 57% and disease control rate of 71%, with two responses (1 CR and 1 PR) observed in patients who failed previous autologous CAR-T therapy. KUR-502 is an allogeneic, "off-the-shelf" product in which NKT cells are engineered with a CAR targeting CD19. Today, autologous CAR-T cell treatments are available to patients, but the patient-to-patient variability and long manufacturing lead times limit patient care options. As an allogeneic "off-the-shelf" product, KUR-502 leverages economies of scale and has the potential to significantly increase patient access to innovative CAR-NKT treatments. Our aim is to expand the phase 1 (ANCHOR) clinical trial treating adults with R/R CD19 positive malignancies currently being conducted at BCM to a phase 1 multicenter clinical trial (ANCHOR2). Our IND application to expand the ANCHOR study to a multi-center study was allowed to proceed by the FDA in March 2022.

Focusing on Specific Programs of Oral Paclitaxel – For Oral Paclitaxel, while our MAA submission is currently under review by the U.K. MHRA, we have focused our efforts on our ongoing combination clinical trials with checkpoint inhibitors where we believe there is an opportunity. Oral Paclitaxel is currently being evaluated in combination with pembrolizumab in NSCLC; and dostarlimab +/- carboplatin in neoadjuvant breast cancer, as part of I-SPY 2 TRIAL.

Licensing and Partnership Opportunities – We continue to increase the global reach of tirbanibulin 1% ointment by maintaining strong global partnerships with existing partners such as Almirall, Seqirus, and AVIR and by evaluating other strategic territories to launch the product. We recently monetized our royalty stream from the sale of Klisyri in the U.S. and Europe by entering into the RIPA. See *Oncology Innovation Platform Developments* above. Our team will continue to work closely with our partners to explore additional treatment regimens and indications for tirbanibulin 1% ointment. We will pursue strategic licensing and partnership opportunities that will create potential value for stockholders and support our business strategy and mission.

As we pursue these strategic priorities, we expect to incur significant expenses and increasing operating losses for the foreseeable future. We anticipate that our expenses will increase as we seek to:

•Advance the preclinical and clinical research program and development activities of our Cell Therapy technology platform;

•Continue our preclinical and clinical research program and development activities related to our Mission;

•Seek to identify additional research programs and product candidates within existing Cell Therapy platform; and

•Maintain, expand, and protect our IP portfolio.

Key Components of Results of Operations

Revenue

We derive our consolidated revenue primarily from (i) the sales of generic injectable products by our Commercial Platform; (ii) licensing and collaboration projects conducted by our Oncology Innovation Platform, which generates revenue in the form of upfront payments, milestone payments, and payments received for providing research and development services for our collaboration projects and for other third parties; (iii) the sales of 503B and API products by our Global Supply Chain Platform; and (iv) grant awards from government agencies and universities for our continuing research and development efforts.

We do not anticipate revenue being generated from sales of our product candidates under development in our Oncology Innovation Platform until we have obtained regulatory approval. We cannot assure you that we will succeed in achieving regulatory approval for our drug candidates as planned, or at all.

Cost of Sales

Along with sourcing from third-party manufacturers, we manufacture clinical products in our cGMP facility in New York. Cost of sales primarily includes the cost of finished products, raw materials, labor costs, manufacturing overhead expenses and reserves for expected scrap, as well as transportation costs. Cost of sales also includes depreciation expense for production equipment, changes to our excess and obsolete inventory reserves, certain direct costs such as shipping costs, net of costs charged to customers, and royalty costs related to in-license agreements.

Research and Development Expenses

Research and development ("R&D") expenses consist of the costs associated with in-licensing of product candidates, milestone payments, conducting preclinical studies and clinical trials, activities related to regulatory filings and correspondences, and other R&D activities. Our current R&D activities mainly relate to the regulatory and clinical development activities of our Oncology Innovation Platform.

We expense R&D costs as incurred. We record costs for certain development activities, such as clinical trials, based on an evaluation of the progress to completion of specific tasks using data such as patient enrollment or clinical site activations. We do not allocate employee-related costs, depreciation, rental and other indirect costs to specific R&D programs because these costs are deployed across multiple product programs under R&D.

We cannot determine with certainty the duration, costs and timing of the current or future preclinical or clinical studies of our drug candidates. The duration, costs, and timing of clinical studies and development of our drug candidates will depend on a variety of factors, including:

•The scope, rate of progress, and costs of our ongoing, as well as any additional, clinical studies and other R&D activities;

•Future clinical study results;

•Uncertainties in clinical study enrollment rates;

•Significant and changing government regulation; and

•The timing and receipt of any regulatory approvals.

A change in the outcome of any of these variables with respect to the development of a drug candidate, could mean a significant change in the costs and timing associated with the development of that drug candidate.

R&D activities are central to our business model. We expect our R&D expenses to remain at a decreased level from prior periods, as the development of most non-Cell Therapy technologies has been suspended. R&D expenses related to our Cell Therapy platform are expected to increase as we prepare for additional clinical and preclinical studies for our Cell Therapy programs. There are numerous factors associated with the successful commercialization of any of our drug candidates, including future trial design and various regulatory requirements, many of which cannot be determined with accuracy at this time based on our stage of development. Additionally, future commercial, regulatory, and public health factors beyond our control will likely impact our clinical development programs and plans.

Selling, General and Administrative Expenses

Selling, general and administrative, ("SG&A"), expenses primarily consist of compensation, including salary, employee benefits and stock-based compensation expenses for sales and marketing personnel, and for administrative personnel that support our general operations such as executive management, legal counsel, financial accounting, information technology, and human resources personnel. SG&A expenses also include professional fees for legal, patent, consulting, auditing and tax services, as well as other direct and allocated expenses for rent and maintenance of facilities, insurance and other supplies used in the selling, marketing, general and administrative activities. SG&A expenses also include costs associated with our commercialization efforts for our proprietary drugs,

such as market research, brand strategy and development work on market access, scientific publication, product distribution, and patient support.

We anticipate that our SG&A costs will decrease in future periods, without the commercialization of the Orascovery platform, the development of the facility in Dunkirk, NY, and the management of the China API Operations, if the sale of the China API Operations is completed. We expect that certain costs, including share compensation costs, insurance costs, and other administrative costs, will decrease as a result of the sale of our interest in the pharmaceutical manufacturing facility located in Dunkirk, NY and anticipated sale of the China API Operations. Meanwhile, we anticipate that cost related to legal, compliance, accounting and investor and public relations expenses associated with being a public company will remain consistent.

Results of Operations

Three Months Ended June 30, 2022 Compared to Three Months Ended June 30, 2021

The following table sets forth a summary of our condensed consolidated results of operations for the three months ended June 30, 2022 and 2021, together with the changes in those items in dollars and as a percentage. This information should be read together with our condensed consolidated financial statements and related notes included elsewhere in this Quarterly Report on Form 10-Q. Our operating results in any period are not necessarily indicative of the results that may be expected for any future period.

	Three Months Ended June 30,			
	2022	2021	Change	
	(in thousands)	(in thousands)	(in thousands)	%
Revenue				
Product sales, net	$ 25,786	$ 20,394	$ 5,392	26%
License fees and other revenue	5,730	304	5,426	NM
Total revenue	31,516	20,698	10,818	
Cost of sales	(23,092)	(19,117)	(3,975)	21%
Gross profit	8,424	1,581	6,843	
Research and development expenses	(13,094)	(20,646)	7,552	-37%
Selling, general, and administrative expenses	(17,172)	(17,641)	469	-3%
Interest income	46	32	14	44%
Interest expense	(4,307)	(5,608)	1,301	-23%
Gain on extinguishment of debt	2,051	—	2,051	NM
Income tax benefit	19	11,035	(11,016)	-100%
Net loss from continuing operations	(24,033)	(31,247)	7,214	-23%
Loss from discontinued operations	(8,341)	(3,368)	(4,973)	148%
Net loss	(32,374)	(34,615)	2,241	
Less: net loss attributable to non-controlling interests	(217)	(341)	124	-36%
Net loss attributable to Athenex, Inc.	$ (32,157)	$ (34,274)	$ 2,117	

**NM used to indicate a percentage change that is not meaningful*

Revenue

Revenue from product sales increased to $25.8 million for the three months ended June 30, 2022, from $20.4 million for the three months ended June 30, 2021, an increase of $5.4 million or 26%. This increase was primarily attributable to an increase in APD specialty product sales, which increased by $4.2 million as the result of increases in shortage product sales and product launches during 2022. 503B product sales increased by $1.2 million from additional product launches. Fluctuations in the demand for shortage products and market demand may continue to significantly affect our product sales in the future.

License fees and other revenue increased by $5.4 million, to $5.7 million for the three months ended June 30, 2022. This increase was primarily due to the recognition of $5.0 million of license revenue pursuant to the 2017 Almirall License Agreement upon the commencement of a line extension trial for Klisyri in the U.S. Substantially all of the revenue earned under the Almirall License Agreement in the near future will be remitted to the Purchasers under the RIPA.

Cost of Sales

Cost of sales for the three months ended June 30, 2022 totaled $23.1 million, an increase of $4.0 million, or 21%, as compared to $19.1 million for the three months ended June 30, 2021. The increase was primarily due to an increase of $1.3 million in cost of APD product sales related to the increase in sales volume and an increase of $2.7 million in cost of 503B product sales related to the increase in sales volume, product costs, and overhead.

Research and Development Expenses

R&D expenses for the three months ended June 30, 2022 totaled $13.1 million, a decrease of $7.6 million, or 37%, as compared to $20.6 million for the three months ended June 30, 2021. This was primarily due to a decrease in Oral Paclitaxel product development and medical affairs costs, costs of clinical and regulatory operations, compensation costs, and costs of preclinical operations and included the following:

- $3.3 million decrease in Oral Paclitaxel product development and medical affairs costs incurred in connection with the potential product launch costs of clinical operations after the completion of the Phase 3 studies for Oral Paclitaxel;
- $2.4 million decrease in costs of clinical operations and regulatory affairs after the completion of the Phase 3 study for Oral Paclitaxel;
- $2.0 million decrease in drug licensing costs related to a license milestone payment associated with Arginine deprivation therapy in 2021;
- $1.7 million decrease in R&D related compensation expenses; and
- $1.0 million decrease in preclinical operations, primarily related to the Orascovery platform;

The decrease in these R&D expenses was partially offset by a $2.4 million increase in cell therapy development costs and a $0.5 million increase in drug licensing costs related to licenses for specialty drug products.

Selling, General, and Administrative Expenses

SG&A expenses for the three months ended June 30, 2022 totaled $17.2 million, a decrease of $0.5 million, or 3%, as compared to $17.6 million for the three months ended June 30, 2021. This was primarily due to a $2.5 million decrease in costs for preparing to commercialize Oral Paclitaxel as the significant pre-launch activities slowed upon receipt of the Complete Response Letter in February 2021. Compensation related costs decreased by $0.2 million. These decreases were partially offset by a $2.2 million increase in operating costs, including professional fees and IT costs.

Interest Income and Interest Expense

Interest income consisted of interest earned on our short-term investments and totaled less than $0.1 million for both of the three months ended June 30, 2022 and 2021. Interest expense totaled $4.3 million and $5.6 million for the three months ended June 30, 2022 and 2021, respectively. Interest expense in both periods was incurred from the Senior Credit Agreement with Oaktree. The decrease in interest expense during the three months ended June 30, 2022 was due to principal repayments made to the Senior Credit Agreement.

Gain on extinguishment of debt

We recognized a $2.1 million gain on the extinguishment of debt during the three months ended June 30, 2022. This was due to the partial repayment we made to Oaktree upon the closing of the RIPA with Sagard and Oaktree.

Income Tax Expense

For the three months ended June 30, 2022, income tax benefit amounted to less than $0.1 million, compared to income tax benefit of $11.0 million for the three months ended June 30, 2021. We did not record a provision for U.S. federal income taxes for the three months ended June 30, 2022 or 2021 because we expect to generate a loss for the years ended December 31, 2022 and 2021. The income tax benefit in the prior period is primarily the result of a taxable temporary difference due to the deferred tax liability recognized for the indefinite lived intangible assets acquired in connection with the acquisition of Kuur's IPR&D. This taxable temporary difference is considered a source of taxable income to support the realization of deferred tax assets from the acquirer which resulted in a reversal of our valuation allowance.

Loss from discontinued operations

Loss from discontinued operations for the three months ended June 30, 2022 totaled $8.3 million, as compared to $3.4 million for the three months ended June 30, 2021. This change was primarily due to the reserve of excess inventory held at our discontinued China API operations of $7.1 million, partially offset by general and administrative expenses related to the discontinued Dunkirk operation of $2.4 million, which was incurred in the three months ended June 30, 2021. Further, research and development costs at our discontinued China API operations decreased by $0.3 million and other income increased by $0.3 million due to the sale of pilot products in 2022.

Six Months Ended June 30, 2022 Compared to Six Months Ended June 30, 2021

The following table sets forth a summary of our condensed consolidated results of operations for the six months ended June 30, 2022 and 2021, together with the changes in those items in dollars and as a percentage. This information should be read together with our condensed consolidated financial statements and related notes included elsewhere in this Quarterly Report on Form 10-Q. Our operating results in any period are not necessarily indicative of the results that may be expected for any future period.

	Six Months Ended June 30,			
	2022	2021	Change	
	(in thousands)	(in thousands)	(in thousands)	%
Revenue				
Product sales, net	$ 54,154	$ 38,881	$ 15,273	39%
License fees and other revenue	6,504	20,969	(14,465)	-69%
Total revenue	60,658	59,850	808	
Cost of sales	(45,613)	(34,158)	(11,455)	34%
Gross profit	15,045	25,692	(10,647)	
Research and development expenses	(27,179)	(42,390)	15,211	-36%
Selling, general, and administrative expenses	(30,979)	(36,840)	5,861	-16%
Interest income	122	61	61	100%
Interest expense	(8,820)	(10,538)	1,718	-16%
Loss on extinguishment of debt	(1,450)	—	(1,450)	100%
Income tax (expense) benefit	(8)	10,881	(10,889)	-100%
Net loss from continuing operations	(53,269)	(53,134)	(135)	0%
Gain (loss) from discontinued operations	2,963	(7,084)	10,047	-142%
Net loss	(50,306)	(60,218)	9,912	
Less: net loss attributable to non-controlling interests	(729)	(894)	165	-18%
Net loss attributable to Athenex, Inc.	$ (49,577)	$ (59,324)	$ 9,747	

Revenue

Revenue from product sales increased to $54.2 million for the six months ended June 30, 2022, from $38.9 million for the six months ended June 30, 2021, an increase of $15.3 million or 39%. This increase was primarily attributable to an increase in APD specialty product sales, which increased by $13.6 million as the result of increases in shortage product sales and product launches during 2022. 503B product sales increased by $1.6 million from additional product launches. Fluctuations in the demand for shortage products and market demand may continue to significantly affect our product sales in the future.

License fees and other revenue decreased by $14.5 million, to $6.5 million for the six months ended June 30, 2022. This decrease was primarily due to the recognition of $20.0 million of license revenue in 2021 pursuant to the 2017 Almirall License Agreement upon the launch of Klisyri in the U.S., partially offset by the recognition of $5.0 million of license revenue upon the commencement of a line extension trial for Klisyri in the U.S. during the six months ended June 30, 2022. Substantially all of the revenue earned under the Almirall License Agreement in the near future will be remitted to the Purchasers under the RIPA.

Cost of Sales

Cost of sales for the six months ended June 30, 2022 totaled $45.6 million, an increase of $11.5 million, or 34%, as compared to $34.2 million for the six months ended June 30, 2021. The increase was primarily due to an increase of $7.0 million in cost of APD product sales related to the increase in sales volume and an increase of $4.5 million in cost of 503B product sales related to the increase in sales volume, product costs, and overhead.

Research and Development Expenses

R&D expenses for the six months ended June 30, 2022 totaled $27.2 million, a decrease of $15.2 million, or 36%, as compared to $42.4 million for the six months ended June 30, 2021. This was primarily due to a decrease in Oral Paclitaxel product development and medical affairs costs, costs of clinical and regulatory operations, and costs of preclinical operations and included the following:

- $9.6 million decrease in Oral Paclitaxel product development and medical affairs costs incurred in connection with the potential product launch costs of clinical operations after the completion of the Phase 3 studies for Oral Paclitaxel;
- $3.6 million decrease in costs of clinical operations and regulatory affairs after the completion of the Phase 3 study for Oral Paclitaxel;
- $2.5 million decrease in R&D related compensation expenses;

•$2.0 million decrease in drug licensing costs related to a license milestone payment associated with Arginine deprivation therapy in 2021; and

•$1.2 million decrease in costs of preclinical operations, primarily related to the Orascovery platform.

The decrease in these R&D expenses was partially offset by a $3.6 million increase in cell therapy development costs and a $0.1 million increase in costs of other product development.

Selling, General, and Administrative Expenses

SG&A expenses for the six months ended June 30, 2022 totaled $31.0 million, a decrease of $5.9 million, or 16%, as compared to $36.8 million for the six months ended June 30, 2021. This was primarily due to a $9.2 million decrease in costs for preparing to commercialize Oral Paclitaxel as the significant pre-launch activities slowed upon receipt of the Complete Response Letter in February 2021. Compensation related costs decreased by $0.3 million. These decreases were partially offset by a $3.6 million increase in operating costs, including professional fees, IT costs, and the change in fair value of contingent consideration.

Interest Income and Interest Expense

Interest income consisted of interest earned on our short-term investments and totaled $0.1 million for both of the six months ended June 30, 2022 and 2021. Interest expense totaled $8.8 million and $10.5 million for the six months ended June 30, 2022 and 2021, respectively. Interest expense in both periods was incurred from the Senior Credit Agreement with Oaktree. The decrease in interest expense during the six months ended June 30, 2022 was due to principal repayments made to the Senior Credit Agreement.

Loss on extinguishment of debt

During the six months ended June 30, 2022, we recognized a $1.5 million net loss on the extinguishment of debt. This was comprised of a loss of $3.5 million related to the prepayment we made to Oaktree upon the closing of the sale of our leasehold interest in the manufacturing facility in Dunkirk, New York. This was partially offset by a $2.1 million gain on the extinguishment of debt due to the partial repayment we made to Oaktree upon the closing of the RIPA with Sagard and Oaktree.

Income Tax Expense

For the six months ended June 30, 2022, income tax expense amounted to less than $0.1 million, compared to income tax benefit of $10.9 million for the six months ended June 30, 2021. We did not record a provision for U.S. federal income taxes for the six months ended June 30, 2022 or 2021 because we expect to generate a loss for the years ended December 31, 2022 and 2021. The income tax benefit in the prior period is primarily the result of a taxable temporary difference due to the deferred tax liability recognized for the indefinite lived intangible assets acquired in connection with the acquisition of Kuur's IPR&D. This taxable temporary difference is considered a source of taxable income to support the realization of deferred tax assets from the acquirer which resulted in a reversal of our valuation allowance.

Gain (loss) from discontinued operations

Gain from discontinued operations for the six months ended June 30, 2022 totaled $3.0 million, as compared to a loss of $7.1 million for the six months ended June 30, 2021. This change was primarily due to the gain on the sale of the Dunkirk facility of $14.5 million, and a decrease in general and administrative expenses related to the discontinued Dunkirk operations of $1.9 million during the six months ended June 30, 2022. These were partially offset by a decrease in API product sales at the discontinued China API operations and the reserve of excess inventory held at our discontinued China API operations of $7.1 million. Further, research and development costs at our discontinued China API operations decreased by $1.2 million and other income increased by $0.8 million due to the sale of pilot products in 2022.

Liquidity and Capital Resources

Capital Resources

Since our inception, we have incurred net losses and negative cash flows from our operations. Substantially all of our losses have resulted from funding our R&D programs, SG&A costs associated with our operations, and the development of our specialty drug operations in our Commercial Platform and 503B operations and the investment we made in our pre-launch activities in anticipation of commercializing our proprietary drugs. We incurred net losses of $50.3 million and $60.2 million for the six months ended June 30, 2022 and 2021, respectively. As of June 30, 2022, we had an accumulated deficit of $963.0 million. Our operating activities from continuing operations used $36.8 million and $63.7 million of cash during the six months ended June 30, 2022 and 2021, respectively. We intend to continue to advance certain of our various clinical and pre-clinical programs which could lead to increased cash outflow of R&D costs. While we expect our R&D expenses to remain at a decreased level from prior periods, as the development of most non-Cell Therapy technologies has been suspended, R&D expenses related to our Cell Therapy platform are expected to increase as we prepare for additional clinical and preclinical studies for our Cell Therapy programs. We intend to continue to diversify the product portfolio for specialty drug products in the Commercial Platform and 503B operations, which may require relatively more funding than we have previously dedicated to this portfolio. Our principal sources of liquidity as of June 30, 2022 were cash and cash equivalents totaling $22.1 million, restricted cash of $13.8 million, held in a controlled bank account in connection with the Senior Credit Agreement with Oaktree and the RIPA with Sagard, and short-term investments totaling $1.2 million, which are generally high-quality investment grade corporate debt securities.

Indebtedness

We had $126.9 million and $148.5 million of debt as of June 30, 2022 and December 31, 2021, respectively. As of June 30, 2022 and 2021, this primarily consisted of the royalty financing liability under the RIPA (as described in Part I, Item 1. Note 11 - *Debt and Lease Obligations*), Senior Credit Agreement with Oaktree, a credit agreement with Chongqing Maliu Riverside Development and Investment Co., LTD, and finance and operating lease obligations.

The sale of the interest in U.S. and European royalties and milestones to Sagard and Oaktree in connection with the Revenue Interest Purchase Agreement was recorded as a royalty financing liability due to our significant continued involvement in the cash flows due to the Purchasers. The RIPA contains various representations and warranties, information rights, non-financial covenants, and indemnification obligations, however, this liability is not guaranteed by the Company. During the six months ended June 30, 2022, the Company received Klisyri royalties of $0.5 million, which were remitted to the Purchasers.

During the six months ended June 30, 2022, we made payments, inclusive of principal, interest, and fees, to Oaktree in the aggregate amount of $97.6 million pursuant to the Third Amendment, Fourth Amendment, and Fifth Amendment. See Part I, Item 1. Note 11—*Debt and Lease Obligations* for additional information regarding our Senior Credit Agreement with Oaktree.

As of June 30, 2022, we owe $57.5 million under the Senior Credit Agreement. We do not have access to additional tranches of funding available under the Senior Credit Agreement. Our obligations under the Senior Credit Agreement are guaranteed by us and certain of our existing domestic subsidiaries and subsequently acquired or organized subsidiaries subject to certain exceptions. Our obligations under the Senior Credit Agreement and the related guarantees thereunder are secured, subject to customary permitted liens and other agreed upon exceptions, by (i) a pledge of all of the equity interests of our direct subsidiaries, and (ii) a perfected security interest in all of our tangible and intangible assets.

The Senior Credit Agreement contains customary representations and warranties and customary affirmative and negative covenants, including, among other things, restrictions on indebtedness, liens, investments, mergers, dispositions, prepayment of other indebtedness, and dividends and other distributions, subject to certain exceptions, including specific exceptions with respect to product commercialization and development activities. In addition, the Senior Credit Agreement contains certain financial covenants, including, among other things, maintenance of minimum liquidity and a minimum revenue test, measured quarterly until the last day of the second consecutive fiscal quarter where the consolidated leverage ratio does not exceed 4.5 to 1, provided that thereafter we cannot allow our consolidated leverage ratio to exceed 4.5 to 1, measured quarterly. Failure of the Company to comply with the financial covenants will result in an event of default, subject to certain cure rights of the Company. At June 30, 2022, we were in compliance with all applicable covenants.

As of June 30, 2022, we owe $7.5 million under the line of credit with Chongqing Maliu Riverside Development and Investment Co., LTD (“CQ”), which is expected to be assumed by the China API Buyer if the sale of the China API Operations closes, and is included within non-current portion of liabilities of discontinued operations on our condensed consolidated balance sheet.

ATM Offering

On August 20, 2021, we entered into a sales agreement with SVB Securities LLC, in connection with the offer and sale of up to $100,000,000 of shares of our common stock, par value $0.001 per share, in an at-the-market offering ("ATM Offering"). During the six months ended June 30, 2022, we sold 7,147,892 shares of our common stock for an average price of $0.63 per share under the sales agreement, raising approximately $4.5 million in net proceeds. Since the inception of the ATM, we sold 7,910,717 shares of our common stock for an average price of $0.71 per share under the sales agreement, raising approximately $5.6 million in net proceeds. While we intend to continue selling shares of common stock in the ATM Offering, there can be no assurance that we will be able to sell shares of common stock at a price that is acceptable to our Board of Directors or that will be successful in raising significant capital in the offering.

Outlook

We expect to continue to opportunistically seek access to the equity capital markets to support our development efforts and operations. To the extent that we raise additional capital by issuing equity securities, our stockholders may experience substantial dilution. To the extent that we raise additional funds through collaboration or partnering arrangements or by monetizing non-core assets, we may be required to relinquish some of our rights to our technologies or rights to market and sell our products in certain geographies, grant licenses on terms that are not favorable to us, or issue equity that may be substantially dilutive to our stockholders. In addition, we have borrowed and, in the future, may borrow additional capital from institutional and commercial banking sources to fund future growth. We may borrow additional funds on terms that may include restrictive covenants, including covenants that further restrict the operation of our business, liens on assets, high effective interest rates, financial performance covenants and repayment provisions that reduce cash resources and limit future access to capital markets.

As of June 30, 2022, we had cash and cash equivalents of $22.1 million, restricted cash of $13.8 million, and short-term investments of $1.2 million. We are implementing cost savings programs and plan to monetize non-core assets and raise capital in order to extend our cash runway in 2022. If we are unable to raise additional capital or monetize assets, we believe that the existing cash and cash equivalents, restricted cash, and short-term investments will not be sufficient to fund our operations through the next twelve months beyond the date of the issuance of our unaudited condensed consolidated financial statements. We have concluded that this raises substantial doubt about our ability to continue as a going concern. See Part I, Item 1. Note 1—*Company and Nature of Business* for further information regarding our ability to continue as a going concern. We have based these estimates on assumptions that may prove to be wrong, and we could spend the available financial resources much faster than expected and need to raise additional funds sooner than anticipated. Although we plan to raise additional funds though the sale of non-core assets and selling equity securities, these plans are subject to market conditions which are outside of our control, and therefore cannot be deemed to be probable. There can be no assurance that additional financing, if available, can be obtained on terms acceptable to us. If we are unable to obtain such additional financing, we would need to reevaluate our future operating plans.

We anticipate that our expenses will cover the following activities as we:

•Advance the preclinical and clinical research program and development activities of our Cell Therapy technology platform;

•Continue our preclinical and clinical research program and development activities related to our Mission;

•Seek to identify additional research programs and product candidates within existing Cell Therapy platform; and

•Maintain, expand and protect our intellectual property ("IP") portfolio.

We have made certain changes to our budgeted expenses in light of the CRL for Oral Paclitaxel we received in February 2021 and the Type A meetings with the FDA, including curtailing commercialization expenses and investing in additional products for our specialty drug product business. However, our expenses could increase as we continue to fund clinical and preclinical development of our research programs by advancing our Cell Therapy programs, certain candidates in our pipeline, our specialty drug products, working capital and other general corporate purposes. We have based our estimates on assumptions that might prove to be wrong and we might use our available capital resources sooner than we currently expect. Because of the numerous risks and uncertainties associated with the development and commercialization of our drug candidates, we are unable to accurately estimate the amounts of increased capital outlays and operating expenditures necessary to complete the development and commercialization of our drug candidates.

Our future capital requirements will depend on many factors, some or all of which may be impacted by the COVID-19 pandemic, including:

•Our ability to generate revenue and profits from our Commercial Platform or otherwise;

•The costs, timing and outcome of regulatory reviews and approvals;

•Progress of our drug candidates to progress through clinical development successfully;

•The initiation, progress, timing, costs and results of nonclinical studies and clinical trials for our other programs and potential drug candidates;

•The costs of construction and fit-out of planned drug manufacture at our API manufacturing facility;

•The number and characteristics of the drug candidates we pursue;

•The costs of preparing, filing and prosecuting patent applications, maintaining and enforcing our IP rights and defending IP related claims;

•The extent to which we acquire or in-license other products and technologies; and

•Our ability to maintain and establish collaboration arrangements on favorable terms, if at all.

We expect to finance our cash needs through a combination of equity offerings, debt financings, sales of non-core assets, collaborations, strategic alliances, licensing arrangements, and government grants. We believe that the existing cash and cash equivalents, restricted cash, and short-term investments will not be sufficient to fund our operations through the next twelve months beyond the date of the issuance of our consolidated financial statements. Our estimates are based on relevant conditions that are known and reasonably knowable at the date of these consolidated financial statements being available for issuance and are subject to change due to changes in business, industry or macroeconomic conditions. We have based these estimates on assumptions that may prove to be wrong, and we could spend the available financial resources much faster than expected and need to raise additional funds sooner than anticipated. To the extent that we raise additional capital by issuing equity securities or convertible debt securities, our stockholders may experience substantial dilution, and the terms of these securities may include liquidation or other preferences that adversely affect rights of holders of common stock. Debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends and might require the issuance of warrants, which could potentially dilute the ownership interest of holders of common stock. If we are able to sell non-core assets, we may not realize in full the anticipated benefits, savings, and improvements in our strategic pivot efforts, we may not realize the cost savings we anticipate, the cost of disposing of the assets may exceed the cost savings generated, and the process of disposing of the assets may be disruptive to our daily operating activities and our execution of short- and long-term strategies. To the extent that we raise additional funds through collaboration or partnering arrangements, we may be required to relinquish some of our rights to our technologies or rights to market and sell our products in certain geographies and grant licenses on terms that are not favorable to us. If we are unable to raise additional funds when needed, we might be required to delay, limit, reduce, or terminate our product development efforts, reevaluate our future operating plans or cease operations.

Cash Flows

The following table provides information regarding our cash flows for the six months ended June 30, 2022 and 2021:

	Six Months Ended June 30,	
	2022	2021
	(in thousands)	
Net cash used in operating activities from continuing operations	$ (36,811)	$ (63,764)
Net cash provided by investing activities from continuing operations	8,460	84,696
Net cash (used in) provided by financing activities from continuing operations	(18,528)	1,534
Net cash provided by (used in) discontinued operations	29,420	(15,379)
Net effect of foreign exchange rate changes	1,721	267
Net (decrease) increase in cash, cash equivalents, and restricted cash	$ (15,738)	$ 7,354

Net Cash Used in Operating Activities from Continuing Operations

The use of cash in our operating activities resulted primarily from our net loss adjusted for non-cash charges and changes in components of working capital. The primary use of our cash in the periods presented was to fund our R&D, regulatory and other clinical trial costs, drug licensing costs, inventory purchases, pre-launch commercialization activities, and other expenditures related to sales, marketing and administration.

Net cash used in operating activities from continuing operations was $36.8 million for the six months ended June 30, 2022. This resulted primarily from our net loss from continuing operations of $53.3 million, adjusted for non-cash charges of $7.6 million and by cash provided by our operating assets and liabilities of $8.9 million. Our operating assets increased $7.5 million for accounts receivable mainly related to the increase in APD sales, decreased $1.4 million in prepaid expenses and other assets, and increased $10.8 million for inventory of all drug products. Our operating liabilities increased by $25.8 million mainly due to an increase in

accrued selling fees and rebates, accrued wages and benefits, accrued clinical expenses, and accrued inventory purchases. Our net non-cash charges during the six months ended June 30, 2022 primarily consisted of $3.5 million of stock-based compensation expense, $1.5 million loss on extinguishment of debt, $1.5 million depreciation and amortization expense, and $1.0 million amortization of debt discount.

Net cash used in operating activities from continuing operations was $63.7 million for the six months ended June 30, 2021. This resulted primarily from our net loss from continuing operations of $53.1 million, adjusted for non-cash charges of $9.3 million, non-cash income benefit of $10.9 million related to the reversal of our valuation allowance on our deferred tax assets to offset the deferred tax liability assumed in connection with the acquisition of Kuur's IPR&D, and by cash used by our operating assets and liabilities of $8.9 million. Our operating assets decreased $0.5 million for accounts receivable mainly related to the decreased sales of specialty products, increased $0.3 million in prepaid expenses and other assets, and increased $0.6 million for inventory of all drug products. Our operating liabilities decreased by $8.6 million mainly due to a decrease in accrued selling fees and royalties on our specialty drugs and a decrease in accrued costs for product launch, partially offset by an increase in accrued license fees and accrued interest. Our net non-cash charges during the six months ended June 30, 2021 consisted of $4.7 million of stock-based compensation expense, $2.0 million depreciation and amortization expense, $1.5 million amortization of debt discount, $0.6 million write-off of deferred debt issuance costs related to the revenue interest financing, and $0.4 million change in fair value of contingent consideration.

Net Cash Provided by Investing Activities from Continuing Operations

Net cash provided by investing activities from continuing operations was $8.5 million for the six months ended June 30, 2022, compared to $84.7 million provided in the six months ended June 30, 2021. The difference was primarily due to less cash being provided by the net sales and maturities of short-term investments, partially offset by a decrease in cash paid for in-licenses fees related to our specialty drugs during the six months ended June 30, 2022 and cash acquired from the acquisition of Kuur in 2021.

Net Cash (Used in) Provided by Financing Activities from Continuing Operations

Net cash used in financing activities from continuing operations was $18.5 million for the six months ended June 30, 2022, which consisted of $92.6 million repayment of long-term debt, $5.6 million in costs related to the repayment of debt, and $5.0 million in costs related to the issuance of the royalty financing liability, partially offset by $80.0 million proceeds from the issuance of the royalty financing liability and $4.7 million in proceeds for the sale of common stock under the ATM Offering and the 2017 Employee Stock Purchase Plan.

Net cash provided by financing activities from continuing operations was $1.5 million for the six months ended June 30, 2021, which consisted of $1.7 million from the exercise of stock options and sale of common stock, partially offset by $0.1 million repayment finance lease obligations.

Net Cash Provided by (Used in) Discontinued Operations

Net cash provided by discontinued operations was $29.4 million for the six months ended June 30, 2022 and was primarily comprised of proceeds of the Dunkirk Transaction of $40.0 million, partially offset by purchases of property and equipment of $2.3 million and cash used in operating activities of discontinued operations of $7.5 million.

Net cash used in discontinued operations was $15.4 million for the six months ended June 30, 2021 and was primarily attributable to purchases of property and equipment of $10.0 million and cash used in operating activities of discontinued operations of $5.4 million.

Contractual Obligations

A summary of our contractual obligations as of June 30, 2022 is as follows:

	Payments Due by Period				
	Within 1 Year	1 to 3 years	3 to 5 years	More than 5 years	Total Amounts Committed
	(in thousands)				
Operating leases	$ 2,253	4,131	$ 948	$ —	$ 7,332
Long-term debt	17,712	38,461	26,001	—	82,174
Finance lease obligations	147	184	—	—	331
Licensing fees	716	—	—	—	716
	$ 20,828	$ 42,776	$ 26,949	$ —	$ 90,553

Our operating and finance leases are principally for facilities and equipment. We currently lease office space in the U.S. and foreign countries to support our operations as a global organization. The operating leases in the above table include our several locations with the amounts committed by each location: (1) the rental of our global headquarters in the Conventus Center for Collaborative Medicine in Buffalo, NY; (2) the rental of our research and development facility in the IC Development Centre in Hong Kong; (3) the rental of the Commercial Platform headquarters in Chicago, IL; (4) the rental of our clinical research headquarters in Cranford, NJ; (5) the rental of our contract research organization throughout Latin America; (6) the rental of our Global Supply Chain distribution office in Houston, TX; (7) the rental of our Global Supply Chain API manufacturing facility in Chongqing, China; and (8) the rental of other facilities and equipment located mainly in Buffalo, NY. These locations represent $4.0 million, less than $0.1 million, $1.5 million, $0.2 million, less than $0.1 million, $0.1 million, $0.1 million, and $1.5 million, respectively, of the total amounts committed. In addition to the minimum rental commitments on our operating leases we may also be required to pay amounts for taxes, insurance, maintenance and other operating expenses.

The long-term debt includes our senior secured loan and the credit agreement with CQ. The finance lease obligations represent three leases of equipment in our 503B manufacturing facility outside of Buffalo, NY. The license fees in the above table represent the amount committed and accrued under in-license agreements for specialty drug products by the Commercial platform.

The Company is obligated to remit funds collected from certain Klisyri royalties and milestones under the License Agreement with Almirall to the Purchasers under the RIPA. The Company will retain the right to receive 50% of certain of the milestone interests under the License Agreement, equal to $155.0 million in the aggregate if those milestones are achieved, and 50% of the royalties paid under the License Agreement for sales of Klisyri once net sales of Klisyri exceed a certain dollar amount. The estimates of these cash flows are excluded from the above table.

Critical Accounting Policies and Significant Judgments and Estimates

Our discussion and analysis of our financial condition and results of operations is based on our consolidated financial statements, which have been prepared in accordance with U.S. GAAP. The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities and the disclosure of contingent assets and liabilities at the date of our financial statements and the reported amounts of revenue and expenses during the periods. We evaluate our estimates and judgments on an ongoing basis, including but not limited to, estimating the useful lives of long-lived assets, assessing the impairment of long-lived assets, stock-based compensation expenses, and the realizability of deferred income tax assets. We base our estimates on historical experience, known trends and events, contractual milestones and other various factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Changes in the accounting estimates are likely to occur from period to period. Actual results could be significantly different from these estimates. We believe that the accounting policies discussed below are critical to understanding our historical and future performance, as these policies relate to the more significant areas involving management's judgment and estimates.

Revenue Recognition

The Company records revenue in accordance with ASC, Topic 606 "*Revenue from Contracts with Customers*." Under Topic 606, the Company recognizes revenue when its customer obtains control of promised goods or services, in an amount that reflects the consideration which it expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that the Company determines are within the scope of Topic 606, the entity performs the following five steps: (i) identifies the contract(s) with a customer; (ii) identifies the performance obligations in the contract; (iii) determines the transaction price; (iv) allocates the transaction price to the performance obligations in the contract; and (v) recognizes revenue when (or as) the entity satisfies a performance obligation. The Company only applies the five-step model to contracts when it is probable that the entity will collect the consideration it is entitled to in exchange for the goods or services it transfers to the customer. Below is a description of principal activities – separated by reportable segments – from which the Company generates its revenue.

1.Oncology Innovation Platform

The Company out-licenses certain of its IP to other pharmaceutical companies in specific territories that allow the customer to use, develop, commercialize, or otherwise exploit the licensed IP. In accordance with Topic 606, the Company analyzes the contracts to identify its performance obligations within the contract. Most of the Company's out-license arrangements contain multiple performance obligations and variable pricing. After the performance obligations are identified, the Company determines the transaction price, which generally includes upfront fees, milestone payments related to the achievement of developmental, regulatory, or commercial goals, and royalty payments on net sales of licensed products. The Company considers whether the transaction price is fixed or variable, and whether such consideration is subject to return. Variable consideration is only included in the transaction price to the extent that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration is subsequently resolved. If any portion of the transaction price is constrained, it is excluded from the transaction price until the constraint no longer exists. The Company then allocates the transaction price to the performance obligation to which the consideration is related. Where a portion of the transaction price is received and allocated to continuing performance obligations under the terms of the arrangement, it is recorded as deferred revenue and recognized as revenue when (or as) the underlying performance obligation is satisfied.

The Company's contracts may contain one or multiple promises, including the license of IP and development services. The licensed IP is capable of being distinct from the other performance obligations identified in the contract and is distinct within the context of the contract, as upon transfer of the IP, the customer is able to use and benefit from it, and the customer could obtain the development services from other parties. The Company also considers the economic and regulatory characteristics of the licensed IP and other promises in the contract to determine if it is a distinct performance obligation. The Company considers if the IP is modified or enhanced by other performance obligations through the life of the agreement and whether the customer is contractually or practically required to use updated IP. The IP licensed by the Company has been determined to be functional IP. The IP is not modified during the license period and therefore, the Company recognizes revenues from any portion of the transaction price allocated to the licensed IP when the license is transferred to the customer and they can benefit from the right to use the IP. For the six month period ended June 30, 2021, the Company recognized license revenue of $21.0 million, of which $20.0 million was recognized upon the achievement of the first commercial milestone pursuant to the 2017 Almirall out-license arrangement upon the launch of Klisyri in the U.S., and $0.5 million was recognized for an upfront fee upon transferring IP to the customer upon execution of the second amendment to the 2011 PharmaEssentia license agreement. No such revenue was recorded for the six months ended June 30, 2022. Under the collaboration agreement between Axis Therapeutics and PharmaEssentia, the Company received $2.0 million of upfront fees allocated to its performance obligation to deliver functional IP to the Customer. As of June 30, 2022, the Company had not satisfied this performance obligation by delivering the license with the data necessary for the customer to benefit from the right to use the IP and, therefore, the amount was recorded as deferred revenue.

Other performance obligations included in most of the Company's out-licensing agreements include performing development services to reach clinical and regulatory milestone events. The Company satisfies these performance obligations at a point-in-time, because the customer does not simultaneously receive and consume the benefits as the development occurs, the development does not create or enhance an asset controlled by the customer, and the development does not create an asset with no alternative use. The Company considers milestone payments to be variable consideration measured using the most likely amount method, as the entitlement to the consideration is contingent on the occurrence or nonoccurrence of future events. The Company allocates each variable milestone payment to the associated milestone performance obligation, as the variable payment relates directly to the Company's efforts to satisfy the performance obligation and such allocation depicts the amount of consideration to which the Company expects to be entitled for satisfying the corresponding performance obligation. The Company re-evaluates the probability of achievement of such performance obligations and any related constraint and adjusts its estimate of the transaction price as appropriate. To date, no amounts have been constrained in the initial or subsequent assessments of the transaction price. During the three and six months ended June 30, 2022, the Company recognized license revenue of $5.0 million related to a line extension milestone in connection with its license agreement with Almirall. The Company did not recognize revenue from other performance obligations included in the Company's out-licensing agreements during the three and six months ended June 30, 2021.

Certain out-license agreements include performance obligations to manufacture and provide drug product in the future for commercial sale when the licensed product is approved. For the commercial, sales-based royalties, the consideration is predominantly related to the licensed IP and is contingent on the customer's subsequent sales to another commercial customer. Consequently, the sales- or usage-based royalty exception would apply. Revenue will be recognized for the commercial, sales-based milestones as the underlying sales occur. The Company recorded $0.6 million and $1.2 million of royalty revenue related to sales of Tirbanibulin during the three and six months ended June 30, 2022, respectively. During the three and six months ended June 30, 2021, the Company recorded $0.2 million of royalty revenue related to sales of Tirbanibulin.

The Company exercises significant judgment when identifying distinct performance obligations within its out-license arrangements, determining the transaction price, which often includes both fixed and variable considerations, and allocating the transaction price to the proper performance obligation. The Company did not use any other significant judgments related to out-licensing revenue during the six months ended June 30, 2022 and 2021.

2.Global Supply Chain Platform

The Company's Global Supply Chain Platform generates revenue by providing small to mid-scale cGMP manufacturing of clinical and commercial products for pharmaceutical and biotech companies and selling pharmaceutical products under 503B regulations set forth by the U.S. FDA.

Revenue earned by the Global Supply Platform is recognized when the Company has satisfied its performance obligation, which is the shipment or the delivery of drug products. The underlying contracts for these sales are generally purchase orders and the Company recognizes revenue at a point-in-time. Any remaining performance obligations related to product sales are the result of customer deposits and are reflected in the deferred revenue contract liability balance.

3.Commercial Platform

The Company's Commercial Platform generates revenue by distributing specialty products through independent pharmaceutical wholesalers. The wholesalers then sell to an end-user, normally a hospital, alternative healthcare facility, or an independent pharmacy, at a lower price previously established by the end-user and the Company. Upon the sale by the wholesaler to the end-user, the wholesaler will chargeback the difference, if any, between the original list price and price at which the product was sold to the end-user. The Company also offers cash discounts, which approximate 2.3% of the gross sales price, as an incentive for prompt customer payment, and, consistent with industry practice, the Company's return policy permits customers to return products within a window of time before and after the expiration of product dating. Further, the Company offers contractual allowances, generally in the form of rebates or administrative fees, to certain wholesale customers, group purchasing organizations ("GPOs"), and end-user customers, consistent with pharmaceutical industry practices. Revenues are recorded net of provisions for variable consideration, including discounts, rebates, GPO allowances, price adjustments, returns, chargebacks, promotional programs and other sales allowances. Accruals for these provisions are presented in the consolidated financial statements as reductions in determining net sales and as a contra asset in accounts receivable, net (if settled via credit) and other current liabilities (if paid in cash). As of June 30, 2022, and December 31, 2021, the Company's total provision for chargebacks and other deductions included as a reduction of accounts receivable totaled $26.7 million and $22.9 million, respectively. The Company's total provision for chargebacks and other revenue deductions was $43.2 million, and $26.9 million for the three months ended June 30, 2022, and 2021, respectively and was $80.9 million and $52.5 million for the six months ended June 30, 2022 and 2021, respectively.

The Company exercises significant judgment in its estimates of the variable transaction price at the time of the sale and recognizes revenue when the performance obligation is satisfied. Factors that determine the final net transaction price include chargebacks, fees for service, cash discounts, rebates, returns, warranties, and other factors. The Company estimates all of these variables based on historical data obtained from previous sales finalized with the end-user customer on a product-by-product basis. At the time of sale, revenue is recorded net of each of these deductions. Through the normal course of business, the wholesaler will sell the product to the end-user, determining the actual chargeback, return products, and take advantage of cash discounts, charge fees for services, and claim warranties on products. The final transaction price per product is compared to the initial estimated net sale price and reviewed for accuracy. The final prices and other factors are immediately included in the Company's historical data from which it will estimate the transaction price for future sales. The underlying contracts for these sales are generally purchase orders including a single performance obligation, generally the shipment or delivery of products and the Company recognizes this revenue at a point-in-time.

Research and Development Expenses

Research and development expenses represent costs associated with developing our proprietary drug candidates, our collaboration agreements for such drugs, and our ongoing clinical studies.

Clinical trial costs are a significant component of our research and development expenses. We have a history of contracting with third parties that perform various clinical trial activities on our behalf in the ongoing development of our drug candidates. Expenses related to clinical trials are accrued based on our estimates of the actual services performed by the third parties for the respective period. If the contracted amounts are revised or the scope of a contract is revised, we will modify the accruals accordingly on a prospective basis and will do so in the period in which the facts that give rise to the revision become reasonably certain.

Intangible Assets, net

Intangible assets arising from a business acquisition are recognized at fair value as of the acquisition date. The Company amortizes intangible assets using the straight-line method. When the straight-line method of amortization is utilized, the estimated useful life of the intangible asset is shortened to assure the recognition of amortization expense corresponds with the expected cash flows. Other purchased intangibles, including certain licenses, are capitalized at cost and amortized on a straight-line basis over the license life, when a future economic benefit is probable and measurable. If a future economic benefit is not probable or measurable, the license costs are expensed as incurred within research and development expenses. In-process research and development ("IPR&D") intangible assets are not amortized, but rather are reviewed for impairment on an annual basis or more frequently if indicators of impairment are present, until the project is completed, abandoned, or transferred to a third party.

Impairment of Long-Lived Assets

The Company reviews the recoverability of its long-lived assets when events or changes in circumstances occur that indicate that the carrying value of the asset may not be recoverable. The assessment of possible impairment is based on the ability to recover the carrying value of the assets from the expected future cash flows (undiscounted and without interest expense) of the related operations. If these cash flows are less than the carrying value of such assets, an impairment loss for the difference between the estimated fair value and carrying value is recorded.

Business Acquisitions

The Company accounts for acquired businesses using the acquisition method of accounting, which requires that assets acquired and liabilities assumed be recognized at their estimated fair values as of the acquisition date. Identifiable amortizing intangible assets are recorded on the consolidated balance sheet at fair value and amortized over their estimated useful lives. Acquisition-related costs are expensed as incurred. Any excess of the consideration transferred over the estimated fair values of the net assets acquired is recorded as goodwill.

Contingent Consideration

Contingent consideration arising from a business acquisition is included as part of the purchase price and is recorded at fair value as of the acquisition date. Subsequent to the acquisition date, the Company remeasures contingent consideration arrangements at fair value at each reporting period until the contingency is resolved. The changes in fair value are recognized within selling, general, and administrative expenses in the Company’s consolidated statement of operations and comprehensive loss. Changes in fair values reflect new information about the likelihood of the payment of the contingent consideration and the passage of time.

Liability related to the sale of future royalties

The Company treats the liability related to the sale of future royalties, as discussed further in Part I, Item 1. Note 11 - *Debt and Lease Obligations*, as a debt instrument, amortized under the effective interest rate method over the estimated life of the revenue streams. The Company recognizes interest expense thereon using the effective rate, which is based on its current estimates of future revenues over the life of the arrangement. The Company periodically assesses its expected revenues using internal projections, imputes interest on the carrying value of the deferred royalty obligation, and records interest expense using the imputed effective interest rate. To the extent its estimates of future revenues are greater or less than previous estimates or the estimated timing of such payments is materially different than previous estimates, the Company will account for any such changes by adjusting the effective interest rate on a prospective basis, with a corresponding impact to the reclassification of the deferred royalty obligation. The assumptions used in determining the expected repayment term of the royalty financing liability and amortization period of the issuance costs require that the Company makes significant estimates that could impact the short-term and long-term classification of the royalty financing liability, interest recorded on such liability, as well as the period over which such costs will be amortized.

Recent Accounting Pronouncements

In the normal course of business, we evaluate all new accounting pronouncements issued by the FASB, the SEC, or other authoritative accounting bodies to determine the potential impact they may have on our condensed consolidated financial statements.

Item 3. Quantitative and Qualitative Disclosures about Market Risk.

Foreign Currency Exchange Risk

A significant portion of our business is located outside the United States and, as a result, we generate revenue and incur expenses denominated in currencies other than the U.S. dollar, a majority of which is denominated in Chinese Renminbi ("RMB"). In the six months ended June 30, 2022 and 2021, respectively, approximately 1% and 0% of our sales, respectively, excluding intercompany sales and including sales from discontinued operations, were denominated in foreign currencies. As a result, our revenue can be significantly impacted by fluctuations in foreign currency exchange rates. As of June 30, 2022, we had cash and cash equivalents of approximately $1.5 million at our Chinese subsidiaries. We expect that foreign currencies will represent a lower percentage of our sales in the future due to the anticipated growth of our U.S. business. Our international selling, marketing, and administrative costs related to these sales are largely denominated in the same foreign currencies, which somewhat mitigates our foreign currency exchange risk rate exposure.

Currency Convertibility Risk

A portion of our revenues and expenses, and a portion of our assets and liabilities are denominated in RMB. On January 1, 1994, the Chinese government abolished the dual rate system and introduced a single rate of exchange as quoted daily by the People's Bank of China, ("PBOC"). However, the unification of exchange rates does not imply that the RMB may be readily convertible into U.S. dollars or other foreign currencies. All foreign exchange transactions continue to take place either through the PBOC or other banks authorized to buy and sell foreign currencies at the exchange rates quoted by the PBOC. Approvals of foreign currency payments by the PBOC or other institutions require submitting a payment application form together with suppliers' invoices, shipping documents and signed contracts.

Additionally, the value of the RMB is subject to changes in central government policies and international economic and political developments affecting supply and demand in the PRC foreign exchange trading system market.

Interest Rate Sensitivity

We had cash and cash equivalents of $22.1 million, restricted cash of $13.8 million, and short-term investments of $1.2 million as of June 30, 2022, which consisted primarily of certificates of deposit with financial institutions. Our primary exposure to market risk is interest income sensitivity, which is affected by changes in the general level of U.S. interest rates. However, because of the short-term nature of the instruments in our portfolio, a sudden change in U.S. market interest rates is not expected to have a material impact on our condensed consolidated financial condition or results of operations. We do not believe that our cash or cash equivalents have significant risk of default or illiquidity.

Credit Risk

We had cash and cash equivalents of $22.1 million and marketable securities of $1.2 million at June 30, 2022. Substantially all of our bank deposits are in major financial institutions, which we believe are of high credit quality. The primary objectives of our investment activities are to preserve principal, provide liquidity and maximize income without significantly increasing risk.

We make periodic assessments of the recoverability of trade and other receivables and amounts due from related parties. Our historical experience in collection of receivables falls within the recorded allowances, and we believe that we have made adequate provision for uncollectible receivables.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Board Chairman (Principal Executive Officer) and our Chief Financial Officer (Principal Financial and Accounting Officer), evaluated the effectiveness of our disclosure controls and procedures as of June 30, 2022. The term "disclosure controls and procedures," as defined in Rule 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by the company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well-designed and operated, can provide only reasonable assurance of achieving their objectives, and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on the evaluation of our disclosure controls and procedures as of June 30, 2022, our Chief Executive Officer and our Chief Financial Officer concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

Remediation

As disclosed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021, our Chief Executive Officer and Chief Financial Officer identified a material weakness in internal control related to our control over the review of the annual goodwill impairment analysis. The Company's goodwill was fully impaired in fiscal 2021 and therefore, no longer requires an impairment analysis under ASC 350. Given the Company's disclosure controls and procedures over the accounting for and measurement of goodwill impairment associated with the material weakness are no longer relevant to the Company's determination of the effectiveness of internal controls over financial reporting, no remediation was necessary.

Changes in Internal Control over Financial Reporting

Except as noted above, there were no changes in the Company's internal controls over financial reporting during the fiscal quarter ended June 30, 2022, that have materially affected, or are reasonably likely to materially affect, the Company's internal controls over financial reporting.

PART II—OTHER INFORMATION

Item 1. Legal Proceedings.

From time to time we may become involved in legal proceedings or be subject to claims arising in the ordinary course of our business. Regardless of the outcome, litigation can have an adverse impact on us because of prosecution, defense and settlement costs, unfavorable awards, diversion of management resources and other factors.

Securities Litigation

Following our receipt of the CRL in February 2021 and the subsequent decline of the market price of the Company's common stock, two purported securities class action lawsuits were filed in the U.S. District Court for the Western District of New York on March 3, 2021 and March 22, 2021, respectively, against the Company and certain members of its management team seeking to recover damages for alleged violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934.

The complaints generally allege that between August 7, 2019 and February 26, 2021 (the purported class period), the Company and the individual defendants made materially false and misleading statements regarding the Company's business in connection with the Company's development of Oral Paclitaxel for the treatment of metastatic breast cancer and the likelihood of FDA approval, and that the plaintiffs suffered losses when the Company's stock price dropped after its announcement on February 26, 2021 regarding receipt of the CRL. The complaints seek class certification, damages, fees, costs, and expenses. On August 5, 2021, the Court consolidated the two actions and appointed a lead plaintiff and lead counsel. Pursuant to a stipulated scheduling order, the lead plaintiff filed an amended complaint on November 19, 2021. Defendants filed their motion to dismiss on January 25, 2022. Plaintiffs filed their opposition to that motion on March 28, 2022 and the defendants filed their reply brief on May 20, 2022. The motion to dismiss is now fully briefed and awaits the Court's decision. The Company and the individual defendants believe that the claims in the consolidated lawsuits are without merit, and the Company has not recorded a liability related to these shareholder class actions as the risk of loss is remote. The Company and the individual defendants intend to vigorously defend against these claims but there can be no assurances as to the outcome.

Shareholder Derivative Lawsuit

On June 3, 2021, a shareholder derivative lawsuit was filed in the United States District Court for the District of Delaware by Timothy J. Wonnell, allegedly on behalf of the Company, that piggy-backs on the securities class actions referenced above. The complaint names Johnson Lau, Rudolf Kwan, Timothy Cook, and members of the Board as defendants, and generally alleges that they caused or failed to prevent the securities law violations asserted in the securities class actions. On September 13, 2021, the Court (i) granted the defendants' motion to stay the derivative action until after resolution of the motion to dismiss the consolidated securities class actions, and (ii) administratively closed the derivative litigation, directing the parties to promptly notify the Court when the related securities class action has been resolved so the derivative action can be reopened. The Company and the individual defendants believe the claims in the shareholder derivative action are without merit, and the Company has not recorded a liability related to this lawsuit as the risk of loss is remote. The Company and the individual defendants intend to vigorously defend against these claims should the case be reopened, but there can be no assurances as to the outcome.

From time to time, the Company may become subject to other legal proceedings, claims and litigation arising in the ordinary course of business. In addition, the Company may receive letters alleging infringement of patent or other intellectual property rights. The Company is not currently a party to any other material legal proceedings, nor is it aware of any pending or threatened litigation that, in the Company's opinion, would have a material adverse effect on the business, operating results, cash flows or financial condition should such litigation be resolved unfavorably.

Item 1A. Risk Factors.

For a discussion of the Company's potential risks or uncertainties, please see: (i) "Part I—Item 1A—Risk Factors" and "Part II—Item 7—Management's Discussion and Analysis of Financial Condition and Results of Operations" in the Company's Annual Report on Form 10-K for the year ended December 31, 2021 filed with the SEC and the additional risks described below.

We are currently not in compliance with the continued listing standards of the Nasdaq Global Market, and if we are unable to regain compliance, our common stock will be delisted from the exchange.

Our common stock is currently listed for trading on the Nasdaq Global Market under the symbol "ATNX". The continued listing of our common stock on Nasdaq is subject to our compliance with a number of listing standards. On March 18, 2022, we received a letter from the Listing Qualifications Staff of The Nasdaq Stock Market LLC indicating that we no longer met the requirements of Nasdaq Listing Rule 5450(a)(1), which requires listed companies to maintain a minimum bid price of at least $1.00 per share. In January 2022, our shares began trading below $1.00, and the trading price of our shares has not yet risen above that price for a minimum of 10 consecutive business days, as required by the listing standards to regain compliance. There can be no assurance that we will be able to regain compliance with these requirements or that our common stock will continue to be listed on Nasdaq.

If we are unable to regain compliance by September 14, 2022, we may be eligible for consideration of a second 180-day compliance period. There can be no assurance that, if we were to effect a reverse stock split after obtaining the required approvals and intending to regain compliance, the reverse stock split would cause our common stock to meet the bid price requirement. If we fail to regain compliance with the Nasdaq continued listing standards, Nasdaq will provide notice that our common stock will be subject to delisting.

Such a delisting or even notification of failure to comply with such requirements would likely have a negative effect on the price of our common stock and would impair your ability to sell or purchase our common stock when you wish to do so. In addition, the delisting of our common stock could lead to a number of other negative implications such as a loss of media and analyst coverage, a determination that our common stock is a "penny stock" which will require brokers trading in our common stock to adhere to more stringent rules and likely result in a reduced level of trading activity in the secondary trading market for our securities, and materially adversely impact our ability to raise capital on acceptable terms or at all. Delisting from Nasdaq could also have other negative results, including the potential loss of confidence by our current or prospective third-party providers and collaboration partners, the loss of institutional investor interest, and fewer licensing and partnering opportunities. In the event of a delisting, we would take actions to restore our compliance with Nasdaq's listing requirements, but we can provide no assurance that any such action would allow our common stock to become listed again, stabilize the market price or improve the liquidity of our common stock, prevent our common stock from dropping below the Nasdaq minimum bid price requirement or prevent future non-compliance with Nasdaq's listing requirements.

If our common stock were no longer listed on Nasdaq, investors might only be able to trade on one of the over-the-counter markets. There is no assurance, however, that prices for our common stock would be quoted on one of these other trading systems or that an active trading market for our common stock would exist, which would materially and adversely impact the market value of our common stock and your ability to sell our common stock.

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

Under Salary Deduction and Stock Purchase Agreements with certain of our executive officers and directors, we issued an aggregate of 244,968 shares to those executive officers and directors during the quarter ended June 30, 2022. We issued these shares in reliance upon Section 4(a)(2) of the Securities Act of 1933, as amended, and Nasdaq Listing Rule 5635(c)(2). These shares were issued in exchange for after-tax payroll deductions of approximately $0.1 million from the executive officers and directors, using the Nasdaq Official Closing Price on the applicable payroll date. Any proceeds from the issuance of these shares were used for our working capital and general corporate purposes.

Item 3. Defaults Upon Senior Securities.

Not applicable.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

None.

Item 6. Exhibits.

The exhibits filed or furnished as part of this Quarterly Report on Form 10-Q are set forth below.

Exhibit Number	Exhibit Title	Incorporated by Reference (Unless Otherwise Indicated)			
		Form	File	Exhibit	Filing Date
10.1**#	Revenue Interest Purchase Agreement, by and among ATNX SPV, LLC, Athenex, Inc., and the Purchaser parties thereto, dated as of June 21, 2022.	—	—	—	Filed herewith
10.2#	Fourth Amendment to Credit and Guaranty Agreement, Second Amendment to the Warrants and Partial Release of Collateral, by and among Athenex, Inc., the Lenders and Warrant Holders party thereto, and Oaktree Fund Administration, LLC, as administrative agent for the Lenders, dated as of June 21, 2022.	—	—	—	Filed herewith
10.3	Fifth Amendment to Credit and Guaranty Agreement, by and among Athenex, Inc., the Lenders party thereto, and Oaktree Fund Administration, LLC, as administrative agent for the Lenders, dated as of June 29, 2022.	—	—	—	Filed herewith
10.4#	Equity Purchase Agreement, by and among TiHe Capital (Beijing) Co. Ltd., Athenex API Limited, Athenex Pharmaceuticals (China) Limited, Polymed Therapeutics, Inc., and Athenex, Inc., dated as of July 7, 2022.	—	—	—	Filed herewith
31.1	Certification of the Chief Executive Officer and Board Chairman (Principal Executive Officer) pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	—	—	—	Filed herewith
31.2	Certification of the Chief Financial Officer (Principal Financial and Accounting Officer) pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	—	—	—	Filed herewith
32.1	Certification of the Chief Executive Officer and Board Chairman (Principal Executive Officer) and the Chief Financial Officer (Principal Financial and Accounting Officer) pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.	—	—	—	Filed herewith
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.	—	—	—	Filed herewith
101.SCH	Inline XBRL Taxonomy Extension Schema Document.	—	—	—	Filed herewith
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.	—	—	—	Filed herewith
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.	—	—	—	Filed herewith
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.	—	—	—	Filed herewith
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.	—	—	—	Filed herewith
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)	—	—	—	Filed herewith

** Certain portions of this exhibit have been omitted (indicated by [*]) pursuant to Item 601(b)(10)(iv) of Regulation S-K because the omitted information is (i) not material and (ii) the type of information that the Company treats as private or

confidential.

Schedules and similar attachments have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Company will furnish a copy of any omitted schedule or similar attachment to the Securities and Exchange Commission upon request.

SIGNATURES

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

Athenex, Inc.

Date: July 29, 2022

By: /s/ Johnson Y.N. Lau
Chief Executive Officer and Board Chairman
(Principal Executive Officer)

Date: July 29, 2022

By: /s/ Joe Annoni
Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 10.1

Certain information in this exhibit marked [*] has been excluded from the exhibit because it is both (i) not material and (ii) and is the type that the registrant treats as private or confidential.

REVENUE INTEREST PURCHASE AGREEMENT

by and among

ATNX SPV, LLC,

ATHENEX, INC.,

OAKTREE-TCDRS STRATEGIC CREDIT, LLC,

OAKTREE-MINN STRATEGIC CREDIT, LLC,

OAKTREE-FORREST MULTI-STRATEGY, LLC,

OAKTREE-TBMR STRATEGIC CREDIT FUND C, LLC,

OAKTREE-TBMR STRATEGIC CREDIT FUND F, LLC,

OAKTREE-TBMR STRATEGIC CREDIT FUND G, LLC,

OAKTREE-TSE 16 STRATEGIC CREDIT, LLC,

INPRS STRATEGIC CREDIT HOLDINGS, LLC,

OAKTREE GILEAD INVESTMENT FUND AIF (DELAWARE), L.P.,

OAKTREE STRATEGIC INCOME II, INC.,

OAKTREE SPECIALTY LENDING CORPORATION,

OAKTREE HUNTINGTON-GCF INVESTMENT FUND (DIRECT LENDING AIF), L.P.,

SAGARD HEALTHCARE ROYALTY PARTNERS, LP, and

SAGARD HEALTHCARE PARTNERS CO-INVEST DAC

Dated as of June 21, 2022

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REVENUE INTEREST PURCHASE AGREEMENT

REVENUE INTEREST PURCHASE AGREEMENT (as amended, supplemented or otherwise modified from time to time, this "Agreement") is made and entered into as of June 21, 2022 (referred to herein as the "Effective Date"), by and among ATNX SPV, LLC, a Delaware limited liability corporation ("Seller"), Athenex, Inc., a Delaware corporation ("Parent"), Oaktree-TCDRS Strategic Credit, LLC, a Delaware limited liability company ("Oaktree TCDRS"), Oaktree-Minn Strategic Credit, LLC, a Delaware limited liability company ("Oaktree Minn"), Oaktree-Forrest Multi-Strategy, LLC, a Delaware limited liability company ("Oaktree Forrest"), Oaktree-TBMR Strategic Credit Fund C, LLC, a Delaware limited liability company ("Oaktree TBMR C"), Oaktree-TBMR Strategic Credit Fund F, LLC, a Delaware limited liability company ("Oaktree TBMR F"), Oaktree-TBMR Strategic Credit Fund G, LLC, a Delaware limited liability company ("Oaktree TBMR G"), Oaktree-TSE 16 Strategic Credit, LLC, a Delaware limited liability company ("Oaktree TSE"), INPRS Strategic Credit Holdings, LLC, a Delaware limited liability company ("Oaktree INPRS"), Oaktree Gilead Investment Fund AIF (Delaware), L.P., a Delaware limited liability partnership ("Oaktree Gilead"), Oaktree Strategic Income II, Inc., a Delaware corporation ("Oaktree Strategic Income"), Oaktree Specialty Lending Corporation, a Delaware corporation ("Oaktree Specialty Lending"), and Oaktree Huntington-GCF Investment Fund (Direct Lending AIF), L.P., a Delaware limited liability partnership ("Oaktree GCF", and collectively with Oaktree TCDRS, Oaktree Minn, Oaktree Forrest, Oaktree TBMR C, Oaktree TBMR F, Oaktree TBMR G, Oaktree TSE, Oaktree INPRS, Oaktree Gilead, Oaktree Strategic Income, and Oaktree Specialty Lending, "Oaktree"), Sagard Healthcare Royalty Partners, LP, a Cayman Islands exempt limited partnership ("Sagard Cayman"), and Sagard Healthcare Partners Co-Invest DAC, a company incorporated in Ireland, (registered no. 714903), the registered office of which is at 32 Molesworth Street, Dublin 2 Ireland ("Sagard Ireland", and together with Sagard Cayman, "Sagard", and together with Oaktree, and Sagard's and Oaktree's respective successors and permitted assigns, collectively, the "Purchasers," and each, a "Purchaser"). Seller, Parent, Oaktree, Sagard Cayman and Sagard Ireland are each referred to herein individually as a "Party" or "party" and collectively as the "Parties" or "parties".

WHEREAS, Seller wishes to sell, assign, convey and transfer to Purchasers, and Purchasers wish to purchase from Seller, the Purchased Interests, upon and subject to the terms and conditions hereinafter set forth; and

NOW, THEREFORE, in consideration of the mutual covenants, agreements representations and warranties set forth herein, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions.

The following terms, as used herein, shall have the following meanings:

"Additional Indication" shall mean "Additional Indication" as such term is defined in the License Agreement.

"Administrative Agent" shall mean "Administrative Agent" as such term is defined in the Oaktree Credit Agreement.

"Affiliate" shall mean with respect to any Person: (a) any corporation or business entity of which more than fifty percent (50%) of the securities or other ownership interests representing the equity, the voting stock or general partnership interest are owned, controlled or held, directly or indirectly, by such Person; (b) any corporation or business entity which, directly or indirectly, owns, controls or holds more than fifty percent (50%) (or the maximum ownership interest permitted by law) of the securities or other ownership interests representing the equity, voting stock or general partnership interest of such Person; (c) any corporation or business entity of which, directly or indirectly, an entity described in the immediately preceding subsection (b) controls or holds more than fifty percent (50%) (or the maximum ownership interest permitted by law) of the securities or other ownership interests representing the equity, voting stock or general partnership interest of such corporation or entity; or (d) any corporation or business entity of which such Person has the right to acquire, directly or indirectly, more than fifty percent (50%) of the securities or other ownership interests representing the equity, voting stock or general partnership interest thereof.

"Agreement" shall have the meaning set forth in the preamble.

"Almirall" shall mean Almirall, S.A., a corporation organized and existing under the laws of Spain, and any successor and permitted assignee of any of its rights or obligations under the License Agreement or the Ancillary Agreements.

"Almirall Assignment Agreement" shall mean the Assignment Agreement (re Almirall Agreements), dated as of the Closing Date, by and between Parent and Seller.

"Almirall Instruction" shall mean the letter to be sent by Seller and Parent to Almirall and Almirall LLC pursuant to Section 6.02(k) in the form attached hereto as **Exhibit G**.

"Almirall Intellectual Property" shall mean "Almirall Intellectual Property" as such term is defined in the License Agreement.

"Almirall LLC" shall mean Almirall LLC (formerly named Aqua Pharmaceuticals, LLC), a limited liability company organized and existing under the laws of the Commonwealth of Pennsylvania, and any successor and permitted assignee of any of its rights or obligations under the License Agreement or the Ancillary Agreements.

"Almirall Proprietary Information" shall mean any Proprietary Information provided by Almirall or Almirall LLC to Parent or Seller in connection with the License Agreement or any Ancillary Agreement.

"Ancillary Agreements" shall mean "Ancillary Agreements" as such term is defined in the License Agreement.

"Applicable Law" shall mean, with respect to any Person, all Requirements of Laws applicable to such Person or any of its properties or assets.

"Allocation Percentage" shall mean with respect to each Purchaser, the percentage set forth opposite such Purchaser's name in the table below.

Purchaser	Allocation Percentage
Oaktree TCDRS	[*]%
Oaktree Minn	[*]%
Oaktree Forrest	[*]%
Oaktree TBMR C	[*]%
Oaktree TBMR F	[*]%
Oaktree TBMR G	[*]%
Oaktree TSE	[*]%
Oaktree INPRS	[*]%
Oaktree Gilead	[*]%
Oaktree Strategic Income	[*]%
Oaktree Specialty Lending	[*]%
Oaktree GCF	[*]%
Sagard Cayman	[*]%
Sagard Ireland	[*]%

"Applicable Percentage" shall mean (i) for each Purchaser, as of the applicable date of determination, the percentage that such Purchaser's Purchased Interest in respect of the Royalties and Milestone Interests paid, owed, accrued or otherwise payable under the License Agreement from the Closing Date through the date of determination bears to the total amounts paid, owed, accrued or otherwise payable by Almirall and Almirall LLC under the License Agreement on account of the Royalties, Milestone Interests, and Excluded Assets during such period, and (ii) for Seller, as of the applicable date of determination, the percentage that Seller's aggregate interest in the Excluded Assets paid, owed, accrued or otherwise payable to Seller from the Closing Date through the date of determination bears to the total amounts paid, owed, accrued or otherwise payable by Almirall and Almirall LLC under the License Agreement on account of the Royalties, Milestone Interests, and Excluded Assets during such period; provided that, notwithstanding the foregoing, for purposes of determining the Applicable Percentage pursuant to (i) and (ii) above, no effect shall be given to any amounts paid, owed, accrued or otherwise

payable by Almirall and Almirall LLC pursuant to either Section 4.2(d) or Section 6.3(f)(iii) of the License Agreement, and all such amounts shall be excluded from the calculation of Applicable Percentage as set forth in (i) and (ii) above.

"Applicable Withholding Exemption Certificate" shall mean, as to a Purchaser, a valid, true and properly executed appropriate IRS Form W-8 or Form W-9, as applicable (or any applicable successor form), together with any required attachments thereto, certifying that payments in respect of the Oaktree TCDRS Purchased Interest, the Oaktree Minn Purchased Interest, the Oaktree Forrest Purchased Interest, the Oaktree TBMR C Purchased Interest, the Oaktree TBMR F Purchased Interest, the Oaktree TBMR G Purchased Interest, the Oaktree TSE Purchased Interest, the Oaktree INPRS Purchased Interest, the Oaktree Gilead Purchased Interest, the Oaktree Strategic Income Purchased Interest, the Oaktree Specialty Lending Purchased Interest, the Oaktree GCF Purchased Interest, Sagard Cayman Purchased Interest, or Sagard Ireland Purchased Interest, as applicable, to such Purchaser are exempt from United States federal withholding tax.

"Arm's Length Transaction" shall mean, with respect to any transaction, the terms of such transaction shall not be less favorable to Parent or any of its Subsidiaries than commercially reasonable terms that would be obtained in a transaction with a Person that is an unrelated third party.

"Assigning Affiliates" shall have the meaning ascribed to it in the Know-How Assignment Agreement.

"Athenex's Chinese API Operations" shall mean, collectively:

(i) Excel Bloom Limited, a company formed under the laws of the British Virgin Islands and the following of its subsidiaries: (A) Athenex API Limited, a company formed under the laws of Hong Kong, (B) Polymed Therapeutics, Inc., a Texas corporation, (C) Chongqing Taihao Pharmaceutical Co, Ltd., a company organized under the laws of the People's Republic of China and (D) Chongqing Sintaho Pharmaceutical Co., Ltd., a company organized under the laws of the People's Republic of China; and

(ii) Athenex Manufacturing China Limited, a company formed under the laws of the British Virgin Islands and the following of its subsidiaries: (A) Athenex Pharmaceuticals (China) Limited, a company formed under the laws of Hong Kong and (B) Athenex Pharmaceuticals (Chongqing) Limited, a company organized under the laws of the People's Republic of China.

"Athenex Intellectual Property" shall mean "Athenex Intellectual Property" as such term is defined in the License Agreement.

"Athenex Patent Rights" shall mean "Athenex Patent Rights" as such term is defined in the License Agreement.

"Back-Up Trigger" shall mean "Back-Up Trigger" as such term is defined in the Supply Agreement.

"Bankruptcy Event" shall mean the occurrence of any of the following:

(i) Seller or Parent, as the case may be, shall commence any case, proceeding or other action (a) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, relief of debtors or the like, seeking to have an order for relief entered with respect to Seller or Parent, as the case may be, or seeking to adjudicate it bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its respective debts, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any portion of its assets, or Seller or Parent, as the case may be, shall make a general assignment for the benefit of its respective creditors; or

(ii) there shall be commenced against Seller or Parent, as the case may be, any case, proceeding or other action of a nature referred to in clause (i) above which remains undismissed, or undischarged for a period of forty-five (45) calendar days; or

(iii) there shall be commenced against Seller or Parent, as the case may be, any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against (a) all or any substantial portion of its assets and/or (b) any royalties, milestones, or other amounts payable to Seller or Parent, as the case may be, under the License Agreement or the Ancillary Agreements, which results in the entry of an order for any such relief which shall not have been vacated, discharged, stayed, satisfied or bonded pending appeal within forty-five (45) calendar days from the entry thereof; or

(iv) Seller or Parent, as the case may be, shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above.

"Bills of Sale" shall mean the Bills of Sale, dated as of the Closing Date, executed by Seller and Purchasers, substantially in the form of **Exhibit A** hereto.

"Board" shall mean "Board" as such term is defined in the Operating Agreement.

"Board Services Agreement" shall mean a Board Services Agreement entered into by a Purchaser Director in substantially the form attached as Exhibit B to the Operating Agreement.

"Business Day" shall mean any day other than a Saturday, a Sunday, any day which is a legal holiday under the laws of the State of New York, or any day on which banking institutions located in the State of New York are authorized or required by law or other governmental action to close.

"Calendar Quarter" shall mean "Calendar Quarter" as such term is defined in the License Agreement.

"Calendar Year" shall mean "Calendar Year" as such term is defined in the License Agreement.

"Capital Lease Obligations" shall mean as to any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real and/or personal property, the amount of the liability in respect thereof that would at that time be required to be capitalized on a balance sheet in accordance with generally accepted accounting principles in the United States as in effect on December 31, 2021.

"Change of Control" shall mean, with respect to Parent (or any parent entity of Parent), any (a) transaction of merger, consolidation or amalgamation with, or (b) sale of all or substantially all of the assets of Parent (or such parent entity) (including all Class A Membership Units held by Parent) to, any other Person if (i) in the case of a transaction described in clause (a), Parent (or such parent entity) is the continuing or surviving entity or (ii) in the case of a transaction described in clause (a) or clause (b), Parent (or such parent entity) is not the continuing or surviving entity but the continuing or surviving entity (including the purchaser of all or substantially all of the assets of Parent (or such parent entity) in the case of a transaction described in clause (b)) shall have assumed all of the obligations of Parent under the Parent/Seller Asset Purchase Agreement, the License Agreement, the Ancillary Agreements, this Agreement and the other Transaction Documents to which Parent is a party immediately prior to such transaction; providing that in each case (a) and (b), such Person is a Qualified Assignee (which, for the avoidance of doubt, shall include an entity whose parent entity is a Qualified Assignee) and such transaction (and such assignments and assumptions) are completed in accordance with Section 10.2 of the License Agreement (after obtaining any necessary consent of Almirall and/or Almirall LLC required under Section 10.2 of the License Agreement) and do not otherwise cause a breach or default under the License Agreement.

"Class A Membership Units" shall have the meaning set forth in the Operating Agreement.

"Closing" shall have the meaning set forth in Section 6.01.

"Closing Date" shall mean the Business Day that is ten (10) Business Days after the Effective Date (or such other Business Day agreed to by Parent and Purchasers) provided that on or prior to such date (x) all of the provisions of Section 6.02 are fulfilled or waived as set forth in Section 6.02 and Purchasers have received the payments required to be made to them pursuant to and in accordance with Section 6.03(c), and (y) Seller receives payment of the Purchase Price from Purchasers in accordance with Section 6.03(a); provided further that, the Closing Date may be moved to such earlier date as set forth in a written notice from the Designated Purchasers to Seller provided at least two days prior to such proposed Closing Date.

"Collateral" shall mean, collectively, the property included in the definition of "Collateral" in the Parent and Seller Security Agreement and the property included in the definition of "Pledged Collateral" in the Pledge Agreement.

"Commercialization" shall mean "Commercialization" as such term is defined in the License Agreement.

"Commercially Reasonable Efforts" shall mean "Commercially Reasonable Efforts" as such term is defined in the License Agreement.

"Compound" shall mean "Compound" as such term is defined in the License Agreement.

"Confidential Information" shall mean, subject to the last sentence of Section 5.02(a), all information (whether written or oral, or in electronic or other form) of a confidential nature (i) furnished by Parent to Purchasers on or after January 28, 2020 and on or prior to the Closing Date, or (ii) furnished by Parent or Seller to Purchasers and/or Purchaser Directors on or after the Closing Date and during the Term, in case of each of clause (i) and clause (ii) concerning, or relating in any way, directly or indirectly, to Parent, Seller, the Purchased Interests, Almirall Proprietary Information, the Licensed Products or the transactions contemplated by this Agreement or any of the Transaction Documents, including, without limitation:

(a) the License Agreement, Ancillary Agreements, Other Product Licenses, Other Product Agreements and any other agreements involving or relating in any way, directly or indirectly, to the Purchased Interests or the transactions contemplated by this Agreement or any of the Transaction Documents, including all terms and conditions thereof and the identities of the parties thereto;

(b) any reports (including, without limitation, royalty reports received under the License Agreement), data, materials or other documents and any proprietary information of any kind relating in any way, directly or indirectly, to (I) Parent, Seller or any Counterparty to any of the agreements referenced in clause (a), (II) the Purchased Interests, (III) the transactions contemplated by this Agreement, (IV) the Athenex Intellectual Property, Almirall Intellectual Property or Intellectual Property of any other Counterparty (including, without limitation, any information relating to any proceeding, suit, claim, action, arbitration, litigation, challenge or similar matter that is threatened, pending or settled in any court, governmental agency or body, panel, tribunal or similar body with respect to any such Athenex Intellectual Property, Almirall Intellectual Property or Intellectual Property of such other Counterparty), (V) the Licensed Products or (VI) other products giving rise to the Purchased Interests, and including reports, notices, certificates, instruments, data, materials or other documents and proprietary information of any kind delivered pursuant to or under any of the agreements referred to in clause (a); and

(c) any technical and business information, including techniques, data, inventions, practices, methods, knowledge, know-how, test and trial data and results (including from pre-clinical and/or human clinical testing/ trials), analytical and quality control data, costs, sales, manufacturing, patent data, any inventions, devices, improvements, formulations, discoveries, compositions, ingredients, patents, patent applications, processes, research, developments or any other Intellectual Property (including trade secrets) or information involving or relating in any way, directly or indirectly, to the Purchased Interests or the Licensed Products or other products giving rise to the Purchased Interests.

For the avoidance of doubt, subject to the last sentence of Section 5.02(a), this Agreement, the other Transaction Documents, the License Agreement, the Ancillary Agreements and any notices or reports delivered by Parent or Seller to Purchasers or any Purchaser Director pursuant to this Agreement, including, but not limited to, Quarterly Reports and any other information or documents or materials provided by Parent or Seller to Purchasers or any Purchaser Director pursuant to Article V of this Agreement (including information provided orally by Seller and/or Parent at any teleconference pursuant to Section 5.01(f)), shall be deemed to be Confidential

Information, and Confidential Information shall also include all Almirall Proprietary Information, Proprietary Information of Parent and Proprietary Information of Seller. Confidential Information shall also include all analyses, compilations, forecasts, studies or other documents prepared by Purchasers, Purchasers' Affiliates or any of Purchasers' or Purchasers' Affiliates' representatives that contain, make use of or otherwise reflect any Confidential Information.

"Confidentiality Agreements" shall mean the Oaktree Confidentiality Agreement and the Sagard Confidentiality Agreement.

"Contract" shall mean any contract, license, lease, agreement, obligation, promise, undertaking, understanding, arrangement, document, commitment, entitlement or engagement under which a Person has, or will have, any liability or contingent liability (in each case, whether written or oral, express or implied, and whether in respect of monetary or payment obligations, performance obligations or otherwise).

"Control" or "Controlled" shall mean, when used with respect to any item of Intellectual Property, the possession (whether by ownership, license, sublicense or contract) by Parent, Seller or any of their Affiliates, of the ability to assign or grant to any Third Party the license, sublicense or right to access and use such Intellectual Property as it relates to the manufacture, use, Development and/or Commercialization of the Compound or the Licensed Products, without paying any consideration to any Third Party (now or in the future) or violating the terms of any agreement or other arrangement with any Third Party in existence as of the time such Parent, Seller or any of their Affiliates, would be required hereunder to grant such license, sublicense or rights of access and use. Notwithstanding the foregoing, a Party and its Affiliates will not be deemed to "Control" any Intellectual Property that, prior to the consummation of a Change of Control of such Party, is owned or in-licensed by a Third Party that becomes an Affiliate of such acquired Party (or that merges or consolidates with such Party) after the Closing Date as a result of such Change of Control unless prior to the consummation of such Change of Control, such acquired Party or any of its Affiliates also Controlled such Intellectual Property.

"Copyrights" shall mean all copyrights, copyright registrations and applications for copyright registrations, including all renewals and extensions thereof and all other rights whatsoever accruing thereunder or pertaining thereto throughout the world.

"Counterparty" shall mean the applicable counterparty to any Contract.

"Counterparty Instruction" shall mean the letters to be sent by Seller and Parent to the Counterparties to the Other Product Licenses identified in clause (A) of the definition thereof and the Other Product Agreements identified in clause (A) of the definition thereof, dated as of the Closing Date, executed by Parent and Seller, substantially in the forms attached as **Exhibit F** hereto.

"Current Product" shall mean the "Current Product" as such term is defined in the License Agreement.

"CY Net Sales" shall mean "CY Net Sales" as such term is defined in Section 4.4 of the License Agreement.

"Debt/Lien Restriction Period" shall mean the period commencing on the Closing Date and continuing until the later to occur of (a) the Parent Indemnity Expiration Date, and (b) Oaktree Credit Agreement Termination Date; provided that unless and until both (a) and (b) occur, the Debt/Lien Restriction Period shall remain in effect.

"Default" shall mean any Event of Default and any event that, upon the giving of notice, the lapse of time or both, would constitute an Event of Default.

"Deposit Account" shall have the meaning set forth in Section 5.13.

"Deposit Account Agreement" shall have the meaning set forth in Section 5.13.

"Depositary Bank" shall have the meaning set forth in Section 5.13.

"Designated Oaktree Purchaser" shall mean Oaktree Specialty Lending.

"Designated Purchaser" shall mean Sagard Cayman, Sagard Ireland, the Designated Oaktree Purchaser and, if applicable, any purchaser, transferee or assignee of all or any portion of a Purchaser's Purchased Interest who is designated to replace any of Sagard Cayman, Sagard Ireland or the Designated Oaktree Purchaser as a Designated Purchaser in accordance with the terms of Section 8.04(b).

"Develop" or "Development" shall mean "Develop" or "Development" as such term is defined in the License Agreement.

"Disclosure Schedules" shall mean the Disclosure Schedules delivered by Parent, Seller and Purchasers concurrently with the execution and delivery of this Agreement, and any updates thereto delivered to the Purchasers pursuant to Section 5.18.

"Dispute" or "Disputes" shall have the meaning set forth in Section 3.10(e).

"Disqualified Equity Interests" shall mean, with respect to any Person, any Equity Interest of such Person that, by its terms (or by the terms of any security or other Equity Interest into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (i) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), including pursuant to a sinking fund obligation or otherwise, (ii) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (iii) provides for the scheduled payments of dividends or other distributions in cash or other securities that would constitute Disqualified Equity Interests, or (iv) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is ninety-one (91) days after the Maturity Date.

"Effective Date" shall have the meaning set forth in the Preamble.

"EMA" shall mean the European Medicines Agency.

"Equity Interests" shall mean, with respect to any Person (for purposes of this defined term, an "issuer"), all shares of, interests or participations in, or other equivalents in respect of such issuer's capital stock, including all membership interests, partnership interests or equivalent, whether now outstanding or issued after the Closing Date, and in each case, however designated and whether voting or non-voting. Notwithstanding the foregoing, in no event shall any Indebtedness convertible or exchangeable into Equity Interests constitute "Equity Interests" hereunder.

"Escrow Account" shall mean the escrow account established pursuant to the Escrow Agreement.

"Escrow Agreement" shall mean the Escrow Agreement, dated as of the Closing Date, among Seller, Purchasers and U.S. Bank National Association, as escrow agent, executed and delivered at Closing substantially in the form of **Exhibit E** hereto, as may be further amended, supplemented or modified from time to time.

"Event of Default" shall mean (i) the occurrence and continuance of a breach by Parent or Seller of any of their respective obligations under this Agreement, the Transaction Documents, the License Agreement, or any Ancillary Agreement, in each case if such breach would reasonably be expected to have an adverse effect in any material respect on the timing, amount, duration or value of the Purchased Interests and after such breaching party fails to cure such breach within a reasonable period (not to exceed thirty (30) calendar days) after receiving written notice of such breach, or (ii) any Bankruptcy Event with respect to Parent or Seller.

"Excluded Assets" shall mean, collectively and without duplication:

(i) the Retained Interest;

(ii) any and all other property, assets or rights of Seller, including rights of Seller to, or amounts received by Seller as, payment, compensation or consideration under or in respect of the License Agreement, any of the Ancillary Agreements or otherwise other than the Purchased Interests;

(iii) all proceeds (including any damages, monetary awards or other amounts recovered, whether by judgment or settlement) paid, owed, accrued or otherwise payable with respect to any of the foregoing of any suit, proceeding or other legal action taken to enforce the right to receive any of the foregoing other than the Purchased Interests;

(iv) all amounts payable by Almirall and/or Almirall LLC, their Affiliates or Sublicensees under Title 11, United States Code, Section 365(n) in respect of the payments and amounts described above;

(v) all "accounts" (as defined under the UCC) evidencing the rights to the payments and amounts described above; and

(vi) all "proceeds" (as defined in the UCC) of any of the foregoing.

"Excluded Liabilities and Obligations" shall have the meaning set forth in Section 2.04.

"FDA" shall mean the United States Food and Drug Administration.

"FDA Laws" shall mean all applicable statutes, rules, regulations, standards, guidelines, policies and orders and Requirements of Law administered, implemented, enforced or issued by FDA or any comparable Governmental Authority.

"Federal Health Care Program Laws" shall mean, collectively, federal Medicare or federal or state Medicaid statutes, Sections 1128, 1128A, 1128B, 1128C or 1877 of the Social Security Act (42 U.S.C. §§ 1320a-7, 1320a-7a, 1320a-7b, 1320a-7c, 1320a-7h and 1395nn), the federal TRICARE statute (10 U.S.C. § 1071 et seq.), the civil False Claims Act of 1863 (31 U.S.C. § 3729 et seq.), criminal false claims statutes (e.g., 18 U.S.C. §§ 287 and 1001), the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. § 3801 et seq.), HIPAA, or related regulations or other Requirements of Law that directly or indirectly govern the health care industry, programs of Governmental Authorities related to health care, health care professionals or other health care participants, or relationships among health care providers, suppliers, distributors, manufacturers and patients, and the pricing, sale and reimbursement of health care items or services including the collection and reporting requirements, and the processing of any applicable rebate, chargeback or adjustment, under applicable rules and regulations relating to the Medicaid Drug Rebate Program (42 U.S.C. § 1396r-8) and any state supplemental rebate program, Medicare average sales price reporting (42 U.S.C. § 1395w-3a), the Public Health Service Act (42 U.S.C. § 256b), the VA Federal Supply Schedule (38 U.S.C. § 8126) or under any state pharmaceutical assistance program or U.S. Department of Veterans Affairs agreement, and any successor government programs.

"Federal Health Care Programs" shall mean the Medicare, Medicaid and TRICARE programs and any other state or federal health care program, as defined in 42 U.S.C. § 1320a-7b(f).

"Field" shall mean "Field" as such term is defined in the License Agreement.

"First Commercial Sale" shall mean "First Commercial Sale" as such term is defined in the License Agreement.

"First Escrow Release Trigger" shall mean the date on which Parent can represent/certify that, between deliveries already made to Almirall and/or Almirall LLC of Tirbanibulin API prior to the Closing Date, and Tirbanibulin API that is manufactured and available for delivery to Almirall and/or Almirall LLC, Athenex has delivered or is able to deliver sufficient Tirbanibulin API to Almirall and/or Almirall LLC to satisfy Almirall's and/or Almirall LLC's orders/forecast as of May 4, 2022 for Tirbanibulin API for approximately [*] commercial doses of Klisyri.

"GAAP" shall mean generally accepted accounting principles in the United States of America in effect from time to time.

"Generic Entry" shall mean "Generic Entry" as such term is defined in the License Agreement.

"Governmental Authority" shall mean the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority (including supranational authority), commission, instrumentality, regulatory body, court, central bank or other Person exercising executive, legislative, judicial, taxing, regulatory or

administrative powers or functions of or pertaining to government, including each Patent Office, the FDA, the EMA, or any other government authority in any country.

"Guarantee" of or by any Person (the "guarantor") shall mean any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or (iv) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness; provided, that the term Guarantee shall not include endorsements for collection or deposit in the Ordinary Course.

"Holding Period" shall mean the period commencing on the Closing Date and ending on the earlier of the date on which Seller has consummated a Qualified Financing and the date that is [*] days following the Closing Date.

"Impermissible Set-off" shall mean any Section [*] Set-off and any Other Set-off.

"Indebtedness" of any Person shall mean, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or similar instruments, (iii) all obligations of such Person upon which interest charges are customarily paid, (iv) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (v) all obligations of such Person in respect of the deferred purchase price of property or services (excluding deferred compensation and accounts payable incurred in the ordinary course of business and not overdue by more than ninety (90) days), (vi) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (vii) all Guarantees by such Person of Indebtedness of others, (viii) all Capital Lease Obligations of such Person, (ix) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (x) obligations under any interest rate exchange agreement, foreign currency exchange agreement, commodity price protection agreement, currency swaps, forwards, futures or derivatives transactions or other interest or currency exchange rate or commodity price hedging arrangement, (xi) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (xii) any Disqualified Equity Interests of such Person, and (xiii) all other obligations required to be classified as indebtedness of such Person under GAAP; provided that, notwithstanding the foregoing, Indebtedness shall not include accrued expenses, deferred rent, deferred taxes, deferred compensation or customary obligations under employment agreements. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"[*]" shall mean [*].

"Intellectual Property" shall mean all Patents, Trademarks, Copyrights, and Know-How, whether U.S. or non-U.S.

"Intercreditor Agreement" shall mean the Intercreditor Agreement, dated as of the Closing Date, executed by Oaktree Fund Administration, LLC, as Administrative Agent for the Lenders from time to time party to the Oaktree Credit Agreement, and Purchasers, and acknowledged by Parent and each Subsidiary Guarantor as named therein, providing for the relative rights and priorities of the First Lien Claimholders (as defined therein) and the Second Lien Claimholders (as defined therein) with respect to the Collateral (as defined therein), substantially in the form of **Exhibit I** hereto, as may be further amended, supplemented or modified from time to time.

"Klisyri" shall mean the pharmaceutical product currently marketed and Commercialized by Almirall and Almirall LLC in the Territory that contains Tirbanibulin API.

"Know-How" shall mean technical and other information which is not in the public domain, including information and data comprising or relating to (i) non-clinical data including pharmacological, toxicological and metabolic data and results of all non-clinical studies; and (ii) clinical safety and efficacy data including data analyses, study reports and information contained in protocols, filings or other submissions to and responses from ethical committees and regulatory authorities; and (iii) pharmacovigilance data; and (iv) production facilities and processes, chemistry and manufacturing control data, standard operating procedures quality analysis and quality control processes and techniques, and all other documentation retained to comply with good manufacturing practice procedures; and (v) information relating to contract manufacturers and the manufacturing supply chain. Know-How (a) includes documents containing Know-How; and (b) includes and covers any legal rights including trade secrets, copyright, database or design rights protecting Know-How. The fact that an item is known to the public shall not be taken to preclude the possibility that a compilation including the item, and/or a development relating to the item, is not known to the public. Know-How shall not include patent rights.

"Know-How Assignment Agreement" shall mean the Know-How and Regulatory Approval Assignment Agreement, dated as of the Closing Date, by and between Parent and Seller.

"Knowledge" shall mean (i) with respect to Seller, the actual knowledge of Timothy Cook, Daniel Lang and Jennifer Shiao, each in their capacity as a Seller Director, and (ii) with respect to Parent, the actual knowledge of Timothy Cook, Johnson Y.N. Lau, MBBS, MD, FRCP, and Daniel Lang, each in their capacity as an officer of Parent, or in the case of (i) and (ii) above, any successor to any such individuals holding the same or substantially similar Athenex Director or officer positions at the applicable time, after due inquiry by each such Athenex Director or officer of each of his or her direct reports as of such time.

"Law" shall mean, collectively, all U.S. or non-U.S. federal, state, provincial, territorial, municipal or local statute, treaty, rule, guideline, regulation, ordinance, code or administrative or

judicial precedent or authority, including any interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"Lenders" shall mean "Lenders" as such term is defined in the Oaktree Credit Agreement.

"License Agreement" shall mean the License and Development Agreement by and among Almirall, Almirall LLC and Parent (or after the Closing Date, Seller), dated as of December 11, 2017, as amended by the letter agreement dated September 26, 2018 by and among Parent, Almirall and Almirall LLC, the First Amendment to License and Development Agreement dated as of September 26, 2018 by and among Parent, Almirall and Almirall LLC and the Second Amendment to License and Development Agreement dated as of June 18, 2019 by and among Parent, Almirall and Almirall LLC, and as assigned by Parent to Seller pursuant to the Parent/Seller Asset Purchase Agreement and the Almirall Assignment Agreement, and as may be further amended, supplemented or modified from time to time in accordance with this Agreement.

"License Party Audit" shall have the meaning set forth in Section 5.06.

"Licensed Product" shall mean "Licensed Product" as such term is defined in the License Agreement.

"Lien" shall mean (a) any mortgage, lien, pledge, hypothecation, charge, security interest, or other encumbrance of any kind or character whatsoever, whether or not filed, recorded or otherwise perfected under applicable Law, or any lease, title retention agreement, mortgage, restriction, easement, right-of-way, option or adverse claim (of ownership or possession) (including any conditional sale or other title retention agreement, any lease in the nature thereof, and any other encumbrance on title to real property, any option or other agreement to sell, or give a security interest in, such asset and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes of any jurisdiction)) or any preferential arrangement that has the practical effect of creating a security interest, and (b) in the case of Equity Interests, any purchase option, call or similar right of a third party with respect to such Equity Interests.

"Line Extension Product" shall mean "Line Extension Product" as such term is defined in the License Agreement.

"Losses" shall mean collectively, any and all damages, fine, losses, judgments, liabilities, costs, and expenses (including reasonable expenses of investigation and reasonable attorneys' fees and expenses) in connection with any claim, demand, action, suit or proceeding.

"Major European Markets" shall mean "Major European Markets" as such term is defined in the License Agreement.

"Material Adverse Effect" shall mean any event, circumstance or change that could reasonably be expected to result, individually or in the aggregate, in (i) a material adverse effect on the legality, validity or enforceability of this Agreement, any of the Transaction Documents, the License Agreement, any Ancillary Agreement, the financing statements filed pursuant to Section 2.01(c), or back-up security interests granted pursuant to Section 2.01(e), (ii) a material adverse effect on the right or ability of Seller or Parent (or any permitted assignee) to perform any of its obligations under this Agreement, any of the Transaction Documents, the License Agreement or any Ancillary Agreement or to consummate the transactions hereunder or thereunder, (iii) a material adverse effect on the rights or remedies of any Purchaser under this Agreement or any of the Transaction Documents (including with respect to any rights or remedies of any Purchaser under this Agreement or any of the Transaction Documents as they relate to the License Agreement), (iv) a material adverse effect on the rights of Seller under the License Agreement or any Ancillary Agreement that relate to, or involve or otherwise affect, the Purchased Interests or (v) any adverse effect on the timing, amount, duration or value in any material respect of the payments to be made to Purchasers in respect of their respective Purchased Interests or their right to receive such payments.

"Material Contract" shall mean the License Agreement, the Ancillary Agreements, the Other Product Licenses, the Other Product Agreements, and any contract specifically related to a Licensed Product and/or the Development, manufacture, and/or Commercialization of the Licensed Product.

"Material Regulatory Liabilities" shall mean (a)(i) any liabilities or losses arising from the violation of FDA Laws, Public Health Laws, Federal Health Care Program Laws, and other applicable comparable Requirements of Law, or the terms, conditions of or requirements applicable to any Registrations (including costs of actions required under Requirements of Law, including FDA Laws and Federal Health Care Program Laws, or necessary to remedy any violation of any terms or conditions applicable to any Registrations), including, but not limited to, withdrawal of approval, recall, revocation, suspension, detention or seizure of any Licensed Product, and (ii) any loss of recurring annual revenues as a result of any loss, suspension or limitation of any Registrations, which, in the case of the foregoing clauses (i) and (ii), exceed $5,000,000 individually or in the aggregate, or (b) any Material Adverse Effect.

"Maturity Date" shall have the meaning given to such term in the Oaktree Credit Agreement.

"Membership Units" shall have the meaning set forth in the Operating Agreement.

"Milestone #5 under License Agreement" shall have the meaning given to such term in the definition of Milestone Interests.

"Milestone #6 under License Agreement" shall have the meaning given to such term in the definition of Milestone Interests

"Milestone Interests" shall mean, collectively, (i) the following milestone payments payable or paid by Almirall or Almirall LLC pursuant to Section 4.3 and Section 4.4 of the License Agreement, and multiplied by the applicable percentages as set forth opposite each

milestone payment in the table below, (ii) all proceeds (including any damages, monetary awards or other amounts recovered, whether by judgment, settlement or otherwise) paid, owed, accrued or otherwise payable with respect to any of the foregoing (including interest thereon) of any suit, proceeding or other legal action taken to enforce the right to receive any of the foregoing (in each case subject to any reimbursement of Seller's enforcement expenses provided under Section 2.02(f)), (iii) all amounts payable by Almirall and/or Almirall LLC, their Affiliates or Sublicensees under Title 11, United States Code, Section 365(n) in respect of the payments and amounts described above, (iv) all "accounts" (as defined in the UCC) evidencing the rights to the payments and amounts described above; and (v) all "proceeds" (as defined in the UCC) of any of the foregoing.

Commercial Milestone Event	**Commercial Milestone Payment (USD)**	**Applicable Percentage of Milestone Payment Purchased by Purchasers (Aggregate)(1)**
First Commercial Sale of the Current Product has occurred in at least three Major European Markets	$[*]	[*]%
First Commercial Sale of the Line Extension Product in the U.S.	$[*]	[*]%
First Commercial Sale of any Licensed Product in an Additional Indication in the U.S. ("Milestone #5 under License Agreement")	$[*]	[*]%
First Commercial Sale of any Licensed Product in a second Additional Indication in the U.S. (i.e. Licensed Product with three indications approved) ("Milestone #6 under License Agreement")	$[*]	[*]%
Sales Milestone Event	**Sales Milestone Payment (USD)**	
First time CY Net Sales are at least $[*]	$[*]	[*]%
First time CY Net Sales are at least $[*]	$[*]	[*]%
First time CY Net Sales are at least $[*]	$[*]	[*]%

First time CY Net Sales are at least $[*]	$[*]	[*]%
First time CY Net Sales are at least $[*]	$[*]	[*]%
First time CY Net Sales are at least $[*]	$[*]	[*]%
First time CY Net Sales are at least $[*]	$[*]	[*]%
First time CY Net Sales are at least $[*]	$[*]	[*]%
(1) See definitions of Oaktree TCDRS Purchased Interest, Oaktree Minn Purchased Interest, Oaktree Forrest Purchased Interest, Oaktree TBMR C Purchased Interest, Oaktree TBMR F Purchased Interest, Oaktree TBMR G Purchased Interest, Oaktree TSE Purchased Interest, Oaktree INPRS Purchased Interest, Oaktree Gilead Purchased Interest, Oaktree Strategic Income Purchased Interest, Oaktree Specialty Lending Purchased Interest, Oaktree GCF Purchased Interest, Sagard Cayman Purchased Interest, and Sagard Ireland Purchased Interest for each Purchaser's respective portion of the above-stated aggregate percentage		

For example, the Milestone Interest with respect to the milestone for the first time CY Net Sales are at least $[*] is $[*], or $[*] multiplied by [*] and the Milestone Interest with respect to the milestone for the first time CY Net Sales are at least $[*] is $[*], or $[*] multiplied by [*].

"Negotiation Notice" shall mean "Negotiation Notice" as such term is defined in the License Agreement.

"Net Sales" shall mean "Net Sales" as such term is defined in the License Agreement.

"New Arrangement" shall have the meaning set forth in Section 5.11.

"New License Agreement" shall have the meaning set forth in Section 5.11.

"New Product" shall mean "New Product" as such term is defined in the License Agreement.

"New Product Transaction" shall mean "New Product Transaction" as such term is defined in the License Agreement.

"NIH" shall have the meaning set forth in the definition of Public Health Laws.

"Non-Product Assets" shall mean all assets owned or Controlled by Parent, its Affiliates or Subsidiaries (other than Seller) on or prior to the Closing Date or during the Term that are not Product Assets.

"Oaktree" shall have the meaning set forth in the preamble.

"Oaktree Confidentiality Agreement" shall mean the Confidentiality Agreement dated as of January 28, 2020 by and between Oaktree Capital Management, L.P. and Parent (by Ladenburg Thalmann & Co. Inc. as its representative), as amended February 24, 2022.

"Oaktree Consent" shall have the meaning set forth in Section 6.02(d).

"Oaktree Credit Agreement" shall mean that certain Credit Agreement and Guaranty dated as of June 19, 2020 by and among Parent, as borrower, the guarantors from time to time party thereto, Oaktree Fund Administration, LLC, as Administrative Agent and the lenders from time to time party thereto (as amended, amended and restated, supplemented or otherwise modified from time to time).

"Oaktree Credit Agreement Termination Date" shall mean the date upon which both of the following have occurred: (i) all outstanding Indebtedness incurred by Parent, as borrower, under the Oaktree Credit Agreement has been paid in full (other than, for the avoidance of doubt, obligations relating to warrants issued in connection to the Oaktree Credit Agreement and inchoate indemnification and expense reimbursements for which no claim has been made), and (ii) termination of the commitments under the Oaktree Credit Agreement.

"Oaktree Director" shall have the meaning set forth in the Operating Agreement.

"Oaktree TCDRS Purchase Price" shall have the meaning set forth in Section 6.03(a)

"Oaktree Minn Purchase Price" shall have the meaning set forth in Section 6.03(b).

"Oaktree Forrest Purchase Price" shall have the meaning set forth in Section 6.03(c).

"Oaktree TBMR C Purchase Price" shall have the meaning set forth in Section 6.03(d).

"Oaktree TBMR F Purchase Price" shall have the meaning set forth in Section 6.03(e).

"Oaktree TBMR G Purchase Price" shall have the meaning set forth in Section 6.03(f).

"Oaktree TSE Purchase Price" shall have the meaning set forth in Section 6.03(g).

"Oaktree INPRS Purchase Price" shall have the meaning set forth in Section 6.03(h).

"Oaktree Gilead Purchase Price" shall have the meaning set forth in Section 6.03(i).

"Oaktree Strategic Income Purchase Price" shall have the meaning set forth in Section 6.03(j).

"Oaktree Specialty Lending Purchase Price" shall have the meaning set forth in Section 6.03(k).

"Oaktree GCF Purchase Price" shall have the meaning set forth in Section 6.03(l).

"Oaktree Purchased Interests" shall mean, collectively, the Oaktree TCDRS Purchased Interest, the Oaktree Minn Purchased Interest, the Oaktree Forrest Purchased Interest, the

Oaktree TBMR C Purchased Interest, the Oaktree TBMR F Purchased Interest, the Oaktree TBMR G Purchased Interest, the Oaktree TSE Purchased Interest, the Oaktree INPRS Purchased Interest, the Oaktree Gilead Purchased Interest, the Oaktree Strategic Income Purchased Interest, the Oaktree Specialty Lending Purchased Interest, and the Oaktree GCF Purchased Interest.

"Oaktree Purchasers" shall mean, collectively, Oaktree TCDRS, Oaktree Minn, Oaktree Forrest, Oaktree TBMR C, Oaktree TBMR F, Oaktree TBMR G, Oaktree TSE, Oaktree INPRS, Oaktree Gilead, Oaktree Strategic Income, Oaktree Specialty Lending, and Oaktree GCF.

"Oaktree TCDRS Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree Minn Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree Forrest Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree TBMR C Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree TBMR F Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree TBMR G Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree TSE Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree INPRS Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree Gilead Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree Strategic Income Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree Specialty Lending Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree GCF Purchased Interest" shall mean such Oaktree Purchaser's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Oaktree TCDRS Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree Minn Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree Forrest Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree TBMR C Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree TBMR F Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree TBMR G Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree TSE Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree INPRS Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree Gilead Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree Strategic Income Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree Specialty Lending Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree GCF Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Oaktree Security Agreement" shall mean that certain Security Agreement, dated as of June 19, 2020, by and among, *inter alios,* Parent, as borrower, and Administrative Agent, as amended, supplemented, or modified from time to time.

"Operating Agreement" shall mean that certain Operating Agreement of Seller, dated as of the Closing Date, as amended, supplemented or modified from time to time.

"Ordinary Course" shall mean ordinary course of business or ordinary trade activities that are customary for similar businesses in the normal course of their ordinary operations and not while in financial distress.

"Other Accounts" shall have the meaning set forth in Section 5.13.

"Other Product Agreements" shall mean, collectively, the following:

(A) (i) the [*] dated November 13, 2021 by and between Parent and [*], and (ii) Supply Agreement dated as of July 23, 2021 by and between Parent and Avir Pharma Inc.; and

(B) any agreement, written or oral, including any amendment to an agreement referenced in (A), that does not grant a license to any Intellectual Property and that is ancillary or related to any Other Product License (e.g. supply, quality, pharmacovigilance/safety data exchange) entered into by Parent or any of its Affiliates during the Term to the extent they relate to Tirbanibulin API or any Licensed Product containing Tirbanibulin API.

"Other Product Licenses" shall mean, collectively, the following:

(A) (i) License Agreement between Parent and [*] dated March 24, 2021; (ii) License Agreement between Parent and Seqirus Pty Ltd dated June 28, 2021; (iii) License Agreement between Parent and Avir Pharma Inc. dated July 23, 2021; (iv) License Agreement between Parent and [*] dated March 8, 2022; (v) License Agreement between Parent and [*] dated March 9, 2022; (vi) License Agreement between Parent and Pharmaessentia Corp., dated December 8, 2011, as amended December 23, 2016 and February 15, 2021, and (vii) License Agreement between Parent and Guangzhou Xiangxue Pharmaceutical Co., LTD, dated December 12, 2019, as amended March 31, 2020, June 30, 2020 and November 8, 2021 (for the avoidance of doubt, the Other Product Licenses are part of the Retained Product Assets); and

(B) any agreement, written or oral, including any amendment to an agreement referenced in (A), that grants a license or sublicense (or any option to obtain such a license or sublicense) under any Purchased Product Assets entered into by Seller, Parent or any of their respective Affiliates during the Term that relates to the Development, manufacture, and/or Commercialization of Tirbanibulin API or Licensed Products containing Tirbanibulin API.

"Other Set-off" shall mean (i) any Set-off taken by Almirall, Almirall LLC, any of their Affiliates or any Sublicensees against any Royalties or Milestone Interests, and/or (ii) any adjustment to the financials of the License Agreement or the Supply Agreement taken by Almirall, Almirall LLC, any of their Affiliates or any Sublicensees, in each case (i) and (ii) above, pursuant to any of the following provisions of the License Agreement and/or Supply Agreement, regardless of whether Seller or Parent agrees or disagrees that all or any portion of such Set-Off or adjustment to the financials was properly taken by Almirall or Almirall LLC:

(a) the [*] sentence of Article [*] of the License Agreement;

(b) the [*] or [*] sentences of Article [*] of the License Agreement (beginning "[*]...") but solely to the extent the [*] have been exercised by [*] without the prior written consent of [*];

(c) Section [*], Section [*] and Section [*] of the License Agreement;

(d) Section [*] of the License Agreement;

(e) Section [*] of the License Agreement;

(f) Section [*] of the License Agreement with respect to a reduction to Milestone #[*] under License Agreement or Milestone #[*] under License Agreement in respect of a [*] as set forth in [*] in Section [*] of the License Agreement, but solely to the extent that (i) [*] initiates such a [*] without the prior written consent of [*] and (ii) [*] funds all of [*]'s out of pocket expenses for such [*] and reduces Milestone#[*] under License Agreement or Milestone #[*] under License Agreement, as applicable, by [*]%);

(g) Sections [*], [*], and/or [*] of the License Agreement (but only if (x) such Set-off is taken with respect to a [*] in a country in which there is at least one Valid Claim of any Athenex Patent Rights covering the Licensed Product (or the use or manufacture thereof) in such country, and (y) such Set-off is taken by [*] prior to the earlier of (z1) [*], and (z2) [*];

(h) Section [*] of the License Agreement;

(i) Section [*]([*] sentence) of the License Agreement;

(j) Section [*]([*] sentence) of the License Agreement, subject to the right of [*] to receive full reimbursement of any such Set-off from any applicable [*] proceeds;

(k) Section [*]([*] sentence) of the License Agreement;

(l) Section [*] of the License Agreement;

(m) Section [*] of the License Agreement;

(n) Section [*] of the License Agreement;

(o) Article [*] of the License Agreement; and

(p) Section [*] of the Supply Agreement.

For the avoidance of doubt, "Other Set-off" shall not include deductions in the calculation of Net Sales pursuant to clauses (a) through (h) of the definition of Net Sales.

"Patent Assignments" shall mean the Patent Assignments, dated as of the Closing Date, delivered to Seller by Parent and Athenex HK Innovative Limited pursuant to the Parent/Seller Asset Purchase Agreement.

"Parent" shall have the meaning set forth in the preamble.

"Parent Indemnity" shall have the meaning set forth in Section 5.16(a).

"Parent Indemnity Expiration Date" shall mean the date on which all of the following have occurred, if ever: (i) with respect to each Oaktree Purchaser, such Oaktree Purchaser has received aggregate payments on account of such Oaktree Purchaser's applicable Oaktree Purchased Interest (including any True-Up Payments made in respect of such Oaktree Purchased Interest, any indemnification payments under Section 8.05(a) in respect of such Oaktree Purchased Interest, and any payments made under Section 5.16 in respect of such Oaktree Purchased Interest) equal to the Oaktree TCDRS Purchase Price, Oaktree Minn Purchase Price, Oaktree Forrest Purchase Price, Oaktree TBMR C Purchase Price, Oaktree TBMR F Purchase Price, Oaktree TBMR G Purchase Price, Oaktree TSE Purchase Price, Oaktree INPRS Purchase Price, Oaktree Gilead Purchase Price, Oaktree Strategic Income Purchase Price, Oaktree Specialty Lending Purchase Price, and Oaktree GCF Purchase Price, as applicable, (ii) Sagard Cayman has received aggregate payments on account of the Sagard Cayman Purchased Interest (including any True-Up Payments made in respect of the Sagard Cayman Purchased Interest, any indemnification payments under Section 8.05(a) in respect of the Sagard Cayman Purchased Interest, and any payments made under Section 5.16 in respect of the Sagard Cayman Purchased Interest) equal to the Sagard Cayman Purchase Price, and (iii) Sagard Ireland has received aggregate payments on account of the Sagard Ireland Purchased Interest (including any True-Up Payments made in respect of the Sagard Ireland Purchased Interest, any indemnification payments under Section 8.05(a) in respect of the Sagard Ireland Purchased Interest, and any payments made under Section 5.16 in respect of the Sagard Ireland Purchased Interest) equal to the Sagard Ireland Purchase Price.

"Parent/Seller Asset Purchase Agreement" shall mean that certain Asset Purchase and Contribution Agreement, dated of even date herewith, between Seller and Parent, as may be amended, supplemented or modified from time to time.

"Parent and Seller Security Agreement" shall mean the Pledge and Security Agreement, dated as of the Closing Date, executed by Parent, Seller and Purchasers, substantially the form of **Exhibit D** hereto, as may be amended, supplemented or modified from time to time.

"Parent True-Up Payments" shall mean, without duplication:

(i) with respect to each Calendar Quarter commencing with the Calendar Quarter beginning January 1, 2022, (A) 100% of all true-up payments and indemnification payments paid, owed or owing, accrued or otherwise payable by Parent to Seller under Section 7.5(a) and Section 9.1 of the Parent/Seller Asset Purchase Agreement;

(ii) all interest paid, owed or owing, accrued or otherwise payable by Parent pursuant to the Parent/Seller Asset Purchase Agreement with respect to the true-up payments and indemnification payments referenced in clause (i) above;

(iii) all proceeds (including indemnity payments, recoveries, damages, monetary awards, settlement amounts or other amounts, whether by judgment, settlement or otherwise) paid, owed or owing, accrued or otherwise payable to Seller with respect to any of the above (including interest thereon) of any suit, proceeding or other legal action taken to enforce the right to receive any of the foregoing (whether pursuant to Sections 7.5(a) or 9.1 of the Parent/Seller Asset Purchase Agreement or otherwise);

(iv) all amounts payable by Parent or its Affiliates under Title 11, United States Code, Section 365(n) in respect of the payments and amounts described above;

(vi) all "accounts" (as defined under the UCC) evidencing the rights to the payments and amounts described above; and

(ix) all "proceeds" (as defined in the UCC) of any of the foregoing.

"Patents" shall mean all patents and patent applications, including (i) the inventions and improvements described and claimed therein, (ii) the reissues, divisions, continuations, renewals, extensions, and continuations in part thereof, and (iii) all rights whatsoever accruing thereunder or pertaining thereto throughout the world.

"Patent Office" shall mean the respective patent office, including the U.S. Patent and Trademark Office and any comparable foreign patent office, for any Patent Rights.

"Patent Rights" shall mean "Patent Rights" as such term is defined in the License Agreement.

"Permitted Lien" shall mean each of the following, but only insofar as they relate to Retained Product Assets and do not include any Lien on any Purchased Product Asset (other than Liens of the type provided in clause (e) of this definition) : (a) any Lien for Taxes, assessments and governmental charges or levies not yet due and payable or which are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been set aside on the books of the relevant Person, (b) Liens imposed by Law arising in the Ordinary Course consisting of carriers', warehousemen's, landlords', and mechanics' liens, liens relating to leasehold improvements and other similar Liens arising in the Ordinary Course and which (x) do not in the aggregate materially detract from the value of the property subject thereto or materially impair the use thereof in the operations of the business of such Person or (y) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the property subject to such Liens and for which adequate reserves have been made if required in accordance with GAAP, (c) pledges or deposits made in the Ordinary Course in connection with bids, contract leases, appeal bonds, workers' compensation, unemployment insurance or other similar social security legislation, (d) Liens securing Taxes, assessments and other governmental charges, the payment of which is not yet due or is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made, (e) bankers liens, rights of setoff and similar Liens incurred on deposits made in the Ordinary Course, (f) Liens securing Indebtedness (i) in the Ordinary Course in respect of workers compensation claims, health, disability or other employee benefits or property, leases, casualty or liability insurance or self-insurance or other reimbursement-type obligations regarding workers compensation claims, (ii) arising in connection with the financing of insurance premiums in the Ordinary Course, (iii) in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations arising in the Ordinary Course, (iv) Indebtedness in respect of netting services, overdraft protections, business credit cards, purchasing cards, payment processing, automatic clearinghouse arrangements, arrangements in

respect of pooled deposit or sweep accounts, check endorsement guarantees, and otherwise in connection with deposit accounts or cash management services, (g) Liens arising from precautionary UCC financing statement filings regarding inventory consignment arrangements entered into in the Ordinary Course, (h) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods and incurred in the Ordinary Course, (i) Liens in the nature of the right of setoff in favor of counterparties to contractual agreements in the Ordinary Course, (j) any interest or title of a lessor or licensor under any license, or sublicense permitted under this Agreement, and (k) any other Lien expressly permitted under, or contemplated by, the Transaction Documents.

"Permitted Product Licenses" shall have the meaning set forth in Section 5.15(a).

"Permitted Refinancing" shall mean, with respect to any Indebtedness permitted to be refinanced, extended, renewed or replaced hereunder, any refinancings, extensions, renewals and replacements of such Indebtedness; provided that such refinancing, extension, renewal or replacement shall not (i) increase the outstanding principal amount of the Indebtedness being refinanced, extended, renewed or replaced, except by an amount equal to accrued interest and a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred in connection therewith, (ii) contain terms relating to outstanding principal amount, amortization, maturity, collateral security (if any) or subordination (if any), or other material terms that, taken as a whole, are less favorable in any material respect to Parent and its Subsidiaries or Purchasers than the terms of any agreement or instrument governing such existing Indebtedness, (iii) have an applicable interest rate which does not exceed the greater of (A) the rate of interest of the Indebtedness being replaced and (B) the then applicable market interest rate (as determined in good faith by Parent), (iv) contain any new requirement to grant any Lien or to give any Guarantee that was not an existing requirement of such Indebtedness and (v) after giving effect to such refinancing, extension, renewal or replacement, no Default shall have occurred (or could reasonably be expected to occur) as a result thereof.

"Permitted Secured Indebtedness" shall mean (i) any secured Indebtedness of Parent and/or its Subsidiaries (other than Seller) in the Ordinary Course that is permitted under the definition of "Permitted Indebtedness" in the Oaktree Credit Agreement as of the date hereof (and subject to all caps, baskets and other limitations and restrictions set forth in such definition or otherwise set forth therein), (ii) any secured Indebtedness under the Oaktree Credit Agreement after giving effect to the release of Liens on the Collateral pursuant to the Oaktree Consent and the Transaction Documents (but only in the amount outstanding after giving effect to the application of a portion of the Purchase Price to pay down such secured Indebtedness in accordance with Section 6.03(ii)(a) and Section 6.03(ii)(b)), (iii) any secured Indebtedness if incurred by Parent or its Subsidiaries (other than Seller) on or after the Oaktree Credit Agreement Termination Date, in an aggregate outstanding principal amount, together with any Permitted Refinancing thereof, not to exceed the greater of (x) $75 million, and (y) 25% of Parent's volume-weighted average 30-day trailing market capitalization (measured as of the date of incurrence or receipt of binding commitments for the incurrence, whichever date produces a higher borrowing amount); provided that notwithstanding the foregoing, in no event shall the aggregate principal amount of Permitted Secured Indebtedness pursuant to clauses (ii)-(iii) exceed $150 million, and (iv) any Permitted Refinancing of Indebtedness incurred pursuant to

foregoing clause (iii); provided further that none of the foregoing Indebtedness described in clauses (i)-(iv) hereof shall be secured by any Liens on any Product Assets.

"Person" shall mean an individual, firm, corporation, partnership, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or other legal entity or organization, including public bodies, whether acting in an individual, fiduciary or other capacity.

"Phase II Clinical Study" shall mean "Phase II Clinical Study" as such term is defined in the License Agreement.

"Pledge Agreement" shall mean the Pledge Agreement, dated as of the Closing Date, executed by Parent and Purchasers, substantially in the form of **Exhibit C** hereto, as may be amended, supplemented or modified from time to time.

"Prime Rate" shall mean the prime rate as reported in the Wall Street Journal, Eastern U.S. Edition, on the applicable date set forth in Section 5.09.

"Product Assets" shall mean any and all assets owned or Controlled by Parent, Seller or any of their respective Affiliates or Subsidiaries on or prior to the Closing Date or during the Term that relate to, or are necessary for, the Development, manufacture, use, and/or Commercialization of the Licensed Products or the Compound. For the avoidance of doubt, "Product Assets" shall not include real property, plant, equipment, inventory and other tangible assets of Athenex Pharma Solutions, LLC and Athenex's Chinese API Operations or any equipment, deposit accounts, cash and cash equivalents, investment property, and instruments of Parent or any of its Subsidiaries and Affiliates (other than Seller), except to the extent cash, cash equivalents, instruments, and investment property constitute the identifiable proceeds of Product Assets.

"Product-Related Contracts" shall mean "Product Related Contracts" as such term is defined in the License Agreement.

"Proprietary Information" shall mean "Proprietary Information" as such term is defined in the License Agreement.

"Public Health Laws" shall mean all Requirements of Law relating to the procurement, development, clinical and non-clinical evaluation, product approval or licensure, manufacture, production, analysis, distribution, dispensing, importation, exportation, use, handling, quality, sale, labeling, promotion, clinical trial registration or post market requirements of any drug, biologic or other product (including, without limitation, any ingredient or component of the foregoing products) subject to regulation under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) and the Public Health Service Act (42 U.S.C. § 201 et seq.), including without limitation the regulations promulgated by the FDA at Title 21 of the Code of Federal Regulations and all applicable regulations promulgated by the National Institutes of Health ("NIH") and codified at Title 42 of the Code of Federal Regulations, and guidance, compliance, guides, and other policies issued by the FDA, the NIH and other comparable Governmental Authorities.

"Purchased Interests" shall mean, collectively, each of the Oaktree Purchased Interests, the Sagard Cayman Purchased Interest, and the Sagard Ireland Purchased Interest. For the avoidance of doubt, any True-Up Payments made in respect of the Purchased Interests, any indemnification payments under Section 8.05(a) made in respect of the Purchased Interests, and any payments made under Section 5.16 in respect of the Purchased Interests shall all be applied to and count against payments in respect of the Purchased Interests.

"Purchased Product Assets" shall have the meaning set forth in Parent/Seller Asset Purchase Agreement.

"Purchaser Accounts" shall have the meaning set forth in Section 2.02(c).

"Purchaser Directors" shall mean the Oaktree Director and the Sagard Director, each a "Purchaser Director".

"Purchaser" and "Purchasers" shall have the meanings set forth in the preamble.

"Purchaser Indemnified Party" shall have the meaning set forth in Section 8.05(a).

"Purchase Price" shall mean the amount set forth in Section 2.03 which shall be payable in United States Dollars in accordance with Section 2.03.

"Q1 2022 Royalties" shall have the meaning set forth in Section 6.03(2)(d)(i).

"Qualified Assignee" shall have the meaning set forth in the License Agreement.

"Qualified Equity Interest" shall mean, with respect to any Person, any Equity Interest of such Person that is not a Disqualified Equity Interest.

"Qualified Financing" shall mean one or a series of transactions closing on any day or days during the period commencing on the Closing Date and ending [*] days following the Closing Date, in which Parent issues and sells shares of its common stock with total gross proceeds to Parent of at least the amount that is the lesser of (a) the total gross proceeds to Parent upon the issuance and sale of [*]% of Parent's outstanding shares of common stock immediately prior to the execution of definitive documentation for such issuance, and (b) $[*].

"Quarterly Report" shall mean, with respect to the relevant Calendar Quarter, the accounting report in the form provided by Almirall to Seller under Section 4.6(a) of the License Agreement with respect to the Royalties paid or payable by Almirall and/or Almirall LLC with respect to such Calendar Quarter including any updates contemplated by the last sentence of Section 4.6(a) with respect to the total Net Sales achieved during the preceding Calendar Year.

"Registrations" shall mean authorizations, approvals, licenses, permits, certificates, registrations, listings, certificates, or exemptions of or issued by any Governmental Authority (including marketing approvals, investigational new drug applications, product recertifications, manufacturing approvals and authorizations, pricing and reimbursement approvals, labeling approvals or their foreign equivalent) that are required for the research, development,

manufacture, commercialization, distribution, marketing, storage, transportation, pricing, Governmental Authority reimbursement, use and sale of Licensed Product(s).

"Regulatory Action" shall mean an administrative or regulatory enforcement action, proceeding or investigation, warning letter, untitled letter, Form 483 or similar inspectional observations, other notice of violation letter, recall, seizure, Section 305 notice or other similar written communication, or consent decree, issued or required by the FDA or under the Public Health Laws, the NIH or a comparable Governmental Authority in any other regulatory jurisdiction, including any inspectional observations recorded on a Form FDA 483, any establishment inspection report, and any written request from FDA for a regulatory meeting.

"Regulatory Approval" shall mean "Regulatory Approval" as such term is defined in the License Agreement.

"Representatives" shall have the meaning set forth in Section 5.02(b).

"Requirements of Law" shall mean, with respect to any Person, collectively, the common law and all federal, state, provincial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority.

"Retained Interest" shall mean, without duplication:

(i) all royalties paid, owed, accrued or otherwise payable by Almirall or Almirall LLC under the License Agreement remaining after payment by Seller to Purchasers of their respective Purchased Interests in accordance with this Agreement and the Transaction Documents; and

(ii) all milestone payments payable or paid by Almirall or Almirall LLC under the License Agreement remaining after payment by Seller to Purchasers of their respective Purchased Interests in accordance with this Agreement and the Transaction Documents.

"Retained Product Assets" shall have the meaning set forth in the Parent/Seller Asset Purchase Agreement.

"Reverted Rights" shall have the meaning set forth in Section 5.11.

"Royalties" shall mean, without duplication:

(i) with respect to each Calendar Year commencing with the Calendar Year beginning January 1, 2022 (and payable for each Calendar Quarter beginning January 1, 2022) (A) [*]% of all royalties paid, owed or owing, accrued or otherwise payable by Almirall or Almirall LLC under Section 4.5(a) of the License Agreement with respect to the first $[*] of Net Sales of Licensed Products in the Territory which occur in such Calendar Year, after giving effect to (1) any applicable reductions made pursuant to Section 4.5(b)(i) of the License Agreement, (2) any applicable reductions made pursuant to Sections [*] of the License Agreement other than a reduction pursuant to clause (g) of the definition of Other Set-off and (3) the calculation required

by the last paragraph of the definition of "Net Sales" in the License Agreement, if applicable, and (B) [*]% of all royalties paid, owed, accrued or otherwise payable by Almirall or Almirall LLC under Section 4.5(a) of the License Agreement with respect to Net Sales of Licensed Products in the Territory which occur in such Calendar Year and which exceed such first $[*] of Net Sales referenced in clause (A) for such Calendar Year, after giving effect to (1) any applicable reductions made pursuant to Sections 4.5(b)(i) of the License Agreement, (2) any applicable reductions made pursuant to Sections [*] of the License Agreement other than a reduction pursuant to clause (g) of the definition of Other Set-off, and (3) the calculation required the last paragraph of the definition of Net Sales in the License Agreement, if applicable;

(ii) with respect to amounts paid, owed or owing, accrued or otherwise payable by Almirall or Almirall LLC pursuant to any true-up adjustment to the royalty rate as provided in the last sentence of Section 4.6(a) of the License Agreement applicable to the calculation of the royalties set forth in clauses (i)(A) and (i)(B) above, the amount calculated under clauses (i)(A) and (i)(B) above as if the amount paid, owed, accrued or otherwise payable by Almirall or Almirall LLC under the last sentence of Section 4.6(a) of the License Agreement were royalties paid under Section 4.5 of the License Agreement in the Calendar Year to which the true-up adjustment to the royalty rate relates;

(iii) all interest paid, owed or owing, accrued or otherwise payable by Almirall or Almirall LLC pursuant to Section 4.8(b) of the License Agreement with respect to the royalties, milestones or other amounts under the License Agreement with respect to which Purchasers are purchasing Purchased Interests under this Agreement;

(iv) all amounts paid, owed or owing, accrued or otherwise payable by Almirall or Almirall LLC pursuant to Section 4.8(b) of the License Agreement (other than amounts for reimbursement of that portion of Seller's reasonable unreimbursed out-of-pocket audit costs that are in excess of Seller's Applicable Percentage of such audit costs) with respect to the royalties described in clauses (i)(A) and (i)(B) above;

(v) with respect to all amounts paid, owed or owing, accrued or otherwise payable by Almirall or Almirall LLC pursuant to Section 6.3(f)(iii) of the License Agreement, Purchasers' collective Applicable Percentage of such amounts;

(vi) all proceeds (including indemnity payments, recoveries, damages, monetary awards, settlement amounts or other amounts, whether by judgment, settlement or otherwise) paid, owed or owing, accrued or otherwise payable to Seller or its Affiliates with respect to any of the foregoing (including interest thereon) of any suit, proceeding or other legal action taken to enforce the right to receive any of the foregoing (whether pursuant to Section 9.2 of the License Agreement or otherwise), in each case subject to any reimbursement of Seller's enforcement expenses provided under Section 2.02(f)(iii) or (v);

(vii) all amounts payable by Almirall and/or Almirall LLC, their Affiliates or Sublicensees under Title 11, United States Code, Section 365(n) in respect of the payments and amounts described above;

(viii) all "accounts" (as defined under the UCC) evidencing the rights to the payments and amounts described above; and

(ix) all "proceeds" (as defined in the UCC) of any of the foregoing.

"Sagard" shall have the meaning set forth in the preamble.

"Sagard Cayman" shall have the meaning set forth in the preamble.

"Sagard Cayman Purchase Price" shall have the meaning set forth in Section 6.03(b).

"Sagard Cayman Purchased Interest" shall mean Sagard Cayman's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Sagard Cayman Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Sagard Confidentiality Agreement" means the Confidentiality Agreement dated as of October 1, 2021 by and between Sagard Healthcare Royalty Partners LP and Parent (by Ladenburg Thalmann & Co. Inc. as its representative), as amended February 24, 2022.

"Sagard Director" shall have the meaning set forth in the Operating Agreement.

"Sagard Ireland" shall have the meaning set forth in the preamble.

"Sagard Ireland Purchase Price" shall have the meaning set forth in Section 6.03(c).

"Sagard Ireland Purchased Interest" shall mean Sagard Ireland's right to its Allocation Percentage of the Parent True-Up Payments and the cash received pursuant to the Royalties and Milestone Interests.

"Sagard Ireland Purchaser Account" shall have the meaning set forth in Schedule 2.02(c).

"Sagard Purchased Interest" shall mean, collectively, the Sagard Cayman Purchased Interest and the Sagard Ireland Purchased Interest.

"SEC" shall mean the U.S. Securities and Exchange Commission and any successor agency having substantially the same functions.

"Second Escrow Release Trigger" shall mean the earliest date on which at least two of the three following events have occurred and are continuing: (i) [*] is manufacturing and supplying Tirbanibulin API to Parent, Seller, Almirall and/or Almirall LLC, and/or (ii) [*] has qualified one of its facilities to manufacture and supply Tirbanibulin API to Almirall and/or Almirall LLC, and/or (iii) [*] are manufacturing and supplying Tirbanibulin API to Almirall and/or Almirall LLC (or if [*] have been sold by Parent, such operations have commenced manufacturing and supplying Tirbanibulin API to Almirall and/or Almirall LLC pursuant to a supply agreement with [*]); provided that as of such earliest date, there has been no actual or alleged (by Almirall or Almirall LLC) Event of Default by Seller or Parent that has occurred and

is continuing that would reasonably be expected to result in Losses or alleged Losses of at least $750,000.

"Section [*] Set-off" shall mean (i) any Set-off taken by Almirall, Almirall LLC, any of their Affiliates or any Sublicensees pursuant to Section [*] and/or Section [*] of the License Agreement against any of the Royalties or Milestone Interests with respect to any [*], and (ii) any adjustment to the financials of the License Agreement or the Supply Agreement by Almirall, Almirall LLC, any of their Affiliates or any Sublicensees (whether pursuant to Section [*] of the License Agreement or otherwise) as a result of the exercise by [*] of any [*] right under Section [*] or Section [*] of the License Agreement, in each case regardless of whether Seller or Parent agrees or disagrees that all or any portion of such Set-Off was properly taken by Almirall or Almirall LLC.

"Security Agreement" shall mean each of the Parent Security Agreement and Seller Security Agreement, collectively, the "Security Agreements".

"Segregated Account" shall mean the restricted cash account of Parent at Key Bank identified on **Exhibit H**.

"Seller" shall have the meaning set forth in the preamble.

"Seller Account" shall have the meaning set forth in Schedule 2.02(d).

"Seller Director" shall mean a director designated by Parent in accordance with the Operating Agreement.

"Seller Indemnified Party" shall have the meaning set forth in Section 8.05(b).

"Seller Partner" shall have the meaning set forth in Section 3.07(b).

"Servicing Agreement" shall mean the Servicing Agreement to be entered into by Parent and Seller pursuant to Section 7.1(o) of the Parent/Seller Asset Purchase Agreement following the Closing Date.

"Set-off" shall have the meaning set forth in Section 3.14.

"Step-in Period" shall mean "Step-in Period" as such term is defined in the License Agreement, as such period may be extended pursuant to Section 8.3(e) of the License Agreement.

"Sublicensee" shall mean "Sublicensee" as such term is defined in the License Agreement.

"Subsidiary" or "Subsidiaries" shall mean with respect to any Person (i) any corporation of which the outstanding capital stock having at least a majority of votes entitled to be cast in the election of directors under the ordinary circumstances shall at the time be owned, directly or indirectly, by such Person or (ii) any other Person of which at least a majority voting interest under ordinary circumstances is at the time owned, directly or indirectly, by such Person.

"Supply Agreement" shall mean the Supply Agreement, dated as of March 13, 2018 by and among Parent (and on and after the Closing Date, Seller), Almirall and Almirall LLC, as amended, supplemented or modified from time to time.

"Taxes" shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term" shall have the meaning set forth in Section 7.01.

"Territory" shall mean "Territory" as such term is defined in the License Agreement.

"Third Party" shall mean any Person other than Purchasers, Seller or Parent.

"Tirbanibulin API" means commercial grade Tirbanibulin active pharmaceutical ingredient for Klisyri or other Licensed Product.

"Trade Secrets" shall have the meaning ascribed to it in the Know-How Assignment Agreement.

"Trademarks" shall mean all trade names, trademarks and service marks, logos, trademark and service mark registrations, and applications for trademark and service mark registrations, including (i) all renewals of trademark and service mark registrations and (ii) all rights whatsoever accruing thereunder or pertaining thereto throughout the world, together, in each case, with the goodwill of the business connected with the use thereof.

"Transaction Documents" shall mean, collectively, this Agreement, the Bills of Sale, the Pledge Agreement, the Parent and Seller Security Agreement, the Escrow Agreement, the Almirall Instruction, the Counterparty Instructions, upon execution and delivery pursuant to Section 7.1(o) of the Parent/Seller Purchase Agreement, the Servicing Agreement, the Parent/Seller Asset Purchase Agreement, and, upon execution and delivery pursuant to Section 5.13 of this Agreement, the Deposit Account Agreement.

"Transaction Expenses" shall have the meaning set forth in Section 8.14.

"True-Up Amount" shall have the meaning set forth in Section 2.02(e).

"True-Up Payments" shall have the meaning set forth in Section 2.02(e).

"UCC" shall mean the New York Uniform Commercial Code, as in effect from time to time; provided, however, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, priority, or remedies with respect to Purchasers' security interest on any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term "UCC" means the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies.

"U.S." shall mean "U.S." as such term is defined in the License Agreement.

"Valid Claim" shall mean "Valid Claim" as such term is defined in the License Agreement.

ARTICLE II
PURCHASE AND SALE OF THE PURCHASED INTERESTS

Section 2.01 Purchase and Sale.

(a) Subject to the terms and conditions of this Agreement, on the Closing Date, Seller shall sell, assign, transfer and convey to (i) each Oaktree Purchaser, and each Oaktree Purchaser shall purchase, acquire and accept from Seller, all of Seller's right, title and interest in and to such Oaktree Purchaser's applicable Oaktree Purchased Interest, (ii) Sagard Cayman, and Sagard Cayman shall purchase, acquire and accept from Seller, all of Seller's right, title and interest in and to the Sagard Cayman Purchased Interest, and (iii) Sagard Ireland, and Sagard Ireland shall purchase, acquire and accept from Seller, all of Seller's right, title and interest in and to the Sagard Ireland Purchased Interest, in each case free and clear of any and all Liens other than the precautionary security interest granted by Seller to Purchasers pursuant to Section 2.01(e) below.

(b) Seller and Purchasers intend and agree that the sale, assignment, transfer and conveyance of the Purchased Interests under this Agreement shall be, and is, a true sale by Seller to Purchasers that is absolute and irrevocable and that provides Purchasers with the full benefits of ownership of the Purchased Interests, and neither Seller nor Purchasers intend the transactions contemplated hereunder to be, or for any purpose (including tax purposes) characterized as, a loan from Purchasers to Seller or a pledge or security agreement. Seller waives any right to contest or otherwise assert that this Agreement is other than a true sale by Seller to Purchasers under Applicable Law, which waiver shall be enforceable against Seller in any bankruptcy or insolvency proceeding relating to Seller.

(c) Seller hereby consents to Purchasers recording and filing, at Purchasers' sole cost and expense, financing statements (and continuation statements with respect to such financing statements when applicable) meeting the requirements of Applicable Law in such manner and in such jurisdictions as are necessary or appropriate to (i) evidence or perfect the sale, assignment, transfer and conveyance by Seller to Purchasers, and the purchase, acquisition and acceptance by Purchasers from Seller, of the respective Purchased Interests and (ii) perfect the security interest in the Purchased Interests granted by Seller to Purchaser pursuant to Section 2.01(e).

(d) Seller intends for the conveyance to Purchasers of the Purchased Interests to be reflected on Seller's balance sheet and other financial statements as a sale of the Purchased Interests to Purchasers and shall be reflected on Purchasers' balance sheets and other financial statements as a purchase of the Purchased Interests from Seller; provided that the foregoing statements shall not bind the parties hereto regarding the reporting of the transactions contemplated by the Transaction Documents for GAAP and SEC reporting purposes in accordance with Applicable Law.

(e) Notwithstanding that Seller and Purchasers expressly intend for the sale, assignment, transfer and conveyance of the Purchased Interests to be a true, complete, absolute and irrevocable sale and assignment, in the event that any transfer of the Purchased Interests contemplated by this Agreement is held not to be a sale, Seller hereby assigns, conveys, grants and pledges to (i) each Oaktree Purchaser, as security for Seller's obligations to such Oaktree Purchaser created hereunder, a security interest in and to all of Seller's right, title and interest in, to and under such Oaktree Purchaser's applicable Oaktree Purchased Interest, (ii) Sagard Cayman, as security for Seller's obligations to Sagard Cayman created hereunder, a security interest in and to all of Seller's right, title and interest in, to and under the Sagard Cayman Purchased Interest, and (iii) Sagard Ireland, as security for Seller's obligations to Sagard Ireland created hereunder, a security interest in and to all of Seller's right, title and interest in, to and under the Sagard Ireland Purchased Interest in case of each of clause (i), (ii) and (iii) whether now owned or hereafter acquired, and any proceeds (as such term is defined in the UCC) thereof and, solely in such event, this Agreement shall constitute a security agreement.

Section 2.02 Payments in Respect of the Purchased Interests.

(a) Payments by Seller to Purchasers. Except as otherwise provided for in the Deposit Account Agreement when executed and delivered, Seller shall pay to Purchasers all amounts in respect of the Purchased Interests in accordance with Section 2.02(c) and Section 2.02(e) below. Notwithstanding the terms of the Almirall Instruction, this Agreement, the Parent/Seller Asset Purchase Agreement, and, when executed and delivered, the Deposit Account Agreement, if Almirall, Almirall LLC, any Sublicensee, or any other Person makes any future payment(s) of amounts with respect to which Purchasers are purchasing the Purchased Interests to Seller, Parent, or any of its or their Affiliates, then (i) the portion of such payment that represents Purchased Interests shall be held by Seller, Parent, or such Affiliate in trust for the benefit of the applicable Purchaser(s) in a segregated account, (ii) Seller, Parent, or such Affiliate shall have no right, title or interest whatsoever in such payment(s) and shall not create or suffer to exist any Lien thereon, other than those Liens created in favor of Purchasers by Sections 2.01(c) and (e) hereof or as required under the Deposit Agreement or the Escrow Agreement, and (iii) Seller, Parent, or such Affiliate promptly, and in any event no later than two Business Days following the receipt by Seller, Parent, or such Affiliate of such portion of such payment(s), shall remit such portion of such payment(s) to the applicable Oaktree Purchaser Account (defined in Schedule 2.02(c)), Sagard Cayman Purchaser Account (defined in Schedule 2.02(c)), and Sagard Ireland Purchaser Account (defined in Schedule 2.02(c)), as applicable, by wire transfer of immediately available funds and notify such Purchaser(s) of such receipt and provide reasonable details regarding the amounts so received by Seller, Parent, or such Affiliates.

(b) Payments by a Purchaser to Seller and/or another Purchaser. If a Purchaser shall, notwithstanding the provisions of the Almirall Instruction, this Agreement and, when executed and delivered, the Deposit Account Agreement, receive from Almirall, Almirall LLC or any other Person or Governmental Authority (i) any payment that consists of amounts in respect of the Purchased Interest of another Purchaser, (ii) any Excluded Asset or (iii) any payment that does not consist entirely of the Purchased Interest of such Purchaser (to the extent such payment does not otherwise fall under clause (i) or clause (ii)), such Purchaser shall hold such amounts in trust for the benefit of Seller or such other Purchaser (or, if applicable, Almirall and/or Almirall LLC), as applicable, and such Purchaser shall promptly (and in any event no later than two (2)

Business Days) following the date such Purchaser becomes aware of its receipt thereof, notify Seller and the other Purchaser (and, if applicable, Almirall and/or Almirall LLC) of such receipt and provide reasonable details regarding amounts so received by such Purchaser and (A) remit to the other Purchaser any payment or portion thereof to the extent it consists of amounts in respect of the Purchased Interest of such other Purchaser and/or (B) remit to Seller any payment or portion thereof constituting an Excluded Asset and/or (C) remit to Seller or Almirall or Almirall LLC, if applicable, any payment or portion thereof that otherwise does not consist entirely of such Purchaser's Purchased Interest or such other Purchaser's Purchased Interest.

(c) Seller shall make all payments required to be made by it to Purchasers pursuant to this Agreement by wire transfer of immediately available funds, without Set-off or deduction or withholding for or on account of any Taxes except as permitted by Section 8.07, to the accounts listed on Schedule 2.02(c) (or to such other account as the applicable Purchaser shall notify Seller in writing from time to time) (collectively, the "Purchaser Accounts").

(d) Each Purchaser shall make all payments required to be made by it to Seller pursuant to this Agreement by wire transfer of immediately available funds, without Set-off or deductions or withholding for or on account of any Taxes except as permitted by Section 8.07, to the account listed on Schedule 2.02(d) (or to such other account as Seller shall notify Purchaser in writing from time to time) (the "Seller Account").

(e) True-Up Payments. In the event that Almirall, Almirall LLC, any of their Affiliates or any Sublicensees takes any Impermissible Set-off against any of the Royalties or Milestone Interests under the License Agreement or the Supply Agreement in any Calendar Quarter, each of Seller and, subject to Section 5.16, Parent (as indemnitor pursuant to the Parent Indemnity set forth in Section 5.16), jointly and severally, shall promptly (and in any event no later than thirty (30) calendar days) following notice of the occurrence of the applicable Impermissible Set-off (and regardless of whether Seller or Parent agrees or disagrees that all or any portion of such Impermissible Set-Off was properly taken by Almirall or Almirall LLC) pay to Purchasers the full amount of such Impermissible Set-off (each such amount, a "True-Up Amount" and each such payment a "True-Up Payment") pro rata to each Purchaser based on its respective ownership of the Purchased Interests (and after Seller and/or Parent, as the case may be, makes such payment, Seller and/or Parent, as the case may be, shall be entitled to, and Purchasers shall not be entitled to, any amounts recovered from Almirall and/or Almirall LLC in respect of such Impermissible Set-off). Once Seller, Parent, Purchasers, and the Depositary Bank have executed and delivered the Deposit Account Agreement pursuant to Section 5.13, all True-Up Payments payable to Purchasers shall be satisfied (i) first, out of funds remaining in the Deposit Account after payment to the Purchaser Accounts of all amounts actually received from Almirall and Almirall LLC on account of the Royalties and Milestone Interests, if any, (ii) second, out of funds held by Seller in any Other Account in respect of Seller's Retained Interest or payments received under Other Product Licenses or Other Product Agreements, if any, and (iii) third, by direct payment by Parent to the Purchaser Accounts pursuant to the Parent Indemnity set forth in Section 5.16. All True-Up Payments shall be made to the Deposit Account (or to Purchaser accounts directly, as applicable) within 30 calendar days following notice of the occurrence of the applicable Impermissible Set-off regardless of whether Parent or Seller agrees or disagrees that all or any portion of such Impermissible Set-Off was properly taken by Almirall or Almirall LLC.

(f) Reimbursements.

(i) In the event that Almirall informs Seller of any overpayment pursuant to the last sentence of Section 4.6(a) of the License Agreement that resulted in any overpayment to any Purchaser in respect of its Purchased Interest, then subject to Section 10.8 of the License Agreement, upon written notice by Seller to such Purchaser, such Purchaser shall, within ten (10) Business Days following (i) the receipt of such notice by Purchaser if there is no Dispute by Purchasers as to the occurrence or amount of such overpayment, or (ii) a decision or other resolution pursuant to Section 10.8 of the License Agreement if there is a Dispute by Purchasers with respect to the occurrence or amount of any overpayment, repay such overpayment in respect of its Purchased Interest to Almirall or Almirall LLC, as applicable, and provide evidence to Seller confirming such payment.

(ii) In the event that the applicable accounting firm concludes in connection with any audit undertaken pursuant to Section 4.8 of the License Agreement that amounts were overpaid by Almirall and/or Almirall LLC during the period audited and such overpayment resulted in any overpayment to any Purchaser in respect of its Purchased Interest, upon written notice by Seller to such Purchaser, Purchaser shall, within ten (10) Business Days following receipt of such notice, repay such overpayment in respect of its Purchased Interest to Almirall or Almirall LLC, as applicable, and provide evidence to Seller confirming such payment.

(iii) In the event of any actual recoveries within the scope of clause (vi) of the definition of Royalties or clause (ii) of the definition of Milestone Interests, before any of such recoveries are paid over to Purchasers, Seller shall recoup from such recoveries that portion of its reasonable unreimbursed out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by it in connection with any actions taken by it against Almirall and/or Almirall LLC to obtain such recoveries but in each case only to the extent such out-of-pocket costs and expenses are (i) directly related to the enforcement of such rights and to obtaining such recoveries and (ii) are in excess of Seller's Applicable Percentage of the total costs and expenses incurred by the Parties hereto in connection with the enforcement of such rights and obtaining such recoveries, whether the recoveries are by settlement or otherwise.

(iv) In the event that Seller seeks to obtain any recoveries within the scope of clause (vi) of the definition of Royalties or clause (ii) of the definition of Milestone Interests and is unable to recoup from such recoveries that portion of its reasonable unreimbursed out-of-pocket costs and expenses as set forth in and pursuant to clause 2.02(f)(iii) above, upon written notice by Seller to Purchasers, Purchasers shall, within ten (10) Business Days following receipt of such notice, pay to Seller, on a pro rata basis based on their respective ownership of the Purchased Interests, the amount of such unrecouped costs and expenses as set forth in clause 2.02(f)(iii) above (which, for the avoidance of doubt, shall exclude any reimbursement for Seller's Applicable Percentage of the total costs and expenses incurred by the Parties hereto in connection with obtaining such recoveries).

(v) In the event that Seller institutes or participates in any action, suit or proceeding or otherwise seeks to exercise any remedy under Section 5.05(h) (other than actions suits or proceedings seeking recoveries within the scope of clause (vi) of the definition of Royalties or clause (ii) of the definition of Milestone Interests, which are covered in Section 2.02(f)(iii) above), before any actual recoveries from any such action, suit, proceeding or other remedies are paid to Purchasers, if applicable, Seller shall recoup from such recoveries that portion of its out-of-pocket costs and reasonable expenses, including reasonable attorneys' fees, incurred in connection with the actions, suits, proceedings or other remedies taken to obtain such recoveries, but in each case only to the extent such out-of-pocket costs and expenses are (i) directly related to the enforcement of such rights and to obtaining such recoveries and (ii) are in excess of Seller's Applicable Percentage of the total costs and expenses incurred by the Parties hereto in connection with the enforcement of such rights and obtaining such recoveries, whether the recoveries are by settlement or otherwise.

(vi) In the event that Seller seeks to obtain any recoveries by instituting or participating in any action, suit, proceeding or other remedy under Section 5.05(h) and is unable to recoup from such recoveries that portion of its costs and reasonable expenses as set forth in and pursuant to clause 2.02(f)(v) above, upon written notice by Seller to Purchasers, Purchasers shall, within ten (10) Business Days following receipt of such notice, pay to Seller, on a pro rata basis based on their respective ownership of the Purchased Interests, the amount of such unrecouped costs and expenses as set forth in clause 2.02(f)(v) above (which, for the avoidance of doubt, shall exclude any reimbursement for Seller's Applicable Percentage of the total costs and expenses incurred by the Parties hereto in connection with obtaining such recoveries).

(g) Unless and until this Agreement is terminated pursuant to Section 7.01, Seller shall not amend, modify, supplement, restate, waive or change the Almirall Instruction or any Counterparty Instruction except as provided in Section 5.13(b).

Section 2.03 Purchase Price.

In full consideration for the sale of the Purchased Interests, pursuant to Section 6.03 and subject to the terms and conditions set forth herein, Purchasers shall pay to Seller, or its designee, and the Escrow Agent, on the Closing Date, the aggregate sum of $85,000,000 (the "Purchase Price") by wire transfer.

Section 2.04 No Assumed Obligations or Liabilities.

Notwithstanding any provision in this Agreement or any other writing to the contrary, Purchasers are acquiring only the Purchased Interests and are not assuming any liability or obligation of Seller or Parent (or any of their respective Affiliates) of whatever nature (including but not limited to all liabilities and obligations with respect to any Section [*] Set-off or Other Set-off), whether presently in existence or arising or asserted hereafter, whether under the License Agreement, any Ancillary Agreement, the Parent/Seller Asset Purchase Agreement, the Servicing Agreement (when entered into following the Closing), the Purchased Product Assets, the Retained Product Assets, the Other Product Licenses, the Other Product Agreements, any

Transaction Document or otherwise. All such liabilities and obligations (including but not limited to all liabilities and obligations with respect to any Section [*] Set-off and Other Set-off) shall be retained by and remain obligations and liabilities of, as applicable, Seller, Parent, or their respective Affiliates (the "Excluded Liabilities and Obligations").

Section 2.05 Excluded Assets.

Except as expressly set forth in this Agreement or in the other Transaction Documents, Purchasers do not, by purchase of the Purchased Interests hereunder or otherwise, acquire any assets or contract rights of Seller or Parent under the License Agreement, any of the Ancillary Agreements, the Parent/Seller Asset Purchase Agreement, the Servicing Agreement (when entered into following the Closing), the Excluded Assets, the Purchased Product Assets, the Retained Product Assets, the Other Product Licenses, the Other Product Agreements, any Transaction Document, the Athenex Patent Rights, any Proprietary Information or any other assets of Seller or Parent, other than the Purchased Interests.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLER AND PARENT

Except as set forth on the Disclosure Schedules of Seller and Parent (including any Disclosure Schedules delivered pursuant to Section 5.18), which exceptions shall be deemed to be part of the representations and warranties of Seller or Parent, as applicable, each of Seller and Parent, subject to Section 5.16(c) and Section 8.05(i), on a joint and several basis, hereby represents and warrants to each of Purchasers as of the Effective Date and the Closing Date the following (with Seller being deemed to make the representations and warranties that relate specifically to Seller (and only Seller), Parent being deemed to make the representations and warranties that relate specifically to Parent (and only Parent), and both Seller and Parent being deemed to make the representations and warranties that do not relate specifically to either Seller or Parent:

Section 3.01 Organization.

(a) Seller is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware, and has all limited liability company power and authority and all licenses, authorizations, consents and approvals required to own its property and to carry on its business as now conducted and as proposed to be conducted in connection with the transactions contemplated by this Agreement and the Transaction Documents and to perform its obligations under this Agreement and the Transaction Documents (except, in each case, where the failure to have such licenses, authorizations, consents or approvals could not reasonably be expected to result in a Material Adverse Effect). Seller is duly qualified to do business as a foreign corporation and is in good standing in every jurisdiction in which the failure to do so could reasonably be expected to result in a Material Adverse Effect.

Parent is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware, and has all corporate powers and authority and all licenses, authorizations, consents and approvals required to own its property and to carry on its business as now conducted and as proposed to be conducted in connection with the transactions

contemplated by the Transaction Documents and to perform its obligations under the Transaction Documents, the License Agreement, the Ancillary Agreements, the Other Product Licenses and Other Product Agreements (except, in each case, where the failure to have such licenses, authorizations, consents or approvals could not reasonably be expected to result in a Material Adverse Effect). Parent is duly qualified to do business as a foreign corporation and is in good standing in every jurisdiction in which the failure to do so could reasonably be expected to result in a Material Adverse Effect.

(b) Seller was formed on May 3, 2022, for the sole purpose of acquiring the Purchased Product Assets as contemplated by Parent/Seller Asset Purchase Agreement and, when executed, the Servicing Agreement, selling the Purchased Interest to Purchasers as contemplated hereby and otherwise performing its obligations under the Transaction Documents. Seller has not been, is not, and will not be engaged, in any business unrelated to effecting the transactions contemplated by the Transaction Documents except as provided in the Other Product Licenses and Other Product Agreements, and except as permitted by the Operating Agreement and the Transaction Documents. The sole assets of Seller that it has owned or will own consist exclusively of the Purchased Product Assets and any rights arising under the Transaction Documents. Seller has not assumed any obligations under the License Agreement, the Supply Agreement or any other Ancillary Agreement and all such obligations remain with Parent pursuant to the Parent/Seller Asset Purchase Agreement and the Almirall Assignment Agreement. Since the date of Seller's formation, Seller has not incurred any obligations or liabilities or engaged in any business activities of any type or kind whatsoever or entered into any agreements or arrangements with any Person, except as required to execute and deliver the Transaction Documents and to consummate the transactions contemplated thereby. Seller has no obligations or liabilities, except those incurred in connection with, and pursuant to the Transaction Documents and the transactions contemplated thereby. Seller has not and does not intend to make an election to be treated as other than a disregarded entity for U.S. federal income tax purposes.

Section 3.02 Corporate Authorization.

Seller and Parent each has all necessary corporate power and authority to enter into, execute and deliver the Transaction Documents and to perform all of the obligations to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder. The execution and delivery of each Transaction Document and the performance by Seller and Parent of their respective obligations hereunder and thereunder have been duly authorized by all necessary corporate or limited liability company action on the part of Seller and Parent. Each of the Transaction Documents to which Seller and/or Parent is party has been duly authorized, executed and delivered by an authorized officer or member of such party and each Transaction Document constitutes the legal, valid and binding obligation of such party, enforceable against it in accordance with its terms, subject, as to enforcement of remedies, to applicable bankruptcy, insolvency, reorganization, moratorium or similar Applicable Laws affecting creditors' rights generally and general equitable principles.

Section 3.03 Governmental and Third Party Authorizations.

The execution and delivery by Seller and Parent of the Transaction Documents, the performance by each of Seller and Parent of its obligations hereunder and thereunder and the consummation of any of the transactions contemplated hereunder and thereunder (including (i) the sale, assignment, transfer, conveyance and granting of all rights with respect to the Purchased Product Assets by Parent to Seller and the retention of all obligations with respect to the Purchased Product Assets by Parent as provided in the Parent/Seller Asset Purchase Agreement and (ii) the sale, assignment, transfer, conveyance and granting of the Purchased Interests to Purchasers), do not require any consent, approval, license, order, authorization or declaration from, notice to, action or registration by, or in respect of, or filing with, any Governmental Authority or any other Person, except for the filing of UCC financing statements and the notice to Almirall and Almirall LLC contained in the Almirall Instruction.

Section 3.04 Ownership.

(a) Seller is the exclusive owner of the entire right, title (legal and equitable) and interest in, to and under the Purchased Interests and has good and valid title thereto, free and clear of all Liens (other than Liens granted in favor of Purchasers hereunder). The Purchased Interests sold, assigned, transferred and conveyed by Seller to Purchasers on the Closing Date have not been pledged, sold, contributed, assigned, transferred or conveyed by Seller to any other Person. Seller has full right to sell, contribute, assign, transfer, and convey the Purchased Interests to Purchaser. Upon the sale, assignment, transfer and conveyance by Seller of the Purchased Interests to Purchasers, Purchasers shall acquire good and valid title to the Purchased Interests free and clear of all Liens (other than Liens granted in favor of Purchasers hereunder and under the Transaction Documents) and immediately after the Closing shall be the exclusive owners of the Purchased Interests.

(b) Upon consummation of the transactions contemplated by the Transaction Documents, Seller will own or Control all of the Athenex Patent Rights free and clear of all Liens (other than Liens granted in favor of Purchasers hereunder, the rights granted to the Counterparties under the License Agreement, the Ancillary Agreements, the Other Product Licenses and Other Product Agreements (each, as in effect on the date hereof), and the rights granted to Parent under the Servicing Agreement, when entered into following the Closing).

(c) Parent and the Assigning Affiliates are the sole and exclusive owners of the Trade Secrets, and no other Person (including any Affiliate of Athenex other than the Assigning Affiliate) has any ownership interest in the Trade Secrets.

Section 3.05 Solvency.

Each of Seller and Parent has determined that, and by virtue of its entering into the transactions contemplated by the Transaction Documents and its authorization, execution and delivery of the Transaction Documents, Seller's and Parent's incurrence of any liability hereunder or thereunder or contemplated hereby or thereby is in its own best interests. Upon consummation of the transactions contemplated by the Transaction Documents and the application of the proceeds therefrom, (i) the fair saleable value of each of Seller's and Parent's

assets will be greater than the sum of its debts, liabilities and other obligations, including contingent liabilities, (ii) the present fair saleable value of each of Seller's and Parent's respective assets will be greater than the amount that would be required to pay its probable liabilities on its existing debts, liabilities and other obligations, including contingent liabilities, as such debts, liabilities and other obligations become absolute and matured, (iii) each of Seller and Parent will be able to pay its debts, liabilities and other obligations, including contingent obligations, as they become absolute and matured, (iv) neither Seller nor Parent will be rendered insolvent, will have unreasonably small capital with which to engage in its business, (v) neither Seller nor Parent has incurred, will incur or has present plans or intentions to incur, debts or liabilities beyond its ability to pay such debts or liabilities as they become absolute and matured (vi) neither Seller nor Parent will have become subject to any Bankruptcy Event and (vii) neither Seller nor Parent will have been rendered insolvent within the meaning of Section 101(32) of Title 11 of the United States Code. No step has been taken or is intended by Seller or Parent or, to the Knowledge of Seller and Parent, any other Person, to make Seller or Parent subject to a Bankruptcy Event.

Section 3.06 Litigation.

There is no (i) action, suit, arbitration proceeding, claim, demand, citation, summons, subpoena, investigation or other proceeding (whether civil, criminal, administrative, regulatory, investigative or informal) pending or, to the Knowledge of Seller or Parent, threatened, in respect of Seller, Parent, or any of their respective Subsidiaries, the Athenex Patent Rights, the Licensed Products, the Purchased Interests, the License Agreement, the Ancillary Agreements, or the Purchased Product Assets, at law or in equity, or (ii) inquiry or investigation (whether civil, criminal, administrative, regulatory, investigative or informal) by or before a Governmental Authority pending or, to the Knowledge of Seller and Parent, threatened against Seller, Parent, or any of their respective Subsidiaries, in each case with respect to clauses (i) and (ii) above, which, (x) if adversely determined, could reasonably be expected to result in a Material Adverse Effect or (y) challenges or seeks to prevent or delay the consummation of any of the transactions contemplated by any of the Transaction Documents to which Seller or Parent is party. To the Knowledge of Seller and Parent, no event has occurred or circumstance exists that may give rise to or serve as a basis for the commencement of any such action, suit, arbitration, claim, investigation, proceeding or inquiry.

Section 3.07 Compliance with Laws.

(a) None of Seller, Parent or any of their respective Subsidiaries (i) is in violation of, or has violated, and (ii) to the Knowledge of Seller and Parent, is under investigation with respect to, or been threatened to be charged with or has been given notice of any violation of, any Applicable Law or any judgment, order, writ decree, injunction, stipulation, consent order, permit or license granted, issued or entered by, any Governmental Authority, in each case, which could reasonably be expected to result in a Material Adverse Effect. Each of Seller, Parent, and any Affiliate of Seller or Parent is in compliance with the requirements of all Applicable Laws, except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect.

(b) Seller and Parent have all Registrations from the FDA, EMA, comparable foreign counterparts or any other Governmental Authority required to conduct their respective businesses as currently conducted, except where the failure to have all such Registrations would not reasonably be expected to, individually or in the aggregate, result in Material Regulatory Liabilities. Each of such Registrations is valid and subsisting in full force and effect, except where the failure to thereof would not reasonably be expected to, individually or in the aggregate, result in Material Regulatory Liabilities. To the Knowledge of Seller and Parent, neither the FDA nor any comparable Governmental Authority is considering limiting, suspending, or revoking such Registrations. To the Knowledge of Seller and Parent, there is no false or materially misleading information or significant omission in any Licensed Product application or other notification, submission or report to the FDA or any comparable Governmental Authority that was not corrected by subsequent submission, and all such applications, notifications, submissions and reports provided by Seller or Parent were true, complete, and correct in all material respects as of the date of submission to FDA or any comparable Governmental Authority. Neither Seller nor Parent has failed to fulfill and perform its material obligations which are due under each such Registration, and no event has occurred or condition or state of facts exists which would constitute a breach or default under any such Registration, in each case that would reasonably be expected to cause the revocation, termination or suspension or material limitation of any such Registration, including but not limited to any form of clinical hold order. To the Knowledge of Seller and Parent, any third party that develops, researches, manufactures, commercializes, distributes, sells or markets Licensed Products pursuant to an agreement with Seller (a "Seller Partner") is in compliance with all Registrations from the FDA and any comparable Governmental Authority insofar as they pertain to Licensed Products, and each such Seller Partner is, and has been, in compliance with applicable Public Health Laws, except where the failure to so be in compliance would not reasonably be expected to, individually or in the aggregate, result in Material Regulatory Liabilities.

(c) Each of Seller and Parent is and has been in compliance with all Public Health Laws, except to the extent that any such non-compliance, individually or in the aggregate, could not reasonably be expected to result in Material Regulatory Liabilities.

(d) To the extent applicable, all Licensed Products designed, developed, investigated, manufactured, prepared, assembled, packaged, tested, labeled, distributed, sold, marketed or delivered by or on behalf of Seller and Parent that are subject to the jurisdiction of the FDA or any comparable Governmental Authority have been and are being designed, developed, investigated, manufactured, prepared, assembled, packaged, tested, labeled, distributed, sold, marketed or delivered in compliance with the Public Health Laws, except for such non-compliance that would not reasonably be expected to, individually or in the aggregate, result in Material Regulatory Liabilities. To the Knowledge of Seller and Parent, there are no defects in the design or technology embodied in any Licensed Products that are reasonably expected to prevent the safe and effective performance of any such Licensed Product for its intended use (other than such limitations specified in the applicable package insert), except for such defects that would not reasonably be expected to, individually or in the aggregate, result in Material Regulatory Liabilities. None of the Licensed Products has been the subject of any products liability or warranty action against Seller, Parent or any Seller Partner, or any non-legal claim for clinical trial compensation by trial participants.

(e) Neither Seller nor Parent is currently subject to any material obligation arising pursuant to a Regulatory Action with respect to any Licensed Product and, to the Knowledge of Seller and Parent, no such material obligation or Regulatory Action has been threatened by a Governmental Authority in writing. In addition, and without limitation on the foregoing, neither Seller nor Parent has received any written notice or communication from the FDA, comparable foreign counterparts or any other Governmental Authority alleging material non-compliance with any Public Health Law or comparable foreign laws with respect to any Licensed Product.

(f) To the Knowledge of Seller and Parent, no Seller Partner has received any written notice or communication from the FDA or any other Governmental Authority alleging material non-compliance with any Public Health Law, including without limitation any notice of inspectional observation, notice of adverse finding, notice of violation, warning letters, untitled letters or other notices from the FDA relating to such Seller Partner's agreements with Seller or Parent. There have been no recalls, field notifications, field corrections, market withdrawals or replacements, detentions, warnings, "dear doctor" letters, investigator notices, safety alerts or other notice of action relating to an actual or potential lack of safety, efficacy, or regulatory compliance of any Licensed Products ("Safety Notices") or clinical hold orders issued by the FDA with respect to an ongoing or anticipated clinical trial of any Licensed Product, and to the Knowledge of Seller and Parent, there are no facts or circumstances that are reasonably likely to result in (x) a Safety Notice, (y) a material change in labeling of any Licensed Product, (z) a termination or suspension of research, testing, manufacturing, distribution, or commercialization of any Licensed Product.

(g) Neither Seller, Parent, nor any officer, director, managing employee or agent (as those terms are defined in 42 C.F.R. § 1001.1001) thereof is a party to, or bound by, any written order, individual integrity agreement, corporate integrity agreement, deferred or non-prosecution agreement or other written agreement with any Governmental Authority concerning their compliance with Federal Health Care Program Laws.

(h) Neither Seller, Parent, nor any officer, director, managing employee or agent (as those terms are defined in 42 C.F.R. § 1001.1001) thereof, nor to the Knowledge of Seller and Parent, any Seller Partner: (i) has been, since December 11, 2017, charged with or convicted of any criminal offense relating to the delivery of an item or service under any Federal Health Care Program; (ii) has had, since December 11, 2017, a civil monetary penalty assessed against it, him or her under Section 1128A of the Social Security Act; (iii) has been listed on the U.S. General Services Administration published list of parties excluded from federal procurement programs and non-procurement programs; or (iv) to the Knowledge of Seller and Parent, is the target or subject of any current or potential suit, claim, action, proceeding, arbitration, mediation, inquiry, subpoena or investigation relating to any of the foregoing or any Federal Health Care Program-related offense, or which could result in the imposition of material penalties or the debarment, suspension or exclusion from participation in any Federal Health Care Program. Neither Seller, Parent, nor any officer, director, managing employee or agent (as those terms are defined in 42 C.F.R. § 1001.1001) thereof, nor any Seller Partner, has been debarred, excluded, disqualified or suspended from participation in any Federal Health Care Program or under any FDA Laws (including 21 U.S.C. § 335a).

(i) Neither Seller, Parent, nor any officer, director, managing employee or agent (as those terms are defined in 42 C.F.R. § 1001.1001) thereof, nor to the Knowledge of Seller and Parent, any Seller Partner, has, since December 11, 2017, violated or engaged in any activity that is in violation of any Federal Health Care Program Laws or cause for false claims liability, civil penalties or mandatory or permissive exclusion from any Federal Health Care Program, except where the violation would not reasonably be expected to result, either individually or in the aggregate, in Material Regulatory Liabilities.

(j) To the Knowledge of Seller and Parent, no Person has filed or has threatened to file against Seller an action relating to any FDA Law, Public Health Law or Federal Health Care Program Law under any whistleblower statute, including without limitation, the False Claims Act of 1863 (31 U.S.C. § 3729 et seq.).

Section 3.08 Conflicts.

(a) Neither the execution and delivery of this Agreement or any other Transaction Document nor the performance or consummation of the transactions contemplated hereby and thereby will: (i) contravene, conflict with, result in a breach, violation, cancellation, termination of or loss of benefit under, constitute a default (with or without notice or lapse of time, or both) under, or require prepayment under, give any Person the right to exercise any remedy or Set-off or obtain any additional rights under, or accelerate the maturity or performance of or payment under, in any respect, any provisions of (A) any Applicable Law, or any judgment, order, writ, decree, permit or license of any Governmental Authority, in each case to which Seller, Parent, or any of their respective Subsidiaries or any of their respective assets or properties are subject or bound, or (B) any term or provision of any contract, agreement, indenture, lease, license, deed, commitment, obligation, or instrument to which Seller, Parent, or any of their respective Subsidiaries is a party or by which Seller, Parent, or any of their respective Subsidiaries or any of their respective assets or properties is bound or committed (other than those contracts, agreements, commitments or instruments described in clause (ii) of this Section 3.08(a), which are not covered by the representation and warranty of this clause (i)(B) of this Section 3.08(a) and are instead covered by the representation and warranty in clause (ii) of this Section 3.08(a), and other than any such contravention, conflict, breach, violation, cancellation, termination, loss of benefit, default, prepayment, remedy, rights or acceleration that, in each case or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect); (ii) contravene, conflict with, result in a breach, violation, cancellation, termination of or loss of benefit under, or constitute a default (with or without notice or lapse of time, or both) under, or require prepayment under, give any Person the right to exercise any remedy or Set-off (including any Impermissible Set-off) or obtain any additional rights (including the right to receive payment of additional amounts) under, or accelerate the maturity or performance of or payment under, in any respect, any term or provision of, any contract, agreement, indenture, lease, license, deed, commitment, obligation, or instrument to which Almirall and/or Almirall LLC, on the one hand, and Seller and/or Parent or any of its or their Subsidiaries, on the other hand, is a party, or by which Almirall, Almirall LLC, Seller and/or Parent or any of its or their Subsidiaries or any of their respective assets or properties is bound or committed, including without limitation the License Agreement and the Ancillary Agreements; (iii) contravene, conflict with, result in a breach, violation, cancellation, termination of or loss of benefit under, constitute a default (with or without notice or lapse of time, or both) under, or

accelerate the performance provided by, any provisions of the certificate of incorporation or by-laws (or other organizational or constitutional documents) of Seller, Parent, or any of their respective Subsidiaries; (iv) require any notification to, filing with, or consent of, any Person (including Almirall and Almirall LLC) or Governmental Authority other than the Almirall Instruction and the Counterparty Instructions; (v) give rise to any right of termination, suspension, cancellation or acceleration of any right or obligation of Seller, Parent or any of their respective Subsidiaries or any other Person; or (vi) result in the creation or imposition of any Lien or Impermissible Set-Off on the Purchased Interests (other than the Liens granted in favor of Purchasers under the Transaction Documents).

(b) Neither Parent nor Seller has granted, nor does there exist, any Lien on or relating to the License Agreement, the Ancillary Agreements, the Transaction Documents, or the Purchased Interests (other than the Liens granted to the Administrative Agent for the benefit of the Lenders under the Oaktree Credit Agreement prior to giving effect to the Oaktree Consent, and the Liens granted in favor of Purchasers under the Transaction Documents, Other Product Licenses and Other Product Agreements (in each case, as in effect on the Effective Date and Closing Date, as applicable)).

Section 3.09 Broker's Fees.

Seller has not taken any action that would entitle any Person to any commission or broker's fee in connection with the transaction contemplated by the Transaction Documents, except for Ladenburg Thalmann & Co. Inc. which will be entitled to a fee payable by Parent.

Section 3.10 Patent Rights.

(a) Schedule 3.10(a) of the Disclosure Schedules sets forth an accurate and complete list of all Athenex Patent Rights in existence as of the Effective Date and Closing Date, as applicable, and for each of the patents included in the Athenex Patent Rights listed on Schedule 3.10(a) of the Disclosure Schedules, (i) the countries in which such patents are issued, (ii) the patent number, and (iii) the expected expiration date of the issued patents. Schedule 3.10(a) of the Disclosure Schedules also sets forth, for each pending patent application listed thereon, an accurate and complete list of (i) the countries in which such patent applications are pending, (ii) the patent application number or publication number, and (iii) the filing date of the patent application.

(b) To the Knowledge of Seller and Parent, each of the issued patents included in the Athenex Patent Rights is valid and enforceable. Except as set forth on Schedule 3.10(a), Seller is the exclusive owner of each of the Athenex Patent Rights identified on Schedule 3.10(a) as being owned by Seller. The applications for patent term extension of U.S. Patent No. [*] and of U.S. Patent No. [*] and supplemental protection certificates for EP [*] submitted to the relevant Patent Office with respect to the Athenex Patent Rights are accurate and complete in all material respects and, to the Knowledge of Seller and Parent, there are no facts in existence that would prevent one of the two applications for patent term extension as may be selected by Seller pursuant to Section 5.05(f) and each such application for supplemental protection certificate from being granted for the full period of extension requested therein. Seller and, to the Knowledge of Seller and Parent, Almirall and Almirall LLC, have exercised reasonable diligence

in the development of Klisyri during the entire time periods set forth in the applications for patent term extension for U.S. Patent No. [*] and U.S. Patent No. [*] submitted to the U.S. Patent Office on [*].

(c) Klisyri is a "Licensed Product" as defined in the License Agreement.

(d) There are no unpaid maintenance or renewal fees payable by Seller or Parent to any third party that are currently and finally overdue for any of the Athenex Patent Rights. No issued Athenex Patent Rights have lapsed or been abandoned, cancelled or expired except in the Ordinary Course. To the Knowledge of Seller and Parent, each individual associated with the filing and prosecution of the Athenex Patent Rights, including the named inventors of the Athenex Patent Rights, has complied with all applicable duties of candor and good faith in dealing with any Patent Office, including any duty to disclose to any Patent Office all information known to be material to the patentability of each of the Athenex Patent Rights, in those jurisdictions where such duties exist.

(e) There is no pending or, to the Knowledge of Seller or Parent, threatened (in writing) opposition, interference, reexamination, injunction, claim, lawsuit, proceeding, hearing, investigation, complaint, arbitration, mediation, demand, International Trade Commission investigation, decree, inter-partes review or post grant review proceeding or any other dispute, disagreement, claim or proceeding (each, a "Dispute" and collectively, the "Disputes"), challenging the legality, validity, enforceability or ownership of any of the Athenex Patent Rights. Neither Seller nor Parent has received any notice pursuant to Section 6.3(a) or 6.3(d) of the License Agreement. Neither Seller nor Parent has received any written notice from Almirall or Almirall LLC disclosing that there is any Dispute before any Governmental Authority that is pending or threatened against Almirall or Almirall LLC that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

(f) There is no pending or, to the Knowledge of Seller or Parent, threatened action, suit, or proceeding, or any investigation or claim by any Person or Governmental Authority to which Seller or Parent, or to which, to the Knowledge of Seller and Parent, Almirall or Almirall LLC is a party that claims that the Athenex Patent Rights or the marketing, sale or distribution of Licensed Products by Almirall or Almirall LLC pursuant to the License Agreement does or will infringe on any patent or other intellectual property rights of any other Person. Neither Seller nor Parent has received any notice pursuant to Section 6.4(a) of the License Agreement. To the Knowledge of Seller and Parent, no Person is infringing, misappropriating or making any unauthorized use of any Athenex Intellectual Property. There is no pending, or, to the Knowledge of Seller and Parent, threatened action, suit, or proceeding, or any investigation or claim involving the Athenex Intellectual Property by Seller, Parent, Almirall, Almirall LLC or any Counterparty to any Other Product License against any Person in relation to the Athenex Intellectual Property.

Section 3.11 Regulatory Approval, Supply and Marketing.

(a) Parent was primarily responsible for the clinical development of the Current Product and for obtaining Regulatory Approval of the Current Product in the Field under the

License Agreement in the U.S. Almirall has never exercised, or had the right to exercise, its rights under Section 3.3(b)(iii) of the License Agreement.

(b) To the Knowledge of Seller and Parent, Almirall has complied with its obligations to obtain Regulatory Approval for the Current Product in at least one of the Major European Markets as set forth in Section 3.3(a) of the License Agreement. Neither Seller nor Parent has ever attempted to exercise any remedy against Almirall pursuant to Article 3 of the License Agreement.

(c) Concurrent with the closing of the transactions contemplated by this Agreement, Parent and Seller have provided the Purchaser Directors with a true and complete copy of the Quarterly Reports received from Almirall and Almirall LLC by Seller and Parent under Section 4.6(a) of the License Agreement relating to Net Sales of the Current Product through March 31, 2022.

(d) Parent (through the License Agreement and the Ancillary Agreements) is sole party (as among Parent, Seller, Almirall and Almirall LLC) responsible for the manufacturing of the Licensed Product as provided in Article 3A of the License Agreement and in the Supply Agreement. Parent has complied with its obligations under Article 3A of the License Agreement and with its obligations under the Supply Agreement in all material respects.

(e) Almirall has been, and continues to be, and Seller is not, responsible for the marketing, promotion, sales and distribution of the Licensed Products in the Field in the countries of the Territory under the License Agreement. To the Knowledge of Seller and Parent, Almirall has complied with its obligations related to the marketing, promotion, sales and distribution of the Licensed Products set forth in Section 3.4 of the License Agreement.

Section 3.12 Subordination.

The claims and rights of Purchasers created by any Transaction Document in and to the Purchased Interests are not subordinated to any creditor of Seller or Parent or any other Person.

Section 3.13 License Agreement.

(a) Other than the License Agreement and the Ancillary Agreements, there is no contract, agreement or other arrangement (whether written or oral) to which Seller, Parent, or any of their Subsidiaries is a party or by which any of their respective assets or properties is bound or committed for which breach, nonperformance, cancellation or failure to renew could reasonably be expected to have an adverse effect on the timing, amount, duration or value in any material respect of the payments to be made to Purchasers in respect of their respective Purchased Interests or their right to receive such payments.

(b) Concurrent with the closing of the transactions contemplated by this Agreement, Parent and Seller have provided the Purchaser Directors with a true, correct and complete copy of (i) the License Agreement and Supply Agreement and (ii) all material notices and correspondences delivered to, or by, Seller or Parent pursuant to, or relating to, the Purchased Interests, the License Agreement or the Ancillary Agreements since December 11, 2017.

(c) Each of the License Agreement and the Ancillary Agreements is in full force and effect and is the legal, valid and binding obligation of Parent, Almirall and Almirall LLC, enforceable against each of them in accordance with its terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar Applicable Laws affecting creditors' rights generally and general equitable principles, and immediately following the Closing, each of the License Agreement and the Ancillary Agreements will continue in full force and effect, without modification (except for any modification of the License Agreement provided for in the Almirall Instruction), and each is, and immediately after the Closing, shall remain, the legal, valid and binding obligation of Parent and, to the Knowledge of Seller and Parent, Almirall and Almirall LLC, enforceable against Parent and, to the Knowledge of Seller and Parent, Almirall and Almirall LLC, in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally, the UCC, and general equitable principles. The execution, delivery and performance of the License Agreement and the Ancillary Agreements was and is within the corporate powers of Parent and, to the Knowledge of Seller, Almirall and Almirall LLC. The License Agreement and each of the Ancillary Agreements was duly authorized by all necessary action on the part of, and validly executed and delivered by, Parent and, to the Knowledge of Seller and Parent, Almirall and Almirall LLC. There is no breach or default, or event which upon notice or the passage of time, or both, reasonably would be expected to give rise to any breach or default, in the performance of the License Agreement or the Ancillary Agreements by Parent, and, to the Knowledge of Seller and Parent, there is no breach or default, or event which upon notice or the passage of time, or both, reasonably would be expected to give rise to any breach or default, in the performance of the License Agreement or any of the Ancillary Agreements by Almirall or Almirall LLC.

(d) Seller and Parent have not waived any rights or defaults under the License Agreement or any Ancillary Agreement or released Almirall or Almirall LLC, in whole or in part, from any of Parent's obligations under the License Agreement or any Ancillary Agreement. There are no oral waivers or modifications (or pending requests therefor) in respect of the License Agreement or any Ancillary Agreement. Neither Seller, Parent, Almirall nor Almirall LLC has agreed to amend or waive any provision of the License Agreement or any Ancillary Agreement.

(e) To the Knowledge of Parent and Seller, no event has occurred that would give Almirall or Almirall LLC the right to terminate the License Agreement or any Ancillary Agreement, cease paying Royalties or Milestone Interests under the License Agreement or take any Impermissible Set-off or other Set-off against Royalties or Milestone Interests under the License Agreement. Neither Seller nor Parent has received any notice from Almirall or Almirall LLC (i) asserting that Almirall or Almirall LLC intends to terminate or breach the License Agreement or any Ancillary Agreement, in whole or in part, (ii) asserting that Almirall or Almirall LLC intends to challenge the validity or enforceability of the License Agreement or any Ancillary Agreement or the obligation to pay any portion of the Royalties or Milestone Interests under the License Agreement, (iii) asserting that Almirall or Almirall LLC intends to take any Impermissible Set-off or other Set-off against Royalties or Milestone Interests under the License Agreement, or (iv) alleging that Parent, Almirall or Almirall LLC is in default of its obligations under the License Agreement or any Ancillary Agreement. To the Knowledge of Seller and Parent, there has been no default, violation or breach by Almirall or Almirall LLC under the

License Agreement or any Ancillary Agreement. Neither Seller nor Parent has any intention of terminating the License Agreement or any Ancillary Agreement and neither Seller nor Parent has given Almirall or Almirall LLC any notice of termination of the License Agreement or any Ancillary Agreement, in whole or in part.

(f) Neither Seller nor Parent has received any written notice from Almirall or Almirall LLC indicating that Almirall or Almirall LLC has entered into any sublicense pursuant to Section 2.2(b) of the License Agreement and, to the Knowledge of Seller and Parent, neither Almirall nor Almirall LLC has entered into any such sublicense.

(g) Neither Seller nor Parent has consented to an assignment by Almirall or Almirall LLC of any of Almirall' s or Almirall LLC's rights or obligations under the License Agreement or any Ancillary Agreement, and to the Knowledge of Seller and Parent, no such assignment by Almirall or Almirall LLC has been made. Except as provided in the Oaktree Credit Agreement, neither Seller nor Parent has assigned, in whole or in part, or granted, incurred or suffered to exist any Lien on the License Agreement, any Ancillary Agreement or the Purchased Interests.

(h) None of Seller, Parent, Almirall, Almirall LLC or any other Person has made any claim of indemnification under the License Agreement or the Ancillary Agreements.

(i) Neither Seller nor Parent has exercised rights to conduct an audit under the License Agreement.

(j) Neither Seller nor Parent has received any notice from Almirall or Almirall LLC advising Seller or Parent that the obligation of Almirall and Almirall LLC to pay Royalties in a particular country in the Territory could end before the expiration of the last to expire Valid Claim of the Athenex Patent Rights in such country covering the Licensed Products (or the use or manufacture thereof).

(k) As of the Effective Date and Closing Date, as applicable, no proof of concept Phase II Clinical Study has been completed or proposed under the License Agreement. Pursuant to Section 4.3 of the License Agreement (after giving effect to the footnote to Milestone #5 under License Agreement and Milestone #6 under License Agreement), with respect to each of Milestone #5 under License Agreement and Milestone #6 under License Agreement, Seller would be entitled to receive (i) [*] percent ([*]%) of such milestone if the Licensed Product is approved in an Additional Indication (Milestone #5 under License Agreement) or a second Additional Indication (Milestone #6 under License Agreement) and either (A) a proof of concept Phase II Clinical Study is not performed with respect to such Additional Indication, or (B) a proof of concept Phase II Clinical Study is performed with respect to such Additional Indication, but such Phase II Clinical Study is performed by Almirall and/or Almirall LLC at Almirall or Almirall LLC's entire cost, or (C) a proof of concept Phase II Clinical Study is performed with respect to such Additional Indication, but such Phase II Clinical Study is performed by Seller (and/or Parent) at Seller's (and Parent's) entire cost, and (ii) [*] percent ([*]%) of such milestone if a proof of concept Phase II Clinical Study with respect to such Additional Indication is performed by Seller (and/or Parent), but Almirall and/or Almirall LLC elected to fund all out of pocket expenses incurred by Seller (and Parent) in conducting such Phase II Clinical Study. Pursuant to Section 4.3 of the License

Agreement, Seller is entitled to receive the full amount of Milestone #5 under License Agreement and Milestone #6 under License Agreement if the Licensed Product is approved in two Additional Indications in the U.S. and Almirall and/or Almirall LLC conducts Phase II Clinical Studies with respect to such Additional Indications at Almirall's and Almirall LLC's sole cost and expense. Almirall's and Almirall LLC's right to reduce Milestone #5 under License Agreement and Milestone #6 under License Agreement only applies where Seller performs the proof of concept Phase II Clinical Study with respect to such Additional Indications but Almirall and/or Almirall LLC elects to fund all out of pocket expenses incurred by Seller in conducting such Phase II Clinical Studies.

(l) Neither Parent nor any of its Affiliates has developed or is developing any New Product and Parent has not offered, and has no plans to offer, to Almirall or Almirall LLC to enter into any New Product Transaction pursuant to Section 5.2(aa) of the License Agreement. Parent has not provided any Negotiation Notice to Almirall or Almirall LLC under Section 5.2(aa) of the License Agreement.

Section 3.14 Set-off.

Neither Seller nor Parent is a party to any agreement (other than the License Agreement) providing for a sharing of, or providing for or permitting any right of counterclaim, credit, reduction or deduction by contract or otherwise or permitting any Set-off against, all or any portion of the Royalties or Milestone Interests payable under the License Agreement to Seller. Almirall and Almirall LLC have no contractual right of set-off, rescission, counterclaim, reduction, deduction, crediting against or defense (each a "Set-off") against the Royalties, the Milestone Interests or any other amounts payable under the License Agreement or the Supply Agreement other than the Impermissible Set-offs or as provided in Section 4.3 of the License Agreement (except to the extent included as an Impermissible Set-off pursuant to clause (f) of the definition thereof) and Section 4.5(b)(i) of the License Agreement. Almirall and Almirall LLC have not exercised, whether under the License Agreement or otherwise, and to the Knowledge of Seller and Parent, Almirall and Almirall LLC have not had the right to exercise (and, to the Knowledge of Seller and Parent, no event or condition exists that, upon notice or passage of time, or both, would permit Almirall or Almirall LLC to exercise), any Set-off (including any Impermissible Set-off) against the Royalties, the Milestone Interests or any other amounts payable under the License Agreement.

Section 3.15 Taxes.

No deduction or withholding for or on account of any Tax has been made, or, to the Knowledge of Seller or Parent, was required under Applicable Law to be made, from any payment made to Seller or Parent under the License Agreement (other than with respect to the payment set forth in Section 4.2(a) of the License Agreement), and all payments required to be paid by Almirall and Almirall LLC pursuant to the License Agreement for any period ending on or prior to the Effective Date and Closing Date, as applicable have been paid in full as and when due free and clear and without any deduction or set-off for or on account of any Taxes. Neither Seller nor Parent has received written notice from Almirall or Almirall LLC of any intention to withhold or deduct any Tax from future payments to Seller or Parent under the License Agreement. There are no Liens for Taxes on the Royalties or Milestone Interests (or any portion

thereof), other than Liens for Taxes not yet due and payable. Each of Seller and Parent has filed (or caused to be filed) all Tax Returns required to be filed by it under Applicable Law with respect to the Royalties and Milestone Interests, which were true, correct and complete in all material respects, and has paid all Taxes required to be paid by it with respect to the Royalties and Milestone Interests.

Section 3.16 Licensed Products.

(a) There is no pending injunction, written claim, suit, action, citation, summons, subpoena, hearing, inquiry, investigation, complaint, arbitration, mediation, demand, decree or other dispute, disagreement or proceeding by or with any Person against Seller or Parent involving any Licensed Product.

(b) There is no pending or, to the Knowledge of Seller and Parent, threatened, and, to the Knowledge of Seller and Parent, no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) could reasonably be expected to give rise to or serve as a basis for any, action, suit or proceeding, or claim by any Person to which Seller or Parent or, to the Knowledge of Seller and Parent, to which Almirall or Almirall LLC, any Affiliate of Almirall or Almirall LLC or any Sublicensee is or could be a party, and neither Seller nor Parent has received any written notice of the foregoing, that claims that the manufacture, use, marketing, sale, offer for sale, importation or distribution of any Licensed Product by Almirall or Almirall LLC, any Affiliate of Almirall or Almirall LLC or any Sublicensees pursuant to the License Agreement does or could infringe on any patent or other Intellectual Property rights of any other Person or constitute misappropriation of any other Person's trade secrets or other Intellectual Property rights. To the Knowledge of Seller and Parent, there are no issued patents owned by any Third Party that limit or prohibit, in any material respect, the manufacture, use or sale of any of Licensed Product by Almirall or Almirall LLC, any Affiliate of Almirall or Almirall LLC or any Sublicensees. Almirall and Almirall LLC are the exclusive licensees of the Athenex Patent Rights in the Territory. Neither Seller nor Parent has received any notice of any, and to the Knowledge of Seller and Parent, there is no, infringement of any of the Intellectual Property rights underlying any Licensed Product.

(c) Klisyri is a "Licensed Product" under the License Agreement and each of the Ancillary Agreements.

(d) Neither Seller nor Parent has received or is otherwise in possession of any written legal opinion concerning or with respect to any intellectual property rights relating to the Licensed Products, including any freedom-to-operate, product clearance, patentability or right-to-use opinion.

Section 3.17 No Other Representations or Warranties.

Except for the representations and warranties contained in this Article III and other than in the case of fraud, neither Seller, Parent, nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Seller or Parent, including any representation or warranty as to the accuracy or completeness of any information regarding the Purchased Interests, the Athenex Intellectual Property, the License Agreement, the

Ancillary Agreements, the Other Product Licenses, the Other Product Agreements, the Licensed Products, the Royalties or the Milestone Interests furnished or made available to Purchasers or their respective representatives (including any information, documents or material delivered to Purchasers, management presentations or in any other form in expectation of the transactions contemplated hereby or by any of the other Transaction Documents) or as to the future sales, regulatory approvals or success of the Licensed Products, or any representation or warranty arising from statute or otherwise in law.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PURCHASERS

Each Purchaser represents and warrants to Seller, severally and not jointly, as of the Effective Date and the Closing Date the following:

Section 4.01 Organization.

Such Purchaser is a limited partnership or incorporated company (as applicable) duly formed or incorporated (as applicable), validly existing and in good standing under the laws of jurisdiction of its formation, and such Purchaser has all powers and all licenses, authorizations, consents and approvals required to carry on its business as now conducted.

Section 4.02 Authorization.

Such Purchaser has all necessary power and authority to enter into, execute and deliver the Transaction Documents and to perform all of the obligations to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder. The Transaction Documents have been duly authorized, executed and delivered by such Purchaser and each Transaction Document constitutes the valid and binding obligation of such Purchaser, enforceable against such Purchaser in accordance with its terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general equitable principles.

Section 4.03 Broker's Fees.

Such Purchaser has not taken any action that would entitle any Person to any commission or broker's fee in connection with the transactions contemplated by the Transaction Documents.

Section 4.04 Conflicts.

Neither the execution and delivery of this Agreement or any other Transaction Document nor the performance or consummation of the transactions contemplated hereby or thereby will: (i) contravene, conflict with, result in a breach or violation of, constitute a default under, or accelerate the performance provided by, any provisions of (A) any law, rule or regulation of any Governmental Authority, or any judgment, order, writ, decree, permit or license of any Governmental Authority, to which such Purchaser or any of its assets or properties may be subject or bound; or (B) any contract, agreement, commitment or instrument to which such Purchaser is a party or by which such Purchaser or any of its assets or properties is bound or committed (other than such contraventions, conflicts, breaches, violations, defaults or

accelerations that would not have a material adverse effect on such Purchaser's ability to consummate the transactions contemplated by this Agreement); (ii) contravene, conflict with, result in a breach or violation of, constitute a default under, or accelerate the performance provided by, any provisions of any organizational or constitutional documents of such Purchaser; or (iii) require any notification to, filing with, or consent of, any Person or Governmental Authority.

Section 4.05 Access to Information.

Each Purchaser acknowledges that it has (i) reviewed the License Agreement and Ancillary Agreements, the Transaction Documents and such other documents and information relating to the Licensed Products and Athenex Patent Rights and the transactions contemplated by the Transaction Documents provided to it by Seller and (ii) has had the opportunity to ask such questions of, and to receive answers from, representatives of Seller concerning the License Agreement, Ancillary Agreements, Licensed Products, Athenex Patent Rights, Transaction Documents and the transactions contemplated by the Transaction Documents, in each case as it deemed necessary to make an informed decision to purchase its respective portion of the Purchased Interests in accordance with the terms of this Agreement. Such Purchaser has such knowledge, sophistication and experience in financial and business matters that it is capable of evaluating the risks and merits of purchasing its respective portion of the Purchased Interests in accordance with the terms of this Agreement.

ARTICLE V
COVENANTS

The parties covenant and agree as follows:

Section 5.01 Books and Records; Notices.

(a) As promptly as practicable (but in any event within five Business Days) after receipt by Seller or Parent of notice of any action, claim, suit, demand, investigation, arbitration or other proceeding (commenced or threatened) relating to (i) any Transaction Document, the License Agreement, any Ancillary Agreement, or any of the transactions contemplated hereunder or thereunder, (ii) the Purchased Interests, (iii) the Patent Rights, (iv) the Purchased Product Assets, (v) the Retained Product Assets, or (vi) any default or termination (or threatened default or termination) by Almirall or Almirall LLC under the License Agreement or the Ancillary Agreements, Seller and Parent shall, subject to Section 5.02(j), (x) inform Purchasers and the Purchaser Directors of the receipt of such notice and the substance of such action, claim, suit, demand, investigation, arbitration or proceeding and, (y) if such notice is in writing, shall furnish Purchasers and the Purchaser Directors with a copy of such notice and any related materials with respect to such action, claim, suit, demand, investigation, arbitration or proceeding (subject to any Seller confidentiality obligations with Persons other than Almirall or Almirall LLC to the extent any such notice, related materials and description of the substance of the applicable action, claim, suit, demand, investigation, arbitration or proceeding is subject to such confidentiality obligations).

(b) Seller and Parent shall keep and maintain, or cause to be kept and maintained, full and accurate books of account and records adequate to reflect accurately all financial information it has received, and all amounts paid or received under the License Agreement and/or Ancillary Agreement, and all deposits made in the Deposit Account.

(c) As promptly as practicable (but in any event within five Business Days) after receipt by Seller or Parent of any written notice, certificate, offer, proposal, correspondence, report or other written communication relating directly to the License Agreement, the Royalties, the Milestone Interests, the Purchased Interests, the Licensed Products, or the Patent Rights, Seller or Parent, as the case may be, shall, subject to Section 5.02(j), (i) inform Purchasers and the Purchaser Directors in writing of such receipt, and (ii) furnish Purchasers and the Purchaser Directors with a copy of such notice, certificate, offer, proposal, correspondence, report or other written communication (subject to any Seller confidentiality obligations with Persons other than Almirall or Almirall LLC to the extent any such notice, certificate, offer, proposal, correspondence, report or other written communication is subject to such confidentiality obligations). Neither Seller nor Parent shall send any communication to Almirall, Almirall LLC, any of its or their Affiliates or any Sublicensees that could be reasonably be expected to have a Material Adverse Effect except, in each case, as reasonably jointly instructed by the Purchaser and the Purchaser Directors. Seller and Parent shall, subject to Section 5.02(j), promptly furnish to Purchasers and the Purchaser Directors a copy of any such communication sent by Seller or Parent to Almirall, Almirall LLC, any of its or their Affiliates or any Sublicensees.

(d) Seller and Parent shall provide Purchasers and the Purchaser Directors with written notice as promptly as practicable (and in any event within five Business Days) after obtaining Knowledge of any of the following: (i) the occurrence of a Bankruptcy Event in respect of Seller or Parent; (ii) any breach or default by Seller or Parent of or under any covenant, agreement or other provision of any Transaction Document to which it is party; (iii) any representation or warranty made by Seller or Parent in any of the Transaction Documents or in any certificate delivered to Purchasers pursuant to this Agreement shall prove to be untrue, inaccurate or incomplete in any respect on the date as of which made; (iv) any change, effect, event, occurrence, state of facts, development or condition that could reasonably be expected to be a Material Adverse Effect; (v) any allegation or claim by a Third Party that the making, having made, using, importing, offering for sale or selling of any Licensed Product infringes or could infringe any Intellectual Property rights of such Third Party; or (vi) any Third Party making, having made, using, importing, offering for sale or selling of any product in a manner that infringes any Intellectual Property rights (including the Patent Rights or Know-How) underlying any of the Licensed Products.

(e) Seller and Parent shall notify Purchasers in writing not less than thirty (30) days prior to any change in, or amendment or alteration of, Seller's or Parent's (i) legal name, (ii) form or type of organizational structure, (iii) jurisdiction of organization or (iv) organizational identification number issued under Applicable Law.

(f) Subject to applicable confidentiality restrictions (including Section 5.02) and Applicable Laws relating to securities matters, Seller and Parent shall make available such other information within Seller's or Parent's Knowledge as Purchasers and the Purchaser Directors may, from time to time, reasonably request with respect to (i) the Purchased Interests, (ii) the

License Agreement, (iii) any Ancillary Agreement, (v) the Licensed Products, (vi) the Patent Rights, and (vii) the condition or operations, financial or otherwise, of Seller or Parent that is reasonably likely to impact or affect the performance of Seller's and Parent's obligations hereunder or under the License Agreement or any Ancillary Agreement or Seller's compliance with the terms, provisions and conditions of this Agreement, the License Agreement, or any Ancillary Agreement, including, at Purchasers' and the Purchaser Directors' request, by means of a quarterly teleconference between representatives of Purchasers and the Purchaser Directors, Seller and the Chief Business Officer of Parent.

Section 5.02 Confidentiality; Public Announcement.

(a) Except as expressly authorized in this Agreement or the other Transaction Documents, and subject to Section 5.02(j), each Purchaser hereby agrees to, and to cause any Purchaser Director it designates to, (i) use the Confidential Information solely for the purpose of the transactions contemplated by this Agreement and the other Transaction Documents and as necessary in exercising its rights and remedies and performing its obligations hereunder and thereunder; (ii) keep confidential the Confidential Information; (iii) not furnish or disclose to any Person any Confidential Information; (iv) not make use of the trademark, logo, service mark, trade dress or other mark or symbol identifying or associated with the Licensed Products, any manufacturer, distributor or supplier of the Licensed Products, and (v) take the same commercially reasonable steps to protect the Confidential Information as its takes to protect its own proprietary and confidential information. Notwithstanding anything to the contrary set forth in this Agreement, the parties acknowledge and agree that Confidential Information (other than Almirall Proprietary Information that does not fall within any of the exclusions set forth in Section 7.1(a)-(d) of the License Agreement) shall not include any information to the extent it can be established by competent written records (A) is, at the time of disclosure, or thereafter becomes, a part of the public domain or publicly known or available, other than through any act or omission of Purchaser or a Purchaser Director in breach of the obligations under this Section 5.02, (B) was known to Purchaser or a Purchaser Director at the time of disclosure to Purchaser or a Purchaser Director, (C) is, at the time of disclosure, or thereafter becomes, known to Purchaser or a Purchaser Director from a source that had a lawful right to disclose such information to others or (D) was independently developed by Purchaser or a Purchaser Director without use or reference to any Confidential Information.

(b) Notwithstanding anything to the contrary set forth in this Agreement other than Section 5.02(j), each Purchaser may, without the consent of Seller or Parent, (i) furnish or disclose Confidential Information of Seller or Parent (for the avoidance of doubt, other than Almirall Proprietary Information, which is addressed in Section 5.02(j)) to its or any of its Affiliates' actual and potential partners, directors, employees, managers, officers, investors, co-investors, financing parties, bankers, lenders, advisors, trustees and representatives ("Representatives") on a need-to-know basis provided that such Persons shall be informed of the confidential nature of such information and such Persons shall be under confidentiality and non-use obligations with respect to such information on terms substantially similar to this Section 5.02 for a period of at least three (3) years following the end of the Term, (ii) furnish or disclose Confidential Information of Seller or Parent (for the avoidance of doubt, other than Almirall Proprietary Information, which is addressed in Section 5.02(j)) to any potential or actual purchaser, transferee or assignee (including non-Affiliates) of all or any portion of the Purchased

Interest to whom Purchaser is entitled to sell, transfer pledge or assign the Purchased Interest (or portion thereof) under Sections 8.04(a) and (b) of this Agreement provided that such potential or actual purchaser, transferee or assignee shall be informed of the confidential nature of such information and such potential or actual purchaser, transferee or assignee shall be under confidentiality and non-use obligations with respect to such information on terms substantially similar to this Section 5.02 for a period of at least three (3) years following the end of the Term, and (iii) include disclosure of the Purchase Price and the amount and nature of the Purchased Interests in the footnotes to Purchaser's or any of its Affiliates' financial statements, to the extent so required by Purchaser's independent accountants, or include comparable disclosure in Purchaser's or any of its Affiliates' unaudited quarterly financial statements provided that the recipients of such financial statements shall be under confidentiality obligations with respect to such information. Each party hereby acknowledges that the United States federal and state securities laws prohibit any Person that has material, non-public information about a company from purchasing or selling securities of such a company or from communicating such information to any other Person under circumstances in which it is reasonably foreseeable that such Person is likely to purchase or sell such securities.

(c) In the event that a Purchaser, its Affiliates or their respective Representatives are required by Applicable Law or legal or judicial process (including by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to furnish or disclose any portion of the Confidential Information of Seller or Parent (for the avoidance of doubt, other than Almirall Proprietary Information), Purchaser shall, to the extent legally permitted, provide Seller or Parent, as applicable, as promptly as practicable, with written notice of the existence of, and terms and circumstances relating to, such requirement, so that Seller or Parent, as applicable, may seek a protective order or other appropriate remedy (and, if Seller or Parent seeks such an order, Purchaser, such Affiliates or such Representatives, as the case may be, shall provide, at Seller's or Parent's expense, such cooperation as Seller or Parent shall reasonably require). Subject to the foregoing, Purchaser, such Affiliates or such Representatives, as the case may be, may disclose that portion (and only that portion) of the Confidential Information of Seller or Parent that is legally required to be disclosed; *provided, however*, that Purchaser, such Affiliates or such Representatives, as the case may be, shall exercise reasonable efforts (at Seller's or Parent's expense) to obtain reliable assurance that confidential treatment will be accorded any such Confidential Information of Seller or Parent disclosed.

(d) Notwithstanding anything to the contrary contained in this Agreement other than Section 5.02(j), each Purchaser may disclose the Confidential Information of Seller or Parent (for the avoidance of doubt other than Almirall Proprietary Information which is addressed in Section 5.02(j)), including this Agreement, the other Transaction Documents and the terms and conditions hereof and thereof, to the extent necessary in connection with the enforcement of its rights and remedies hereunder or thereunder or as required to perfect Purchaser's rights hereunder or thereunder; *provided* that, Purchaser shall only disclose that portion of such Confidential Information of Seller or Parent that its counsel advises that it is legally required to disclose and is necessary to disclose to enforce or perfect its rights and remedies hereunder and thereunder, and will exercise commercially reasonable efforts to ensure that confidential treatment will be accorded to that portion of such Confidential Information of Seller or Parent that is being disclosed, including requesting confidential treatment of

information in the Transaction Documents (for purposes of clarity, Purchasers shall not be required to seek confidential treatment with respect to any financing statements permitted under Section 2.01(c) or (e), but the forms of such initial financing statements will be provided to Seller for approval prior to filing, which shall not be unreasonably withheld). In any such event, Purchasers will not oppose action by Seller or Parent to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded such Confidential Information of Seller or Parent so disclosed.

(e) [RESERVED]

(f) In addition, Seller and Parent consent and agree that Purchasers may publicly disclose the transaction contemplated by this Agreement as may be required under Applicable Law, including under the Securities Exchange Act of 1934, as amended, or as may be required under applicable stock exchange rules. Prior to any public disclosure by any of the Purchasers pursuant to this Section 5.02(f), the applicable Purchaser or Purchasers will provide a draft of the proposed public disclosure to Seller and Parent for prior approval, which shall not be unreasonably withheld.

(g) Except as set forth below, the Parties' obligations under this Section 5.02 shall remain in effect during the Term and shall continue until the three (3) year anniversary of the end of the Term; *provided*, *however*, that for any and all trade secrets, the Parties' obligations under this Section 5.02 shall remain in effect during the Term and shall continue for so long as such information qualifies as a trade secret under applicable federal and/or state law.

(h) Parent, Seller and Purchasers shall agree on the initial public announcement of the transactions contemplated by the Transaction Documents. Parent and Seller may thereafter make such further public announcement regarding the transactions contemplated by the Transaction Documents as is it wishes. Purchasers shall be permitted to make such further disclosures as is consistent with such initial public announcement or prior public announcements by Seller or with Parent's and Seller's prior written consent not to be unreasonably withheld or delayed.

(i) The confidentiality provisions set forth in this Section 5.02 supersede the provisions of the Sagard Confidentiality Agreement and the Oaktree Confidentiality Agreement in all respects, and all Confidential Information disclosed to any Purchaser prior to the Closing Date shall be instead treated as Confidential Information under this Section 5.02. Upon Closing, the Sagard Confidentiality Agreement and the Oaktree Confidentiality Agreement shall immediately terminate and shall have no further force and effect

(j) *Almirall Proprietary Information*. Notwithstanding anything in this Article V to the contrary, any notifications or disclosure to be made by Seller or Parent under this Agreement or the Operating Agreement that contain any Almirall Proprietary Information, and any Almirall Proprietary Information otherwise being provided pursuant to this Agreement or the Operating Agreement shall only be provided to Purchaser Directors who have executed and delivered to Seller and Parent a Board Services Agreement agreeing that all such Almirall Proprietary Information shall be and remain subject to the obligations of confidentiality, nondisclosure and non-use as and for the term provided in such Board Services Agreement and

Article VII of the License Agreement, and shall not be provided to Purchasers, provided that Purchasers shall be entitled to receive redacted copies of such notifications or disclosures if all Almirall Proprietary Information is redacted or removed from such notifications or disclosures. For the avoidance of doubt, no Almirall Proprietary Information shall be furnished or disclosed to Purchasers and no Almirall Proprietary Information shall be furnished or disclosed by any Person pursuant to Sections 5.02(b), (c) or (d) unless such Almirall Proprietary Information falls within any of the exclusions set forth in Section 7.1(a)-(d) of the License Agreement.

Section 5.03 Reports.

Subject to Section 5.02(j), Seller and Parent shall, within three (3) Business Days following (a) the receipt by Seller or Parent of each Quarterly Report required under Section 4.6(a) of the License Agreement, deliver to Purchasers and the Purchaser Directors a copy of such Quarterly Report for such Calendar Quarter and (b) the receipt by Seller or Parent of any report, notice or other communication from Almirall and Almirall LLC required under Section 4.6(a) of the License Agreement with respect to Almirall' s and Almirall LLC's calculation of Net Sales for the applicable Calendar Year, deliver to Purchasers and the Purchaser Directors a copy of such report, notice or other communication.

Section 5.04 Commercially Reasonable Efforts; Further Assurances.

(a) Subject to the terms and conditions of this Agreement, each party hereto will use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary under Applicable Laws and regulations to consummate the transactions contemplated by any Transaction Document to which Seller, Parent or Purchasers, as applicable, is party, including to perfect the sale, contribution, assignment, transfer, conveyance and granting of the Purchased Interests to Purchasers pursuant to this Agreement. Following the Closing, Purchasers, Seller, and Parent agree to (i) execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable, or reasonably requested by the other party hereto, in order to consummate or implement expeditiously the transactions contemplated by any Transaction Document, (ii) perfect, protect, more fully evidence, vest and maintain in Purchasers good, valid and marketable rights and interests in and to the Purchased Interests free and clear of all Liens, other than Liens in favor of Purchasers pursuant to the Transaction Documents or Liens granted by Purchasers, (iii) create, evidence and perfect each of Purchaser's back-up security interests granted pursuant to Section 2.01(e) and the first priority security interests granted pursuant to the Security Agreements, and (iv) enable Purchasers to exercise or enforce any of Purchaser's rights under any Transaction Document to which Seller or Purchaser as applicable, is party, including following the Closing Date (which, for purposes of clarity, shall not limit or otherwise affect in any manner Seller's or Parent's rights or remedies or entitlement to exercise or enforce those rights or remedies under any Transaction Document).

(b) Seller and Parent on the one hand and Purchasers on the other hand shall cooperate and provide assistance as reasonably requested by the other party and at the other party's expense (except as otherwise set forth herein) in connection with any litigation, arbitration or other proceeding (whether threatened, existing, initiated, or contemplated prior to, on or after the date hereof) to which the other party hereto or any of its officers, directors,

equityholders, shareholders, members, partners, managers, agents or employees is or may become a party or is or may become otherwise directly or indirectly affected or as to which any such Persons have a direct or indirect interest, in each case relating to any Transaction Document, the Purchased Interests or the transactions described herein or therein, but in all cases excluding any litigation brought by Seller or Parent against any Purchaser or brought by any Purchaser against Seller or Parent.

(c) Without limiting any other obligation of Seller or Parent under this Agreement, Seller and Parent shall comply with all Applicable Laws with respect to the Transaction Documents to which it is a party, the License Agreement, the Ancillary Agreements and the Purchased Interests, the violation of which could reasonably be expected to result in a Material Adverse Effect.

(d) Neither Seller nor Parent shall enter into any Contract, or grant any right to any other Person, in any case that would (i) have an adverse effect on the timing, amount, duration or value in any material respect of the payments to be made to Purchasers in respect of their respective Purchased Interests or their right to receive such payments or (ii) reasonably be expected to conflict with the Transaction Documents or serve or operate to limit, circumscribe or alter any of Purchasers' rights under the Transaction Documents (or Purchasers' ability to exercise any such rights), except in the case of clause (ii) for Permitted Liens and Permitted Product Licenses; provided, that Seller's relationship with Almirall and Almirall LLC in respect of the subject matter of this Section 5.04(d) shall be governed by Section 5.05.

Section 5.05 License Agreement and Ancillary Agreements.

(a) Neither Seller nor Parent shall, without the prior written consent or direction of Purchasers, (i) forgive, release or compromise any royalties or other amounts owed to or becoming owing to it under the License Agreement or Ancillary Agreements, (ii) except as permitted by Section 8.04(c), assign (including by merger, operation of Applicable Law or otherwise), modify, supplement, restate, waive, amend, cancel, terminate, or grant any consent with respect to, in whole or in part, any rights or obligations under the License Agreement or the Ancillary Agreements constituting, involving or affecting the Purchased Interests or Purchasers' rights and obligations under this Agreement, or fail to exercise (in whole or in part), any of their rights under the License Agreement or the Ancillary Agreements constituting, involving or affecting the Purchased Interests or Purchasers' rights and obligations under this Agreement or the Transaction Documents (other than as expressly permitted under this Agreement or the Transaction Documents), (iii) enter into any new agreement or legally binding arrangement (whether written or oral) in respect of the Purchased Interests, the Athenex Intellectual Property, the Almirall Intellectual Property, the Compound or the Licensed Products, except, in each case, as permitted by Section 5.15, the Servicing Agreement (when entered into following the Closing) or the Transaction Documents, (iv) modify, supplement, restate, waive, amend, cancel or terminate (or consent to any of the foregoing), in whole or in part, any provision of the Almirall Instruction or the Counterparty Instructions, or (v) consent to Almirall's or Almirall LLC's assignment, conveyance, grant, pledge, encumbrance or transfer of, in whole or in part, any rights or obligations under the License Agreement or the Ancillary Agreements but only to the extent that Seller has a right to consent to any such action by Almirall or Almirall LLC under the License Agreement or the Ancillary Agreements. Seller shall promptly (and in any case within

five (5) Business Days) deliver to Purchasers and Purchaser Directors copies of all fully-executed or definitive writings related to the matters set forth in clauses (i)-(v) above (provided that if any such writing contains Almirall Proprietary Information, Purchasers (but not Purchaser Directors) shall only be entitled to receive a redacted copy of such writings with any Almirall Proprietary Information being redacted).

(b) Neither Seller nor Parent shall, without the prior written consent or direction of Purchasers, withhold or grant any consent, exercise or waive (or fail to exercise or waive) any right or option, or take or fail to take any action in respect of, affecting or relating to the Purchased Interests, the License Agreement, or the Ancillary Agreements in any manner that would, in each case, reasonably be expected to: (i) result in an Material Adverse Effect, (ii) conflict with or cause a default under, or a breach or termination of, this Agreement, any Transaction Document, the License Agreement or any Ancillary Agreement, or (iii) otherwise limit or impair the ability of a Purchaser to exercise any right granted to such Purchaser herein or in the Transaction Documents.

(c) Parent shall timely and fully perform and comply with each of its duties and obligations under the License Agreement and the Ancillary Agreements, including the obligation to pay on a timely basis any amounts due to Almirall and Almirall LLC thereunder and to manufacture and supply the Licensed Product to Almirall and Almirall LLC under the Ancillary Agreements. Promptly following its receipt of each Quarterly Report, if required by Almirall or Almirall LLC, Seller shall deliver an invoice to Almirall and Almirall LLC with respect to Royalties payable by Almirall and Almirall LLC in respect of the Calendar Quarter covered by such Quarterly Report directing payments be made in accordance with the Almirall Instruction, and shall furnish a copy of such invoice to Purchaser and Purchaser Directors (provided that if such invoice contains any Almirall Proprietary Information, Purchasers shall only be entitled to receive a redacted copy of such invoice with any Almirall Proprietary Information being redacted). Promptly following its receipt of notice from Almirall or Almirall LLC of the achievement of any milestone event in Section 4.3 or 4.4 of the License Agreement, Seller shall deliver an invoice to Almirall pursuant to Section 4.7(a) of the License Agreement directing payment of the applicable Milestone Interest in accordance with the Almirall Instruction and shall furnish a copy of such invoice to Purchaser and Purchaser Directors (provided that if such invoice contains any Almirall Proprietary Information, Purchasers shall only be entitled to receive a redacted copy of such invoice with any Almirall Proprietary Information being redacted). Seller agrees that it shall not seek to exercise its co-promotion rights under Article 3B of the License Agreement during the Term without the prior written consent of Purchasers and Parent; provided that neither Seller nor Parent shall have any obligation to exercise such co-promotion rights regardless of whether or not Purchasers have provided such written consent or have otherwise directed the same.

(d) If, during the Term, Seller or Parent learns of any actual, alleged or threatened infringement by any Person of any of the Athenex Intellectual Property or Almirall Intellectual Property, any declaratory judgment action or other suit, action or other proceeding relating to the Athenex Intellectual Property or Almirall Intellectual Property, or any other actual or potential proceeding contemplated by Section 6.3 of the License Agreement, Seller or Parent shall promptly notify Purchasers and Purchaser Directors and provide to Purchasers and Purchaser Directors with available evidence of such infringement or such proceeding (provided

that if such evidence or information relating to such proceeding contains any Almirall Proprietary Information, Purchasers shall only be entitled to receive a redacted copy of such evidence with any Almirall Proprietary Information being redacted). Seller shall consult with Purchasers (through Purchaser Directors, if any) and may, and, to the extent permitted by Section 6.3 of the License Agreement, if requested in writing by Purchasers shall, at Seller's expense, proceed, in consultation with Purchaser Directors and in accordance with the terms and conditions of the License Agreement, to institute a suit, action or other proceeding and to use its commercially reasonable efforts to enforce and defend the Athenex Intellectual Property and to exercise such rights and remedies relating to such suit, action or proceeding as shall be available to Seller under the License Agreement, Applicable Laws, rules and regulations or under principles of equity, unless Seller, Purchasers (through Purchaser Directors, if any), and Almirall (and/or Almirall LLC as the case may be) mutually agree that Almirall or Almirall LLC (and not Seller) will institute a suit, action or other proceeding to enforce or defend the Athenex Intellectual Property and exercise such rights and remedies relating to such suit, action or proceeding as shall be available under Applicable Laws, rules and regulations or under principles of equity, including, for purposes of clarity, with respect to any certification or notice as described in Section 6.3(d) of the License Agreement. As between Seller, Parent, and Purchasers, Parent shall be directly responsible for, and shall pay when due, (i) all costs and expenses incurred in connection with any action, suit or proceeding that is subject to Section 6.3 of the License Agreement (including but not limited to any costs and expenses required to be paid or reimbursed by Parent to Almirall and/or Almirall LLC under Section 6.3 of the License Agreement) and (ii) all damages awarded or settlement payments made (including future royalty or similar payments) to any Third Parties with respect thereto or in connection therewith, and all such amounts set forth (i) and (ii) above shall be Excluded Liabilities and Obligations under this Agreement.

(e) If, during the Term, Seller or Parent learns of any claim by any Third Party that is subject to Section 6.4 of the License Agreement, Seller and Parent shall promptly notify Purchasers, provide Purchasers with available information relating to such claim (provided that if such information relating to such claim includes any Almirall Proprietary Information, Purchasers shall only be entitled to receive a redacted copy of such information with any Almirall Proprietary Information being redacted), and consult with Purchasers regarding the appropriate response to such claim. If, pursuant to Section 6.4 of the License Agreement, Parent has the obligation to defend against such claim, then Parent shall proceed, in consultation with Purchasers, to defend against such claim and to exercise such rights and remedies relating to such claim as shall be available to Seller, Parent, Almirall or Almirall LLC under Applicable Laws, rules and regulations or under principles of equity, unless Seller (in consultation with Purchasers) and Almirall (or Almirall LLC as the case may be) mutually agree that Almirall (or Almirall LLC as the case may be), and not Parent, will institute a suit, action or other proceeding to defend (or take appropriate action to defend) against such claim and exercise such rights and remedies relating to such suit, action or proceeding or other defense as shall be available under Applicable Laws, rules and regulations or under principles of equity. Parent shall be directly responsible for and pay when due all costs and expenses (including reasonable attorneys' fees) incurred by Seller or Parent (including but not limited to any costs and expenses required to be paid or reimbursed by Parent to Almirall and/or Almirall LLC under Section 6.4 of the License Agreement) in connection with any defense, action or settlement of any claim that is subject to Section 6.4 of the License Agreement and shall pay all damages awarded or settlement payments

made (including future royalty or similar payments) to any Third Parties (including Almirall or Almirall LLC to the extent required to be paid or reimbursed by Parent to Almirall or Almirall LLC pursuant to Section 6.4 of the License Agreement) with respect thereto (all of which shall be Excluded Liabilities and Obligations under this Agreement) in accordance with Section 6.4 of the License Agreement.

(f) Seller shall, at Parent's cost and expense, file, prosecute and maintain in full force and effect all patents and pending patent applications included in the Athenex Patent Rights, except where the failure to do so would not reasonably be likely to result in a Material Adverse Effect. Seller agrees to keep Purchasers reasonably informed of the course of patent prosecution, application or other proceedings with respect to the Patent Rights (including the status of any existing or future application for patent term extension or supplemental protection certificate with respect thereto and shall furnish to Purchasers all communications among Almirall, Almirall LLC, Seller and/or the relevant Patent Offices with respect thereto). Seller shall consult with Purchasers and at their direction continue to pursue and accept (i) patent term extension for either U.S. Patent No. [*] or U.S. Patent No. [*] (as Purchasers may direct in their sole and absolute discretion) and (ii) supplemental protection certificates for EP [*], in each case to the fullest extent permitted by Applicable Law.

(g) (i) As promptly as practicable (and in any case within five (5) Business Days) after receiving written or oral notice from Almirall or Almirall LLC (A) terminating the License Agreement or any Ancillary Agreement (in whole or in part) or any of its obligations thereunder, (B) alleging any breach of or default under the License Agreement or any Ancillary Agreement by Parent or the occurrence or continuance of any Back-Up Trigger under the Supply Agreement, (C) asserting the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to an Impermissible Set-off or a breach of or default under the License Agreement or any Ancillary Agreement by Parent or the right to terminate the License Agreement or any Ancillary Agreement (in whole or in part) or any of its obligations thereunder by Almirall or Almirall LLC, (D) that could otherwise reasonably be expected to result in a Material Adverse Effect or (E) any other correspondence relating to the foregoing, or (ii) Seller or Parent otherwise obtains Knowledge of any fact, circumstance or event that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passes of time, or both) to give rise to an Impermissible Set-off or a breach of or default under the License Agreement or any Ancillary Agreement by Parent or give rise to the right to terminate the License Agreement or any Ancillary Agreement (in whole or in part) or any of its obligations thereunder by Almirall or Almirall LLC or could otherwise reasonably result in a Material Adverse Effect, in each case, Seller and Parent shall (x) provide written notice to Purchasers and the Purchaser Directors describing in reasonable detail the relevant breach or default or Impermissible Set-off, including a copy of any written notice received from Almirall and/or Almirall LLC (provided that if such notice includes any Almirall Proprietary Information, Purchasers shall only be entitled to receive a redacted copy of such notice with any Almirall Proprietary Information being redacted), and, in the case of any breach or default or alleged breach or default by Parent, Seller and Parent shall consult with Purchasers through Purchaser Directors, if any, as to any action Seller proposes to take to have Parent dispute or cure such alleged breach or default and (y) Parent shall use its commercially reasonable efforts (including at the direction of Purchasers through Purchaser

Directors, if any) at Parent's sole cost and expense, to either (i) dispute such breach or default, (ii) cure as promptly as practicable such breach or default, or (iii) otherwise resolve such dispute. In connection with any such dispute, Parent shall, if requested by Purchasers, employ such counsel as Parent deems appropriate (as long as such counsel is reasonably acceptable to Purchasers and provided that Parent shall not be required to employ more than one counsel). Parent shall be responsible for paying, when due, all costs and expenses (including reasonable attorneys' fees) incurred in connection with the actions contemplated by this Section 5.05(g).

(h) As promptly as practicable after obtaining Knowledge of any threatened or actual breach of or default under the License Agreement or any Ancillary Agreement by Almirall or Almirall LLC or of the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach of or default under the License Agreement or any Ancillary Agreement by Almirall or Almirall LLC or the right to terminate the License Agreement or any Ancillary Agreement (in whole or in part) by Seller, in each case, Seller (i) shall promptly (but in any event within five Business Days) provide written notice to Purchasers and Purchaser Directors and provide Purchasers and Purchaser Directors with a written summary of all material details thereof (provided that if such summary contains any Almirall Proprietary Information, Purchasers shall only be entitled to receive a redacted copy of such summary with any Almirall Proprietary Information redacted), (ii) shall consult with Purchaser Directors as to Seller's proposed response to such threatened or actual breach or default, including giving a written notice to Purchasers and Purchaser Directors describing in reasonable detail any action Seller proposes to take as a possible response (provided that if such notice contains any Almirall Proprietary Information, Purchasers shall only be entitled to receive a redacted copy of such notice with any Almirall Proprietary Information redacted), together with a copy of any written notice that Seller proposes to send to Almirall or Almirall LLC, as applicable, and (iii) act in accordance with Purchasers' reasonable instructions (provided through Purchaser Directors, if any) to take such permissible actions (including commencing legal action against Almirall or Almirall LLC, as applicable) to enforce compliance by Almirall or Almirall LLC, as applicable, with the relevant provisions of the License Agreement and the Ancillary Agreements and to exercise any or all of Purchasers' and Seller's rights and remedies, whether under the License Agreement, any Ancillary Agreement or by operation of law, with respect thereto. In connection with any such response and enforcement of rights and remedies under the License Agreement and/or any Ancillary Agreement, Seller shall, if requested by Purchasers, employ such counsel as it deems appropriate (as long as such counsel is reasonably acceptable to Purchasers and provided that Seller shall not be required to employ more than one counsel). The Parent shall be responsible for paying, when due, all costs and expenses (including reasonable attorneys' fees) incurred in connection with the actions contemplated by this Section 5.05(h), subject to the reimbursement provisions of Section 2.02(d). Seller shall make available its relevant records and personnel to Purchasers (through Purchaser Directors, if any) in connection with any prosecution of litigation by Seller against Almirall and/or Almirall LLC to enforce any of Seller's rights under the License Agreement or the Ancillary Agreements, and Parent shall provide reasonable assistance to file and bring the litigation, including, if required to bring the litigation, being joined as a party plaintiff (provided that if any records or information provided in connection with providing such records, personnel or assistance contains any Almirall Proprietary Information, Purchasers shall only be entitled to receive a redacted copy of records or information with any Almirall Proprietary Information redacted).

(i) Seller shall not commence any proof of concept Phase II Clinical Study with respect to any Additional Indications pursuant to Section 4.3 of the License Agreement without the prior written consent of Purchasers.

(j) Parent shall not cease performing its obligations with respect to Manufacturing (as defined in the Supply Agreement) and supplying the Tirbanubulin API, Klisyri (or, as applicable, any other Licensed Product) as a Commercial Product (as defined in the Supply Agreement) to Almirall and Almirall LLC in the Territory, in each case pursuant to the terms of the Supply Agreement and the License Agreement. Parent shall not permit any Back-Up Trigger to occur under the Supply Agreement.

(k) Except as provided under the Pledge Agreement, or as permitted in the following sentence, Parent shall not sell, dispose of or create any Lien on any Class A Membership Units held by Parent during the Term (it being understood that Seller must remain an Affiliate of Parent during the Term, other than to the extent Seller ceases to be an Affiliate of Parent in accordance with the operation of any of the Transaction Documents). Neither Parent nor any parent entity of Parent shall enter into any (a) transaction of merger, consolidation or amalgamation with, or (b) sale of all or substantially all of the assets of Parent (or such parent entity) (including all Class A Membership Units held by Parent) to, any other Person other than a Qualified Assignee (which, for the avoidance of doubt, shall include an entity whose parent entity is a Qualified Assignee) in connection with a Change of Control.

(l) There is no first demand bank guaranty currently in existence pursuant to Section 4.2(b) of the License Agreement and any prior first demand bank guaranty has terminated or expired and is of no further force and effect.

Section 5.06 Audits.

Seller shall not, without the prior written consent of Purchasers, and Seller shall, upon the written request of Purchasers (through the Purchaser Directors, if any), but in each case subject to the requirements of the License Agreement, exercise its rights to cause an inspection or audit of Almirall's and Almirall LLC's books and records to be conducted pursuant to, and in accordance with, Section 4.8 of the License Agreement (each, a "License Party Audit"). In conducting a License Party Audit at the request of Purchasers, subject to the terms of the License Agreement, Seller shall engage an independent certified public accounting firm of recognized standing (one of the so-named Big Four accounting firms provided that it is not then then the auditing firm of Almirall, Almirall LLC, Seller or any of Purchasers) and reasonably acceptable to Seller. As promptly as practicable after completion of any License Party Audit, Seller shall deliver to Purchaser Directors and Purchasers a copy of an audit report summarizing the results of such License Party Audit (provided that if the audit report contains any Almirall Proprietary Information, Purchasers shall only be entitled to receive a redacted copy of such audit report with any Almirall Proprietary Information being redacted). All of the expenses of any such License Party Audit (including, without limitation, the fees and expenses of the independent public accounting firm) that would otherwise be borne by Seller pursuant to the License Agreement shall instead be borne (as such expenses are incurred) by Seller and Purchasers pro rata based on their respective Applicable Percentages, provided that any reimbursement by Almirall or

Almirall LLC of the expenses of the License Party Audit shall belong to Seller and Purchasers (to be apportioned among them pro rata based on their respective Applicable Percentages).

Section 5.07 Notice.

Seller and Parent shall provide Purchasers and Purchaser Directors with written notice as promptly as practicable (and in any event within five (5) Business Days) after obtaining Knowledge of any of the following (provided that if any such notice contains any Almirall Proprietary Information, Purchasers shall only be entitled to receive a redacted copy of such notice with any Almirall Proprietary Information being redacted):

(i) the occurrence of a Bankruptcy Event with respect to Seller or Parent or the occurrence of an equivalent event with respect to Almirall or Almirall LLC;

(ii) any material breach or default by Seller or Parent of any covenant, agreement or other provision of this Agreement or any other Transaction Document;

(iii) any representation or warranty made by Seller or Parent in any of the Transaction Documents or in any certificate delivered to Purchasers pursuant to any Transaction Documents shall prove to be untrue, inaccurate or incomplete in any material respect on the date as of which made;

(iv) the occurrence of any material default or event of default under the Oaktree Credit Agreement or any Permitted Secured Indebtedness;

(v) any written notice, report or other communication, together with copies of the same, received from or on behalf of Almirall or Almirall LLC that relate to the License Agreement, any Patent Rights (including any applications for patent term extensions and supplemental protection certificates with respect thereto), any actual or potential Regulatory Approval, or the Purchased Interests;

(vi) the occurrence of any event(s) or the existence of any circumstance(s) that, individually or in the aggregate, would reasonably be expected to result in an Impermissible Set-off or a Material Adverse Effect;

(vii) the occurrence of any Default;

(viii) the existence of an actual or threatened Dispute; or

(ix) the occurrence of any event or the existence of any circumstance that (with or without notice or lapse of time, or both) would reasonably be expected to result in or serve as a basis for any action, suit or proceeding, or any claim, or the receipt of any written notice of the foregoing, that involves the transactions contemplated by the Transaction Documents or the Purchased Interests.

Subject to Applicable Laws relating to securities matters, Parent and Seller shall provide Purchasers with written notice as promptly as practicable and in any event within ten (10) Business Days prior to the occurrence of a Change of Control.

Section 5.08 Set-offs.

Seller shall, and shall cause each of its Affiliates to, include in any future agreements with Almirall, Almirall LLC or any of their Affiliates an express prohibition against any Set-off by Almirall, Almirall LLC, their Affiliates or Sublicensees based on any overpayment to, or any amount due from, Seller or its Affiliates under such agreement against the Royalties or Milestone Interests or any part thereof, and Seller shall not, and shall cause each of its Affiliates not to, amend any existing agreement with Almirall or any of its Affiliates or Sublicensees to provide for any Set-off by Almirall or any of its Affiliates or Sublicensees based on any overpayment to, or any amount due from, Seller or its Affiliates under any such agreement against the Royalties or Milestone Interests or any part thereof.

Section 5.09 Interest.

If a payment under this Agreement (which, for purposes of clarity, shall not include any amount payable by Almirall or Almirall LLC under the License Agreement) is not made within ten (10) Business Days following the date on which such payment is due, such outstanding payment shall accrue interest (from (and including) such tenth (10^{th}) Business Day to (but excluding) the date upon which full payment is made) at the annual rate equal to 2% plus the Prime Rate on such tenth (10^{th}) Business Day and calculated on the basis of a 365- or 366-day year, as applicable, for the number of days in the accrual period. Payment of accrued interest will accompany payment of the outstanding payment.

Section 5.10 Grant of Rights.

Neither Seller nor Parent shall grant any right to any Person or enter into any agreement with any Person, and Seller shall not sell, transfer, convey or assign or pledge all or any portion of the Retained Interest to any Person in any case that would (i) have an adverse effect on the timing, amount, duration or value in any material respect of the payments to be made to Purchasers in respect of their respective Purchased Interests or their right to receive such payments or (ii) reasonably be expected to conflict with the Transaction Documents or serve or operate to limit, circumscribe or alter any of Purchasers' rights under the Transaction Documents (or Purchasers' ability to exercise any such rights).

Section 5.11 New Arrangements.

(a) Without limiting the provisions of Section 5.05, in the event that (i) the License Agreement is terminated by Almirall, Almirall LLC or Seller with respect to the Territory as a whole, solely with respect to the U.S. or solely with respect to any of the Major European Markets (it being understood that Seller shall not terminate, or provide prior written notice of termination of, the License Agreement or any Ancillary Agreement (in whole or in part) without the prior written consent of Purchasers), or (ii) the License Agreement is otherwise terminated (in whole or in part) in accordance with the terms of the License Agreement, then in the case of each of clause (i) and clause (ii) above, Seller shall:

(A) at the direction of Purchasers, exercise and enforce all of Seller's rights and remedies under and subject to the terms of the License Agreement and Applicable Law, including, as applicable, and if requested by Purchasers, instructing Almirall and/or Almirall LLC in writing, as the case may be, to:

(1) transfer to Seller copies of all of the materials set forth in the portion of the first sentence in Section 8.4(e) of the License Agreement prior to subclause (i) thereof;

(2) transfer and assign to Seller (or confirm such assignment) all right, title and interest in and to the items set forth in Section 8.4(e)(i) of the License Agreement;

(3) acknowledge and reconfirm the grant by Almirall of all of the licenses granted by Almirall in accordance with Section 8.4(e)(ii) of the License Agreement in compliance with Almirall's obligations under Section 8.4(e) of the License Agreement; and

(4) provide all information with respect to, and to assign to, Seller any Product-Related Contracts as Purchasers may designate and to seek any necessary third party consents with respect thereto, all in accordance with Section 8.4(e)(iv) of the License Agreement (and Seller shall not instruct Almirall and/or Almirall LLC to assign any Product-Related Contracts not so designated by Purchasers)

(the rights set forth in this Section 5.11(A), the "Reverted Rights");

(B) use its commercially reasonable efforts (in consultation with Purchasers, including, if requested by Purchasers, engaging, at Parent's sole expense, an adviser selected by Purchasers to assist Seller to) promptly to negotiate a replacement license arrangement or arrangements with one or more substitute licensees or ancillary agreements for the Athenex Intellectual Property, the Licensed Products and the Reverted Rights, covering the broadest possible, commercially reasonable use within the Territory, and providing for the most favorable, commercially reasonable economic terms (to the licensor) reasonably practicable at such time, but in each case only to the extent consistent with and not in violation of the rights of Seller and obligations of Parent under the surviving provisions of the License Agreement and the Ancillary Agreements and the rights and obligations of Seller and Parent under the Other Product Licenses and Other Product Agreements (each such replacement licensing arrangement, a "New Arrangement"); and

(C) provide assistance to and cooperate with Purchasers in such efforts as Purchasers may undertake in connection with the negotiation of a New Arrangement.

(b) Should Seller or Purchasers identify any potential New Arrangement(s), such party shall provide prompt written notice to the other parties of the terms of any such New Arrangement and any documentation related thereto, and Purchasers shall have the right to participate, at their election, in the negotiation of the New Arrangement, and Seller shall not enter into any definitive documentation with respect to such New Arrangement without Purchasers' prior written consent. Seller agrees to duly execute and deliver such New Arrangement (each, a "New License Agreement") promptly upon the written request of Purchasers, provided that any such New Arrangement does not impose any materially greater economic or other material obligations on Parent than existed under the License Agreement and Ancillary Agreements as of immediately prior to the termination of the License Agreement. In the event Seller enters into a New Arrangement, Seller agrees to comply with the provisions of this Agreement in connection with the New License Agreement. Thereafter, each New License Agreement shall be included for all purposes in the definition of "License Agreement" under this Agreement, and any payments due under such New License Agreement that are similar or analogous to the Purchased Interests (including with respect to the amounts of the Purchased Interests as based on, in part, the Royalties and Milestone Interests and their amount, timing, duration and value under the License Agreement), and any rights under such New License Agreement that are similar or analogous to those included in Purchased Interests, shall be included as "Purchased Interests" for all purposes under this Agreement, in each case, without any further action by the parties hereto to amend this Agreement or the Bill of Sale, and that the rights and obligations of Parent and Seller under this Agreement in respect of the License Agreement shall otherwise apply, *mutatis mutandis*, as appropriately adjusted for the terms of such New Arrangement. Notwithstanding the foregoing, as soon as practicable following the execution of a New License Agreement by each party thereto, (i) Purchasers and Seller shall cooperate with one another to make mutually agreed amendments to this Agreement and to the Bills of Sale that give effect to the immediately preceding sentence and (ii) Seller shall deliver to the licensee under such New License Agreement an instruction letter substantially similar to the Almirall Instruction (with references to Almirall and Almirall LLC and the License Agreement replaced by references to such licensee and such New License Agreement).

Section 5.12 Almirall Transactions.

Neither Seller nor Parent shall, without the prior written consent of Purchasers, enter into any transaction or series of transactions with Almirall, Almirall LLC or any of their respective Affiliates whereby Almirall, Almirall LLC together with their respective Affiliates (a) acquires 50% or more of the voting or equity interests of Seller or Parent or otherwise acquires control of Seller or Parent, in each case whether by merger, consolidation, equity issuance or purchase, reorganization, combination or otherwise, (b) acquires all or substantially all of the assets of Seller or Parent or all or substantially all of the assets relating to the Licensed Products, the Athenex Intellectual Property or the Excluded Assets, or (c) has assigned to any of them the License Agreement, the Ancillary Agreement, the Athenex Intellectual Property or Excluded Assets or any of Seller's or Parent's rights or obligations thereunder.

Section 5.13 Deposit Account.

(a) Following the Closing, each of the parties hereto shall, acting reasonably, promptly (and in any case within ninety (90) calendar days), take, or cause to be taken, all actions and to do, or cause to be done, all things necessary to establish and at all times maintain a

deposit account (the "Deposit Account") and another segregated account (the "Other Account") at a mutually agreeable financial institution (the "Depositary Bank"), and shall enter into a deposit account agreement containing terms consistent with this Agreement, in form and substance reasonably satisfactory to Purchasers, the Depositary Bank, Seller and Parent (the consent of Seller and Parent not to be unreasonably withheld) (the "Deposit Account Agreement"). The Deposit Account Agreement shall provide that (i) all amounts received in the Deposit Account shall be distributed (x) first, to the Oaktree Purchaser Accounts and the Sagard Purchaser Accounts in satisfaction of the Purchased Interests (including any outstanding True-Up Payments required to be paid by Seller to Purchasers in respect of any Impermissible Set-Off pursuant to Section 2.02(e)), with any shortfalls with respect thereto to be satisfied out of the Other Account, and (ii) after the payment to Purchasers of all True-Up Payments in respect of Impermissible Set-Offs pursuant to and in accordance with Section 2.02(e) have been made to Purchasers, any remaining amounts constituting Excluded Assets shall be distributed into Seller Account, in each case (i) and (ii) above in accordance with Purchasers' joint written instructions to the Depositary Bank and subject in all cases to the terms and conditions of the Deposit Account Agreement.

(b) Prior to execution of the Deposit Account Agreement, all payments under this Agreement shall be made pursuant to Section 2.02. Promptly following the execution and delivery of the Deposit Account Agreement by the Parties hereto and the Depositary Bank, Seller shall amend the Almirall Instruction as set forth on **Exhibit F** to reflect Seller's irrevocable instruction to Almirall and Almirall LLC to pay all amounts payable under the License Agreement and the Supply Agreement to the Deposit Account and Seller shall promptly deliver such amended Almirall Instruction to Almirall and Almirall LLC, and (ii) amend each Counterparty Instruction as set forth on Exhibit F to reflect Seller's irrevocable instruction to Counterparty to pay all amounts payable under the applicable Other Product License or Other Product Agreement to the Other Account and Seller and shall promptly deliver each such amended Counterparty Instruction to the applicable Counterparty.

Section 5.14 Additional Covenants.

(a) Seller shall not, and shall not permit any of its Subsidiaries to, and Parent shall not permit Seller or any of Seller's Subsidiaries to, without the prior written consent of Purchasers: create, incur, assume or permit to exist (i) any Lien on any of Seller's assets other than Permitted Liens and Permitted Product Licenses, or (ii) any Indebtedness. Seller shall not enter into any Contract or incur any liabilities without the prior written consent of Purchasers, other than Permitted Product Licenses or as provided in the Operating Agreement. For the avoidance of doubt, nothing in this Agreement shall be construed to prevent Seller and Parent from entering into the Deposit Account Agreement and the Servicing Agreement following the Closing.

(b) Parent and Seller shall not, and shall not permit any of their Subsidiaries to, without the prior written consent of Purchasers:

(i) Forgive, release or compromise any amount owed to Parent, Seller or any of their Subsidiaries or Affiliates relating to the Purchased Interests or the Retained Interest, in each case if such action could reasonably be expected to have a Material Adverse Effect;

(ii) Waive, amend, cancel or terminate (other than expiration in accordance with its terms), exercise or fail to exercise, any of their respective rights constituting or relating to the Purchased Interests or the Retained Interest, in each case if such action could reasonably be expected to have a Material Adverse Effect;

(iii) Amend, modify, restate, cancel, supplement, terminate (other than expiration in accordance with its terms), waive any material provision, or enter into any Material Contract or any other agreement, or grant any related consent thereunder, or agree to do any of the foregoing, including, entering into any agreement with any Person under the provisions of such Material Contract, (in each case) if such action would result in a reduction of any royalty rate, distribution split or other sales based payments, up-front payment or milestone payment to Parent or Seller thereunder in respect of the Licensed Products in the Territory;

(iv) Create, incur, assume or permit to exist (i) any Lien on any Product Assets (other than Permitted Liens on Retained Product Assets and Permitted Product Licenses), (ii) any Lien on any Purchased Product Assets (provided that, for the avoidance of doubt, Seller may enter into Permitted Product Licenses and incur Liens of the type described in clause (e) of the definition of Permitted Liens), or (iii) any Indebtedness secured by any Product Assets (other than, for the avoidance of doubt, any obligations pursuant to the Transaction Documents to the extent such obligations are characterized as Indebtedness); or

(v) During the Debt/Lien Restriction Period, create, incur, assume or permit to exist any Lien on any Non-Product Assets to secure any Indebtedness other than Permitted Secured Indebtedness.

Section 5.15 Other Product Licenses; Other Product Agreements; Permitted Product Licenses.

(a) Parent and Seller shall not, and shall not permit any of their Subsidiaries to, without the prior written consent of Purchasers, enter into any new Other Product License or new Other Product Agreement unless such new Other Product License or new Other Product Agreement: (i) constitutes an Arm's Length Transaction, the terms of which (w) do not provide for a sale or assignment of any Intellectual Property (but which may, in the case of Other Product Licenses and for purposes of clarity, provide for the grant of licenses, including exclusive licenses, of Intellectual Property pursuant to Section 5.15(a)(ii)), (x) do not prohibit Parent, Seller or any of their Subsidiaries, as applicable, from pledging, granting a security interest in or lien on, or assigning or otherwise disposing of any Intellectual Property, (y) are commercially reasonable, and (z) require all royalties, milestones, profit share payments, purchase price or supply payments and other payments and proceeds payable to Seller, Parent or any of their Affiliates under such Other Product License or Other Product Agreement (other than payments for supply of Licensed Product or the active pharmaceutical ingredients therein) to be paid and deposited by the Counterparties thereto directly into the Other Account or the Deposit Account pursuant to Section 5.13, and (ii) in the case of an Other Product License, is also limited in territory with respect to a specific geographic country or region (i.e. Japan, China) located outside of the Territory and does not grant any license or sublicense to Develop, manufacture, or commercialize the Compound or

Licensed Products within the Territory (any such Other Product License meeting the restrictions set forth in (a)(i) and (a)(ii) above, together with any New License Agreement, and all Other Product Licenses and Other Product Agreements in existence as of the Closing Date, a "Permitted Product License"). In connection with any Permitted Product License, if requested by Seller or Parent, as applicable, Purchasers shall enter into customary non-disturbance agreements with the applicable licensee.

(b) Promptly following the Closing Date, Parent and Seller shall use commercially reasonable efforts to (i) negotiate and enter into an Other Product Agreement among Parent, Seller and their applicable Subsidiaries at Athenex's Chinese API Operations to provide Seller with Tirbanibulin API as necessary to fulfill supply requirements under the Supply Agreement and Other Product Licenses and (ii) negotiate and enter into an Other Product Agreement (for supply of finished product Licensed Products) among Seller, Parent and Parent's wholly-owned Subsidiary, Athenex Pharmaceutical Solutions, LLC. Prior to Seller, Parent, or any of their Affiliates entering into any Other Product Agreement pursuant to (i) and (ii) above, Seller and Parent shall notify Purchasers of the nature and terms of such arrangement and shall provide Purchasers with a reasonable opportunity to review drafts of the definitive documentation proposed to be entered into with respect thereto.

Section 5.16 Parent Indemnity for True-Up Payments and Indemnification Payments.

(a) Subject to Section 5.16(b), Parent hereby irrevocably agrees to indemnify and hold each Purchaser (and its successors and permitted assigns) harmless from and against, and will pay to each Purchaser (or its successors or permitted assigns) on demand when due (i) the amount of any and all True-Up Payments required to be paid by Seller to Purchasers pursuant to Section 2.02(e) that Seller has not timely made as required by and in accordance with Section 2.02(e) (which payments Parent shall make to Purchasers on demand and without having to comply with the indemnification procedures set forth in Sections 8.05(a), (c), (d), (e) and (f) below), and (ii) the amount on account of any indemnification obligation required to be paid by Seller to Purchasers pursuant to Section 8.05(a) below that Seller has not timely made as required by and in accordance with Section 8.05) (the obligations of Parent pursuant to this Section 5.16(a)(i) and (ii), collectively, the "Parent Indemnity").

(b) Notwithstanding the foregoing, no claim for indemnification pursuant to this Section 5.16 may be made against Parent by any Purchaser (or its successors or permitted assigns) or any other Purchaser Indemnified Party after the Parent Indemnity Expiration Date (and any claim for indemnification for a breach by Seller of Section 2.02(e) or under Section 8.05(a) brought after the Parent Indemnity Expiration Date may only be brought against Seller); provided that any written claim for indemnification against Parent under this Section 5.16 made prior to the Parent Indemnity Expiration Date and delivered to Parent shall survive thereafter with respect to such claim.

(c) In addition, to the extent that Parent is deemed to have made any of the representations and warranties made by Seller that relate specifically to Seller (and only Seller) in Article III, Parent's joint and several liability as maker of those representations and warranties shall expire as of the Parent Indemnity Expiration Date, and any claim for indemnification for a

breach of any of those representations and warranties under Section 8.05(a) brought after the Parent Indemnity Expiration Date may only be brought against Seller; provided that any written claim for indemnification against Parent as maker of any of those representations and warranties for breach made under Section 8.05(a) prior to the Parent Indemnity Expiration Date and delivered to Parent shall survive thereafter with respect to such claim.

Section 5.17 Use of Proceeds.

Seller shall use 100% of the Purchase Price received from Purchasers for the sole purpose of acquiring the Purchased Product Assets from Parent pursuant to the Parent/Seller Asset Purchase Agreement.

Section 5.18 Amended Disclosure.

Prior to, and in connection with, the Closing, Parent and Seller shall have the right to amend their Disclosure Schedules with respect to any event or matter which occurs after the Effective Date but before the Closing that would cause any representation or warranty contained in Article III to be untrue or incorrect as of the Closing Date as though then made. With respect to any such permitted amendment of the Parent and/or Seller Disclosure Schedule (and the underlying events with respect to such disclosure), if such disclosure and underlying event constitutes or could reasonably be expected to result in a Material Adverse Effect or an Event of Default and Purchasers do not exercise their right to terminate this Agreement pursuant to Section 7.01(a)(ii) within five (5) Business Days of receipt of such amendment of such Parent or Seller Disclosure Schedule (or such longer period as agreed by Parent, Seller and the Designated Purchasers), Purchasers shall be deemed to have waived their right to terminate this Agreement with respect to such event or matter and the representations and warranties contained in Article III herein shall be deemed to have been qualified for purposes of satisfying the conditions to the Closing set forth in Section 6.02.

ARTICLE VI
THE CLOSING; DELIVERABLES

Section 6.01 Closing.

The closing of the purchase and sale of the Purchased Interests (the "Closing") shall be deemed to take place at the offices of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., 666 3rd Avenue, New York, New York 10017, on the Closing Date. The parties hereto expect to exchange documents electronically, and no party hereto shall be required to appear in any specific physical location to effect the Closing.

Section 6.02 Conditions to Closing.

The obligations of Purchasers to effect the Closing shall be subject to the satisfaction of the following conditions, as of the Closing Date (for the avoidance of doubt, any condition below that requires satisfiaction, delivery or performance by Seller or Parent may be waived by the Purchasers in their sole discretion):

(a) Officer's Certificates.

(i) Seller's and Parent's Closing Certificate. Prior to Closing, Seller and Parent shall each deliver to Purchasers a certificate of an officer or other authorized signatory of Seller or Parent, as the case may be, dated the Closing Date, certifying as to (i) the incumbency of the officer (or officers) of Seller or Parent executing this Agreement and the other Transaction Documents to which Seller and/or Parent is a party, (ii) the attached copies of Seller's or Parent's (as the case may be) organizational documents and resolutions adopted by the Board of Directors of Seller or Parent authorizing the execution and delivery by Seller and Parent of this Agreement and the other Transaction Documents and the consummation by Seller and Parent of the transactions contemplated hereby and thereby and (iii) attached copies, certified by such officer as true and complete, of a certificate of the appropriate Governmental Authority of the State of Delaware, stating that Seller or Parent (as the case may be) is in good standing under the laws of such jurisdiction.

(ii) [RESERVED].

(b) Bills of Sale. At or prior to the Closing, Seller shall deliver to the other parties hereto a duly executed counterpart to the Bills of Sale, substantially in the form set forth in **Exhibit A**.

(c) Tax Forms. At or prior to the Closing, Seller shall have delivered to each Purchaser a properly executed IRS Form W-9 on behalf of Parent.

(d) Oaktree Consent. At or prior to the Closing, Administrative Agent, Lenders, and Parent shall have executed and delivered to each other and to Purchasers the Oaktree Consent, substantially in the form set forth in **Exhibit B**.

(e) Intercreditor Agreement. At or prior to the Closing, Administrative Agent and Parent shall have executed and delivered to each other and to Purchasers, the Intercreditor Agreement, substantially in the form set forth in **Exhibit I**.

(f) Pledge Agreement. At or prior to the Closing, Parent shall have executed and delivered to Purchasers the Pledge Agreement, substantially in the form set forth in **Exhibit C**.

(g) Parent and Seller Security Agreement. At or prior to the Closing, Parent and Seller shall have executed and delivered to Purchasers the Parent and Seller Security Agreement, substantially in the form set forth in **Exhibit D**.

(h) Escrow Agreement. At or prior to the Closing, Seller and the Escrow Agent shall have executed and delivered to each other and to Purchasers the Escrow Agreement, substantially in the form set forth in **Exhibit F**.

(i) Opinion of Parent's Counsel. At or prior to the Closing, Parent's counsel Sullivan & Worcester LLP shall have executed and delivered to Purchasers a true sale opinion and non-consolidation opinion, in each case in form and substance satisfactory to Purchasers.

(j) Opinion of Seller's Counsel. At or prior to the Closing, Seller's counsel Sullivan & Worcester LLP shall have executed and delivered to Purchasers a true sale opinion and non-consolidation opinion, in each case in form and substance satisfactory to Purchasers.

(k) Almirall Instruction. Within two (2) Business Days following the Closing Date, Parent and Seller shall deliver to Almirall and Almirall LLC the Almirall Instruction and deliver to each Counterparty to the Other Product Licenses and Other Product Agreements its respective Counterparty Instruction, substantially in the forms set forth in **Exhibit G**, and deliver a copy of each to Purchasers.

(l) Parent/Seller Asset Purchase Agreement. At or prior to the Closing, Parent and Seller shall have executed and delivered to Purchasers a duly executed copy of the Parent/Seller Asset Purchase Agreement, substantially in the form set forth in **Exhibit H** (together with all exhibits and other transaction documents related thereto, including the Almirall Assignment Agreement, the Know-How Assignment Agreement, and the Patent Assignments).

(m) Event of Default. Prior to the Closing Date, no Event of Default shall have occurred (and, for the avoidance of doubt, be continuing).

(n) Representations and Warranties/Officer's Certificate. On the Closing Date, and except as set forth in the Disclosure Schedules of Parent and Seller and subject to Section 5.18, all of the representations and warranties of Parent and Seller set forth in Article III of this Agreement shall be true, correct and complete in all respects; and each of Parent and Seller shall have delivered to Purchasers a certificate dated as of the Closing Date, in a form reasonably satisfactory to Purchasers and executed by an officer of Parent and Seller as the case may be, expressly confirming that the condition set forth in this Section 6.02(n) and the condition in Section 6.03(m) have been satisfied.

The obligations of Seller to effect the Closing shall be subject to the satisfaction of the following conditions, as of the Closing Date (for the avoidance of doubt, any condition below that requires satisfiaction, delivery or performance by Purchasers may be waived by Seller in its sole discretion):

(aa) Bills of Sale. At or prior to the Closing, each Purchaser shall have executed and delivered to Seller a duly executed counterpart to such Purchaser's Bill of Sale, substantially in the form set forth in **Exhibit A**.

(bb) Oaktree Consent. At or prior to the Closing, Administrative Agent and Lenders shall have executed and delivered to Parent the Oaktree Consent, substantially in the form set forth in **Exhibit B**.

(cc) Tax Forms. At or prior to the Closing, each Purchaser shall have delivered to Seller an Applicable Withholding Exemption Certificate.

(dd) Escrow Agreement. At or prior to the Closing, the Escrow Agent and Purchasers shall have executed and delivered to Parent and Seller the Escrow Agreement, substantially in the form set forth in **Exhibit F**.

Section 6.03 Payment of Purchase Price by Purchasers; Payments by Seller to Parent; Release of Funds from Escrow Account, Release of Funds from Segregated Account.

(a) *Payment of Purchase Price by Purchasers*. On the Closing Date, and upon satisfaction or waiver of all conditions set forth in Section 6.02 by the applicable party, each Purchaser shall deliver (or cause to be delivered) to Seller payment of its respective portion of the Purchase Price in accordance with Section 2.03 by wire transfer of immediately available funds as follows:

(i) Oaktree TCDRS shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree TCDRS Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(ii) Oaktree Minn shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree Minn Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(iii) Oaktree Forrest shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree Forrest Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(iv) Oaktree TBMR C shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree TBMR C Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(v) Oaktree TBMR F shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree TBMR F Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(vi) Oaktree TBMR G shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree TBMR G Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(vii) Oaktree TSE shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree TSE Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(viii) Oaktree INPRS shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree INPRS Purchase Price"),

of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(ix) Oaktree Gilead shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree Gilead Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(x) Oaktree Strategic Income shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree Strategic Income Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(xi) Oaktree Specialty Lending shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree Specialty Lending Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(xii) Oaktree GCF shall wire to Seller or the Escrow Agent (as applicable) an aggregate of $[*] of the Purchase Price (the "Oaktree GCF Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account;

(xiii) Sagard Cayman shall wire to Seller an aggregate of $[*] of the Purchase Price (the "Sagard Cayman Purchase Price"), of which (i) $[*] will be wired to the Seller Account, and (ii) $[*] will be wired to the Escrow Account; and

(xiv) Sagard Ireland shall wire to Seller an aggregate of $[*] of the Purchase Price (the "Sagard Ireland Purchase Price"), of which (i) $[*] will be wired to the Seller Account and (ii) $[*] will be wired to the Escrow Account.

(b) *Payments by Seller to Parent; Payment by Parent to Seller; Payments by Seller to Purchasers in respect of Purchased Interests relating to Q1 2022 Royalties*. On the Closing Date, Seller shall use the Purchase Price to pay Parent for the Purchased Product Assets as required by Section 5.17. Following receipt of the portion of the Purchase Price deposited into the Seller Account as set forth in Section 6.03(i), Seller shall deliver to Parent in payment of Seller's purchase price for the Purchased Product Assets by wire transfer of immediately available funds as follows:

(i) On the Closing Date, Seller shall wire to Parent an amount equal to the sum of (w) $42,500,000, plus (x) an amount equal to accrued and unpaid interest under the Oaktree Credit Agreement, plus (y) an amount equal to the applicable Prepayment Fee and Exit Fee (each as defined in the Oaktree Credit Agreement), plus (z) any legal fees and legal costs of the Administrative Agent incurred in connection with the Transaction Documents, which Parent shall, also on the Closing Date, wire to the Administrative Agent for the benefit of the Lenders, to be applied to the outstanding Indebtedness under the Oaktree Credit Agreement (including such applicable Prepayment Fee and Exit Fee) as provided in the Oaktree Consent (and for no other purpose);

(ii) On the Closing Date, Seller shall wire to Parent $7,500,000.00, to be deposited into the Segregated Account and held by Parent in the Segregated Account during the Holding Period pending consummation of a Qualified Financing;

(iii) On the Closing Date, Seller shall wire to each payee of a Transaction Expense, the applicable amount of such Transaction Expense evidenced by a payoff letter or invoice received from such payee; and

(iv) On the Closing Date, Seller shall wire to Parent the balance of the funds wired to Seller by or on behalf of Purchasers pursuant to Section 6.03(a) after making the payments in Sections 6.03(b)(i), 6.03(b)(ii) and 6.03(b)(iii), which amount shall be freely available to Parent for working capital and general corporate purposes.

(c) On the Closing Date:

(i) If Parent has received Royalties from Almirall and/or Almirall LLC with respect to the Calendar Quarter beginning January 1, 2022 (the amount so received, if any, the "Q1 2022 Royalties"), Parent shall wire to Seller an amount equal to the Q1 2022 Royalties; and

(ii) Seller shall, immediately following receipt of Parent's payment to Seller of the Q1 2022 Royalties, wire to:

(A) to each Oaktree Purchaser, a payment equal to such Oaktree Purchaser's Allocation Percentage of the Q1 2022 Royalties; and

(B) to each Sagard Purchaser, a payment equal to such Sagard Purchaser's Allocation Percentage of the Q1 2022 Royalties;

and all such amounts paid by Seller to Oaktree TCDRS, Oaktree Minn, Oaktree Forrest, Oaktree TBMR C, Oaktree TBMR F, Oaktree TBMR G, Oaktree TSE, Oaktree INPRS, Oaktree Gilead, Oaktree Strategic Income, Oaktree Specialty Lending, Oaktree GCF, Sagard Cayman and Sagard Ireland shall be deemed to be payments in respect of the Oaktree TCDRS Purchased Interest, the Oaktree Minn Purchased Interest, the Oaktree Forrest Purchased Interest, the Oaktree TBMR C Purchased Interest, the Oaktree TBMR F Purchased Interest, the Oaktree TBMR G Purchased Interest, the Oaktree TSE Purchased Interest, the Oaktree INPRS Purchased Interest, the Oaktree Gilead Purchased Interest, the Oaktree Strategic Income Purchased Interest, the Oaktree Specialty Lending Purchased Interest, the Oaktree GCF Purchased Interest, the Sagard Cayman Purchased Interest and the Sagard Ireland Purchased Interest, respectively, for all purposes under this Agreement, including calculation of each Purchaser's Applicable Percentage and calculation of the Parent Indemnity Expiration Date.

(d) *Release of Funds from Escrow Account*. The $5,000,000 portion of the Purchase Price paid by Purchasers into the Escrow Account as provided in Section 6.03(i) shall be subject to release to Seller, and paid by Seller to Parent as further consideration for the Purchased Product Assets pursuant to the Parent/ Seller Asset Purchase Agreement, as follows: (x) upon the occurrence (if any) of the First Escrow Release Trigger, Purchasers and Seller shall provide joint

written instructions to Escrow Agent in accordance with the Escrow Agreement directing Escrow Agent to release $1,500,000 from the Escrow Account to Seller, and Seller shall immediately pay such amount to Parent and (y) upon the occurrence (if any) of the Second Escrow Release Trigger, Purchasers and Seller shall provide joint written instructions to Escrow Agent in accordance with the Escrow Agreement directing Escrow Agent to release $3,500,000 from the Escrow Account to Seller, and Seller shall immediately pay such amount to Parent; provided, however, that if either the First Escrow Release Trigger and/or the Second Escrow Release Trigger have not occurred on or prior to December 31, 2025, any amounts then in the Escrow Account corresponding to the First Escrow Release Trigger (if the First Escrow Release Trigger has not occurred on or prior to December 31, 2025) and/or the Second Escrow Release Trigger (if the Second Escrow Release Trigger has not occurred on or prior to December 31, 2025), as applicable, shall not be released to Seller and shall instead be immediately returned to Purchasers. The Parties agree to provide the Escrow Agent with joint written instructions for the release of funds from the Escrow Account consistent with this Section 6.03(iii) and the Escrow Agreement.

(e) *Release of Funds from Segregated Account*. Parent agrees that, during the Holding Period, it shall not use or transfer any of the funds funded to the Segregated Account at Closing. On or before the last Business Day of the Holding Period, Parent shall deliver to Purchasers a certificate of an officer or other authorized signatory of Parent, dated the date thereof, certifying as to whether or not a Qualified Financing has occurred. If no Qualified Financing has occurred by the last day of the Holding Period, Parent shall, within two (2) Business Days following the end of the Holding Period, wire the $7,500,000 in the Segregated Account to the Administrative Agent for the account of each of the Lenders under the Oaktree Credit Agreement to be applied to the Indebtedness in accordance with the Oaktree Credit Agreement. If a Qualified Financing has occurred by the last day of the Holding Period and Parent has provided Purchasers with the officer's certificate certifying such occurrence within two (2) Business Days of the expiration of the Holding Period, Parent shall be free to transfer the funds from the Segregated Account to such other account as Parent may determine and otherwise use the funds as it may determine in its sole discretion.

ARTICLE VII
TERMINATION

Section 7.01 Termination.

(a) This Agreement may be terminated by Purchasers prior to the Closing Date, if any updated Parent Disclosure Schedule or Seller Disclosure Schedule delivered by Parent or Seller pursuant to Section 5.18 discloses information or describes events that constitute or could reasonably be expected to result in a Material Adverse Effect or an Event of Default. Any such termination shall be effective upon the delivery of written notice from the Designated Purchasers to Parent and Seller within five (5) Business Days of receipt of such amendment of such Parent or Seller Disclosure Schedule (or such longer period agreed to by Parent, Seller and the Designated Purchasers).

(b) This Agreement shall commence on the Effective Date, and, subject to Section 7.01(a), after the Closing, this Agreement shall terminate on the date when all of Purchasers'

rights to receive any payments (whether in respect of the Purchased Interests or otherwise) shall have expired or been satisfied (the "Term").

Section 7.02 Effect of Expiration or Termination.

In the event of the termination of this Agreement pursuant to Section 7.01, this Agreement shall forthwith become void and have no effect without any liability on the part of any party hereto or its Affiliates, directors, officers, partners, stockholders, managers or members other than the provisions of this Section 7.02 and Sections 5.01(b) (with respect to books of account and records necessary to enable Purchasers to receive the full benefit of their rights under Section 5.06), 5.02, 5.06, 5.09, 8.01 and 8.05 hereof, which shall survive any termination as set forth in Section 8.01. Nothing contained in this Section 7.02 shall relieve any party from liability for any breach of this Agreement occurring prior to such termination.

ARTICLE VIII
MISCELLANEOUS

Section 8.01 Survival.

All representations and warranties made herein and in any other Transaction Document or any closing certificates delivered pursuant to this Agreement shall survive following the execution and delivery of this Agreement and the Closing until the termination of this Agreement. Notwithstanding anything in this Agreement or implied by law to the contrary, (i) all of the covenants and agreements contained in this Agreement other than those set forth in (ii) below shall survive following the execution and delivery of this Agreement and the Closing until the termination of this Agreement, (ii) the covenants and agreements contained in Sections 5.01(b) (with respect to books of account and records necessary to enable Purchasers to receive the full benefit of their rights under Section 5.06), 5.02, 5.06, 5.09, 8.01 and 8.05 shall survive indefinitely following the execution and delivery of this Agreement and the Closing and the termination of this Agreement.

Section 8.02 Specific Performance.

Each of the parties hereto acknowledges that the other parties will have no adequate remedy at law if it fails to perform any of its obligations under any of the Transaction Documents. In such event, each of the parties agrees that the other parties shall have the right, in addition to any other rights they may have (whether at law or in equity), to specific performance of this Agreement.

Section 8.03 Notices.

All notices, consents, waivers and communications hereunder given by any party to the other shall be in writing and delivered personally, by hand, by a recognized overnight courier, or by dispatching the same by certified or registered mail, return receipt requested, with postage prepaid, or by email (provided any notice given by email shall also be given by another method of delivery permitted by this Section 8.03), in each case addressed:

If to Purchasers:

Oaktree Capital Management, L.P.
333 South Grand Avenue, 28th Floor
Los Angeles, CA 90071
Attention: Jessica Dombroff, Vice President
Email: [*]

Sagard
161 Bay Street, Suite 5000
Toronto, ON M5J 2S1
Canada
Attention: General Counsel
Email: [*]

with a copy (which shall not constitute notice) to:

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
666 Third Avenue
New York, New York 10017
Attention: Richard G. Gervase Jr., Esq.
Email: [*]

If to Collateral Agent:

Sagard Healthcare Royalty Partners, LP
161 Bay Street, Suite 5000
Toronto, ON M5J 2S1
Canada
Attention: General Counsel
Email: [*]

with a copy (which shall not constitute notice) to:

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
666 Third Avenue
New York, New York 10017
Attention: Richard G. Gervase Jr., Esq.
Email: [*]

If to Seller:

ATNX SPV, LLC
1001 Main Street, Suite 600
Buffalo, New York 14203

Attention: Dan Lang
Email: [*]

with a copy (which shall not constitute notice) to:

Ladenburg Thalmann & Co. Inc.
640 Fifth Avenue, 4th Floor
New York, NY 10019
Attention: Lionel Leventhal, Managing Director and Head of
Royalty & Revenue Interest Financing
Email: [*]

If to Parent:

Athenex, Inc.
1001 Main Street, Suite 600
Buffalo, New York 14203
Attention: Johnson Y.N. Lau, MBBS, MD, FRCP, Chief Executive Officer
Email: [*]

with a copy (which shall not constitute notice) to:

Ladenburg Thalmann & Co. Inc.
640 Fifth Avenue, 4th Floor
New York, NY 10019
Attention: Lionel Leventhal, Managing Director and Head of
Royalty & Revenue Interest Financing
Email: [*]

or to such other address or addresses as Purchasers, Parent or Seller may from time to time designate by notice as provided herein, except that notices of changes of address shall be effective only upon receipt. All such notices, consents, waivers and communications shall: (a) when posted by certified or registered mail, postage prepaid, return receipt requested, be effective three (3) Business Days after dispatch, unless such communication is sent trans-Atlantic, in which case they shall be deemed effective five (5) Business Days after dispatch, (b) when delivered by a recognized overnight courier or in person, be effective upon receipt when hand delivered or (c) on the date sent by e-mail if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient, and followed by a transmission pursuant to another method of delivery permitted by this Section 8.03.

Section 8.04 Successors and Assigns.

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and, subject to this Section 8.04 and the other provisions of this Agreement (including Section 5.12), their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be sold, transferred,

conveyed or assigned, in whole or in part, by operation of law or otherwise, by Seller or Parent, on the one hand, or Purchasers, on the other hand, without the prior written consent of the other parties, except that, subject to this Section 8.04 and the other provisions of this Agreement (including Section 5.12):

(a) Each Purchaser may sell, transfer, convey or assign its respective obligations and rights under the Transaction Documents without restriction and without the consent of Seller or Parent, *in whole and not in part* (including, for clarity, such Purchaser's entire Purchased Interest), to an Affiliate or Third Party (provided in each case that such Person is not a competitor of Parent as reasonably determined by the disinterested members of the Board), subject to (x) such Affiliate or Third Party executing an agreement agreeing to be bound by all obligations of such Purchaser under this Agreement, the Operating Agreement and other Transaction Documents and (y) any successor Purchaser Director executing a Board Services Agreement.

(b) Each Purchaser may sell, transfer, convey or assign any portion of its Purchased Interest, *in part but not in whole* (with any sales, transfers, conveyances or assignments of such Purchaser's entire Purchased Interest being subject to paragraph (a) above), with the consent of the disinterested members of the Board (subject to the applicable purchaser, transferee or assignee not being a competitor of Parent as reasonably determined by the disinterested members of the Board and such purchaser, transferee or assignee executing an agreement agreeing to be bound by all obligations of such Purchaser under this Agreement and other Transaction Documents), but upon any such partial sale, transfer, conveyance or assignment, such Purchaser's Membership Units will be automatically deemed forfeited and cancelled, such Purchaser will no longer be entitled to designate a Purchaser Director, and such Purchaser shall cause such Purchaser's designated Purchaser Director to resign from the Board in accordance with the Operating Agreement; provided that, prior to selling, transferring, conveying or assigning any portion of its Purchased Interest pursuant to this Section 8.04(b) to any Third Party who is not an existing Purchaser, a selling, transferring, conveying or assigning Designated Purchaser and its proposed purchaser, transferee or assignee shall enter into a voting agreement (or similar arrangement) clearly designating that either such Designated Purchaser or its proposed purchaser, transferee or assignee (but not both) shall be authorized to act on behalf of both such Designated Purchaser and its proposed purchaser, transferee or assignee for the sole purpose of providing (or withholding) any request of Purchasers or consent of Purchasers requested by Seller under this Agreement or otherwise providing any instruction or direction of Purchasers as provided under this Agreement. The selling, transferring, conveying or assigning Designated Purchaser and its purchaser, transferee or assignee shall promptly provide Parent, Seller and all other Purchasers with a joint written notice (together with a copy of such voting agreement or similar arrangement) informing Parent, Seller and the other Purchasers as to which of them is designated to act on behalf of both of them as the continuing or replacement Designated Purchaser, but in the absence of any such notice, Parent, Seller and the other Purchasers shall be entitled to assume that such selling, transferring, conveying or assigning Designated Purchaser remains the Designated Purchaser and has retained the sole ability to request, consent, instruct and/or direct. Parent, Seller and the other Purchasers shall be entitled to rely on any such notice without further investigation. Any subsequent proposed sale, transfer, conveyance, or assignment of any portion of a Purchaser's Purchased Interest (including by any prior purchaser, transferee or assignee of any portion of a Purchaser's Purchased Interest) pursuant to this Section 8.04(b) shall also be subject to the foregoing requirements (for clarity, the request/consent/instruction/direction right must either be

assigned or retained in full in connection with any sale, transfer, conveyance or assignment under this Section 8.04(b). Any request or consent from or instruction or direction to be given or provided under this Agreement by Purchasers shall require the request, consent, instruction or direction to be in writing and executed by all Designated Purchasers, and Parent and Seller shall not be obligated under this Agreement to comply with or follow any request, consent, instruction or direction that is not in writing and executed by all Designated Purchasers. In addition, at no time shall the number of Designated Purchasers that are entitled to provide any request, consent, instruction or direction to Parent or Seller under this Agreement be more than three (3), and any sale, transfer, conveyance or assignment under this Section 8.04(b) that would purport to result in more than three (3) Designated Purchasers having rights under this Agreement to provide requests, consents, instructions or directions to Parent or Seller shall be void and of no force or effect.

(c) Parent may, without the consent of Seller or Purchasers, sell, transfer, convey or assign this Agreement and its rights, interests and obligations hereunder and under the other Transaction Documents to which it is a party in connection with a Change of Control.

Any purchaser, transferee or assignee shall be subject to the provisions of Section 8.07 in the same manner as the applicable seller, transferor or assignor (including with respect to the obligation to provide any applicable tax forms). Any permitted sale, transfer, conveyance or assignment under this Section 8.04 shall only be effective upon the written notification by the applicable party to the other parties hereto of such sale, transfer, conveyance or assignment.

Section 8.05 Indemnification.

(a) Subject to Section 5.16 and Section 8.05(h) below, each of Parent and Seller, on a joint and several basis, hereby agrees to indemnify and hold each Purchaser and its Affiliates, and each of their successors and permitted assigns, and any of their respective partners, directors, managers, members, officers, employees and agents (each a "Purchaser Indemnified Party") harmless from and against, and will pay to each Purchaser Indemnified Party the amount of, any and all Losses awarded against or incurred or suffered by any Purchaser Indemnified Party, whether or not involving a Third Party claim, demand, action or proceeding, arising out of: (i) any breach of any representation, warranty or verification made by Parent or Seller in any of the Transaction Documents or certificates given by Parent or Seller to Purchasers pursuant to this Agreement or any Transaction Document, (ii) any breach of or default under any covenant or agreement by Parent or Seller pursuant to any Transaction Document, (iii) any Excluded Liabilities and Obligations, (iv) claims arising on or after the Closing Date and asserted against a Purchaser Indemnified Party by any Third Party (including Almirall, Almirall LLC, any successor to Almirall or Almirall LLC, any Counterparty to any Other Product License or Other Product Agreement or any successor to such Counterparty) relating to the transactions contemplated in any Transaction Document, the License Agreement, any Ancillary Agreement or any Other Product License or Other Product Agreement, and (v) any fees, expenses, costs, liabilities or other amounts incurred or owed by Parent or Seller to any brokers, financial advisors or comparable other Persons retained or employed by it in connection with the transactions contemplated by this Agreement; provided, however, that the foregoing shall exclude any indemnification to any Purchaser Indemnified Party to the extent resulting from the bad faith, gross negligence or willful misconduct of such Purchaser Indemnified Party. Subject

to Section 5.16 and 8.05(h), any amounts due to any Purchaser Indemnified Party hereunder shall be payable by Parent and Seller (jointly and severally) to such Purchaser Indemnified Party.

(b) Each Purchaser hereby agrees to indemnify and hold Seller, Parent and their respective Affiliates, and each of their respective successors and permitted assigns, and any of their respective partners, directors, managers, members, officers, employees and agents (each a "Seller Indemnified Party") harmless from and against, and will pay to each Seller Indemnified Party the amount of, any and all Losses awarded against or incurred or suffered by such Seller Indemnified Party, whether or not involving a Third Party claim, demand, action or proceeding, arising out of (i) any breach of any representation, warranty or verification made by such Purchaser in any of the Transaction Documents or certificates given by such Purchaser to Parent or Seller pursuant to this Agreement or any Transaction Document; (ii) any breach of or default under any covenant or agreement by such Purchaser pursuant to any Transaction Document and (iii) any fees, expenses, costs, liabilities or other amounts incurred or owed by such Purchaser to any brokers, financial advisors or comparable other Persons retained or employed by it in connection with the transactions contemplated by this Agreement; provided, however, that the foregoing shall exclude any indemnification to any Seller Indemnified Party to the extent resulting from the bad faith, gross negligence or willful misconduct of such Seller Indemnified Party.

(c) *Third Party Claims.* If any claim, demand, action or proceeding (including any investigation by any Governmental Authority) shall be brought or alleged by a Third Party against an indemnified party in respect of which indemnity is to be sought against an indemnifying party pursuant to the preceding paragraphs, the indemnified party shall, promptly after receipt of notice of the commencement of any such claim, demand, action or proceeding, notify the indemnifying party in writing of the commencement of such claim, demand, action or proceeding, enclosing a copy of all papers served, if any; provided, however, that the failure to promptly provide such notice shall not affect the indemnification provided for under this Section 8.05 except to the extent that the indemnifying party has been actually prejudiced as a result of such failure. In case any such claim, demand, action or proceeding is brought against an indemnified party and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate therein and, to the extent that it may wish, to assume and control the defense thereof at its own expense, with counsel reasonably satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under this Section 8.05 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation, except in the event that (i) the indemnifying party is not diligently defending such claim, demand, action or proceeding or (ii) the indemnifying party and the indemnified party have conflicting interests or different defenses available with respect to such claim, demand, action or proceeding (as determined in the opinion of counsel to the indemnified party), in each of such cases the indemnified party may hire its own separate counsel (provided that such counsel is not reasonably objected to by the indemnifying party) with respect to such claim, demand, action or proceeding and the reasonable fees and expenses of such counsel shall be considered Losses for purposes of this Agreement. With respect to any such claim, demand, action or proceeding for which the indemnifying party has assumed and is controlling the defense thereof, an indemnified party shall have the right to retain its own counsel, but the

reasonable fees and expenses of such counsel shall be at the expense of such indemnified party (subject to the immediately preceding sentence). The indemnifying party shall be liable for the reasonable fees and expenses of counsel employed by the indemnified party in the defense of any such claim, demand, action or proceeding (which shall be considered Losses for purposes of this Agreement) for any period during which the indemnifying party has not assumed the defense of, or is not diligently defending, such claim, demand, action or proceeding. It is agreed that the indemnifying party shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees and expenses of more than one separate law firm (in addition to local counsel where necessary) for all such indemnified parties. The indemnifying party shall not be liable for any settlement of any proceeding effected without its written consent (such consent not to be unreasonably withheld or delayed), but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any Losses by reason of such settlement or judgment. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened claim, action, demand or proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless in connection with such settlement the indemnifying party agrees to pay the full amount of the liability (if any) (including all Losses of the indemnified party) in connection with such claim, action, demand or proceeding and such settlement does not involve any non-monetary remedies against the indemnified party and releases the indemnified party completely and unconditionally in connection with such claim, action, demand or proceeding. The parties shall cooperate in the defense or prosecution of any such claim, action, demand or proceeding, with such cooperation to include (i) the retention of and the provision to the indemnifying party of records and information that are reasonably relevant to such claim, action, demand or proceeding, (ii) the making available of employees on a mutually convenient basis for providing additional information and explanation of any material provided hereunder, and (iii) the party that is controlling the defense of such claim, action, demand or proceeding keeping the other parties generally advised of its status and the defense thereof and considering in good faith recommendations of the non-controlling parties with respect thereto.

(d) *Other Claims*. A claim by an indemnified party under Section 8.04 for any matter not involving a claim of a Third Party and in respect of which such indemnified party seeks indemnification hereunder may be made by delivering, in good faith, a written notice of demand to the indemnifying party, which notice shall contain (a) a description and the amount of any Losses incurred or suffered or reasonably expected to be incurred or suffered by the indemnified party to the extent known, (b) a statement that the indemnified party is entitled to indemnification under Section 8.05 for such Losses and a reasonable explanation of the basis therefor, and (c) a demand for payment in the amount of such Losses. For all purposes of this Section 8.05(d), Seller shall be entitled to deliver such notice of demand to the Purchasers on behalf of the Seller Indemnified Parties, and the Purchasers shall be entitled to deliver such notice of demand to Seller on behalf of the Purchaser Indemnified Parties. Within 30 days after receipt by the indemnifying party of any such notice, the indemnifying party may deliver to the indemnified party that delivered the notice a written response in which the indemnifying party (a) agrees that the indemnified party is entitled to the full amount of the Losses claimed in the notice from the indemnified party; (b) agrees that the indemnified party is entitled to part, but not all, of the amount of the Losses claimed in the notice from the indemnified party; or (c) indicates

that the indemnifying party disputes the entire amount of the Losses claimed in the notice from the indemnified party. If the indemnified party does not receive such a response from the indemnifying party within such 30 day period, then the indemnifying party shall be conclusively deemed to have agreed that the indemnified party is entitled to the full amount. If the indemnifying party and the indemnified party are unable to resolve any dispute relating to any amount of the Losses claimed in the notice from the indemnified party within thirty (30) days after the delivery of the response to such notice from the indemnifying party, then the parties shall be entitled to resort to any legal remedy available to such party to resolve such dispute, subject to all the terms, conditions and limitations of this Agreement.

(e) No claim for indemnification hereunder for breach of any representations or warranties contained in any Transaction Document or certificates given by any party in writing pursuant hereto or thereto may be made after the expiration of the survival period applicable to such representation or warranty; provided that any written claim for breach thereof made prior to such expiration date and delivered to the party against whom such indemnification is sought shall survive thereafter with respect to such claim and be processed in accordance with the indemnification procedures set forth in Section 5.16 or this Section 8.05, as applicable.

(f) Following the Effective Date, the indemnification afforded by this Section 8.05 shall be the sole and exclusive remedy for any and all Losses sustained or incurred by a party hereto in connection with the transactions contemplated by the Transaction Documents, including with respect to any breach of any representation, warranty or certification made by a party hereto in any of the Transaction Documents or certificates given by a party in writing pursuant hereto or thereto or any breach of or default under any covenant or agreement by a party pursuant to any Transaction Document, the License Agreement or any Ancillary Agreement, except that any Losses based upon fraud, knowing and intentional breach of covenant or willful misconduct shall not be limited by the provisions of this Section 8.05 (including, for the avoidance of doubt, Section 8.01), and each of Purchasers, Parent and Seller accordingly preserves all remedies available with respect to any such Losses based thereon under Applicable Law. Notwithstanding anything herein to the contrary, except in the case of any claim, demand, action or proceeding (including any investigation by any Governmental Authority) brought or alleged by a Third Party against an indemnified party in respect of which indemnity is to be sought hereunder, in no event shall Losses include any punitive damages. Notwithstanding the foregoing, in the event of any breach or failure in performance of any covenant or agreement contained in any Transaction Document, the non-breaching party shall be entitled to seek specific performance, injunctive or other equitable relief. For clarity, no party shall have any right to terminate this Agreement or any other Transaction Document as a result of any breach by any other party hereof or thereof, but instead shall have the right, following the Closing Date, to seek indemnification under this Section 8.05 and such specific performance, injunctive or other equitable relief or such other remedies as expressly reserved by the first sentence of this Section 8.05(e).

(g) Any indemnification payments pursuant to this Section 8.05 will be treated by the parties as an adjustment to the Purchase Price for all tax purposes.

(h) No claim for indemnification pursuant to Section 8.05(a) on account of any indemnification obligation required to be paid by Seller to any Purchaser Indemnified Party

under this Section 8.05 may be made by any Purchaser Indemnified Party against Parent, and Parent shall no longer be jointly and severally liable with Seller for Seller's indemnification obligations under this Section 8.05, after the Parent Indemnity Expiration Date (and any claim for indemnification under Section 8.05(a) on account of any indemnification obligation required to be paid by Seller to any Purchaser Indemnified Party under this Section 8.05 brought after the Parent Indemnity Expiration Date may be brought by the Purchaser Indemnified Parties solely against Seller); provided that any written claim for indemnification against Parent under Section 8.05(a) on account of a breach by Seller made prior to the Parent Indemnity Expiration Date and delivered to Parent shall survive thereafter with respect to such claim and be processed in accordance with the indemnification procedures set forth in this Section 8.05.

(i) In addition, to the extent that Parent is deemed to have made any of the representations and warranties made by Seller that relate specifically to Seller (and only Seller) in Article III, Parent's joint and several liability as maker of those representations and warranties shall expire as of the Parent Indemnity Expiration Date, and any claim for indemnification for a breach of any of those representations and warranties under Section 8.05(a) brought after the Parent Indemnity Expiration Date may only be brought against Seller; provided that any written claim for indemnification against Parent as maker of any of those representations and warranties for breach made under Section 8.05(a) prior to the Parent Indemnity Expiration Date and delivered to Parent shall survive thereafter with respect to such claim.

(j) Notwithstanding anything in this Section 8.05 to the contrary, any claim against Parent pursuant to the Parent Indemnity set forth in Section 5.16(a)(i) shall be governed by Section 5.16 (and not this Section 8.05) and shall be paid by Parent to Purchasers when required under Section 5.16 and without having to comply with the indemnifications procedures set forth in Sections 8.05(a), (c), (d), (e) and (f) above.

Section 8.06 Independent Nature of Relationship.

(a) The relationship between Seller, on the one hand, and Purchasers, on the other hand, is solely that of seller and purchaser, and neither Purchasers nor Seller nor Parent has any fiduciary or other special relationship with the other or any of their respective Affiliates. Nothing contained herein or in any other Transaction Document shall be deemed to constitute Seller and Purchasers as a partnership, an association, a joint venture or other kind of entity or legal form.

(b) No officer or employee of any Purchaser will be located at the premises of Seller, Parent or any of their respective Affiliates.

(c) Seller, Parent and/or their respective Affiliates shall not at any time obligate any Purchaser, or impose on any Purchaser any obligation, in any manner or respect other than as set forth in the Transaction Documents or as otherwise agreed to by such Purchaser.

Section 8.07 Tax.

(a) For United States federal, state and local tax purposes, Seller and Purchasers intend to treat the transactions contemplated by this Agreement as a sale for United States tax purposes. The parties hereto agree not to take any position that is inconsistent with the

provisions of this Section 8.07(a) on any tax return or in any audit or other administrative or judicial proceeding unless (i) the other parties to this Agreement have consented in writing to such actions, which consent shall not be unreasonably withheld or delayed, or (ii) the party that contemplates taking such an inconsistent position has been advised by nationally recognized counsel or tax advisors in writing that there is no "reasonable basis" (within the meaning of Treasury Regulation Section 1.6662-3(b)(3)) for the position specified in this Section 8.07(a).

(b) To the extent any amount of tax is withheld at source from a payment made pursuant to the License Agreement, such withheld amount shall for all purposes of this Agreement be treated as paid to the party with respect to whom such withholding was made, or, if no such party exists, then to Seller and Purchasers on a pro rata basis in accordance with each party's underlying ownership interest in each such payment (taking into account any amounts withheld); e.g., with respect to Purchasers, amounts so withheld shall be attributed to Purchasers, and deemed paid to Purchasers, in accordance with their respective Purchased Interests, and conversely, with respect to Seller, amounts so withheld shall be attributed to Seller, and deemed paid to Seller, in accordance with the Retained Interest. Any amounts withheld at source as described in this Section 8.07(b) attributable to Purchasers shall be credited for the account of Purchasers, and any amounts withheld at source as described in this Section 8.07(b) attributable to Seller shall be credited for the account of Seller. If there is an inquiry by any Governmental Authority of either Purchaser related to withholding taxes described in this Section 8.07(b), Seller shall cooperate with such Purchaser in responding to such inquiry in a reasonable manner consistent with this Section 8.07(b). For the avoidance of doubt, the parties agree to provide any Person that is a withholding agent for tax purposes any requested documentation necessary to establish an exemption from or reduction of applicable withholding taxes with respect to payments under the License Agreement, including, in the case of a Purchaser, an Applicable Withholding Exemption Certificate; and in the event the failure to provide such documentation results in the imposition of withholding, then such withholding shall be attributed to the party responsible for such failure for purposes of this Section 8.07(b). All amounts withheld at source as described herein shall for all purposes of this Agreement be deemed to have been received by the party to which they are attributed as provided above. Notwithstanding the above, the parties do not currently intend to deduct or withhold any amount from any payment made hereunder, provided that Purchasers provide an Applicable Withholding Exemption Certificate and such Applicable Withholding Exemption Certificate has not become obsolete or expired in any respect; provided, further, that if it is determined that such withholding is required, (i) the parties agree to use commercially reasonable efforts to cooperate so as to eliminate or reduce any such withholding, and (ii) neither Seller nor Purchasers shall have any obligation to gross up or otherwise pay the other parties any amounts that are deducted and withheld from any such payment in accordance with Applicable Law.

Section 8.08 Entire Agreement.

This Agreement, together with the Exhibits and Disclosure Schedules hereto (which, for the avoidance of doubt, include any updates to the Disclosure Schedules delivered on the Effective Date and the Closing Date) (which are incorporated herein by reference), the Bills of Sale, the Operating Agreement and the other Transaction Documents, constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the parties with

respect to the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein (or in the Exhibits, Disclosure Schedules, Bills of Sale, Operating Agreement or other Transaction Documents) has been made or relied upon by either party hereto. None of this Agreement, nor any provision hereof, other than Section 8.05, is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

Section 8.09 Governing Law; Jurisdiction; Service of Process; Waiver of Jury Trial.

This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to the principles of conflicts of law thereof. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in the federal courts of the United States or the courts of the State of New York in each case located in the city of New York and County of New York, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. Each of Parent, Seller and Purchasers irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or any proceeding in such courts and irrevocably waives and agrees not to plead or claim in any such court that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER TRANSACTION DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 8.10 Severability.

If any provision of this Agreement is held to be invalid, illegal or unenforceable under Applicable Law in any jurisdiction, such provision shall be excluded from this Agreement and Seller, Parent and Purchasers shall negotiate in good faith a valid, legal and enforceable substitute provision that most nearly reflects the original intent of Seller, Parent and Purchasers and all other provisions of this Agreement shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to carry out the intentions of Seller, Parent and Purchasers as nearly as may be possible. Such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of such provision in any other jurisdiction.

Section 8.11 Counterparts; Effectiveness.

This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. Counterparts may be (i) signed in person and delivered in person, via facsimile, or via other means of electronic delivery (including emailing an electronic copy thereof) and/or (ii) signed and delivered by means of employing electronic signature technology that complies with the Electronic Signatures in Global and National Commerce Act of 2000 (E-SIGN), or other Applicable Law governing the execution and delivery of this Agreement through electronic means, and any counterpart so executed and delivered shall be deemed to have been duly and validly executed and delivered and be valid and enforceable for all purposes.

Section 8.12 Amendments; No Waivers.

(a) This Agreement or any term or provision hereof may not be amended, changed or modified except with the written consent of the parties hereto. No waiver of any right hereunder shall be effective unless such waiver is signed in writing by the party against whom such waiver is sought to be enforced.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 8.13 Interpretation.

When a reference is made in this Agreement to an Articles, Sections, Disclosure Schedules or Exhibits, such reference shall be to an Article, Section, Disclosure Schedule or Exhibit to this Agreement unless otherwise indicated. The words "include," "includes," and "including" when used herein shall be deemed in each case to be followed by the word "without limitation" and shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it. The Disclosure Schedules (including, for the avoidance of doubt, any updates thereto delivered on the Closing Date) and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

Section 8.14 Expenses.

Parent shall (a) be responsible for, and shall promptly pay to Purchasers, all of Purchasers' legal fees and legal costs (uncapped) incurred by Purchasers in connection with this Agreement and the other Transaction Documents and the performance of the transactions contemplated hereunder and thereunder, whether incurred prior to the Closing Date or during the Term, including but not limited to (i) the negotiation and consummation of this Agreement and the other Transaction Documents, (ii) the formation of Seller (including but not limited to the review and negotiation of the Operating Agreement, the Board Services Agreement and the

director indemnification agreement), (iii) the preparation and negotiation of the Servicing Agreement, the Other Product Licenses and the Other Product Agreements, and (iv) any other matters relating to the consummation, performance and ongoing administration of Seller, the Transaction Documents, and/or the Purchased Interests, (b) be responsible for funding Seller's portion of the costs, expenses and fees of the Escrow Agent under and pursuant to the Escrow Agreement, and (c) be responsible for the costs, expenses and fees of any disbursement agent used to facilitate the payments set forth in Section 6.03 (collectively, "Transaction Expenses"). Parent shall pay to Purchasers on the Closing Date all Transaction Expenses incurred by Purchasers prior to Closing Date. Thereafter, Parent shall reimburse Purchasers for any Transaction Expenses incurred by them after the Closing Date within thirty (30) days of invoice.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

ATNX SPV, LLC

By: /s/ Daniel Lang

Name: Daniel Lang, M.D.

Title: Board Member

ATHENEX, INC.

By: /s/ Johnson Y.N. Lau

Name: Johnson Y.N. Lau, MBBS, M.D., FRCP

Title: Chief Executive Officer and Board Chairman

Signature Page to Revenue Interest Purchase Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

Oaktree-TCDRS Strategic Credit, LLC

Oaktree-Minn Strategic Credit, LLC
Oaktree-Forrest Multi-Strategy, LLC
Oaktree-TBMR Strategic Credit Fund C, LLC
Oaktree-TBMR Strategic Credit Fund F, LLC
Oaktree-TBMR Strategic Credit Fund G, LLC
Oaktree-TSE 16 Strategic Credit, LLC
INPRS Strategic Credit Holdings, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

[Signature Page to Revenue Interest Purchase Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

Oaktree Gilead Investment Fund AIF (Delaware), L.P.

By: Oaktree Fund AIF Series, L.P. – Series T
Its: General Partner

By: Oaktree Fund GP AIF, LLC
Its: Managing Member

By: Oaktree Fund GP III, L.P.
Its: Managing Member

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Authorized Signatory

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Authorized Signatory

[Signature Page to Revenue Interest Purchase Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

Oaktree Strategic Income II Inc.
Oaktree Specialty Lending Corporation

By: Oaktree Fund Advisors, LLC
Its: Investment Adviser

By: /s/ Jessica Dombroff
Name: Jessica Dombroff

Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

[Signature Page to Revenue Interest Purchase Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

Oaktree Huntington-GCF Investment Fund (Direct Lending AIF), L.P.

By: Oaktree Huntington-GCF Investment Fund (Direct Lending AIF) GP, L.P.
Its: General Partner

By: Oaktree Huntington-GCF Investment Fund (Direct Lending AIF) GP, LLC
Its: General Partner

By: Oaktree Fund GP III, L.P.
Its: Managing Member

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Authorized Signatory

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Authorized Signatory

[Signature Page to Revenue Interest Purchase Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

SAGARD HEALTHCARE ROYALTY PARTNERS, LP

By: Sagard Healthcare Royalty Partners GP LLC, its general partner

By: /s/ Adam Vigna
Name: Adam Vigna
Title: Chief Investment Officer

By: /s/ Jason Sneah
Name: Jason Sneah
Title: Manager

[Signature Page to Revenue Interest Purchase Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

SAGARD HEALTHCARE PARTNERS CO-INVEST DAC

By: /s/ Kate Macken
Name: Kate Macken
Title: Director

[Signature Page to Revenue Interest Purchase Agreement]

EXHIBITS

Exhibit A	—	Form of Bills of Sale
Exhibit B	—	Form of Oaktree Consent
Exhibit C	—	Form of Pledge Agreement
Exhibit D	—	Form of Parent and Seller Security Agreement
Exhibit E	—	Form of Escrow Agreement
Exhibit F	—	Form of Almirall Instruction and Counterparty Instructions
Exhibit G	—	Form of Parent/Seller Asset Purchase Agreement
Exhibit H	—	Segregated Account (Key Bank)
Exhibit I	__	Form of Intercreditor Agreement

Schedule 2.02(c)

Schedule 2.02(d)

FOURTH AMENDMENT TO CREDIT AND GUARANTY AGREEMENT, SECOND AMENDMENT TO THE WARRANTS AND PARTIAL RELEASE OF COLLATERAL

THIS **FOURTH AMENDMENT TO CREDIT AND GUARANTY AGREEMENT AND PARTIAL RELEASE OF COLLATERAL** (this "**Amendment**"), dated as of June 21, 2022, is made by and among ATHENEX, INC., a Delaware corporation (as applicable, the "**Borrower**" and "**Issuer**"), the Lenders and Warrant Holders party hereto and OAKTREE FUND ADMINISTRATION, LLC, as administrative agent for the Lenders (in such capacity, the "**Administrative Agent**").

WHEREAS, the parties hereto are party to that certain Credit and Guaranty Agreement, dated as of June 19, 2020 (as amended by that certain First Amendment and Limited Waiver to Credit and Guaranty Agreement, dated as of June 3, 2021, that certain Second Amendment to Credit and Guaranty Agreement, dated as of December 14, 2021, that certain Third Amendment to Credit and Guaranty Agreement and First Amendment to the Warrants, dated as of January 19, 2022 (the "**Third Amendment**") and as further amended, restated or modified from time to time, the "**Credit Agreement**") by and among the Borrower, the Guarantors party thereto from time to time, the Lenders party thereto from time to time, and the Administrative Agent;

WHEREAS, the parties hereto are party to the applicable warrants (Nos. 2-16) issued on June 19, 2020 and the applicable warrants (Nos. 17-19) issued on August 4, 2020 (collectively, as amended by that certain Third Amendment to Credit and Guaranty Agreement and First Amendment to the Warrants, dated as of January 19, 2022, and as further amended, restated or modified from time to time, the "**Warrants**");

WHEREAS, the Borrower and Issuer have requested that the Lenders, the Administrative Agent and Holders agree to make certain amendments to the Credit Agreement and Warrants, subject to the terms and conditions contained herein;

WHEREAS, pursuant to the Third Amendment, the Borrower was required to make a mandatory prepayment of $12,500,000 in principal amount plus accrued and unpaid interest and certain fees on or prior to the date that was 120 days after the consummation of the Dunkirk Transaction, which was due on June 14, 2022; and

WHEREAS, the Borrower has requested, and the Lenders have agreed, that the Borrower be permitted to make such mandatory prepayment as follows: (x) on June 14, 2022, a payment of $5,000,000 in principal amount plus accrued and unpaid interest plus a 7.00% fee on such principal amount (which shall be allocated 2.00% to Exit Fee and 5.00% to the Prepayment Fee), which payment the Lenders received on June 14, 2022 and (y) on the earlier of (A) July 1, 2022 and (B) the Amendment No. 4 Effective Date, a payment of $7,500,000 in principal amount plus accrued and unpaid interest plus a 7.00% fee on such principal amount (which shall be allocated 2.00% to Exit Fee and 5.00% to the Prepayment Fee) (the payment in clause (y), "**Remaining Third Amendment Prepayment**").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows.

SECTION 1 Capitalized Terms. All capitalized terms used in this Amendment (including in the recitals hereof) and not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement or Warrants, as applicable.

SECTION 2 Amendments to the Credit Agreement.

(a) The Credit Agreement is hereby amended as set forth in Annex A attached hereto such that all of the newly inserted double-underlined text (indicated textually in the same manner as the following examples: double-underlined text and double-underlined text) and any formatting changes attached hereto shall be deemed to be inserted in the text of the Credit Agreement, and all of the deleted stricken text (indicated textually in the same manner as the following examples: ~~stricken text~~ and ~~stricken text~~) shall be deemed to be deleted from the text of the Credit Agreement.

(b) Schedule 3 to the Credit Agreement is hereby deleted in its entirety and replaced with the schedule set forth in Annex B attached hereto.

SECTION 3 Amendment to the Warrants. The Issuer and Holders hereby agree that on the date hereof, each of the Warrants is hereby amended and restated so that Section 3 of each Warrant shall read as follows:

"Section 3. **Exercise Price**. The exercise price per share of Voting Common Stock for which each Underlying Share may be purchased pursuant to this Warrant shall be $0.4955 (the "**Exercise Price**"), subject to adjustment pursuant to Section 7 hereof."

SECTION 4 Partial Release and Subordination of Collateral.

(a) The security interest previously granted to the Administrative Agent and the Lenders in the Purchased Product Assets (as defined in the Klisyri SPV Asset Purchase Agreement) pursuant to the Security Agreement is hereby waived, released and discharged concurrently with the transfer of ownership of such Purchased Product Assets to the Klisyri SPV pursuant to the Klisyri SPV Asset Purchase Agreement. The Administrative Agent, for itself and the Lenders, shall, upon request of the Borrower, file, or cause to be filed, a UCC-3 termination statement, and agrees to execute and deliver or file such documents and to perform other actions reasonably necessary, to evidence the release of such Purchased Product Assets, all at the expense of the Borrower.

(b) Each of the Lenders hereby approves, and authorizes the Administrative Agent to execute and deliver on the Amendment No. 4 Effective Date, the Intercreditor Agreement substantially in the form provided to the Lenders prior to the date hereof (the "**Klisyri Intercreditor Agreement**"), pursuant to which the security interest previously granted to the Administrative Agent and the Lenders in the Retained Product Assets (as defined therein) shall be subordinated in right of security to the security interests in such Retained Product Assets granted pursuant to the Klisyri Transaction Documents, in each case to the extent set forth in such Klisyri Intercreditor Agreement.

SECTION 5 Effectiveness. This Amendment shall become effective only upon the satisfaction or waiver by the Majority Lenders and each Holder of the following conditions precedent (the date of such satisfaction or waiver of the following conditions being referred herein as the "**Amendment No. 4 Effective Date**"):

(a) Each of the Borrower, Issuer, Holders and the Majority Lenders shall have executed this Amendment and the Administrative Agent shall have received a fully executed copy of this Amendment and the Klisyri Intercreditor Agreement.

(b) The Administrative Agent shall have received true, correct and complete copies of the Klisyri Revenue Interest Purchase Agreement, Klisyri SPV Asset Purchase Agreement and each other Klisyri Transaction Document on or prior to the date of this Amendment, and such documents shall not have been amended, modified, supplemented or waived in any respect.

(c) The "Funding Date" (as defined in the Klisyri Revenue Interest Purchase Agreement as in effect on the date hereof) shall have occurred in accordance with the Klisyri Transaction Documents.

(d) On the Amendment No. 4 Effective Date substantially concurrently with the effectiveness of this Amendment, the Administrative Agent shall have received, for the account of the Lenders, the following mandatory prepayments of the Loans and other Obligations:

(i) a mandatory prepayment pursuant to Section 3.03(iv)(A) of the Credit Agreement in an aggregate principal amount equal to $42,500,000, plus accrued and unpaid interest, the Exit Fee and the Prepayment Fee in respect of such principal amount being repaid; plus

(ii) the Remaining Third Amendment Prepayment.

(e) The representations and warranties of the Borrower and Issuer set out in Section 6 below shall be true and correct on and as of the Amendment No. 4 Effective Date, except for any representation or warranty expressly stated to be made as of a specific date, in which case such representation or warranty shall be true and correct as of such specific date.

(f) The Administrative Agent, the Lenders and the Holders shall have received on or prior to the Amendment No. 4 Effective Date reimbursement or payment of documented costs, fees and expenses incurred by the Administrative Agent, the Lenders and the Holders (including the reasonable legal fees and out-of-pocket expenses of Sullivan & Cromwell LLP, as outside counsel to the Administrative Agent) in connection with the preparation, negotiation, execution and delivery of this Amendment that are required to be reimbursed or paid pursuant to Section 14.03(a) of the Credit Agreement.

SECTION 6 Representations and Warranties.

(a) **Power and Authority**. The Borrower and Issuer has full power, authority and legal right to enter into and perform its obligations under this Amendment and the other Loan Documents to which it is a party.

(b) **Authorization; Enforceability**. The execution of this Amendment and performance hereunder are within the Borrower's and Issuer's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational action including, if required, approval by all necessary holders of Equity Interests. This Amendment has been duly executed and delivered by the Borrower and Issuer and constitutes a legal, valid and binding obligation of the Borrower and Issuer, enforceable against the Borrower and Issuer in accordance with its terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, reorganization, moratorium or similar laws of general applicability affecting the enforcement of creditors' rights and (ii) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) **Governmental and Other Approvals; No Conflicts**. None of the execution, delivery and performance by the Borrower and Issuer of the Amendment (i) requires any Governmental Approval of, registration or filing with, or any other action by, any Governmental Authority or any other Person, except for such as have been obtained or made and are in full force and effect, (ii) will violate (1) any Law, (2) any Organic Document of the Borrower or (3) any order of any Governmental Authority, that in the case of **clause (ii)(1)** or **clause (ii)(3)**, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect, (iii) will violate or result in a default under any Material Agreement binding upon the Borrower or Issuer that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect or (iv) will result in the creation or imposition of any Lien (other than Permitted Liens) on any asset of any Obligor or any of its Subsidiaries.

(d) **Representations and Warranties**. Except as set forth on the Disclosure Letter, dated as of the date hereof, delivered by the Borrower to the Administrative Agent, the representations and warranties contained in the Credit Agreement and in the other Loan Documents are true and correct in all material respects (or, in the case of any representation or warranty that is qualified by materiality, in all respects) on and as of the date hereof to the same extent as though made on and as of the date hereof, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties are true and correct in all material respects (or, in the case of any representation or warranty that is qualified by materiality, in all respects) on and as of such earlier date.

(e) **No Default or Event of Default**. No event has occurred and is continuing or would result after giving effect to this Amendment that would constitute an Event of Default or a Default.

SECTION 7 Miscellaneous.

(a) **References Within Loan Documents**. On and after the Amendment No. 4 Effective Date, each reference (i) in the Credit Agreement to "this Agreement" and the words "hereof," "herein," "hereunder," or words of like import, shall mean and be a reference to the Credit Agreement as amended by Section 2 of this Amendment and (ii) in the applicable Warrant shall mean and be a reference to such Warrant as amended by Section 3 of this Amendment.

(b) **Binding Effect**. This Amendment binds and is for the benefit of the successors and permitted assigns of each party.

(c) **No Waiver**. Except as specifically modified above, (i) the Credit Agreement, all other Loan Documents and the Warrants shall remain in full force and effect, and are hereby ratified and confirmed and (ii) the execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Administrative Agent, the Lenders or Holders nor constitute a waiver of any provision of the Credit Agreement or any of the Loan Documents or the Warrants. None of the Administrative Agent or any Lender or any Holder is under any obligation to enter into this Amendment. The entering into this Amendment by such parties shall not be deemed to limit or hinder any rights of any such party under the Loan Documents or Warrant, nor, except as provided in Sections 2, 3 or 4 hereof, as applicable, shall it be deemed to create or infer a course of dealing between any such party, on the one hand, and the Borrower or Issuer, on the other hand, with regard to any provision of the Loan Documents or Warrant.

(d) **Governing Law**. **THIS AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

(e) **Severability of Provisions.** Each provision of this Amendment is severable from every other provision in determining the enforceability of any provision.

(f) **Counterparts**. This Amendment may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Amendment. Delivery of an executed counterpart of a signature page of this Amendment by facsimile, portable document format (.pdf) or other electronic transmission will be as effective as delivery of a manually executed counterpart hereof.

(g) **Loan Documents**. This Amendment and the documents related thereto shall constitute Loan Documents.

(h) **Warrants**. The Borrower shall within three business days of the request by any Holder issue new warrants to such Holder reflecting the amendment to the Warrants above or at the option of the Holder inserting the new exercise price as determined in accordance with this Amendment.

(i) **Electronic Execution of Certain Other Documents**. The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Amendment and the transactions contemplated hereby (including without limitation assignments, assumptions, amendments, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

[Balance of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment, as of the date first above written.

SUER: ATHENEX, INC.,

a Delaware corporation

By: /s/ Johnson Y.N. Lau
Name: Johnson Y.N. Lau, MBBS, M.D., FRCP
Title: Chief Executive Officer & Board Chairman

ADMINISTRATIVE AGENT:

OAKTREE FUND ADMINISTRATION, LLC

By: Oaktree Capital Management, L.P.
Its: Managing Member

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

LENDERS AND WARRANT HOLDERS:

OAKTREE-TCDRS STRATEGIC CREDIT, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

EXELON STRATEGIC CREDIT HOLDINGS, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-NGP STRATEGIC CREDIT, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-MINN STRATEGIC CREDIT LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-FORREST MULTI-STRATEGY LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-TBMR STRATEGIC CREDIT FUND C, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-TBMR STRATEGIC CREDIT FUND F, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-TBMR STRATEGIC CREDIT FUND G, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-TSE 16 STRATEGIC CREDIT, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

INPRS STRATEGIC CREDIT HOLDINGS, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE HUNTINGTON-GCF INVESTMENT FUND, L.P.

By: Oaktree Huntington-GCF Investment Fund GP, L.P.
Its: General Partner

By: Oaktree Huntington-GCF Investment Fund GP, LLC
Its: General Partner

By: Oaktree Fund GP I, L.P.
Its: Managing Member

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Authorized Signatory

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Authorized Signatory

OAKTREE STRATEGIC INCOME II, INC.

By: Oaktree Fund Advisors, LLC
Its: Investment Advisor

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE SPECIALTY LENDING CORPORATION

By: Oaktree Fund Advisors, LLC
Its: Investment Adviser

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE STRATEGIC INCOME CORPORATION

By: Oaktree Fund Advisors, LLC
Its: Investment Adviser

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE GILEAD INVESTMENT FUND, L.P.

By: Oaktree Gilead Investment Fund GP, L.P.
Its: General Partner

By: Oaktree Fund GP, LLC
Its: General Partner

By: Oaktree Fund GP I, L.P.
Its: Managing Member

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Authorized Signatory

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Authorized Signatory

SAGARD HEALTHCARE ROYALTY PARTNERS, LP, acting through its general partner, SAGARD HEALTHCARE ROYALTY PARTNERS GP LLC

By: /s/ Adam Vigna
Name: Adam Vigna
Title: Chief Investment Officer

By: /s/ Jason Sneah
Name: Jason Sneah
Title: Manager

OPB SHRP CO-INVEST CREDIT LIMITED

By: /s/ Jennifer Hartviksen
Name: Jennifer Hartviksen
Title: Managing Director, Global Credit

SIMCOE SHRP CO-INVEST CREDIT LTD.

By: Jennifer Hartviksen
Name: Jennifer Hartviksen
Title: Managing Director, Global Credit

Annex A

Conformed Credit Agreement

[See Attached]

CREDIT AGREEMENT AND GUARANTY

dated as of June 19, 2020

(as amended ~~on June 3, 2021)~~

~~(as further amended~~ through ~~December 14, 2021)~~

~~(as further amended through January 19~~June 21, 2022)

by and among

ATHENEX, INC.,
as the Borrower,

THE SUBSIDIARY GUARANTORS FROM TIME TO TIME PARTY HERETO,
as the Guarantors,

THE LENDERS FROM TIME TO TIME PARTY HERETO

as the Lenders, and

OAKTREE FUND ADMINISTRATION, LLC,
as the Administrative Agent

U.S. $225,000,000

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CREDIT AGREEMENT AND GUARANTY

CREDIT AGREEMENT AND GUARANTY, originally dated as of June 19, 2020 (as amended by that certain First Amendment and Limited Waiver to Credit and Guaranty Agreement ("***Amendment No. 1***"), dated as of June 3, 2021 (the "***First Amendment Effective Date***"), as further amended by that certain Second Amendment to Credit and Guaranty Agreement ("***Amendment No. 2***"), dated as of December 14, 2021 (the "***Second Amendment Effective Date***"), ~~and~~ as further amended by that certain Third Amendment to Credit and Guaranty Agreement and First Amendment to the Warrants ("***Amendment No. 3***"), dated as of January 19, 2022 and effective as of February 14, 2022 (the "***Third Amendment Effective Date***"), and as further amended by that certain Fourth Amendment to Credit and Guaranty Agreement and Second Amendment to the Warrants ("***Amendment No. 4***"), dated as of June 21, 2022, (this "***Agreement***"), among **ATHENEX, INC.**, a Delaware corporation (the "***Borrower***"), certain Subsidiaries of the Borrower that may be required to provide Guarantees from time to time hereunder (each a "***Guarantor***" and collectively, the "***Guarantors***"), the lenders from time to time party hereto (each a "***Lender***" and collectively, the "***Lenders***"), and **OAKTREE FUND ADMINISTRATION, LLC**, as administrative agent for the Lenders (in such capacity, the "***Administrative Agent***").

WITNESSETH:

WHEREAS, the Borrower has requested that the Lenders provide a senior secured term loan facility to the Borrower in an aggregate principal amount of $225,000,000, consisting of (a) a $89,000,000 Tranche A-1 Term Loan to be extended on the Closing Date, (b) a $11,000,000 Tranche A-2 Term Loan to be extended on the Applicable Funding Date for the Tranche A-2 Term Loan, (c) a $25,000,000 Tranche B Term Loan to be extended on the Applicable Funding Date for the Tranche B Term Loan, (d) [reserved]; (e) a $25,000,000 Tranche D Term Loan to be extended on the Applicable Funding Date for the Tranche D Term Loan; and (f) [reserved]; and

WHEREAS, the Lenders are willing, on the terms and subject to the conditions set forth herein, to provide such senior secured term loan facility.

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1.
DEFINITIONS

1.01 Certain Defined Terms. As used herein, the following terms have the following respective meanings:

"***Account Control Agreement Completion Date***" has the meaning set forth in **Section 8.19(a)**.

"***Acquisition***" means any transaction, or any series of related transactions, by which any Person (for purposes of this definition, an "***acquirer***") directly or indirectly, by means of amalgamation, merger, purchase of assets, purchase of Equity Interests, or otherwise, (i) acquires all or substantially all of the assets of any other Person, (ii) acquires an entire business line or unit or division of any other Person, (iii) with respect to any other Person that is managed or

governed by a Board, acquires control of Equity Interests of such other Person representing more than fifty percent (50%) of the ordinary voting power (determined on a fully-diluted basis) for the election of directors of such Person's Board, or (iv) acquires control of more than fifty percent (50%) of the Equity Interests in any other Person (determined on a fully-diluted basis) that is not managed by a Board.

"***Administrative Agent***" has the meaning set forth in the preamble hereto.

"***Affiliate***" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

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

"***Amendment No. 1***" has the meaning set forth in the preamble hereto.

"***Amendment No. 2***" has the meaning set forth in the preamble hereto.

"***Amendment No. 3***" has the meaning set forth in the preamble hereto.

"***Amendment No. 4***" has the meaning set forth in the preamble hereto.

"***ANDA***" means (i) (x) an abbreviated new drug application (as defined in the FD&C Act) and (y) any similar application or functional equivalent relating to any new drug application applicable to or required by any non-U.S. Governmental Authority, and (ii) all supplements and amendments that may be filed with respect to any of the foregoing.

"***Applicable Availability Period***" has the meaning set forth in the Loans Schedule.

"***Applicable Funding Condition***" has the meaning set forth in the Loans Schedule.

"***Applicable Funding Date***" means (a) with respect to Tranche A-1 Term Loans, the Closing Date, (b) with respect to the Tranche A-2 Term Loans, ten days from the Closing Date and (c) with respect to the Tranche B Term Loans and Tranche D Term Loans, the date on or prior to the Applicable Availability Period on which all conditions precedent set forth in **Section 6.02** are satisfied or waived in accordance with the terms of this Agreement.

"***Anti-Terrorism Laws***" means any laws relating to terrorism or money laundering, including, without limitation, (i) the Money Laundering Control Act of 1986 (e.g., 18 U.S.C. §§ 1956 and 1957), (ii) the Bank Secrecy Act of 1970 (e.g., 31 U.S.C. §§ 5311 – 5330), as amended by the Patriot Act, (iii) the laws, regulations and Executive Orders administered by the United States Department of the Treasury's Office of Foreign Assets Control ("**OFAC**"), (iv) the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 and implementing regulations by the United States Department of the Treasury, (v) any law prohibiting or directed against terrorist activities or the financing of terrorist activities (e.g., 18 U.S.C. §§ 2339A and 2339B), or (vi) any similar laws enacted in the United States, European Union or any other jurisdictions in which the parties to this agreement operate, and all other present and future legal

requirements of any Governmental Authority governing, addressing, relating to, or attempting to eliminate, terrorist acts and acts of war.

"***Asset Sale***" has the meaning set forth in **Section 9.09**.

"***Assignment and Assumption***" means an assignment and assumption entered into by a Lender and an assignee of such Lender substantially in the form of **Exhibit F**, or such other form as agreed by the Administrative Agent.

"***Arm's Length Transaction***" means, with respect to any transaction, the terms of such transaction shall not be less favorable to the Borrower or any of its Subsidiaries than commercially reasonable terms that would be obtained in a transaction with a Person that is an unrelated third party.

"***Axis Therapeutics***" means Axis Therapeutics Limited, a private limited company incorporated under the laws of the Hong Kong Special Administrative Region of the People's Republic of China.

"***Bail-In Action***" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"***Bail-In Legislation***" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"***Bailee Letter***" means a bailee letter substantially in the form of Exhibit F to the Security Agreement.

"***Bankruptcy Code***" means Title 11 of the United States Code entitled "Bankruptcy." "***Benefit Plan***" means any employee benefit plan as defined in Section 3(3) of ERISA (whether governed by the laws of the United States or otherwise) to which any Obligor or Subsidiary thereof incurs or otherwise has any obligation or liability, contingent or otherwise.

"***Beneficial Ownership Certification***" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"***Beneficial Ownership Regulation***" means 31 C.F.R. § 1010.230.

"***BLA***" means (i) (x) a biologics license application (as defined in the FD&C Act) to introduce, or deliver for introduction, a biologic product, including vaccines into commerce in the U.S., or any successor application or procedure and (y) any similar application or functional equivalent relating to biologics licensing applicable to or required by any non-U.S. Governmental Authority, and (ii) all supplements and amendments that may be filed with respect to the foregoing.

"***Board***" means, with respect to any Person, the board of directors or equivalent management or oversight body of such Person or any committee thereof authorized to act on behalf of such board (or equivalent body).

"***Board Observer***" has the meaning set forth in **Section 8.14(a)**.

"***Borrower***" has the meaning set forth in the preamble hereto.

"***Borrower Party***" has the meaning set forth in **Section 14.03(b)**.

"***Borrowing***" means the borrowing of the Loans on each Applicable Funding Date.

"***Borrowing Notice***" means a written notice substantially in the form of **Exhibit B**.

"***Business Day***" means a day (other than a Saturday or Sunday) on which commercial banks are not authorized or required to close in New York City.

"***Capital Lease Obligations***" means, as to any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real and/or personal property, the amount of the liability in respect thereof that would at that time be required to be capitalized on a balance sheet in accordance with GAAP as in effect on December 31, 2018, subject to **Section 1.02**.

"***Casualty Event***" means the damage, destruction or condemnation, as the case may be, of property of the Borrower or any of its Subsidiaries (other than the Klisyri SPV) in excess of $2,000,000.

"***CFC***" means a Subsidiary that is a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"***CFC Holding Company***" means any Domestic Subsidiary that owns no material assets (directly or indirectly) other than Equity Interests and debt of one or more CFCs or Domestic Subsidiaries that are themselves CFC Holding Companies.

"***Change of Control***" means an event or series of events (i) as a result of which any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Act, but excluding any of such person or its Subsidiaries, and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such Plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that a person or group shall be deemed to have "beneficial ownership" of all Equity Interests that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an "***option right***")), directly or indirectly, of fifty percent (50%) or more of the Equity Interests of the Borrower entitled to vote for members of the Board of the Borrower on a fully-diluted basis (and taking into account all such Equity Interests that such person or group has the right to acquire pursuant to any option right); or (ii) as a result of which, during any period of twelve (12) consecutive months, a majority of the members of the Board of the Borrower cease to be composed of individuals (x) who were members of such Board on the first day of such period, (y) whose election or nomination to such Board was approved by

individuals referred to in **clause (x)** above constituting at the time of such election or nomination at least a majority of such Board or equivalent governing body or (z) whose election or nomination to such Board was approved by individuals referred to in **clauses (x)** and **(y)** above constituting at the time of such election or nomination at least a majority of such Board; or (iii) that results in the sale of all or substantially all of the assets or businesses of the Borrower and its Subsidiaries, taken as a whole, or (iv) that results in the Borrower's failure to own, directly or indirectly, beneficially and of record, one-hundred percent (100%) of all issued and outstanding Equity Interests of each Subsidiary Guarantor.

"***Claims***" means (and includes) any claim, demand, complaint, grievance, action, application, suit, cause of action, order, charge, indictment, prosecution, judgement or other similar process, whether in respect of assessments or reassessments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including fees and disbursements of legal counsel, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

"***Closing Date***" means the date on which the conditions precedent specified in **Section 6.01** are satisfied (or waived in accordance with **Section 14.04**) and on which the Tranche A-1 Term Loans are to be made to the Borrower.

"***Code***" means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

"***Collateral***" means any real, personal and mixed property (including Equity Interests), whether tangible or intangible, in which Liens are granted or purported to be granted to the Administrative Agent as security for the Obligations under any Loan Document on or after the Closing Date, including future acquired or created assets or property (or collectively, all such real, personal and mixed property, as the context may require); provided, for the avoidance of doubt, "Collateral" shall not include Equity Interests of any Subsidiary representing, in the aggregate, more than sixty-five percent (65%) of the Equity Interests of any CFC or CFC Holding Company.

"***Commitment***" means, with respect to each Lender, the obligation of such Lender to make Loans to the Borrower on each Applicable Funding Date in accordance with the terms and conditions of this Agreement, which commitment is in the amount set forth opposite such Lender's name on **Schedule 1** under the caption "Applicable Commitment", as such Schedule may be amended from time to time pursuant to an Assignment and Assumption or otherwise. The aggregate amount of Commitments on the date of this Agreement equals $225,000,000.

"***Commitment Fee***" has the meaning set forth in **Section 2.06**.

"***Commitment Termination Date***" means, with respect to the Applicable Commitments of the Tranche B Term Loans and the Tranche D Term Loans, June 20, 2022.

"***Company Competitor***" means (i) any competitor of the Borrower or any of its Subsidiaries primarily operating in the same line of business as the Borrower or any of its Subsidiaries and (ii) any of such competitor's Affiliates (other than any Person that is a bona fide

debt fund primarily engaged in the making, purchasing, holding or other investing in commercial loans, notes, bonds or similar extensions of credit or securities in the Ordinary Course) that are either (x) identified by name in writing by the Borrower to the Administrative Agent from time to time or (y) clearly identifiable on the basis of such Affiliate's name.

"***Compliance Certificate***" has the meaning set forth in **Section 8.01(c)**.

"***Connection Income Taxes***" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"***Consolidated Debt***" shall mean, as of any date of determination, the aggregate principal amount of Indebtedness of the Borrower and its Subsidiaries (excluding the Klisyri SPV) outstanding on such date and determined on a consolidated basis in accordance with GAAP; provided that (i) Consolidated Debt shall not include (A) Indebtedness that is not for borrowed money incurred pursuant to paragraphs (c), (d), (k) (i) and (ii) (in the case of clause (k)(i), so long as such instruments are classified as equity), (q), (r), (s) and (t) of Section **9.01**, (B) intercompany indebtedness permitted under Section 9.01, (C) Indebtedness under Permitted Convertible Debt and (ii) solely for purposes of calculating Consolidated Debt for any fiscal quarter of the Borrower following the Revenue Covenant Termination Date, Consolidated Debt shall exclude Indebtedness under the Royalty Interest Financing.

"***Consolidated Interest Expense***" shall mean, with respect to any person for any period, the sum, without duplication, of (a) the aggregate interest expense of such person and its subsidiaries for such period, calculated on a consolidated basis in accordance with GAAP (including pay-in-kind interest payments, amortization of original issue discount, the interest component of Capital Lease Obligations and net payments and receipts (if any) pursuant to interest rate Hedge Agreements (other than in connection with the early termination thereof), plus (b) consolidated capitalized interest of the referent person and its subsidiaries for such period, whether paid or accrued, any amounts paid or payable in respect of interest on Indebtedness the proceeds of which have been contributed to the referent person and that has been guaranteed by the referent person.

"***Consolidated Leverage Ratio***" means, with respect to any four fiscal quarter period of the Borrower, the ratio of (a) Consolidated Debt as of the last day of such period to (b) EBITDA for such period.

"***Consolidated Net Income***" means, with respect to the Borrower and its Subsidiaries on a consolidated basis for any period, the net income (loss) of Borrower and ~~its~~such Subsidiaries for such period, determined on a consolidated basis and in accordance with GAAP, but excluding from the determination of Consolidated Net Income (without duplication) any non-cash gains or losses from Asset Sales for such period; provided that there shall be excluded the income of the Klisyri SPV except to the extent that such income has been distributed pursuant to the Kliryri Transaction Documents to the Borrower or another Subsidiary.

"***Contracts***" means any contract, license, lease, agreement, obligation, promise, undertaking, understanding, arrangement, document, commitment, entitlement or engagement

under which a Person has, or will have, any liability or contingent liability (in each case, whether written or oral, express or implied, and whether in respect of monetary or payment obligations, performance obligations or otherwise).

"***Control***" means, in respect of a particular Person, the possession by one or more other Persons, directly or indirectly, of the power to direct or cause the direction of the management or policies of such particular Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"***Controlled Account***" has the meaning set forth in **Section 8.18(a)**.

"***Copyright***" means all copyrights, copyright registrations and applications for copyright registrations, including all renewals and extensions thereof and all other rights whatsoever accruing thereunder or pertaining thereto throughout the world.

"***Cure Amount***" has the meaning set forth in **Section 11.05(a)**.

"***Debt Service Reserve Account***" has the meaning set forth in **Section 8.10**.

"***Default***" means any Event of Default and any event that, upon the giving of notice, the lapse of time or both, would constitute an Event of Default.

"***Default Rate***" has the meaning set forth in **Section 3.02(b)**.

"***Deferred Acquisition Consideration***" means any purchase price adjustments, royalty, earn-out, milestone payments, contingent or other deferred payment payments of a similar nature (including any non-compete payments and consulting payments) made in connection with any Permitted Acquisition or other acquisition or investment permitted under this Agreement.

"***Designated Jurisdiction***" means any country or territory to the extent that such country or territory is the subject of country- or territory-wide Sanctions.

"***Disqualified Equity Interests***" means, with respect to any Person, any Equity Interest of such Person that, by its terms (or by the terms of any security or other Equity Interest into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (i) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), including pursuant to a sinking fund obligation or otherwise, (ii) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (iii) provides for the scheduled payments of dividends or other distributions in cash or other securities that would constitute Disqualified Equity Interests, or (iv) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is ninety-one (91) days after the Maturity Date.

"***Disqualified Lender***" means any Person designated by the Borrower as a "Disqualified Lender" by written notice delivered to the Administrative Agent on or prior to the date of this Agreement.

"***Division***" has the meaning set forth in **Section 1.04**.

"***Dollars***" and "***$***" means lawful money of the United States of America.

"***Domestic Subsidiary***" means any Subsidiary that is a corporation, limited liability company, partnership or similar business entity incorporated, formed or organized under the laws of the United States, any state of the United States or the District of Columbia.

"*EBITDA*" means, for any period, the Consolidated Net Income for such period:

(a) increased, in each case to the extent deducted in the calculation of Consolidated Net Income, and without duplication, by:

(i) provision for Taxes based on income paid or accrued during such period; plus

(ii) Consolidated Interest Expense for such period; plus

(iii) depreciation and amortization expense of such person for such period; plus

(iv) to the extent actually paid during such period, third-party fees and expenses related to the consummation of the transactions contemplated to be closed on the Closing Date; plus

(v) transaction costs related to Permitted Acquisitions, Permitted Investments, Permitted Convertible Debt or any offering by the Borrower of its Equity Interests during such period; plus

(vi) non-cash charges recorded in respect of purchase accounting and non-cash exchange, translation or performance losses relating to any foreign currency Hedging Agreements or currency fluctuations, and non-cash expenses, charges or losses reducing Consolidated Net Income (and not otherwise excluded thereunder) during such period in connection with royalty payments or expected future royalty payments; plus

(vii) any other non-cash items (except to the extent representing an accrual for future cash outlays), including non-cash compensation expenses recorded pursuant to FASB 123R or FASB 158 (codified under Accounting Standards Codification 715); plus

(viii) to the extent actually reimbursed, expenses incurred to the extent covered by indemnification provisions in any agreement in connection with any Permitted Acquisition; plus

(ix) all reserves taken during such period on account of contingent cash payments that may be required in future periods; plus

(x) any cost or expense in connection with fees paid under licenses during such period to the extent that such costs or expenses are non-cash or otherwise funded with cash proceeds of issuances of common stock of the Borrower; plus

(xi) restructuring charges or reserves during such period, including write-downs and write-offs, including any one-time costs incurred in connection with Permitted Acquisitions and other Investments and costs related to the closure, consolidation and integration of facilities, information technology infrastructure and legal entities, and severance and retention bonuses; provided that, when taken together with the amounts in item (xii) for the same period, such charges or reserves do not exceed, in the aggregate, 15% of the amount of EBITDA for such period after giving effect to this addback; plus

(xii) non-recurring litigation costs during such period; provided that, when taken together with the amounts in item (xi) for the same period, such costs do not exceed, in the aggregate, 15% of the amount of EBITDA for such period after giving effect to this addback; and

(b) decreased by (without duplication), to the extent included in the calculation of Consolidated Net Income:

(i) net unrealized gains on Hedge Agreements; plus

(ii) non-cash gains relating to cash receipts or netting arrangement in a prior period to the extent such cash receipts or netting arrangement were included in the calculation of EBITDA in such prior period; plus

(iii) cash payments during such period on account of accruals or reserves added to EBITDA pursuant to clause (a)(ix) above; plus

(iv) non-cash gains increasing Consolidated Net Income for such period, excluding any non-cash gains that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that were deducted (and not added back) in the calculation of EBITDA for any prior period.

"***EEA Financial Institution***" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in **clause (a)** of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in **clauses (a)** or **(b)** of this definition and is subject to consolidated supervision with its parent.

"***EEA Member Country***" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"***EEA Resolution Authority***" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"***Eligible Transferee***" means and includes (i) any commercial bank, (ii) any insurance company, (iii) any finance company, (iv) any financial institution, (v) any Person that is a bona fide debt fund primarily engaged in the making, purchasing, holding or other investing in commercial loans, notes, bonds or similar extensions of credit or securities in the Ordinary Course, (vi) with respect to any Lender, any of its Affiliates or such Lender's or Affiliate's managed funds or accounts, and (vii) any other "accredited investor" (as defined in Regulation D of the Securities Act) that is principally in the business of managing investments or holding assets for investment purposes; provided that, an Eligible Transferee shall not include (x) any Company Competitor or Disqualified Lender, or (y) any Person that primarily invests in distressed debt or other distressed financial assets; provided; further that (A) neither **clause (x)** or **(y)** above shall apply retroactively to any Person that previously acquired an assignment or participation interest hereunder to the extent such Person was not a Company Competitor or a Person of the type described in **clause (y)** above at the time of the applicable assignment or participation, as the case may be, and (B) with respect to both **clauses (x)** and **(y)** above, the Administrative Agent shall not have any duty or obligation to carry out due diligence in order to identify or determine whether a Person would be excluded as an Eligible Transferee as a result of the application of either such clause.

"***Environmental Claims***" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, information request, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (i) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (ii) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; or (iii) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment, arising out of a violation of Environmental Law or any Hazardous Materials Activity.

"***Environmental Law***" means all laws (including common law and any federal, state, provincial or local governmental law), rule, regulation, order, writ, judgment, notice, requirement, binding agreement, injunction or decree, whether U.S. or non-U.S., relating in any way to (i) environmental matters, including those relating to any Hazardous Materials Activity; (ii) the generation, use, storage, transportation or disposal of Hazardous Materials; or (iii) to the extent related to Hazardous Materials Activity, occupational safety and health, industrial hygiene, land use, natural resources or the protection of human, plant or animal health or welfare, in any manner applicable to the Borrower or any of its Subsidiaries or any Facility.

"***Environmental Liability***" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of any Obligor or any of its Subsidiaries directly or indirectly resulting from or based upon (i) violation of any Environmental Law, (ii) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (iii) exposure to any Hazardous Materials, (iv) the release or threatened release of any Hazardous Materials into the environment or (v) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"***Equity Interests***" means, with respect to any Person (for purposes of this defined term, an "***issuer***"), all shares of, interests or participations in, or other equivalents in respect of such

issuer's capital stock, including all membership interests, partnership interests or equivalent, whether now outstanding or issued after the Closing Date, and in each case, however designated and whether voting or non-voting. Notwithstanding the foregoing, in no event shall any Indebtedness convertible or exchangeable into Equity Interests constitute "Equity Interests" hereunder.

"***Equivalent Amount***" means, with respect to an amount denominated in one currency, the amount in another currency that could be purchased by the amount in the first currency determined by reference to the Exchange Rate at the time of determination.

"***ERISA***" means the United States Employee Retirement Income Security Act of 1974, as amended.

"***ERISA Affiliate***" means, collectively, any Obligor, Subsidiary thereof, and any Person under common control, or treated as a single employer, with any Obligor or Subsidiary thereof, within the meaning of Section 414(b), (c), (m) or (o) of the Code.

"***ERISA Event***" means (i) a reportable event as defined in Section 4043 of ERISA with respect to a Title IV Plan, excluding, however, such events as to which the PBGC by regulation has waived the requirement of Section 4043(a) of ERISA that it be notified within thirty (30) days of the occurrence of such event; (ii) the applicability of the requirements of Section 4043(b) of ERISA with respect to a contributing sponsor, as defined in Section 4001(a)(13) of ERISA, to any Title IV Plan where an event described in paragraph (9), (10), (11), (12) or (13) of Section 4043(c) of ERISA is reasonably expected to occur with respect to such plan within the following thirty (30) days; (iii) a withdrawal by any Obligor or any ERISA Affiliate thereof from a Title IV Plan or the termination of any Title IV Plan resulting in liability under Sections 4063 or 4064 of ERISA; (iv) the withdrawal of any Obligor or any ERISA Affiliate thereof in a complete or partial withdrawal (within the meaning of Section 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefore, or the receipt by any Obligor or any ERISA Affiliate thereof of notice from any Multiemployer Plan that it is insolvent pursuant to Section 4245 of ERISA; (v) the filing of a notice of intent to terminate, the treatment of a plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Title IV Plan or Multiemployer Plan; (vi) the imposition of liability on any Obligor or any ERISA Affiliate thereof pursuant to Sections 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (vii) the failure by any Obligor or any ERISA Affiliate thereof to make any required contribution to a Plan, or the failure to meet the minimum funding standard of Section 412 of the Code with respect to any Title IV Plan (whether or not waived in accordance with Section 412(c) of the Code) or the failure to make by its due date a required installment under Section 430 of the Code with respect to any Title IV Plan or the failure to make any required contribution to a Multiemployer Plan; (viii) the determination that any Title IV Plan is considered an at-risk plan or a plan in endangered to critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303, 304 and 305 of ERISA; (ix) an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan; (x) the imposition of any liability under Title I or Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Obligor or any ERISA Affiliate

thereof; (xi) an application for a funding waiver under Section 303 of ERISA or an extension of any amortization period pursuant to Section 412 of the Code with respect to any Title IV Plan; (xii) the occurrence of a non-exempt prohibited transaction under Sections 406 or 407 of ERISA for which any Obligor or any Subsidiary thereof may be directly or indirectly liable; (xiii) a violation of the applicable requirements of Section 404 or 405 of ERISA or the exclusive benefit rule under Section 401(a) of the Code by any fiduciary or disqualified person for which any Obligor or any ERISA Affiliate thereof may be directly or indirectly liable; (xiv) the occurrence of an act or omission which could give rise to the imposition on any Obligor or any ERISA Affiliate thereof of fines, penalties, taxes or related charges under Chapter 43 of the Code or under Sections 409, 502(c), (i) or (1) or 4071 of ERISA; (xv) the assertion of a material claim (other than routine claims for benefits) against any Plan or the assets thereof, or against any Obligor or any Subsidiary thereof in connection with any such plan; (xvi) receipt from the IRS of notice of the failure of any Qualified Plan to qualify under Section 401(a) of the Code, or the failure of any trust forming part of any Qualified Plan to fail to qualify for exemption from taxation under Section 501(a) of the Code; (xvii) the imposition of any lien (or the fulfillment of the conditions for the imposition of any lien) on any of the rights, properties or assets of any Obligor or any ERISA Affiliate thereof, in either case pursuant to Title I or IV, including Section 302(f) or 303(k) of ERISA or to Section 401(a)(29) or 430(k) of the Code; or (xviii) the establishment or amendment by any Obligor or any Subsidiary thereof of any "welfare plan", as such term is defined in Section 3(1) of ERISA, that provides post-employment welfare benefits in a manner that would increase the liability of any Obligor.

"***ERISA Funding Rules***" means the rules regarding minimum required contributions (including any installment payment thereof) to Title IV Plans, as set forth in Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

"***EU Bail-In Legislation Schedule***" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

"***Event of Default***" has the meaning set forth in **Section 11.01**.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"***Exchange Rate***" means, as of any date, the rate at which any currency may be exchanged into another currency, as set forth on the relevant Reuters screen at or about 11:00 a.m. (Eastern time) on such date. In the event that such rate does not appear on the Reuters screen, the "Exchange Rate" shall be determined by reference to such other publicly available service for displaying exchange rates as may be reasonably designated by the Administrative Agent.

"***Excluded Accounts***" means (i) deposit accounts exclusively used for payroll, payroll Taxes and other employee wage and benefit payments to or for the benefit of any Obligor's employees, (ii) zero balance accounts that are swept no less frequently than weekly to a Controlled Account, (iii) accounts (including trust accounts) used exclusively for bona fide escrow purposes, insurance or fiduciary purposes, (iv) cash collateral for Permitted Liens, (v)

collateral accounts in respect of the Royalty Interest Financing and (vi) any other deposit accounts established after the Closing Date only for so long as the amounts of deposit therein do not exceed $500,000 in the aggregate.

"***Excluded Taxes***" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient: (i) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case, (x) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivisions thereof) or (y) that are Other Connection Taxes, (ii) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (1) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under **Section 0**) or (2) such Lender changes its lending office, except in each case to the extent that, pursuant to **Section 5.03**, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (iii) Taxes attributable to such Recipient's failure to comply with **Section 5.03(f)**, and (iv) any U.S. federal withholding Taxes imposed under FATCA.

"***Exit Fee***" has the meaning assigned to such term in **Section 3.05**.

"***Facility***" means any real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or heretofore owned, leased or operated by any Obligor or any of its Subsidiaries.

"***FATCA***" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"***FD&C Act***" means the U.S. Food, Drug and Cosmetic Act of 1938, 21 U.S.C. §§ 301 et seq. (or any successor thereto), as amended from time to time, and the rules, regulations, guidelines, guidance documents and compliance policy guides issued or promulgated thereunder.

"***FDA***" means the U.S. Food and Drug Administration and any successor entity.

"***Federal Funds Effective Rate***" means, for any day, the rate calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depositary institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; provided that if the Federal Funds Effective Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

"***Fee Letter***" means the Fee Letter, dated as of the date of this Agreement, among the Borrower, the Lenders and the Administrative Agent.

"***First Amendment Effective Date***" has the meaning set forth in the preamble hereto.

"***Foreign Lender***" means a Lender that is not a U.S. Person.

"***Foreign Subsidiary***" means any Subsidiary that is not a Domestic Subsidiary.

"***Funding Date Certificate***" means a certificate substantially in the form of Exhibit L.

"***GAAP***" means generally accepted accounting principles in the United States of America, as in effect from time to time, set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants, in the statements and pronouncements of the Financial Accounting Standards Board and in such other statements by such other entity as may be in general use by significant segments of the accounting profession that are applicable to the circumstances as of the date of determination. All references to "GAAP" shall be to GAAP applied consistently with the principles used in the preparation of the financial statements delivered pursuant to **Section 6.1(f)(i)**.

"***Governmental Approval***" means any consent, authorization, approval, order, license, franchise, permit, certification, accreditation, registration, clearance or exemption that is issued or granted by or from (or pursuant to any act of) any Governmental Authority, including any application or submission related to any of the foregoing.

"***Governmental Authority***" means any nation, government, branch of power (whether executive, legislative or judicial), state, province or municipality or other political subdivision thereof and any entity exercising executive, legislative, judicial, monetary, regulatory or administrative functions of or pertaining to government, including without limitation regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, courts, bodies, boards, tribunals and dispute settlement panels, and other law-, rule- or regulation-making organizations or entities of any state, territory, county, city or other political subdivision of any country, in each case whether U.S. or non-U.S.

"***Guarantee***" of or by any Person (the "***guarantor***") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the "***primary obligor***") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or (iv) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness; provided, that the term Guarantee shall not include endorsements for collection or deposit in the Ordinary Course.

"***Guarantee Assumption Agreement***" means a Guarantee Assumption Agreement substantially in the form of **Exhibit C** by an entity that, pursuant to **Section 8.12(a)**, is required to become a "Subsidiary Guarantor."

"***Guaranteed Obligations***" has the meaning set forth in **Section 13.01**.

"***Guaranty***" means the Guaranty made by the Subsidiary Guarantors under **Section 13** in favor of the Secured Parties (including any Guaranty assumed by an entity that is required to become a "Subsidiary Guarantor" pursuant to a Guarantee Assumption Agreement).

"***Hazardous Material***" means any chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority or which may or would reasonably be expected to pose a hazard to the health and safety of the owners, occupants or any Persons in the vicinity of any Facility or to the indoor or outdoor environment.

"***Hazardous Materials Activity***" means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Materials, including the use, manufacture, possession, storage, holding, presence, existence, location, release, threatened release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, recycling, disposition or handling of any Hazardous Materials, and any investigation, monitoring, corrective action or response action with respect to any of the foregoing.

"***Healthcare Laws***" means, collectively, all Laws and Product Authorizations applicable to the business, any Product or the Product Commercialization and Development Activities of any Obligor, whether U.S. or non-U.S., regulating the distribution, dispensing, importation, exportation, quality, manufacturing, labeling, promotion and provision of and payment for drugs, medical or healthcare products, items and services, including, without limitation, 45 C.F.R. et seq. ("HIPAA"); Section 1128B(b) of the Social Security Act, as amended; 42 U.S.C. § 1320a-7b (Criminal Penalties Involving Medicare or State Health Care Programs), commonly referred to as the "Federal Anti-Kickback Statute"; § 1877 of the Social Security Act, as amended; 42 U.S.C. § 1395nn (Limitation on Certain Physician Referrals), commonly referred to as "Stark Statute"; the FD&C Act; all applicable Good Manufacturing Practice requirements addressed in the FDA's Quality System Regulation (21 C.F.R. Part 820); all rules, regulations and guidance with respect to the provision of Medicare and Medicaid programs or services (42 C.F.R. Chapter IV et seq.); 10 U.S.C. §§1071 – 1110(b) (the "TRICARE Program"); 5 U.S.C. §§ 8901 – 8914 ("FEHB Plans"); the PDMA; and all rules, regulations and guidance promulgated under or pursuant to any of the foregoing, including any non-U.S. equivalents.

"***Hedging Agreement***" means any interest rate exchange agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement. Notwithstanding anything to the contrary in the foregoing, neither any Permitted Bond Hedge nor any Permitted Warrant Transaction shall be a Hedging Agreement.

"***Immaterial Subsidiary***" means (A) the Klisyri SPV and (B) any Subsidiary of the Borrower that (i) individually constitutes or holds less than five percent (5%) of the Borrower's

consolidated total assets or generates less than five percent (5%) of the Borrower's consolidated total revenue, and (ii) when taken together with all then existing Immaterial Subsidiaries pursuant to this clause (B), such Subsidiary and such Immaterial Subsidiaries, in the aggregate, would constitute or hold less than fifteen percent (15%) of the Borrower's consolidated total assets or generate less than fifteen percent (15%) of the Borrower's consolidated total revenue, in each case as pursuant to the most recent fiscal period for which financial statements were required to have been delivered pursuant to **8.01(a)** or **(b)**.

"***IND***" means (i) (x) an investigational new drug application (as defined in the FD&C Act) that is required to be filed with the FDA before beginning clinical testing in human subjects, or any successor application or procedure and (y) any similar application or functional equivalent relating to any investigational new drug application applicable to or required by any non-U.S. Governmental Authority, and (ii) all supplements and amendments that may be filed with respect to the foregoing.

"***Indebtedness***" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or similar instruments, (iii) all obligations of such Person upon which interest charges are customarily paid, (iv) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (v) all obligations of such Person in respect of the deferred purchase price of property or services (excluding deferred compensation and accounts payable incurred in the ordinary course of business and not overdue by more than ninety (90) days), (vi) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (vii) all Guarantees by such Person of Indebtedness of others, (viii) all Capital Lease Obligations of such Person, (ix) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (x) obligations under any Hedging Agreement, currency swaps, forwards, futures or derivatives transactions, (xi) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (xii) all guaranteed minimum milestone and other payments of such Person under any license or other agreements (but excluding any payments based on sales under any such license or other agreement), (xiii) any Disqualified Equity Interests of such Person, and (xiv) all other obligations required to be classified as indebtedness of such Person under GAAP; provided that, notwithstanding the foregoing, Indebtedness shall not include accrued expenses, deferred rent, deferred taxes, deferred compensation or customary obligations under employment agreements. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"***Indemnified Party***" has the meaning set forth in **Section 14.03(b)**.

"***Indemnified Taxes***" means (i) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any Obligation and (ii) to the extent not otherwise described in **clause (i)**, Other Taxes.

"***Information Certificate***" means the Information Certificate delivered pursuant to **Section 6.01(c)**.

"***Insolvency Proceeding***" means (i) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (ii) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of any Person's creditors generally or any substantial portion of such Person's creditors, in each case undertaken under U.S. federal, state or foreign law, including the Bankruptcy Code.

"***Intellectual Property***" means all Patents, Trademarks, Copyrights, and Technical Information, whether U.S. or non-U.S.

"***Intercompany Subordination Agreement***" means a subordination agreement to be executed and delivered by each Obligor and each of its Subsidiaries (other than the Klisyri SPV), pursuant to which all obligations in respect of any Indebtedness owing to any such Person by an Obligor shall be subordinated to the prior payment in full in cash of all Obligations, such agreement to be in substantially the form attached hereto as **Exhibit I**.

"***Interest Period***" means (a) the period commencing on and including the Closing Date and ending on but excluding the immediately subsequent Payment Date and (b) subsequently, each period commencing on and excluding the last day of the previous Interest Period for such Loan and ending on but excluding the immediately subsequent Payment Date.

"***Interest Rate***" means 11.0% per annum, as may be increased pursuant to **Section 3.02(b)**.

"***Invention***" means any novel, inventive or useful art, apparatus, method, process, machine (including any article or device), manufacture or composition of matter, or any novel, inventive and useful improvement in any art, method, process, machine (including article or device), manufacture or composition of matter.

"***Investment***" means, for any Person: (i) the acquisition (whether for cash, property, services or securities or otherwise) of any debt or Equity Interests, bonds, notes, debentures, partnership or other ownership interests or other securities of any other Person or any agreement to make any such acquisition (including any "short sale" or any sale of any securities at a time when such securities are not owned by the Person entering into such sale); (ii) the making of any deposit with, or advance, loan, assumption of debt or other extension of credit to, or capital contribution in any other Person (including the purchase of property from another Person subject to an understanding or agreement, contingent or otherwise, to resell such property to such Person), but excluding any such advance, loan or extension of credit having a term not exceeding ninety (90) days arising in connection with the sale of inventory or supplies by such Person in the Ordinary Course; or (iii) the entering into of any Guarantee of, or other contingent obligation with respect to, Indebtedness or other liability of any other Person and (without duplication) any amount committed to be advanced, lent or extended to such Person. The amount of an Investment shall be the amount actually invested (which, in the case of any Investment

constituting the contribution of an asset or property, shall be based on such Person's good faith estimate of the fair market value of such asset or property at the time such Investment is made), less the amount of cash received or returned for such Investment, without adjustment for subsequent increases or decreases in the value of such Investment or write-ups, write-downs or write-offs with respect thereto; provided that in no event shall such amount be less than zero or increase any basket or amount pursuant to **Section 9.05** above the fixed amount set forth therein. Notwithstanding anything to the contrary in the foregoing, (i) the purchase of any Permitted Bond Hedge Transaction by the Borrower or any of its Subsidiaries and the performance of its obligations thereunder shall not be an Investment and (ii) no True-Up Payment (as defined in the Klisyri Revenue Interest Purchase Agreement) or other payment to the Klisyri SPV required pursuant to the Klisyri Transaction Documents shall be an Investment.

"***IRS***" means the U.S. Internal Revenue Service or any successor agency, and to the extent relevant, the U.S. Department of the Treasury.

"***Klisyri Intercreditor Agreement***" means that certain Intercreditor Agreement, to be dated as of the Amendment No. 4 Effective Date (as defined in Amendment No. 4), by and among Sagard Holdings Manager LP, as the "Senior Lien Agent", and the Administrative Agent, as the "Subordinated Lien Agent", relating to the Retained Product Assets as defined therein, as in effect on the date hereof and as amended, amended and restated or otherwise modified from time to time.

"***Klisyri Revenue Interest Purchase Agreement***" means that certain Revenue Interest Purchase Agreement, dated as of June 21, 2022, by and among the Borrower, the Klisyri SPV, Oaktree-TCDRS Strategic Credit, LLC, Oaktree-Minn Strategic Credit, LLC, Oaktree-Forrest Multi-Strategy, LLC, Oaktree-TBMR Strategic Credit Fund C, LLC, Oaktree-TBMR Strategic Credit Fund F, LLC, Oaktree-TBMR Strategic Credit Fund G, LLC, Oaktree-TSE 16 Strategic Credit, LLC, INPRS Strategic Credit Holdings, LLC, Oaktree Gilead Investment Fund AIF (Delaware), L.P., Oaktree Strategic Income II, Inc., Oaktree Specialty Lending Corporation, Oaktree Huntington-GCF Investment Fund (Direct Lending AIF), L.P., Sagard Healthcare Royalty Partners, LP and Sagard Healthcare Partners Co-Invest DAC, as in effect on the date hereof and as amended, amended and restated or otherwise modified with the prior written consent of the Majority Lenders.

"***Klisyri SPV***" means ATNX SPV, LLC, a Delaware limited liability company.

"***Klisyri SPV Asset Purchase Agreement***" means that certain Asset Purchase and Contribution Agreement, dated as of June 21, 2022, by and among the Borrower, the Klisyri SPV and Athenex HK Innovative Limited, as in effect on the date hereof and as amended, amended and restated or otherwise modified with the prior written consent of the Majority Lenders.

"***Klisyri Transaction Documents***" means the "Transaction Documents" as defined in the Klisyri Revenue Interest Purchase Agreement, as each such Transaction Document is in effect on the date hereof and as may be amended, amended and restated or otherwise modified with the prior written consent of the Majority Lenders.

"***Landlord Consent***" means a Landlord Consent substantially in the form of **Exhibit G.**

"***Law***" means, collectively, all U.S. or non-U.S. federal, state, provincial, territorial, municipal or local statute, treaty, rule, guideline, regulation, ordinance, code or administrative or judicial precedent or authority, including any interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"***Lenders***" has the meaning set forth in the preamble hereto.

"***Leverage Ratio Covenant***" has the meaning set forth in **Section 10.03**.

"***Leverage Ratio Cure Right***" has the meaning set forth in **Section 11.05**.

"***Lien***" means (a) any mortgage, lien, pledge, hypothecation, charge, security interest, or other encumbrance of any kind or character whatsoever, whether or not filed, recorded or otherwise perfected under applicable Law, or any lease, title retention agreement, mortgage, restriction, easement, right-of-way, option or adverse claim (of ownership or possession) (including any conditional sale or other title retention agreement, any lease in the nature thereof, and any other encumbrance on title to real property, any option or other agreement to sell, or give a security interest in, such asset and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes of any jurisdiction)) or any preferential arrangement that has the practical effect of creating a security interest and (b) in the case of Equity Interests, any purchase option, call or similar right of a third party with respect to such Equity Interests.

"***Loan***" means each loan advanced by a Lender pursuant to **Section 2.01**.

"***Loan Documents***" means, collectively, this Agreement, the Notes, the Security Documents, the Warrant, the Fee Letter, any Guarantee Assumption Agreement, the Intercompany Subordination Agreement and any subordination agreement, intercreditor agreement or other present or future document, instrument, agreement or certificate delivered to the Administrative Agent (for itself or for the benefit of any other Secured Party) in connection with this Agreement or any of the other Loan Documents, in each case, as amended or otherwise modified.

"***Loss***" means judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all costs incurred in investigating or pursuing any Claim or any proceeding relating to any Claim.

"***Majority Lenders***" means, at any time, Lenders having at such time in excess of fifty percent (50%) of the aggregate Commitments (or, if such Commitments are terminated, the outstanding principal amount of the Loans) then in effect.

"***Margin Stock***" means "margin stock" within the meaning of Regulations U and X.

"***Material Adverse Change***" and "***Material Adverse Effect***" mean a material adverse change in or effect on (i) the business, financial performance, operations, condition of the assets or liabilities of the Borrower and its Subsidiaries taken as a whole, (ii) the ability of any Obligor to perform its obligations under the Loan Documents, as and when due, or (iii) the legality, validity, binding effect or enforceability of the Loan Documents or the rights, remedies and benefits available to, or conferred upon, the Administrative Agent or the Secured Parties under any of the Loan Documents.

"***Material Agreement***" means any Contract required to be disclosed (including amendments thereto) under regulations promulgated under the Securities Act of 1933 or Securities Exchange Act of 1934, as may be amended. For the avoidance of doubt, employment and management contracts shall not be Material Agreements.

"***Material Indebtedness***" means, at any time, any Indebtedness of any Obligor or Subsidiary thereof, the outstanding principal amount of which, individually or in the aggregate, exceeds $10,000,000 (or the Equivalent Amount in other currencies), including the obligations of the Borrower in respect of the Klisyri Transaction Documents.

"***Material Intellectual Property***" means all Intellectual Property, whether currently owned by (or purported to be owned by) or licensed to (or purported to be licensed to) the Borrower or any of its Subsidiaries, or acquired, developed or obtained by or otherwise licensed to the Borrower or any of its Subsidiaries after the date hereof (i) the loss of which could reasonably be expected to result in a Material Adverse Effect, or (ii) that has a fair market value in excess of $7,500,000 (or the Equivalent Amount in other currencies); provided, that the Product Assets (as defined in the Klisyri Revenue Interest Purchase Agreement) shall not constitute Material Intellectual Property.

"***Material Subsidiary***" means any Subsidiary of the Borrower that is not an Immaterial Subsidiary.

"***Maturity Date***" means June 19, 2026.

"***Medicaid***" means that government-sponsored entitlement program under Title XIX, P.L. 89-97 of the Social Security Act, which provides federal grants to states for medical assistance based on specific eligibility criteria, as set forth on Section 1396, et seq. of Title 42 of the United States Code.

"***Medicare***" means that government-sponsored insurance program under Title XVIII, P.L. 89-97, of the Social Security Act, which provides for a health insurance system for eligible elderly and disabled individuals, as set forth at Section 1395, et seq. of Title 42 of the United States Code.

"***Minimum Cash Balance***" means an amount not less than $100,000,000 in Cash or Cash Equivalents held by the Borrower.

~~"***Minimum Liquidity Amount***" means (i) from the Closing Date until the date on which the aggregate principal amount of Loans outstanding under this Agreement is greater than or equal to $150,000,000 (the "***First Step-Up Date***"), $20,000,000, (ii) from the First Step-Up Date until the date on which the aggregate principal amount of Loans outstanding under this Agreement is equal to $225,000,000 (the "***Second Step-Up Date***"), $25,000,000 and (iii) from the Second Step-Up Date until the Maturity Date, $30,000,000.~~***"Minimum Liquidity Amount"*** means (x) solely if the Borrower has made a prepayment of the Loans on the Amendment No. 4 Effective Date (as defined in Amendment No. 4), in a principal amount equal to $10,000,000 plus accrued and unpaid interest in respect of the principal amount being repaid, the Exit Fee in respect of the principal amount being repaid and the Prepayment Fee in respect of the principal amount being repaid (which prepayment shall be in addition to the prepayments required under Section 3.03 of this Agreement and under Section 5(d) of Amendment No. 4), $10,000,000 or (y) otherwise, $20,000,000.

"***Minimum Revenue Covenant***" has the meaning set forth in **Section 10.02**.

"***Minimum Revenue Cure Right***" has the meaning set forth in **Section 11.04(a)**.

"***Multiemployer Plan***" means any multiemployer plan, as defined in Section 400l(a)(3) of ERISA, to which any ERISA Affiliate incurs or otherwise has any obligation or liability, contingent or otherwise.

"***NDA***" means (i) (x) a new drug application (as defined in the FD&C Act) and (y) any similar application or functional equivalent relating to any new drug application applicable to or required by any non-U.S. country, jurisdiction or Governmental Authority, and (ii) all supplements and amendments that may be filed with respect to any of the foregoing.

"***Net Cash Proceeds***" means, (i) with respect to any Casualty Event experienced or suffered by any Obligor or any of its Subsidiaries, the amount of cash proceeds received (directly or indirectly) from time to time by or on behalf of such Person after deducting therefrom only (w) reasonable costs and expenses related thereto incurred by such Obligor or such Subsidiary in connection therewith, (x) Taxes (including transfer Taxes or net income Taxes) paid or payable in connection therewith, (y) reasonable reserves established for liabilities estimated to be payable in respect of such Casualty Event and deposited into escrow with a third party escrow agent on terms reasonably acceptable to the Administrative Agent or set aside in a separate Deposit Account that is subject to a Control Agreement in favor of the Administrative Agent and (z) any amounts required to be used to prepay Permitted Indebtedness pursuant to **Sections 9.01(j) and 9.01(l)** secured by the assets subject to such Casualty Event (other than (A) Indebtedness owing to the Administrative Agent or any Lender under this Agreement or the other Loan Documents and (B) Indebtedness assumed by the purchaser of such asset); and (ii) with respect to any Asset Sale by any Obligor or any of its Subsidiaries, the amount of cash proceeds received (directly or indirectly) from time to time by or on behalf of such Person after deducting therefrom only (w) reasonable costs and expenses related thereto incurred by such Obligor or such Subsidiary in connection therewith, (x) Taxes (including transfer Taxes or net income Taxes) paid or payable in connection therewith, (y) reasonable reserves established for liabilities estimated to be payable in respect of such Asset Sale and deposited into escrow with a third party escrow agent on terms reasonably acceptable to the Administrative Agent or set aside in a separate Deposit Account that

is subject to a Control Agreement in favor of the Administrative Agent and (z) any amounts required to be used to prepay Permitted Indebtedness pursuant to **Sections 9.01(j) and 9.01(l)** secured by the assets subject to such Asset Sale (other than (A) Indebtedness owing to the Administrative Agent or any Lender under this Agreement or the other Loan Documents and (B) Indebtedness assumed by the purchaser of such asset); provided that, in each case of **clauses (i)** and **(ii)**, costs and expenses shall only be deducted to the extent, that the amounts so deducted are (x) actually paid to a Person that is not an Affiliate of any Obligor or any of its Subsidiaries and (y) properly attributable to such Casualty Event or Asset Sale, as the case may be.

"***Note***" means a promissory note, in substantially the form of **Exhibit A** hereto, executed and delivered by the Borrower to any Lender in accordance with **Section 2.04**.

"***Notice of Intent to Cure Leverage Covenant***" has the meaning set forth in **Section 11.05(b)**.

"***Notice of Intent to Cure Revenue Covenant***" has the meaning set forth in **Section 11.04(b)**.

"***NY UCC***" means the UCC as in effect from time to time in New York.

"***Oaktree Lender***" means any Lender that is an Affiliate or managed fund or account of Oaktree Capital Management, L.P.

"***Obligations***" means, with respect to any Obligor, all amounts, obligations, liabilities, covenants and duties of every type and description owing by such Obligor to any Secured Party (including all Guaranteed Obligations and Warrant Obligations) any other indemnitee hereunder or any participant, arising out of, under, or in connection with, any Loan Document, whether direct or indirect (regardless of whether acquired by assignment), absolute or contingent, due or to become due, whether liquidated or not, now existing or hereafter arising and however acquired, and whether or not evidenced by any instrument or for the payment of money, including, without duplication, (i) if such Obligor is the Borrower, all Loans, (ii) all interest, whether or not accruing after the filing of any petition in bankruptcy or after the commencement of any insolvency, reorganization or similar proceeding, and whether or not a claim for post- filing or post-petition interest is allowed in any such proceeding, and (iii) all other fees, expenses (including fees, charges and disbursement of counsel), interest, Commitment Fees, Prepayment Fee, Exit Fee, commissions, charges, costs, disbursements, indemnities and reimbursement of amounts paid and other sums chargeable to such Obligor under any Loan Document.

"***Obligors***" means, collectively, the Borrower and the Subsidiary Guarantors and their respective successors and permitted assigns.

"***OFAC***" has the meaning assigned to such term in the definition of "Anti-Terrorism Laws."

"***Oral Paclitaxel***" means the Product oral paclitaxel and encequidar, together with any improvements or modifications thereto.

"***Ordinary Course***" means ordinary course of business or ordinary trade activities that are customary for similar businesses in the normal course of their ordinary operations and not while in financial distress.

"***Organic Document***" means, for any Person, such Person's formation documents, including, as applicable, its certificate of incorporation, by-laws, certificate of partnership, partnership agreement, certificate of formation, limited liability agreement, operating agreement and all shareholder agreements, voting trusts and similar arrangements applicable to such Person's Equity Interests, or any equivalent document of any of the foregoing.

"***Other Connection Taxes***" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"***Other Taxes***" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to **Section 5.03(g)**).

"***Parent Entity***" shall mean any direct or indirect parent of the Borrower.

"***Participant***" has the meaning set forth in **Section 14.05(e)**.

"***Participant Register***" has the meaning set forth in **Section 14.05(e)**.

"***Patents***" means all patents and patent applications, including (i) the Inventions and improvements described and claimed therein, (ii) the reissues, divisions, continuations, renewals, extensions, and continuations in part thereof, and (iii) all rights whatsoever accruing thereunder or pertaining thereto throughout the world.

"***Patriot Act***" has the meaning set forth in **Section 14.19**.

"***Payment Date***" means (i) March 31, June 30, September 30 and December 31 of each year, commencing on the first such date to occur after the Closing Date (provided, that if such date is not a Business Day, then on the immediately preceding Business Day); and (ii) the Maturity Date.

"***PBGC***" means the United States Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"***PDMA***" means the Prescription Drug Marketing Act of 1987, 21 U.S.C. §§ 331 et seq. (or any successor thereto), as amended from time to time, and the rules, regulations, guidelines, guidance documents and compliance policy guides issued or promulgated thereunder.

"***Permitted Acquisition***" means any Acquisition by the Borrower or any of its Subsidiaries, whether by purchase, merger or otherwise; provided that:

(a) immediately prior to, and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or could reasonably be expected to result therefrom;

(b) such Acquisition shall comply in all material respects with all applicable Laws and all applicable Governmental Approvals;

(c) in the case of any Acquisition of Equity Interests of another Person, after giving effect to such Acquisition, all Equity Interests of such other Person acquired by the Borrower or any of its Subsidiaries shall be owned, directly or indirectly, beneficially and of record, by the Borrower or any of its Subsidiaries, and, the Borrower shall cause such acquired Person to satisfy each of the actions set forth in **Section 8.12** as required by such Section;

(d) on a *pro forma* basis after giving effect to such Acquisition, the Borrower and its Subsidiaries shall be in compliance with the financial covenants set forth in **Section 10**;

(e) to the extent that the purchase price for any such Acquisition is paid in cash, the amount thereof does not exceed $10,000,000 (or the Equivalent Amount in other currencies) in any fiscal year (excluding any Deferred Acquisition Consideration consisting of milestone and royalty payments that are calculated on the basis of future revenues pursuant to an agreement entered as an Arm's Length Transaction);

(f) to the extent that the purchase price for any such Acquisition is paid in Equity Interests, all such Equity Interests shall be Qualified Equity Interests;

(g) in the case of any such Acquisition that has a purchase price (including reasonable estimates of any Deferred Acquisition Compensation) in excess of $35,000,000 (and excluding any Deferred Acquisition Consideration consisting of milestone and royalty payments that are in each case calculated on the basis of future revenues pursuant to an agreement entered as an Arm's Length Transaction), (A) the Borrower shall provide to the Administrative Agent (i) at least ten (10) Business Day's prior written notice of any such Acquisition, together with summaries, prepared in reasonable detail, of all due diligence conducted by or on behalf of the Borrower or the applicable Subsidiary, as applicable, prior to such Acquisition, in each case subject to customary confidentiality restrictions, (ii) subject to customary confidentiality restrictions, a copy of the draft purchase agreement related to the proposed Acquisition (and any related documents requested by the Administrative Agent), (iii) pro forma financial statements of the Borrower and its Subsidiaries (as of the last day of the most recently ended fiscal quarter prior to the date of consummation of such Acquisition for which financial statements are required to be delivered pursuant to **8.01(a)** or **(b)**) after giving effect to such Acquisition, and (iv) subject to customary confidentiality restrictions, any other information reasonably requested (to the extent available), by the

Administrative Agent and available to the Obligors and (B) to the extent the cash purchase price exceeds $35,000,000 (excluding any Deferred Acquisition Consideration consisting of milestone and royalty payments that are calculated on the basis of future revenues pursuant to an agreement entered as an Arm's Length Transaction), the Administrative Agent shall have consented to in writing to such Acquisition (such consent not to be unreasonably delayed, withheld or conditioned); and

(h) no Obligor or any of its Subsidiaries (including any acquired Person) shall, in connection with any such Acquisition, assume or remain liable with respect to (x) any Indebtedness of the related seller or the business, Person or assets acquired, except to the extent permitted pursuant to **Section 9.01(l)**, (y) any Lien on any business, Person or assets acquired, except to the extent permitted pursuant to **Section 9.02**, (z) any other liabilities (including Tax, ERISA and environmental liabilities), except to the extent the assumption of such liability could not reasonably be expected to result in a Material Adverse Effect. Any other such Indebtedness, liabilities or Liens not permitted to be assumed, continued or otherwise supported by any Obligor or Subsidiary thereof hereunder shall be paid in full or released within sixty (60) days of the acquisition date as to the business, Persons or properties being so acquired on or before the consummation of such Acquisition.

"***Permitted Bond Hedge Transaction***" means any call or capped call option (or substantively equivalent derivative transaction) relating to the Borrower's common stock (or other securities or property following a merger event, reclassification or other change of the common stock of the Borrower) that is (A) purchased by the Borrower in connection with the issuance of any Permitted Convertible Debt, (B) settled in common stock of the Borrower (or such other securities or property), cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower's common stock or such other securities or property), and cash in lieu of fractional shares of common stock of the Borrower and (C) on terms and conditions customary for bond hedge transactions in respect of broadly distributed 144A convertible bond transactions as reasonably determined by the Borrower.

"***Permitted Axis Advances***" means payments by the Borrower or any Subsidiary of any ordinary course, operational costs or expenses of Axis Therapeutics; provided that Axis Therapeutics either prepays such amounts or repays such amounts to Borrower or such Subsidiary on or before the day that is 25 days after the end of each fiscal quarter of the Borrower; provided, further that outstanding Permitted Axis Advances that have not been prepaid or repaid shall not exceed $2,000,000 (or the Equivalent Amount in other currencies) in the aggregate at any time.

"***Permitted Cash Equivalent Investments***" means (i) marketable direct obligations issued or unconditionally guaranteed by the United States or any member states of the European Union or any agency or any state thereof having maturities of not more than one (1) year from the date of acquisition, (ii) commercial paper maturing no more than two hundred seventy (270) days after the date of acquisition thereof and having the highest rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc., (iii) certificates of deposit maturing no more than one (1) year after issue that are issued by any bank organized under the Laws of the United States, or any state thereof, or the District of Columbia, or any U.S. branch of a foreign bank

having, at the date of acquisition thereof, combined capital and surplus of not less than $500,000,000 and (iv) any money market or similar funds that exclusively hold any of the foregoing.

"***Permitted Convertible Debt***" means unsecured Indebtedness of the Borrower that (i) contains customary conversion rights for broadly distributed 144A convertible bond transactions as of the date of issuance and (ii) is convertible into shares of common stock of the Borrower, cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower's common stock or such other securities or property), or cash in lieu of fractional shares of common stock of the Borrower; provided that any such indebtedness shall (A) mature, and not be subject to mandatory repurchase or redemption (other than in connection with a customary change of control or "fundamental change" provision), at least 180 days after the Maturity Date, (B) have recourse only to the Borrower and (C) not have an all-in-yield greater than 550 basis points as determined in good faith by the Administrative Agent (with any original issue discount equated to interest based on the convertible debt maturity date and excluding any additional or special interest that may become payable from time to time).

"***Permitted Cure Securities***" means common Equity Interests of the Borrower.

"***Permitted Hedging Agreement***" means a Hedging Agreement entered into by any Obligor in such Obligor's Ordinary Course for the purpose of hedging currency risks or interest rate risks (and not for speculative purposes) and (x) with respect to hedging currency risks, in an aggregate notional amount for all such Hedging Agreements not in excess of $10,000,000 (or the Equivalent Amount in other currencies) and (y) with respect to hedging interest rate risks, in an aggregate notional amount for all such Hedging Agreements in excess of 50%, but not more than 100%, of the aggregate principal amount of Loans outstanding at such time.

"***Permitted Indebtedness***" means any Indebtedness permitted under **Section 9.01**.

"***Permitted Intercreditor Agreement***" has the meaning set forth in **Section 12.13**.

"***Permitted Licenses***" are: (A) licenses of over-the-counter software that is commercially available to the public; (B) non-exclusive licenses for the use of the Intellectual Property of Borrower or any of its Subsidiaries entered into in the Ordinary Course, (C) development, co-promotion, distribution and other collaborative arrangements where such arrangements provide for the licenses or disclosure of Patents, Trademarks, Copyrights or other Intellectual Property rights in the ordinary course of business and consistent with general market practices where such license requires periodic payments based on per unit sales of a product over a period of time; provided that each such license does not effect a legal transfer of title to such Intellectual Property rights and that each such license must be a true license as opposed to a license that is a sales transaction in substance; (D) exclusive licenses for the use of the Intellectual Property of any Obligor or any Subsidiaries, provided, that, with respect to each such license described in this clause (D), the license (i) constitutes an Arm's Length Transaction, the terms of which (x) do not provide for a sale or assignment of any Intellectual Property, (y) do not restrict the ability of Borrower or any of its Subsidiaries, as applicable, to pledge, grant a security interest in or lien on, or assign or otherwise dispose of any Intellectual Property and (z) are commercially reasonable and (ii) (x) is limited in territory with respect to a specific geographic country or

region (i.e. Japan, Germany, northern China) outside of the United States or (y) is to a top 25 pharmaceutical company by global revenue; (E) in-licenses of Intellectual Property, (F) licenses in connection with the Royalty Interest Financing, (G) exclusive licenses for the use of the Intellectual Property of any Obligor or any Subsidiaries, provided, that with respect to each such license described in this clause (G), such license (w) constitutes an Arm's Length Transaction, (x) relates solely to non-oncology indications, (y) is on commercially reasonable terms and (z) the proceeds of such license are subject to mandatory prepayment pursuant to **Section 3.03(b)(i)** and (H) licenses set forth on **Schedule 4**.

"***Permitted Liens***" means any Liens permitted under **Section 9.02**.

"***Permitted Refinancing***" means, with respect to any Indebtedness permitted to be refinanced, extended, renewed or replaced hereunder, any refinancings, extensions, renewals and replacements of such Indebtedness; provided that such refinancing, extension, renewal or replacement shall not (i) increase the outstanding principal amount of the Indebtedness being refinanced, extended, renewed or replaced, except by an amount equal to accrued interest and a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred in connection therewith, (ii) contain terms relating to outstanding principal amount, amortization, maturity, collateral security (if any) or subordination (if any), or other material terms that, taken as a whole, are less favorable in any material respect to the Obligors and their respective Subsidiaries or the Secured Parties than the terms of any agreement or instrument governing such existing Indebtedness, (iii) have an applicable interest rate which does not exceed the greater of (A) the rate of interest of the Indebtedness being replaced and (B) the then applicable market interest rate, (iv) contain any new requirement to grant any Lien or to give any Guarantee that was not an existing requirement of such Indebtedness and (v) after giving effect to such refinancing, extension, renewal or replacement, no Default shall have occurred (or could reasonably be expected to occur) as a result thereof.

"***Permitted Warrant Transaction***" means any call option, warrant or right to purchase (or substantively equivalent derivative transaction) relating to the Borrower's common stock (or other securities or property following a merger event, reclassification or other change of the common stock of the Borrower) sold by the Borrower and with recourse to the Borrower only, substantially concurrently with any purchase by the Borrower of a Permitted Bond Hedge Transaction and settled in common stock of the Borrower, cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower's common stock or such other securities or property), and cash in lieu of fractional shares of common stock of the Borrower.

"***Person***" means any individual, corporation, company, voluntary association, partnership, limited liability company, joint venture, trust, unincorporated organization or Governmental Authority or other entity of whatever nature.

"***Plan***" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"***Pledged Entity***" means any Subsidiary of the Borrower, Equity Interests of which have been or, pursuant to **Section 8.19** are required to be, pledged to the Administrative Agent pursuant to the Security Documents.

"***Prepayment Fee***" means with respect to any prepayment of all or any portion of the Loans, whether by optional or mandatory prepayment, acceleration or otherwise (in each case, other than any scheduled amortization payment or any cure payment made pursuant to **Section 11.04** and **11.05**), occurring (i) on or prior to the second anniversary of the Closing Date, an amount equal to the amount of interest that would have been paid on the principal amount of the Loans being so repaid or prepaid for the period from and including the date of such repayment or prepayment to but excluding the date that is the two (2) year anniversary of the Closing Date, *plus* three percent (3%) of the principal amount of the Loans being so repaid or prepaid and the Commitments being so terminated, (ii) at any time after the second anniversary of the Closing Date but on or prior to the third anniversary of the Closing Date, an amount equal to three percent (3%) of the aggregate outstanding principal amount of the Loans being so repaid or prepaid, (iii) at any time after the third anniversary of the Closing Date but on or prior to the fourth anniversary of the Closing Date, an amount equal to two percent (2%) of the aggregate outstanding principal amount of the Loans being so repaid or prepaid and (iv) if the prepayment is made after the fourth anniversary of the Closing Date, 0%.

"***Prepayment Price***" has the meaning set forth in **Section 3.03(a)(i)**.

"***Principal Payment Date***" means (i) the first Payment Date to occur after the second (2^{nd}) anniversary of the Closing Date, (ii) thereafter, each Payment Date and, if applicable, (iii) the Maturity Date.

"***Pro Forma Basis***" shall mean, with respect to the calculation of any financial ratio, as of any date, that *pro forma* effect will be given to the Transactions, any Permitted Acquisition, any issuance, incurrence, assumption or permanent repayment of Indebtedness (including Indebtedness issued, incurred or assumed as a result of, or to finance, any relevant transaction and for which any such financial ratio is being calculated), all sales, transfers and other dispositions or discontinuance of any subsidiary, line of business or division, or any conversion of a Subsidiary Guarantor to Subsidiary or of a Subsidiary to a Subsidiary Guarantor, in each case that have occurred during the four consecutive fiscal quarter period of the Borrower being used to calculate such financial ratio (the "Reference Period"), or subsequent to the end of the Reference Period but prior to such date or prior to or simultaneously with the event for which a determination under this definition is made (including any such event occurring at a person who became a Restricted Subsidiary after the commencement of the Reference Period), as if each such event occurred on the first day of the Reference Period. Whenever *pro forma* effect is given to any of the foregoing, pro forma calculations shall be made in good faith by a Responsible Officer of the Borrower giving effect to any synergies that the Borrower in good faith reasonably anticipates to be realized within 12 months of the date of any relevant transaction that could then be reflected in pro forma financial statements in accordance with Regulation S-X and not exceeding 15% of EBITDA, in the aggregate, for such period after giving effect thereof and (b) any cost savings that could then be reflected in pro forma financial statements in accordance with Regulation S-X promulgated under the Securities Act or any other regulation or policy of the SEC, in each case, as though such cost savings and synergies had been realized on the first day

of the applicable Reference Period and net of the amount of actual benefits realized during such period from such action.

"***Product***" means (i) those pharmaceutical or biological products (and described in reasonable detail) on **Schedule 2** attached hereto, and (ii) any current or future pharmaceutical or biological product developed, distributed, dispensed, imported, exported, labeled, promoted, manufactured, licensed, marketed, sold or otherwise commercialized by any Obligor or any of its Subsidiaries, including any such product in development or which may be developed.

"***Product Authorizations***" means any and all Governmental Approvals, whether U.S. or non-U.S. (including all applicable ANDAs, NDAs, BLAs, INDs, Product Standards, supplements, amendments, pre- and post- approvals, governmental price and reimbursement approvals and approvals of applications for regulatory exclusivity) of any Regulatory Authority, in each case, necessary to be held or maintained by, or for the benefit of, any Obligor or any of its Subsidiaries for the ownership, use or commercialization of any Product or for any Product Commercialization and Development Activities with respect thereto in any country or jurisdiction.

"***Product Commercialization and Development Activities***" means, with respect to any Product, any combination of research, development, manufacture, import, use, sale, licensing, importation, exportation, shipping, storage, handling, design, labeling, marketing, promotion, supply, distribution, testing, packaging, purchasing or other commercialization activities, receipt of payment in respect of any of the foregoing (including, without limitation, in respect of licensing, royalty or similar payments), or any similar or other activities the purpose of which is to commercially exploit such Product.

"***Product Related Information***" means, with respect to any Product, all books, records, lists, ledgers, files, manuals, correspondence, reports, plans, drawings, data and other information of every kind (in any form or medium), and all techniques and other know-how, owned or possessed by the Obligors or any of their respective Subsidiaries that are necessary or useful for any Product Commercialization and Development Activities relating to such Product, including (i) brand materials and packaging, customer targeting and other marketing, promotion and sales materials and information, referral, customer, supplier and other contact lists and information, product, business, marketing and sales plans, research, studies and reports, sales, maintenance and production records, training materials and other marketing, sales and promotional information and (ii) clinical data, information included or supporting any Product Authorization, any regulatory filings, updates, notices and correspondence (including adverse event and other pharmacovigilance and other post-marketing reports and information, etc.), technical information, product development and operational data and records, and all other documents, records, files, data and other information, used in connection with the Product Commercialization Development Activities for such Product.

"***Product Standards***" means all safety, quality and other specifications and standards applicable to any Product, including all pharmaceutical, biological and other standards promulgated by Standards Bodies.

"***Prohibited Payment***" means any bribe, rebate, payoff, influence payment, kickback or other payment or gift of money or anything of value (including meals or entertainment) to any officer, employee or ceremonial office holder of any government or instrumentality thereof, political party or supra-national organization (such as the United Nations), any political candidate, any royal family member or any other person who is connected or associated personally with any of the foregoing that is prohibited under any Law for the purpose of influencing any act or decision of such payee in his official capacity, inducing such payee to do or omit to do any act in violation of his lawful duty, securing any improper advantage or inducing such payee to use his influence with a government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality.

"***Proportionate Share***" means, with respect to any Lender, the percentage obtained by dividing (i) the sum of the Commitment (or, if the Commitments are terminated, the outstanding principal amount of the Loans) of such Lender then in effect by (ii) the sum of the Commitments (or, if the Commitments are terminated, the outstanding principal amount of the Loans) of all Lenders then in effect.

"***Qualified Equity Interest***" means, with respect to any Person, any Equity Interest of such Person that is not a Disqualified Equity Interest.

"***Qualified Plan***" means an employee benefit plan (as defined in Section 3(3) of ERISA) other than a Multiemployer Plan (i) that is or was at any time maintained or sponsored by any Obligor or any ERISA Affiliate thereof or to which any Obligor or any ERISA Affiliate thereof has ever made, or was ever obligated to make, contributions, and (ii) that is intended to be tax qualified under Section 401(a) of the Code.

"***Real Property Security Documents***" means any Landlord Consents or Bailee Letters.

"***Recipient***" means any Lender or any other recipient of any payment to be made by or on account of any Obligation.

"***Referral Source***" has the meaning set forth in **Section 7.07(b)**.

"***Refinanced Facility***" means the Indebtedness incurred under that certain Credit Agreement and Guaranty, dated as of June 30, 2018, by and among the Borrower, the Guarantor, Perceptive Credit Holdings II, LP and the lenders party thereto, as amended by Amendment No. 1 to Credit Agreement dated as of April 22, 2019 and Amendment No. 2 to Credit Agreement dated as of August 5, 2019.

"***Register***" has the meaning set forth in **Section 14.05(d)**.

"***Regulation T***" means Regulation T of the Board of Governors of the Federal Reserve System, as amended.

"***Regulation U***" means Regulation U of the Board of Governors of the Federal Reserve System, as amended.

"***Regulation X***" means Regulation X of the Board of Governors of the Federal Reserve System, as amended.

"***Regulatory Authority***" means any Governmental Authority, whether U.S. or non-U.S., that is concerned with or has regulatory or supervisory oversight with respect to any Product or any Product Commercialization and Development Activities relating to any Product, including the FDA and all equivalent Governmental Authorities, whether U.S. or non-U.S.

"***Reinvestment Period***" has the meaning set forth in **Section 3.03(b)(i)**.

"***Related Parties***" has the meaning set forth in **Section 14.16**.

"***Resignation Effective Date***" has the meaning set forth in **Section 12.09**.

"***Responsible Officer***" of any Person means each of the president, chief executive officer, chief financial officer and similar officer of such Person.

"***Restricted Payment***" means any dividend or other distribution (whether in cash, Equity Interests or other property) with respect to any Equity Interests of any Obligor or any of its Subsidiaries, or any payment (whether in cash, Equity Interests or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests of any Obligor or any of its Subsidiaries, or any option, warrant or other right to acquire any such Equity Interests of any Obligor or any of its Subsidiaries; provided, that any payments on Indebtedness convertible or exchangeable into Equity Interests shall not be Restricted Payments.

"***Restrictive Agreement***" means any Contract or other arrangement (other than the Klisyri Revenue Transaction Documents) that prohibits, restricts or imposes any condition upon (i) the ability of any Obligor or any of its Subsidiaries to create, incur or permit to exist any Lien upon any of its properties or assets (other than (x) customary provisions in Contracts (including without limitation leases and in-bound licenses of Intellectual Property) restricting the assignment thereof and (y) restrictions or conditions imposed by any Contract governing secured Permitted Indebtedness permitted under **Section 9.01(j)**, to the extent that such restrictions or conditions apply only to the property or assets securing such Indebtedness), or (ii) the ability of any Obligor or any of its Subsidiaries to make Restricted Payments with respect to any of their respective Equity Interests or to make or repay loans or advances to any other Obligor or any of its Subsidiaries or such other Obligor or to Guarantee Indebtedness of any other Obligor or any of its Subsidiaries thereof or such other Obligor.

"***Revenue***" means, for any relevant fiscal period, the consolidated total revenues of the Borrower and its Subsidiaries for such fiscal period, as recognized on the income statement of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP. Notwithstanding the foregoing, revenues of the Klisyri SPV shall be excluded from Revenue, except to the extent such revenues have been distributed to the Borrower or another Subsidiary.

"***Revenue Covenant Termination Date***" means the last day of the two consecutive fiscal quarters of the Borrower where the Consolidated Leverage Ratio does not exceed 4.50:1.00.

"***Revenue Cure Payment***" means, with respect to any fiscal quarter of the Borrower to which the Minimum Revenue Covenant applies, (i) if the Revenue Shortfall Percentage for such fiscal quarter is less than 50% but equal to or greater than 40%, $10,000,000 and (ii) if (A) the Revenue Shortfall Percentage of that fiscal quarter is less than 40%, $20,000,000 or (B) the Revenue Shortfall Percentage for the preceding three fiscal quarters was less than 50% but equal to or greater than 40%, $10,000,000; provided that in order to cure any breaches of the Minimum Revenue Covenant occurred in any calendar year, the Borrower shall not be required to make more than one Revenue Cure Payment in such calendar year, except for any calendar year where (x) the Borrower has exercised the Revenue Cure Right once pursuant to clause (i) of this definition and, thereafter, (z) the Revenue Shortfall Percentage described in clause (ii) of this definition occurs; provided, further that in no event shall the aggregate amount of Revenue Cure Payments in any calendar year exceed $20,000,000.

"***Revenue Shortfall Percentage***" means, with respect to any fiscal quarter of the Borrower to which the Minimum Revenue Covenant applies, the ratio (expressed as a percentage) between (i) the Revenue for such fiscal quarter and (ii) the Target Revenue for such fiscal quarter.

"***Royalty Interest Financing***" means any sale of, or other financing transaction based on, revenues and other proceeds arising out of or relating to Oral Paclitaxel and related Intellectual Property, that is secured by Liens on (i) proceeds resulting from sales of Oral Paclitaxel in an amount not exceeding 5% of such proceeds and (ii) subject to **Section 12.13**, the Intellectual Property, Accounts (as defined in the UCC), payment intangibles arising therefrom and Proceeds (as defined in the UCC) thereof relating to Oral Paclitaxel, and which are subject to a Permitted Intercreditor Agreement.

"***Sanction***" means any international economic or financial sanction or trade embargo imposed, administered or enforced from time to time by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union or its Member States, Her Majesty's Treasury or other relevant sanctions authority where the Borrower is located or conducts business.

"***Second Amendment Effective Date***" has the meaning set forth in the preamble hereto.

"***Secured Parties***" means the Lenders, the Administrative Agent and any of their respective permitted transferees or assigns.

"***Securities Act***" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"***Security Agreement***" means the Security Agreement, delivered pursuant to **Section 6.01(h)**, among the Obligors and the Administrative Agent, granting a security interest in the Obligors' personal property in favor of the Administrative Agent, for the benefit of the Secured Parties.

"***Security Documents***" means, collectively, the Security Agreement, each Short-Form IP Security Agreement, each Real Property Security Document, and each other security document,

control agreement or financing statement required or recommended to perfect Liens in favor of the Secured Parties for purposes of securing the Obligations.

"***Short-Form IP Security Agreements***" means short-form copyright, patent or trademark (as the case may be) security agreements, dated as of the Closing Date and substantially in the form of Exhibit C, D and E to the Security Agreement, entered into by one or more Obligors in favor of the Secured Parties, each in form and substance satisfactory to the Administrative Agent (and as amended, modified or replaced from time to time).

"***Solvent***" means, as to any Person as of any date of determination, that on such date (i) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (ii) the present fair saleable value of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (iii) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature and (iv) such Person is not engaged in a business or transaction, and is not about to engage in a business or transaction, for which such Person's property would constitute an unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"***Specified Assets***" means the following assets of the Borrower and its Subsidiaries, whether tangible or intangible, or real, personal or mixed:

(i) Intellectual Property (A) registered or subject of an application for registration with the U.S. Patent and Trademark Office ("USPTO") or the U.S. Copyright Office ("USCO") or (B) otherwise subsisting under the Laws of the United States that is specifically related to the Orascovery platform or the use thereof;

~~(ii) Intellectual Property (A) registered or subject of an application for registration with the USPTO or the USCO or (B) otherwise subsisting under the Laws of the united States that is specifically related to Tirbanibulin or the use of Tirbanibulin as an ointment or for oral indications;~~ and

(ii) ~~(iii)~~ leasehold interests or real property located at the following addresses:

(A) 3178 Lakeshore Drive East, Dunkirk, NY 14048;

(B) 11342 Main Street, Clarence, NY 14031;

(C) C-5, 105 Erlang Chuangye Road, Jiulongpo District, Chongqing, China; and

(D) 600 Liuqing Road, Maliuzui Town, Ba'nan District, Chongqing.

For the avoidance of doubt, the Product Assets (as defined in the Klisyri Revenue Interest Purchase Agreement) shall not constitute Specified Assets.

"***Specified Products***" has the meaning set forth in **Section 11.01(m)**.

"***Standard Bodies***" means any of the organizations that create, sponsor or maintain safety, quality or other standards, including ISO, ANSI, CEN and SCC and the like.

"***Subsidiary***" means, with respect to any Person (the "***parent***") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (i) of which securities or other ownership interests representing more than fifty percent (50%) of the equity or more than fifty percent (50%) of the ordinary voting power or, in the case of a partnership, more than fifty percent (50%) of the general partnership interests are, as of such date, owned, controlled or held, directly or indirectly, or (ii) that is, as of such date, otherwise Controlled, by the parent or one or more direct or indirect subsidiaries of the parent or by the parent and one or more direct or indirect subsidiaries of the parent. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Borrower.

"***Subsidiary Guarantors***" means each Subsidiary of the Borrower identified under the caption "SUBSIDIARY GUARANTORS" on the signature pages hereto and each Subsidiary of the Borrower that becomes, or is required to become, a "Subsidiary Guarantor" after the date hereof pursuant to **Section 8.12(a)** or **8.12(b)**.

"***Taxes***" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"***Technical Information***" means all Product Related Information and, with respect to any Products or Product Commercialization and Development Activities, all related know-how, trade secrets and other proprietary or confidential information, any information of a scientific, technical, or business nature in any form or medium, Invention disclosures, all documented research, developmental, demonstration or engineering work, and all other technical data and information related thereto.

"***Termination Conditions***" has the meaning set forth in **Section 13.03**.

"***Third Amendment Effective Date***" has the meaning set forth in the preamble hereto.

"***Title IV Plan***" means an employee benefit plan (as defined in Section 3(3) of ERISA) other than a Multiemployer Plan (i) that is or was at any time maintained or sponsored by any Obligor or any ERISA Affiliate thereof or to which any Obligor or any ERISA Affiliate thereof has ever made, or was obligated to make, contributions, and (ii) that is or was subject to Section 412 of the Code, Section 302 of ERISA or Title IV of ERISA.

"***Trademarks***" means all trade names, trademarks and service marks, logos, trademark and service mark registrations, and applications for trademark and service mark registrations, including (i) all renewals of trademark and service mark registrations and (ii) all rights whatsoever accruing thereunder or pertaining thereto throughout the world, together, in each case, with the goodwill of the business connected with the use thereof.

"*Tranche A-1 Term Loans*" has the meaning assigned to such term in **Section 2.01(a)(i)**.

"*Tranche A-2 Term Loans*" has the meaning assigned to such term in **Section 2.01(a)(i)**.

"***Tranche A Term Loans***" means the Tranche A-1 Term Loans and the Tranche A-2 Term Loans.

"*Tranche B Term Loans*" has the meaning assigned to such term in **Section 2.01(a)(ii)(iii)** .

"*Tranche D Term Loans*" has the meaning assigned to such term in **Section 2.01(a)(v)**.

"***Transactions***" means (a) the negotiation, preparation, execution, delivery and performance by each Obligor of this Agreement and the other Loan Documents to which such Obligor is (or is intended to be) a party, the making of the Loans hereunder, and all other transactions contemplated pursuant to this Agreement and the other Loan Documents, including the creation of the Liens pursuant to the Security Documents, (b) the repayment in full and termination of the Refinanced Facility and (c) the payment of all fees and expenses incurred or paid by the Obligors in connection with the foregoing.

"***UCC***" means, with respect to any applicable jurisdictions, the Uniform Commercial Code as in effect in such jurisdiction, as may be modified from time to time.

"***United States***" or "***U.S.***" means the United States of America, its fifty states and the District of Columbia.

"***U.S. Person***" means a "United States Person" within the meaning of Section 7701(a)(30) of the Code.

"***U.S. Tax Compliance Certificate***" has the meaning set forth in **Section 5.03(f)(ii)(B)(3)**.

"***Warrant***" means that certain Warrant, dated as of the Closing Date and delivered pursuant to **Section 6.01(j)**, evidenced by an instrument substantially the form of **Exhibit J** hereto, as amended, replaced or otherwise modified pursuant to the terms thereof.

"***Warrant Obligations***" means all Obligations of Borrower arising out of, under or in connection with the Warrant.

"***Withdrawal Liability***" means, at any time, any liability incurred (whether or not assessed) by any ERISA Affiliate and not yet satisfied or paid in full at such time with respect to any Multiemployer Plan pursuant to Section 4201 of ERISA.

"***Withholding Agent***" means the Borrower and the Administrative Agent.

"***Write-Down and Conversion Powers***" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

"***XPH License Agreement***" means that certain license agreement dated as of December 12, 2019 by and between the Borrower and Guangzhou Xiangxue Pharmaceutical Co., Ltd. (as amended, restated, amended and restated, supplemented or otherwise modified from time to time).

1.02 Accounting Terms and Principles. Unless otherwise specified, all accounting terms used in each Loan Document shall be interpreted, and all accounting determinations and computations thereunder (including under **Section 10** and any definitions used in such calculations) shall be made, in accordance with GAAP. Unless otherwise expressly provided, all financial covenants and defined financial terms shall be computed on a consolidated basis for the Borrower and its Subsidiaries, in each case without duplication. If the Borrower requests an amendment to any provision hereof to eliminate the effect of (a) any change in GAAP or the application thereof or (b) the issuance of any new accounting rule or guidance or in the application thereof, in each case, occurring after the date of this Agreement, then the Lenders and Borrower agree that they will negotiate in good faith amendments to the provisions of this Agreement that are directly affected by such change or issuance with the intent of having the respective positions of the Lenders and Borrower after such change or issuance conform as nearly as possible to their respective positions as of the date of this Agreement and, until any such amendments have been agreed upon, (i) the provisions in this Agreement shall be calculated as if no such change or issuance has occurred and (ii) the Borrower shall provide to the Lenders a written reconciliation in form and substance reasonably satisfactory to the Lenders, between calculations of any baskets and other requirements hereunder before and after giving effect to such change or issuance. For purposes of the definition of Indebtedness and related covenants, GAAP will be deemed to treat any operating lease as an operating lease and not a capital lease, regardless of any change in GAAP as a result of ASU 2016-02, Leases (Topic 842) by the Financial Accounting Standards Board to the extent such operating lease was so treated under GAAP as in effect for any fiscal year of Borrower beginning before December 15, 2018.

1.03 Interpretation. For all purposes of this Agreement, except as otherwise expressly provided herein or unless the context otherwise requires,

(a) the terms defined in this Agreement include the plural as well as the singular and vice versa;

(b) words importing gender include all genders;

(c) any reference to a Section, Annex, Schedule or Exhibit refers to a Section of, or Annex, Schedule or Exhibit to, this Agreement;

(d) any reference to "this Agreement" refers to this Agreement, including all Annexes, Schedules and Exhibits hereto, and the words herein, hereof, hereto and hereunder and

words of similar import refer to this Agreement and its Annexes, Schedules and Exhibits as a whole and not to any particular Section, Annex, Schedule, Exhibit or any other subdivision;

(e) references to days, months and years refer to calendar days, months and years, respectively;

(f) all references herein to "include" or "including" shall be deemed to be followed by the words "without limitation";

(g) the word "from" when used in connection with a period of time means "from and including" and the word "until" means "to but not including";

(h) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer broadly to any and all assets and properties, whether tangible or intangible, real or personal, including cash, securities, rights under contractual obligations and permits and any right or interest in any such assets or property;

(i) accounting terms not specifically defined herein (other than "property" and "asset") shall be construed in accordance with GAAP, subject to Section 1.02;

(j) the word "will" shall have the same meaning as the word "shall";

(k) where any provision in this Agreement or any other Loan Document refers to an action to be taken by any Person, or an action which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or, to the knowledge of such Person, indirectly; and

(l) references to any Lien granted or created hereunder or pursuant to any other Loan Document securing any Obligations shall deemed to be a Lien for the benefit of the Secured Parties.

Unless otherwise expressly provided herein, references to organizational documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto permitted by the Loan Documents. Any definition or reference to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

If any payment required to be made pursuant to the terms and conditions of any Loan Document falls due on a day which is not a Business Day, then such required payment date shall be extended to the immediately following Business Day. For purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Obligors and their Subsidiaries will be deemed to be equal to 100% of the outstanding principal amount thereof or payment obligations with respect thereto at the time of determination thereof, or with respect to any Hedging Agreements, the amount that would be payable if the agreement governing such Hedging Agreements were terminated on the date of termination.

1.04 Division. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws) (a "Division"), if (a) any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its equity interests at such time.

SECTION 2.
THE COMMITMENT AND THE LOANS

2.01 Loans.

(a) On the terms and subject to the conditions of this Agreement, each Lender agrees:

(i) to make Loans to the Borrower in a principal amount equal to the amount of such Lender's Tranche A-1 Commitment on the Closing Date ("***Tranche A-1 Term Loans***");

(ii) to make Loans to the Borrower in a principal amount equal to the amount of such Lender's Tranche A-2 Commitment on the Applicable Funding Date for the Tranche A-2 Term Loans ("***Tranche A-2 Term Loans***");

(iii) to make Loans to the Borrower in a principal amount equal to the amount of such Lender's Tranche B Commitment ("***Tranche B Term Loans***"), on a date specified by the Borrower in accordance with ***Section 2.02*** during the Applicable Availability Period for the Tranche B Loans;

(iv) [reserved];

(v) to make Loans to the Borrower in a principal amount equal to the amount of such Lender's Tranche D Commitment ("***Tranche D Term Loans***"), on a date specified by the Borrower in accordance with ***Section 2.02*** during the Applicable Availability Period for the Tranche D Loans; and

(vi) [reserved].

(b) No amounts paid or prepaid with respect to any Loan may be reborrowed.

(c) Any term or provision hereof (or of any other Loan Document) to the contrary notwithstanding, Loans made to the Borrower will be denominated solely in Dollars and will be repayable solely in Dollars and no other currency.

2.02 Borrowing Procedures. At least five (5) Business Days prior to any Applicable Funding Date (or such shorter period agreed by the Administrative Agent), the Borrower shall deliver to the Administrative Agent an irrevocable Borrowing Notice in the form of **Exhibit B** signed by a duly authorized representative of the Borrower (which notice, if received by the Administrative Agent on a day that is not a Business Day or after 10:00 A.M. (Eastern time) on a Business Day,

shall be deemed to have been delivered on the next Business Day); provided that the Tranche A-2 Term Loans shall be deemed to have been requested by delivery of a Borrowing Notice with respect to the Tranche A-1 Term Loans. Each Borrowing Notice shall be for the full amount of each of the Applicable Commitments and no Borrowing Notice for less than such full amount shall be permitted.

2.03 Funding of Borrowings. Promptly following receipt of any written Borrowing Request the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing. Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof solely by wire transfer of immediately available funds, by 2:00 p.p. New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. Upon receipt of all funds the Administrative Agent will make such Loans available to the Borrower promptly by wire transfer of the amounts so received, in like funds, to an account designated by the Borrower in the applicable Borrowing Request.

2.4 Notes. If requested by any Lender, the Loan of such Lender shall be evidenced by one or more Notes. The Borrower shall prepare, execute and deliver to the Lender such promissory note(s) substantially in the form attached hereto as **Exhibit A**.

2.03 Use of Proceeds. The Borrower shall use the proceeds of the Loans (i) for repaying the Refinanced Facility and (ii) for working capital and general corporate purposes, including the payment of fees and expenses associated with this Agreement.

2.04 Commitment Fees. The Borrower shall pay to the Administrative Agent for the account of the Lenders a commitment fee (the "Commitment Fee") on the full amount of each Applicable Commitment (other than the Tranche A-1 Commitment and the Tranche A-2 Commitment) at a rate per annum equal to 0.60% for the period from and including the day that is ninety (90) days after the Closing Date to (but excluding) the earlier of (i) the date such Applicable Commitment terminates pursuant to **Section 3.04** and (ii) the Applicable Funding Date. Accrued Commitment Fees shall be payable on the termination date of the Applicable Commitment or the Applicable Funding Date, as the case may be.

SECTION 3.
PAYMENTS OF PRINCIPAL AND INTEREST, ETC.

3.01 Scheduled Repayments and Prepayments Generally; Application. The Borrower hereby promises to pay to the Administrative Agent for the account of each Lender (as such amounts may in each case be reduced from time to time in accordance with **Section 3.03**): (a) on each Principal Payment Date other than the Maturity Date, ~~an~~June 30, 2022 and September 30, 2022, a principal amount equal to $2,812,500 ~~and~~, (b) on June 30, 2022, a principal amount equal to $2,500,000, (c) on September 30, 2022, a principal amount equal to $3,125,000 and (d) on the Maturity Date, all outstanding Obligations in full (in each case, together with the Exit Fee, accrued and unpaid interest and any other accrued and unpaid charges thereon and all other obligations due and payable by the Borrower under this Agreement). Except as otherwise provided in this Agreement, each payment (including each repayment and prepayment) by the Borrower (other than fees payable pursuant to the Fee Letter) will be deemed to be made ratably

in accordance with the Lenders' Proportionate Shares. On any date occurring prior to the Maturity Date that payment or prepayment in full of the Loans hereunder occurs, the Borrower shall pay in full all outstanding Obligations, which shall include the Prepayment Fee, if applicable, and the Exit Fee.

3.02 Interest.

(a) **Interest Generally**. The outstanding principal amount of the Loans shall accrue interest from the date made to repayment (whether by acceleration or otherwise and whether voluntary or mandatory) at the Interest Rate.

(b) **Default Interest**. Notwithstanding the foregoing, upon the occurrence and during the continuance of any Event of Default, the Interest Rate shall increase automatically by two percent (2.0%) *per annum* (the Interest Rate, as increased pursuant to this **Section 3.02(b)**, being the "***Default Rate***"). If any Obligation (other than Warrant Obligations but including, without limitation, fees, costs and expenses payable hereunder) is not paid when due (giving effect to any applicable grace period) under any applicable Loan Document, the amount thereof shall accrue interest at the Default Rate.

(c) **Interest Payment Dates**. Accrued interest on the Loans shall be payable in arrears on each Payment Date in cash, and upon the payment or prepayment of the Loans (on the principal amount being so paid or prepaid); provided that interest payable at the Default Rate shall also be payable in cash from time to time on demand by the Administrative Agent.

3.03 Prepayments.

(a) **Optional Prepayments**.

(i) Subject to prior written notice pursuant to **clause (ii)** below, the Borrower shall have the right to optionally prepay in whole or in part the outstanding principal amount of the Loans on any Business Day for an amount equal to the sum of (A) the aggregate principal amount of the Loans being prepaid, (B) any accrued but unpaid interest on the principal amount of the Loans being prepaid, (C) any applicable Prepayment Fee and (D) if applicable, the Exit Fee and other unpaid amounts then due and owing pursuant to this Agreement and the other Loan Documents (such aggregate amount, the "***Prepayment Price***"); provided that each partial prepayment of principal of Loans shall be in an aggregate amount at least equal to $5,000,000 and integral multiples of $1,000,000 in excess thereof.

(ii) A notice of optional prepayment shall be effective only if received by the Administrative Agent not later than 2:00 p.m. (Eastern time) on a date not less than three (3) (nor more than five (5)) Business Days prior to the proposed prepayment date; provided that a notice of optional prepayment may state that such notice is conditional upon the effectiveness of other credit facilities or the receipt of the proceeds from the issuance of other Indebtedness or the occurrence of some other identifiable event or condition, in which case such notice of prepayment may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified date of prepayment) if such condition is not satisfied. Each notice of optional prepayment shall specify the proposed prepayment date, the Prepayment Price, the principal amount to be prepaid and any conditions to prepayment (if applicable).

(b) **Mandatory Prepayments**.

(i) **Mandatory Prepayments for Casualty Events or Asset Sales**. Upon the occurrence of any Casualty Event or Asset Sale (that is not otherwise permitted by **Section 9.09** (other than pursuant to (A) clause (l) thereof or (B) relating to any Permitted License described in clause (G) of the definition thereof)), the Borrower shall make a mandatory prepayment of the Loans in an amount equal to the sum of (i) one hundred percent (100%) of the Net Cash Proceeds received by the Borrower or any of its Subsidiaries with respect to such Asset Sale or insurance proceeds or condemnation awards in respect of such Casualty Event, as the case may be, (ii) any accrued but unpaid interest on any principal amount of the Loans being prepaid and (iii) any applicable Prepayment Fee and Exit Fee; provided that, so long as no Default has occurred and is continuing or shall result therefrom, if, within fifteen (15) Business Days following the occurrence of any such Casualty Event or Asset Sale as a result of which the Borrower or any of its Subsidiaries receives Net Cash Proceeds in an aggregate amount less than $10,000,000 (or, with respect to any Permitted License described in clause (G) of the definition thereof, $30,000,000 in the aggregate over the term of this Agreement), a Responsible Officer of the Borrower delivers to the Administrative Agent a notice to the effect that the Borrower or the applicable Subsidiary intends to apply the Net Cash Proceeds from such Asset Sale or insurance proceeds or condemnation awards in respect of such Casualty Event, to reinvest in the business of the Borrower or any of its Subsidiaries (other than the Klisyri SPV) (a "***Reinvestment***"), then such Net Cash Proceeds of such Asset Sale or insurance proceeds or condemnation awards in respect of such Casualty Event may be applied for such purpose in lieu of such mandatory prepayment to the extent such Net Cash Proceeds of such Asset Sale or insurance proceeds or condemnation awards in respect of such Casualty Event are actually applied for such purpose; provided, further, that, if such Casualty Event or Asset Sale occurs with respect to any Obligor, such Reinvestment shall be made in the business of an Obligor; provided, further, that, in the event that Net Cash Proceeds have not been so applied within three hundred sixty-five (365) days (the "***Reinvestment Period***") following the occurrence of such Casualty Event or Asset Sale (or, if the Borrower or any of its Subsidiaries (other than the Klisyri SPV) has entered into a binding commitment prior to the last day of such Reinvestment Period to reinvest such proceeds no later than one hundred eighty (180) days following the last day of the Reinvestment Period, one hundred eighty (180) days after the expiry of the Reinvestment Period), the Borrower shall no later than the end of such period make a mandatory prepayment of the Loans in an aggregate amount equal to the sum of (i) one hundred percent (100%) of the unused balance of such Net Cash Proceeds received by any Obligor or any of its Subsidiaries with respect to such Asset Sale or insurance proceeds or condemnation awards in respect of such Casualty Event, (ii) any accrued but unpaid interest on any principal amount of the Loans being prepaid and (iii) any applicable Prepayment Fee and Exit Fee.

(ii) **Mandatory Prepayments for Debt Issuances**. Immediately upon receipt by any Obligor or any of its Subsidiaries (other than the Klisyri SPV) of proceeds from any issuance, incurrence or assumption of Indebtedness other than Indebtedness permitted by **Section 9.01**, on or after the Closing Date, the Borrower shall prepay the Loans and other Obligations in an amount equal to 100% of the cash proceeds received, *plus* the Prepayment Fee, if applicable, and the Exit Fee.

(iii) **Mandatory Prepayment for Dunkirk Transaction**. The Borrower shall make the mandatory prepayments required pursuant to Amendment No. 3. Upon making such mandatory prepayments, no additional Prepayment Fee or Exit Fee shall be due in respect of the principal repaid in respect of such prepayments.

(iv) **Mandatory Prepayments for Klisyri Transaction**.

(A) Immediately upon receipt by Borrower of the proceeds from the sale of the Purchased Product Assets (as defined in the Klisyri Revenue Interest Purchase Agreement) to the Klisyri SPV, the Borrower shall prepay the Loans in a principal amount equal to $42,500,000, plus accrued and unpaid interest in respect of the principal amount being repaid, the Exit Fee in respect of the principal amount being repaid and the Prepayment Fee in respect of the principal amount being repaid.

(B) If no Qualified Financing (as defined in the Klisyri Revenue Interest Purchase Agreement) has been consummated by August 5, 2022, then the Borrower shall, within two (2) Business Days following such date, make a mandatory prepayment in cash to the Administrative Agent for the benefit of the Lenders in a principal amount equal to $7,500,000, plus accrued and unpaid interest in respect of the principal amount being repaid, the Exit Fee in respect of the principal amount being repaid and the Prepayment Fee in respect of the principal amount being repaid.

(C) Upon making the mandatory prepayment required pursuant to the foregoing clause (A) or (B), respectively, no additional Prepayment Fee or Exit Fee shall be due in respect of the principal repaid in respect of such prepayment.

(v) ~~(iv)~~ **Notice**. A notice of mandatory prepayment shall be effective only if received by the Administrative Agent not later than 2:00 p.m. (New York City time) on a date not less than one (1) Business Day (or such shorter period agreed by the Administrative Agent) prior to the proposed prepayment date. Each notice of mandatory prepayment shall specify the proposed prepayment date, the Prepayment Price, the principal amount to be prepaid and the subsection under which the prepayment is required.

(c) **Application**. All prepayments of the Loans shall be applied to principal installments on the Loans in the inverse order of maturity.

(d) **Prepayment Fee**. Without limiting the foregoing, whenever the Prepayment Fee is in effect and payable pursuant to the terms hereof or any other Loan Document, such Prepayment Fee shall be payable on each prepayment of all or any portion of the Loans, whether by optional or mandatory prepayment, acceleration or otherwise (other than any prepayment pursuant to **Section 5.02** or any scheduled amortization payment).

(e) **Partial Prepayments**. Prepayments shall be accompanied by accrued interest to the extent required by **Section 3.02**.

3.04 Commitment Termination. Each Applicable Commitment shall terminate automatically without further action upon the earlier of (i) the making by the Lenders of the Loans to which such Applicable Commitment relates on the Applicable Funding Date and (ii) the last day of the

Applicable Availability Period. The Borrower shall have the right at any time or from time to time to terminate in full (but not in part) all the then outstanding Applicable Commitments; provided that the Borrower shall give the Lender at least five (5) Business Days' notice of each such termination. The termination of any Applicable Commitment shall be permanent.

3.05 Exit Fee. Upon any payment or prepayment in full of the Loans hereunder, whether voluntary or involuntary, prior to, on or after the Maturity Date or following the acceleration of the Obligations hereunder, including as a result of the commencement of any Insolvency Proceeding, the Borrower shall pay to each of the Lenders for its own account a fee equal to 2.0% of the aggregate principal amount of Loans provided to the Borrower hereunder on or after the Closing Date and through the date of such payment or prepayment (the "**Exit Fee**"). The Exit Fee shall be earned, due and payable immediately upon any such payment or prepayment, and shall be in addition to any accrued and unpaid interest, reimbursement obligations, Prepayment Fee or other amounts payable in connection therewith.

SECTION 4.
PAYMENTS, ETC.

4.01 Payments.

(a) **Payments Generally**. Each payment of principal, interest and other amounts to be made by the Obligors under this Agreement or any other Loan Document shall be made (i) in Dollars, in immediately available funds, without deduction, set off or counterclaim, to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, to the deposit account of the Administrative Agent designated by the Administrative Agent by notice to the Borrower, and (ii) not later than 2:00 p.m. (Eastern time) on the date on which such payment is due (each such payment made after such time on such due date may, in the Administrative Agent's discretion, be deemed to have been made on the next succeeding Business Day).

(b) **Application of Payments**. Notwithstanding anything herein to the contrary, following the occurrence and continuance of an Event of Default, all payments shall be applied as follows:

(A) first, to the payment of that portion of the Obligations constituting unpaid fees, indemnities, expenses or other amounts (including fees and disbursements and other charges of counsel payable under **Section 14.03**) payable to the Administrative Agent in its capacity as such;

(B) second, to the payment of that portion of the Obligations constituting unpaid fees, indemnities, costs, expenses and other amounts (other than principal and interest, but including fees and disbursements and other charges of counsel payable under **Section 14.03**, any Commitment Fees, Prepayment Fees and any Exit Fees) payable to the Lenders arising under the Loan Documents (other than the Warrant), ratably among them in proportion to the respective amounts described in this **clause (B)** payable to them;

(C) third, to the payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, ratably among the Lenders in proportion to the respective amounts described in this **clause (C)** payable to them;

(D) fourth, to the payment of that portion of the Obligations constituting unpaid principal of the Loans, ratably among the Lenders in proportion to the respective amounts described in this **clause (D)** payable to them;

(E) fifth, in reduction of any other Obligation then due and owing, ratably among the Administrative Agent and the Lenders based upon the respective aggregate amount of all such Obligations owing to them in accordance with the respective amounts thereof then due and payable; and

(F) sixth, the balance, if any, after all Obligations have been indefeasibly paid in full, to the Borrower or such other Person as may be lawfully entitled to or directed by the Borrower to receive the remainder.

(c) **Non-Business Days**. If the due date of any payment under this Agreement (whether in respect of principal, interest, fees, costs or otherwise) would otherwise fall on a day that is not a Business Day, such date shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall continue to accrue and be payable for the period of such extension; provided that if such next succeeding Business Day would fall after the Maturity Date, payment shall be made on the immediately preceding Business Day.

4.02 Computations. All computations of interest and fees hereunder shall be computed on the basis of a year of three hundred and sixty (360) days and actual days elapsed during the period for which payable.

4.03 Set-Off.

(a) **Set-Off Generally**. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent, each of the Lenders and each of their Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by the Administrative Agent, any Lender and any of their Affiliates to or for the credit or the account of any Obligor against any and all of the Obligations, whether or not such Person shall have made any demand and although such obligations may be unmatured. Any Person exercising rights of set off hereunder agrees promptly to notify the Borrower after any such set-off and application; provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Administrative Agent, the Lenders and each of their Affiliates under this **Section 4.03** are in addition to other rights and remedies (including other rights of set-off) that such Persons may have.

(b) **Exercise of Rights Not Required**. Nothing contained in **Section 4.03(a)** shall require the Administrative Agent, any Lender or any of their Affiliates to exercise any such right

or shall affect the right of such Persons to exercise, and retain the benefits of exercising, any such right with respect to any other indebtedness or obligation of any Obligor.

(c) **Payments Set Aside.** To the extent that any payment by or on behalf of any Obligor is made to the Administrative Agent or any Lender, or the Administrative Agent, any Lender or any Affiliate of the foregoing exercises its right of setoff pursuant to this **Section 4.03**, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such Lender or such Affiliate in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any Insolvency Proceeding or otherwise, then (i) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (ii) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Effective Rate from time to time in effect.

SECTION 5.
YIELD PROTECTION, TAXES, ETC.

5.01 Additional Costs.

(a) **Change in Law Generally**. If, on or after the date hereof (or, with respect to any Lender, such later date on which such Lender becomes a party to this Agreement), the adoption of any Law, or any change in any Law, or any change in the interpretation or administration thereof by any court or other Governmental Authority charged with the interpretation or administration thereof, or compliance by the Administrative Agent or any of the Lenders (or its lending office) with any request or directive (whether or not having the force of law) of any such Governmental Authority, shall impose, modify or deem applicable any reserve (including any such requirement imposed by the Board of Governors of the Federal Reserve System), special deposit, contribution, insurance assessment or similar requirement, in each case that becomes effective after the date hereof (or, with respect to any Lender, such later date on which such Lender becomes a party to this Agreement), against assets of, deposits with or for the account of, or credit extended by, a Lender (or its lending office) or shall impose on a Lender (or its lending office) any other condition affecting the Loans or the Commitment, and the result of any of the foregoing is to increase the cost to such Lender of making or maintaining the Loans, or to reduce the amount of any sum received or receivable by such Lender under this Agreement or any other Loan Document, or subject any Lender to any Taxes on its Loan, Commitment or other obligations, or its deposits, reserves, other liabilities or capital (if any) attributable thereto by an amount reasonably deemed by such Lender in good faith to be material (other than (i) Indemnified Taxes, (ii) Taxes described in **clauses (ii)** through **(iv)** of the definition of Excluded Taxes and (iii) Connection Income Taxes), then the Borrower shall pay to such Lender on demand such additional amount or amounts as will compensate such Lender for such increased cost or reduction.

(b) **Change in Capital Requirements**. If a Lender shall have determined that, on or after the date hereof (or, with respect to any Lender, such later date on which such Lender becomes a party to this Agreement), the adoption of any Law regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or any request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, in each case that becomes effective after the date hereof (or, with respect to any Lender, such later date on which such Lender becomes a party to this Agreement), has or would have the effect of reducing the rate of return on capital of a Lender (or its parent) as a consequence of a Lender's obligations hereunder or the Loans to a level below that which a Lender (or its parent) could have achieved but for such adoption, change, request or directive by an amount reasonably deemed by it to be material, then the Borrower shall pay to such Lender on demand such additional amount or amounts as will compensate such Lender (or its parent) for such reduction.

(c) **Notification by Lender**. Each Lender promptly will notify the Borrower of any event of which it has knowledge, occurring after the date hereof (or, with respect to any Lender, such later date on which such Lender becomes a party to this Agreement), which will entitle such Lender to compensation pursuant to this **Section 5.01**. Before giving any such notice pursuant to this **Section 5.01(c)** such Lender shall designate a different lending office if such designation (x) will, in the reasonable judgment of such Lender, avoid the need for, or reduce the amount of, such compensation and (y) will not, in the reasonable judgment of such Lender, be materially disadvantageous to such Lender. A certificate of such Lender claiming compensation under this **Section 5.01**, setting forth the additional amount or amounts to be paid to it hereunder, shall be conclusive and binding on the Borrower in the absence of manifest error.

(d) Notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to constitute a change in Law for all purposes of this **Section 5.01**, regardless of the date enacted, adopted or issued.

5.02 Illegality. Notwithstanding any other provision of this Agreement, in the event that on or after the date hereof (or, with respect to any Lender, such later date on which such Lender becomes a party to this Agreement) the adoption of or any change in any Law or in the interpretation or application thereof by any competent Governmental Authority shall make it unlawful for a Lender or its lending office to make or maintain the Loans (and, in the opinion of such Lender, the designation of a different lending office would either not avoid such unlawfulness or would be disadvantageous to such Lender), then such Lender shall promptly notify the Borrower thereof, following which if such Law shall so mandate, the Loans shall be prepaid by the Borrower on or before such date as shall be mandated by such Law in an amount equal to the Prepayment Price (notwithstanding anything herein to the contrary, without any Prepayment Fee or Exit Fee) applicable on such prepayment date in accordance with **Section 3.03(a)**.

5.03 Taxes.

(a) **Payments Free of Taxes**. Any and all payments by or on account of any Obligation shall be made without deduction or withholding for any Taxes, except as required by any Law. If any Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Laws and, if such Tax is an Indemnified Tax, then the sum payable by such Obligor shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this **Section 5**) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) **Payment of Other Taxes by the Borrower**. The Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable Laws, or at the option of the Administrative Agent or each Lender, timely reimburse it for the payment of any Other Taxes.

(c) **Evidence of Payments**. As soon as practicable after any payment of Taxes by the Borrower to a Governmental Authority pursuant to this **Section 5**, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment.

(d) **Indemnification by the Borrower**. The Borrower shall reimburse and indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this **Section 5**) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender shall be conclusive absent manifest error.

(e) **Indemnification by the Lender**. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), and (ii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the

Lender from any other source against any amount due to the Administrative Agent under this **Section 5.03(e)**.

(f) **Status of Lenders**.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Law as reasonably requested by the Borrower as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two (2) sentences, the completion, execution and submission of such documentation (other than such documentation set forth in **Section 5.03(f)(ii)(A), (ii)(B),** and **(ii)(D)**) shall not be required if in such Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

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

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

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

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E as applicable (or successor forms) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E as applicable (or successor forms) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed copies of IRS Form W-8ECI (or successor form);

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of **Exhibit D-1** to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code (a "***U.S. Tax Compliance Certificate***") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E as applicable (or successor forms); or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY (or successor form), accompanied by IRS Form W-8ECI (or successor form), IRS Form W-8BEN or IRS Form W-8BEN-E (or successor form), a U.S. Tax Compliance Certificate, substantially in the form of **Exhibit D-2** or **D-3**, IRS Form W-9 (or successor form), and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of **Exhibit D-4** on behalf of each such direct and indirect partner.

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable Laws as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Laws to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this **clause (D)**, "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) **Treatment of Certain Tax Benefits**. If any party to this Agreement determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this **Section 5** (including by the payment of additional amounts pursuant to this **Section 5**), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this **Section 5** with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this **Section 5.03(g)** (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this **Section 5.03(g)**, in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this **Section 5.03(g)** the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This **Section 5.03(g)** shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

5.04 Mitigation Obligations. If the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or to any Governmental Authority for the account of any Lender pursuant to **Section 5.01** or this **Section 5.03**, then such Lender shall (at the request of the Borrower) use commercially reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign and delegate its rights and obligations hereunder to another of its offices, branches or Affiliates if, in the sole reasonable judgment of such Lender, such designation or assignment and delegation would (i) eliminate or reduce amounts payable pursuant to **Section 5.01** or this **Section 5.03**, as the case may be, in the future, (ii) not subject such Lender to any unreimbursed cost or expense and (iii) not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment and delegation.

5.05 Survival. Each party's obligations under this **Section 5** shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all Obligations under any Loan Document.

SECTION 6.
CONDITIONS

6.01 Conditions to the Borrowing of the Tranche A Loans. Subject to Section 8.19, the obligation of each Lender to make its Tranche A Loans shall be subject to the delivery of a Borrowing Notice as required pursuant to **Section 2.02**, and the prior or concurrent satisfaction or waiver of each of the conditions precedent set forth below in this **Section 6.01**.

(a) **Loan Documents**. The Administrative Agent shall have received each Loan Document required to be executed by the appropriate Obligor on the Closing Date and delivered by each applicable Obligor in such number as reasonably requested by the Administrative Agent (which may be delivered by facsimile or other electronic means for the purposes of satisfying this clause (a) on the Closing Date) and such Loan Documents shall be in form and substance satisfactory to the Administrative Agent and the Lenders and their respective counsels.

(b) **Secretary's Certificate, Etc.** The Administrative Agent shall have received from each Obligor (x) a copy of a good standing certificate, dated a date reasonably close to the Closing Date, for each such Person and (y) a certificate, dated as of the Closing Date, duly executed and delivered by such Person's Responsible Officer, as to:

(i) resolutions of each such Person's Board then in full force and effect authorizing the execution, delivery and performance of each Loan Document to be executed by such Person and the Transactions;

(ii) the incumbency and signatures of Responsible Officers authorized to execute and deliver each Loan Document to be executed by such Person; and

(iii) the full force and validity of each Organic Document of such Person and copies thereof;

upon which certificates shall be in form and substance reasonably satisfactory to the Administrative Agent and upon which the Administrative Agent and the Lenders may conclusively rely until they shall have received a further certificate of the Responsible Officer of any such Person cancelling or amending the prior certificate of such Person.

(c) **Information Certificate**. The Administrative Agent shall have received a fully completed Information Certificate in form and substance reasonably satisfactory to the Administrative Agent, dated as of the Closing Date, duly executed and delivered by a Responsible Officer of the Borrower. All documents and agreements required to be appended to the Information Certificate, shall be in form and substance reasonably satisfactory to the Administrative Agent, shall have been executed and delivered by the requisite parties and shall be in full force and effect.

(d) **Funding Date Certificate**. The Administrative Agent shall have received a Funding Date Certificate, dated as of the Closing Date and in form and substance reasonably satisfactory to the Administrative Agent, duly executed and delivered by a Responsible Officer of the Borrower.

(e) **Delivery of Notes**. The Administrative Agent shall have received a Note to the extent requested by any Lender pursuant to **Section 2.04** for the Tranche A Loans duly executed and delivered by a Responsible Officer of the Borrower.

(f) **Financial Information, Etc.** The Administrative Agent shall have received, or such information shall be publicly available on "EDGAR":

(i) audited consolidated financial statements of the Borrower and its Subsidiaries for the fiscal year ended December 31, 2019; and

(ii) unaudited consolidated balance sheets of the Borrower and its Subsidiaries for the fiscal quarter ended March 31, 2020 together with the related consolidated statement of operations, shareholder's equity and cash flows for such fiscal quarter.

(g) **Solvency**. The Administrative Agent shall have received a solvency certificate, substantially in the form of **Exhibit K**, duly executed and delivered by the chief accounting officer of the Borrower, dated as of the Closing Date, in form and substance reasonably satisfactory to the Administrative Agent.

(h) **Security Documents**. The Administrative Agent shall have received executed counterparts of a Security Agreement, in form and substance reasonably acceptable to the Administrative Agent, dated as of the Closing Date, duly executed and delivered by each Obligor, together with all documents (including share certificates, transfers and stock transfer forms, notices or any other instruments) required to be delivered or filed under the Security Documents and evidence satisfactory to it that arrangements have been made with respect to all registrations, notices or actions required under the Security Documents to be effected, given or made in order to establish a valid and perfected first priority security interest in the Collateral in accordance with the terms of the Security Documents, including:

(i) delivery of all certificates (in the case of Equity Interests that are certificated securities (as defined in the UCC)) evidencing the issued and outstanding capital securities owned by each Obligor that are required to be pledged and so delivered under the Security Agreement, which certificates in each case shall be accompanied by undated instruments of transfer duly executed in blank, or, in the case of Equity Interests that are uncertificated securities (as defined in the UCC), confirmation and evidence reasonably satisfactory to the Administrative Agent and the Lenders that the security interest required to be pledged therein under the Security Agreement has been transferred to and perfected by the Administrative Agent and the Lenders in accordance with Articles 8 and 9 of the NY UCC and all laws otherwise applicable to the perfection of the pledge of such Equity Interests;

(ii) financing statements naming each Obligor as a debtor and the Administrative Agent as the secured party, or other similar instruments or documents, in each case suitable for filing, filed under the UCC (or equivalent law) of all jurisdictions as may be necessary or, in the opinion of the Administrative Agent, desirable to perfect the Liens of the Secured Parties pursuant to the Security Agreement;

(iii) UCC-3 termination statements, if any, necessary to release all Liens and other rights of any Person in any collateral described in the Security Agreement previously granted by any Person; and

(iv) all applicable Short-Form IP Agreements required to be provided under the Security Agreement, each dated as of the Closing Date, duly executed and delivered by each applicable Obligor.

(i) **Lien Searches**. The Administrative Agent shall be satisfied with Lien searches regarding the Borrower and the Subsidiary Guarantors made as of a date reasonably close to the Closing Date.

(j) **Warrant**. The Administrative Agent shall have received an executed counterpart of the Warrant.

(k) **Opinions of Counsel**. The Administrative Agent shall have received a duly executed legal opinion of counsel to the Obligors dated as of the Closing Date, in form and substance reasonably acceptable to the Administrative Agent.

(l) **Fee Letter**. The Administrative Agent shall have received an executed counterpart of the Fee Letter, duly executed and delivered by the Borrower.

(m) **Closing Fees, Expenses, Etc**. Each of the Administrative Agent and each Lender shall have received for its own account, (i) the upfront fee as set forth in the Fee Letter, which shall be paid by way of the Administrative Agent retaining such amount from the proceeds of the Loan and (ii) all fees, costs and expenses due and payable to it pursuant to the Fee Letter and **Section 14.03**, including all reasonable closing costs and fees and all unpaid reasonable expenses of the Administrative Agent and the Lenders incurred in connection with the Transactions (including the Administrative Agent's and the Lenders' legal fees and expenses) in an amount not to exceed $350,000, in each case, to the extent invoiced (or as to which a good faith estimate has been provided to the Borrower) at least two (2) Business Days prior to the Closing Date.

(n) **Material Adverse Change**. Since December 31, 2019, no Material Adverse Change shall have occurred, both before and after giving effect to the Loans to be made on the Closing Date.

(o) **Know Your Customer**. The Administrative Agent shall have received, as applicable, all documentation and other information required by bank regulatory authorities under applicable "know your customer" and Anti-Terrorism Laws.

(p) **No Default**. No event shall have occurred or be continuing or would result from the making of the Tranche A Loans that would constitute a Default or Event of Default.

(q) **Representations and Warranties**. The representations and warranties contained in this Agreement and in the other Loan Documents delivered pursuant to 6.01(a) shall be true and correct in all material respects (unless such representations are already qualified by reference to materiality, Material Adverse Effect or similar language, in which case such representations and warranties shall be true and correct in all respects) on and as of the Closing Date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties shall have been true and correct in all respects on and as of such earlier date.

(r) **Payoff of Existing Credit Facility**. The Refinanced Facility (other than contingent obligations (including indemnification obligations) that by their terms are to survive the termination of the relevant loan documentation and debt instruments evidencing the Refinanced Facility) shall have been (or substantially concurrently with the making of the Tranche A Loans

on the Closing Date shall be) repaid or satisfied and discharged, and in connection therewith all guarantees and liens shall have been released, on or prior to the Closing Date.

(s) **Beneficial Ownership Certificate**. To the extent requested by any Lender or the Administrative Agent, the Borrower shall have provided to such Lender and the Administrative Agent all documentation and other information so requested, including a duly executed W-9 of the Borrower (or such other applicable tax form), in connection with applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act, and if the Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, a Beneficial Ownership Certification, in each case prior to the Closing Date.

6.02 Conditions to the Borrowing of All Other Loans. The obligation of each Lender to make all Loans (other than the Tranche A Term Loans) shall be subject to the delivery of a Borrowing Notice as required pursuant to **Section 2.02**, and the prior or concurrent satisfaction or waiver of each of the conditions precedent set forth below in this **Section 6.02**:

(a) **Applicable Funding Date Certificate**. The Administrative Agent shall have received a Funding Date Certificate dated as of the Applicable Funding Date, duly executed and delivered by a Responsible Officer of the Borrower.

(b) **Delivery of Notes**. The Administrative Agent shall have received a Note to the extent requested by any Lender pursuant to **Section 2.04** for the Loans made on such Applicable Funding Date duly executed and delivered by a Responsible Officer of the Borrower.

(c) **Solvency**. The Administrative Agent shall have received a solvency certificate, substantially in the form of **Exhibit K**, duly executed and delivered by the chief accounting officer of the Borrower, dated as of the Applicable Funding Date, in form and substance reasonably satisfactory to the Administrative Agent.

(d) **Fees, Expenses, Etc.** Each of the Administrative Agent and each Lender shall have received for its own account all Commitment Fees and other fees, costs and expenses due and payable to it on or prior to the Applicable Funding Date pursuant to the Fee Letter, **Section 2.06** and **Section 14.03**, including all reasonable closing costs and fees and all unpaid reasonable expenses of the Administrative Agent and the Lenders incurred in connection with the Transactions (including the Administrative Agent's and the Lenders' legal fees and expenses) in each case, to the extent invoiced (or as to which a good faith estimate has been provided to the Borrower) at least two (2) Business Days prior to the Applicable Funding Date.

(e) **No Default**. No event shall have occurred or be continuing or would result from the making of the Loans on the Applicable Funding Date that would constitute a Default or Event of Default.

(f) **Representations and Warranties**. The representations and warranties contained in this Agreement and in the other Loan Documents delivered pursuant to **Section 6.016.01(a*)*** shall be true and correct in all material respects (unless such representations are already qualified by reference to materiality, Material Adverse Effect or similar language, in which case such representations and warranties shall be true and correct in all respects) on and as of the Applicable Funding Date, except to the extent such representations and warranties specifically

relate to an earlier date, in which case such representations and warranties shall have been true and correct in all respects on and as of such earlier date.

(g) **Applicable Funding Condition**. The Applicable Funding Condition shall have been satisfied in form and substance reasonably satisfactory to the Administrative Agent and the Oaktree Lender.

(h) **Applicable Availability Period**. The Loans shall be borrowed on or prior to the last day of the Applicable Availability Period.

SECTION 7.
REPRESENTATIONS AND WARRANTIES

The Borrower and each other Obligor hereby jointly and severally represents and warrants to the Administrative Agent and each Lender on the Closing Date and each date on which a Loan is advanced pursuant to Section 2.01, and any other date such representation and warranty is required to be made under the Loan Documents, as set forth below:

7.01 Power and Authority. Each Obligor and each of its Subsidiaries (i) is duly organized and validly existing under the laws of its jurisdiction of organization, (ii) has all requisite corporate or other power, and has all Governmental Approvals necessary to own its assets and carry on its business as now being or as proposed to be conducted, except to the extent that failure to have the same could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (iii) is qualified to do business and is in good standing in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary except where failure so to qualify could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, and (iv) has full power, authority and legal right to enter into and perform its obligations under each of the Loan Documents to which it is a party and, in the case of the Borrower, to borrow the Loans hereunder.

7.02 Authorization; Enforceability. Each Transaction to which an Obligor is a party (or to which it or any of its assets or properties is subject) are within such Obligor's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational action including, if required, approval by all necessary holders of Equity Interests. This Agreement has been duly executed and delivered by each Obligor and constitutes, and each of the other Loan Documents to which it is a party when executed and delivered by such Obligor will constitute, a legal, valid and binding obligation of such Obligor, enforceable against such Obligor in accordance with its terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, reorganization, moratorium or similar laws of general applicability affecting the enforcement of creditors' rights and (ii) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

7.03 Governmental and Other Approvals; No Conflicts. None of the execution, delivery and performance by each Obligor of the Loan Documents to which it is a party or the consummation by each Obligor of the Transactions (i) requires any Governmental Approval of, registration or filing with, or any other action by, any Governmental Authority or any other Person, except for

(x) such as have been obtained or made and are in full force and effect and (y) filings and recordings in respect of perfecting or recording the Liens created pursuant to the Security Documents, (ii) will violate (1) any Law, (2) any Organic Document of any Obligor or any of its Subsidiaries or (3) any order of any Governmental Authority, that in the case of **clause (ii)(1)** or **clause (ii)(3)**, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect, (iii) will violate or result in a default under any Material Agreement binding upon any Obligor or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect or (iv) will result in the creation or imposition of any Lien (other than Permitted Liens) on any asset of any Obligor or any of its Subsidiaries.

7.04 Financial Statements; Material Adverse Change.

(a) **Financial Statements**. The Borrower has heretofore furnished to the Administrative Agent (who shall forward to the Lenders) consolidated financial statements required to be delivered pursuant to this Agreement. Such financial statements present fairly, in all material respects, the consolidated financial position and results of operations and cash flows of the Borrower and its Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements of the type described in **Section 8.01(a)**.

(b) **No Material Adverse Change**. Since December 31, 2019, there has been no Material Adverse Change; provided, that for purposes of this **Section 7.04(b)**, the impacts of the COVID-19 pandemic on the business, operations or financial condition of the Borrower and its Subsidiaries that (x) occurred prior to the Closing Date and (y) were disclosed in public filings made with the SEC or in writing to the Administrative Agent and the Lenders, in each case prior to the Closing Date, shall be disregarded.

7.05 Properties.

(a) **Property Generally**. Each Obligor and each of its Subsidiaries has good and marketable fee simple title to, or valid leasehold interests in, all its real and personal property material to its business, including all properties and assets, whether tangible or intangible, relating to its Products or Product Commercialization and Development Activities and all Material Intellectual Property, subject only to Permitted Liens and except for minor defects in title that (i) do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes and (ii) could not reasonably be expected to prevent or interfere with the ability of any Obligor or any of its Subsidiaries to conduct any Product Commercialization and Development Activities with respect to any of its Products in any material respect.

(b) **Intellectual Property**.

(i) The Obligors are the sole and exclusive beneficial owners of all right, title and interest in and to all Material Intellectual Property and all other Intellectual Property that is owned or purported to be owned by the Obligors, free and clear of any Liens or Claims other

than Permitted Liens. Without limiting the foregoing, and except as set forth in **Schedule 7.05(b)(i)**:

(A) other than (1) customary restrictions in in-bound licenses of Intellectual Property and non-disclosure agreements, or (2) as would have been or is permitted by **Section 9.09**, there are no judgments, covenants not to sue, grants, Liens (other than Permitted Liens), or other Claims, agreements or arrangements relating to any Material Intellectual Property, which materially restrict any Obligor or any of its Subsidiaries with respect to its use, enforcement, or other exploitation of any Material Intellectual Property in connection with such Person's Product Commercialization and Development Activities;

(B) the operation and conduct of the business of by the Borrower or any of its Subsidiaries, including their use of their respective Material Intellectual Property in such Person's Ordinary Course does not, in any material respect, violate, infringe or constitute a misappropriation of any valid rights arising under any Intellectual Property of any other Person;

(C) (1) there are no material pending Claims, or Claims threatened in writing against any Obligor or any of its Subsidiaries asserted by any other Person relating to any of such Person's Intellectual Property, including any Claims of adverse ownership, invalidity, infringement, misappropriation, or violation of such Person's Intellectual Property in any material respect; and (2) neither any Obligor nor any of their Subsidiaries has received any notice from, or Claim by, any Person that the operation and conduct of the business of the Borrower or any of its Subsidiaries (including their use of Material Intellectual Property), or any Product Commercialization and Development Activities with respect to any Product, infringes upon, violates or constitutes a misappropriation of, any Intellectual Property of any other Person in any material respect, other than in the case of clause (1) and (2) Claims and notices of infringement, misappropriation, or violation of Intellectual Property arising out of the ordinary course of Borrower's generics business and not material to the Borrower's businesses, as a whole;

(D) no Obligor has knowledge that any Material Intellectual Property is being infringed, violated, or misappropriated by any other Person in any material respect; and neither such Obligor nor any of its Subsidiaries has put any other Person on notice of such actual or potential infringement, violation or misappropriation of any such Material Intellectual Property, and neither any Obligor nor any of their Subsidiaries has not initiated the enforcement of any Claim with respect to any such Material Intellectual Property;

(E) to the knowledge of the Obligors and their Subsidiaries, all current and former employees and contractors that have developed Material Intellectual Property for or on behalf of any Obligor or any of its Subsidiaries have executed written confidentiality and invention assignment Contracts with such Obligor or Subsidiary, as applicable, that irrevocably and presently assign to such Obligor or Subsidiary, as applicable, or its designee all rights of such employees and contractors to any such Material Intellectual Property, except as would vest initially in the Obligor or its Subsidiary by operation of Law;

(F) each Obligor and each of its Subsidiaries has taken reasonable precautions to protect the secrecy, confidentiality and value of its Material Intellectual Property consisting of trade secrets and confidential information; and

(ii) With respect to Material Intellectual Property consisting of Patents, except as set forth in **Schedule 7.05(b)(ii)**, and without limiting the representations and warranties in **Section 7.05(b)(i)**:

(A) each of the issued claims in such Patents is valid and enforceable;

(B) subsequent to the issuance of such Patents, no Obligor nor any of its Subsidiaries or predecessors-in-interest, has filed any disclaimer or made or permitted any other voluntary reduction in the scope of the Inventions claimed in such Patents;

(C) to the knowledge of the Obligor, no allowable or allowed subject matter of such Patents is subject to any competing conception claims of allowable or allowed subject matter of any patent applications or patents of any third party and have not been the subject of any interference, and are not and have not been the subject of any re-examination, opposition or any other post-grant proceedings, nor is any Obligor or its Subsidiaries aware of any basis for any such interference, re-examination, opposition, *inter partes* review, post grant review, or any other post-grant proceedings;

(D) no such Patents have ever been finally adjudicated to be invalid, unpatentable or unenforceable for any reason in any administrative, arbitration, judicial or other proceeding, and, with the exception of publicly available documents in the applicable patent office with respect to any such Patents, no Obligor nor any of its Subsidiaries has received any written notice asserting that such Patents are invalid, unpatentable or unenforceable;

(E) all maintenance fees, annuities, and the like due or payable on or with respect to any such Patents have been timely paid or the failure to so pay could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

(iii) The Obligors own or hold rights to use all Intellectual Property necessary to conduct the ongoing Product Commercialization and Development Activities relating to the Products, in all material respects (and provided that the foregoing will not be construed as a representation or warranty with respect to non-infringement of Intellectual Property).

7.06 No Actions or Proceedings.

(a) **Litigation**. There is no litigation, investigation or proceeding pending or, to the knowledge of any Obligor or any of its Subsidiaries threatened in writing, with respect to such Obligor or any such Subsidiaries by or before any Governmental Authority or arbitrator that, (i) if adversely determined, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or (ii) involves this Agreement or any other Loan Document.

(b) **Environmental Matters**. Except with respect to any matters that (either individually or in the aggregate) could not reasonably be expected to result in a Material Adverse Effect and as set forth on Schedule 7.06(b), no Obligor nor any of its Subsidiaries (i) has failed to

comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received any Environmental Claim, or has knowledge that any is threatened, (iv) has entered into any agreement in which such Obligor or any Subsidiary has assumed or undertaken responsibility or obligations of any other person with respect to any Environmental Liability or (v) has knowledge of any basis for any other Environmental Liability.

(c) **Labor Matters**. No Obligor or any of its Subsidiaries has engaged in unfair labor practices as defined in 29 U.S.C. § §152(8) and 158 of the National Labor Relations Act and there are no pending or threatened in writing labor actions, disputes, grievances, arbitration proceedings, or similar Claims or actions involving the employees of any Obligor or any of its Subsidiaries, in each case that could reasonably be expected to have a Material Adverse Effect. There are no strike or work stoppages in existence or threatened in writing against any Obligor ant to the knowledge of such Obligor, no union organizing activity is taking place. There are no collective bargaining agreements covering employees of any Obligor or any of its Subsidiaries.

7.07 Compliance with Laws and Agreements.

(a) Each Obligor is in compliance with all Laws and all Contracts binding upon it or its property, except where the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing. The Obligors and their Subsidiaries are, and all Product Commercialization and Development Activities of such Persons are being conducted, in material compliance with all applicable Healthcare Laws.

(b) To the knowledge of the Obligors and their respective Subsidiaries, any physician, other licensed healthcare professional, or any other Person who is in a position to refer patients or other business to the Borrower, any other Obligor or any Subsidiaries (collectively, a "***Referral Source***") who has a direct ownership, investment, or financial interest in the Borrower, any other Obligor or any such Subsidiary paid fair market value for such ownership, investment or financial interest; any ownership or investment returns distributed to any Referral Source is in proportion to such Referral Source's ownership, investment or financial interest; and no preferential treatment or more favorable terms were or are offered to such Referral Source compared to investors or owners who are not in a position to refer patients or other business. No Obligor, nor any of its Subsidiaries, directly or indirectly, has or will guarantee a loan, make a payment toward a loan or otherwise subsidize a loan for any Referral Source including, without limitation, any loans related to financing the Referral Source's ownership, investment or financial interest in the Borrower, any other Obligor or any such Subsidiary.

(c) Without limiting the generality of the foregoing:

(i) To the knowledge of the Obligors and their respective Subsidiaries (after due inquiry), on the one hand, and any Referral Source, on the other hand (a) comply, in all material respects, with all applicable Healthcare Laws including, without limitation, the Federal Anti-Kickback Statute, the Stark Law and other applicable anti-kickback and self-referral laws, whether U.S. or non-U.S.; (b) reflect fair market value, have commercially reasonable terms, and were negotiated at arm's length; and (c) do not obligate the Referral Source to purchase, use,

recommend or arrange for the use of any products or services of any Obligor or any of its Subsidiaries; and

(ii) each Obligor and each of its Subsidiaries have implemented policies and procedures to monitor, collect, and report any payments or transfers of value to certain healthcare providers and teaching hospitals, in accordance, in all material respects, with industry standards and the Affordable Care Act of 2010 and the Physician Payments Sunshine Act and their implementing regulations and state disclosure and transparency laws.

7.08 Taxes. Except as set forth on **Schedule 7.08**, each Obligor and its Subsidiaries has timely filed or caused to be filed all tax returns and reports required to have been filed and has paid or caused to be paid all taxes required to have been paid by it, except (a) taxes that are being contested in good faith by appropriate proceedings and for which such Obligor or such Subsidiary, as applicable, has set aside on its books adequate reserves with respect thereto in accordance with GAAP or (b) to the extent that the failure to do so would not reasonably be expected to have an Material Adverse Effect.

7.09 Full Disclosure. None of the reports, financial statements, certificates or other written information furnished by or on behalf of the Obligors or any of their Subsidiaries to the Administrative Agent (on behalf of itself and the Lenders) in connection with the negotiation of this Agreement and the other Loan Documents or delivered hereunder or thereunder (as modified or supplemented by other information so furnished) contains any material misstatement of material fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time, and it being understood that such projected financial information and all other forward looking information are not to be viewed as facts and that actual results during the period or periods covered thereby may differ from such projected results and that the differences may be material.

7.10 Investment Company Act and Margin Stock Regulation.

(a) **Investment Company Act**. No Obligor is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

(b) **Margin Stock**. No Obligor is engaged principally, or as one of its important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying Margin Stock, and no part of the proceeds of the Loans will be used to buy or carry any Margin Stock in violation of Regulation T, U or X.

7.11 Solvency. The Obligors, on a consolidated basis, are and, immediately after giving effect to the making of the Loans, the use of proceeds thereof, and the consummation of the Transactions, will be, Solvent.

7.12 Subsidiaries. Set forth on **Schedule 7.12** is a complete and correct list of all direct and indirect Subsidiaries of the Borrower. Each such Subsidiary is duly organized and validly existing under the jurisdiction of its organization shown in said **Schedule 7.12**, and the

percentage ownership by each Obligor of each such Subsidiary thereof is as shown in said **Schedule 7.12**.

7.13 Indebtedness and Liens. Set forth on **Schedule 7.13(a)** is a complete and correct list of all Indebtedness of each Obligor and each of its Subsidiaries outstanding as of the Closing Date. Set forth on **Schedule 7.13(b)** is a complete and correct list of all Liens granted by the Obligors and each of their respective Subsidiaries with respect to their respective property and outstanding as of the Closing Date.

7.14 Material Agreements. Except as set forth on **Schedule 7.14**, no Obligor or any of its Subsidiaries is in material default under any Material Agreement, nor does any Obligor have knowledge of (i) any Claim against it or any of its Subsidiaries for any material breach of any such Material Agreement or (ii) any material default by any party to any such Material Agreement.

7.15 Restrictive Agreements. Except as set forth in **Schedule 7.15**, as of the Closing Date, no Obligor or any of its Subsidiaries is subject to any Restrictive Agreement, except (i) those permitted under **Section 9.11**, (ii) restrictions and conditions imposed by Law or by this Agreement, (iii) any stockholder agreement, charter, by-laws, or other organizational documents of an Obligor or any of its Subsidiaries as in effect on the date hereof and (iv) limitations associated with Permitted Liens.

7.16 Real Property. **Schedule 7.16** correctly sets forth all real property that is owned or leased by the Obligors, indicating in each case whether the respective property is owned or leased, the identity of the owner and lessee (if applicable) and the location of the respective property. Except as set forth in **Schedule 7.16**, no Obligor owns or leases (as tenant thereof) any real property as of the Closing Date.

7.17 Pension Matters. **Schedule 7.17** sets forth, as of the Closing Date, a complete and correct list of, and that separately identifies, (i) all Title IV Plans, (ii) all Multiemployer Plans and (iii) all material Benefit Plans. Each Benefit Plan, and each trust thereunder, intended to qualify for tax exempt status under Section 401 or 501 of the Code or other Laws so qualifies. Except for those that could not, in the aggregate, reasonably be expected to result in a Material Adverse Effect, (x) each Benefit Plan is in compliance with applicable provisions of ERISA, the Code and other Laws, (y) there are no existing or pending (or to the knowledge of any Obligor or any of its Subsidiaries, threatened) claims (other than routine claims for benefits in the normal course), sanctions, actions, lawsuits or other proceedings or investigation involving any Benefit Plan to which any Obligor or Subsidiary thereof incurs or otherwise has or could have an obligation or any liability or Claim and (z) no ERISA Event is reasonably expected to occur. The Borrower and each of its ERISA Affiliates has met all applicable requirements under the ERISA Funding Rules with respect to each Title IV Plan, and no waiver of the minimum funding standards under the ERISA Funding Rules has been applied for or obtained. As of the most recent valuation date for any Title IV Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is at least sixty percent (60%), and neither any Obligor nor any of its ERISA Affiliates knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage to fall below sixty percent (60%) as of the most recent valuation date. As of the Closing Date, no ERISA Event has occurred in connection with

which obligations and liabilities (contingent or otherwise) remain outstanding. No ERISA Affiliate would have any Withdrawal Liability as a result of a complete withdrawal from any Multiemployer Plan on the date this representation is made.

7.18 Regulatory Approvals.

(a) Each Obligor and each of its Subsidiaries holds, and will continue to hold, either directly or through licensees and agents, all Product Authorizations necessary or required for the Borrower and each of its Subsidiaries to conduct, in all material respects, their respective operations and businesses in the manner currently conducted and to conduct its Product Commercialization and Development Activities.

(b) No Obligor or its Subsidiaries has received any written notice from the FDA or any Governmental Authority that (i) it is considering suspending, revoking or materially limiting any Product Authorization or (ii) it is not likely to approve any applications made to such Governmental Authority with respect to any of the Products or any Material Agreement. The Obligors and their Subsidiaries have made all material required and notices, registrations and reports (including field alerts or other reports of adverse experiences) and other filings with respect to each such Person's Products and Product Commercialization and Development Activities.

(c) Except as set forth on **Schedule 7.18(c)**, and without limiting the generality of any other representation or warranty made by any Obligor hereunder or under any other Loan Document: (i) no Obligor, nor any of its Subsidiaries nor, to the knowledge of any Obligor, any of their respective agents, suppliers, licensors or licensees have received any inspection reports, warning letters or notices or similar documents with respect to any Product or any Product Commercialization and Development Activities from any Regulatory Authority within the last two (2) years that asserts material lack of compliance with any applicable Healthcare Laws or Product Authorizations; (ii) no Obligor, nor any of its Subsidiaries nor, to the knowledge of any Obligor, any of their respective agents, suppliers, licensors or licensees have received any material notification from any Regulatory Authority within the last two (2) years, asserting that any Product or any Product Commercialization and Development Activities lacks a required Product Authorization; (iii) there is no pending regulatory action, investigation or inquiry (other than non-material routine or periodic inspections or reviews) against any Obligor, any of its Subsidiaries or, to the knowledge of any Obligor, any of their respective suppliers, licensors or licensees with respect to any Product or any Product Commercialization and Development Activities, and, to the knowledge of any Obligor, there is no basis in fact for any material adverse regulatory action against such Obligor or any of its Subsidiaries or, to the knowledge of any Obligor, any of their respective suppliers agents, licensors or licensees with respect to any Product or any Product Commercialization and Development Activities; and (iv) without limiting the foregoing, (A) (1) there have been no material product recalls, safety alerts, corrections, withdrawals, marketing suspensions, removals or the like conducted, undertaken or issued by any Obligor or any of its Subsidiaries, whether voluntary, at the request, demand or order of any Regulatory Authority or otherwise, with respect to any Product, any Product Commercialization and Development Activities or any Product Authorization within the last two (2) years, (2) no such product recall, safety alert, correction, withdrawal, marketing suspension, removal or the like has been requested, demanded or ordered by any Regulatory Authority within

the last two (2) years, and, to the knowledge of any Obligor, there is no basis in fact for the issuance of any such product recall, safety alert, correction, withdrawal, marketing suspension, removal or the like with respect to any Product or any Product Commercialization and Development Activities, and (B) no criminal, injunctive, seizure, detention or civil penalty action has been commenced or threatened in writing by any Regulatory Authority within the last two (2) years with respect to or in connection with any Product or any Product Commercialization and Development Activities, and there are no consent decrees (including plea agreements) that relate to any Product or any Product Commercialization and Development Activities, and, to the knowledge of each Obligor, there is no basis in fact for the commencement of any criminal injunctive, seizure, detention or civil penalty action by any Regulatory Authority relating to any Product or any Product Commercialization and Development Activities or for the issuance of any consent decree. No Obligor nor any of its Subsidiaries, nor, to the knowledge of any Obligor, any of their respective agents, suppliers, licensees or licensors, is employing or utilizing the services of any individual, in connection with Product Commercialization and Development Activities, who has been debarred from any federal healthcare program.

7.19 Transactions with Affiliates. Except as set forth on **Schedule 7.19** or permitted by **Section 9.10**, no Obligor nor any of its Subsidiaries has entered into, renewed, extended or been a part to, any transaction (including the purchase, sale, lease, transfer or exchange of property or assets of any kind or the rendering of services of any kind) with any Affiliate.

7.20 OFAC; Anti-Terrorism Laws.

(a) Neither the Borrower nor any of its Subsidiaries is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the Anti-Terrorism Laws.

(b) Neither the Borrower nor any of its Subsidiaries, nor, to the knowledge of the Borrower, any of their respective directors, officers, or employees (i) is currently the target of any Sanctions, (ii) is located, organized or residing in any Designated Jurisdiction in violation of Sanctions, or (iii) is or has been (within the previous five (5) years) engaged in any transaction with, or for the benefit of, any Person who is now or was then the target of Sanctions or who is located, organized or residing in any Designated Jurisdiction, in violation of Sanctions. No Loan, nor the proceeds from any Loan, has been or will be used, directly or, to the knowledge of the Borrower, indirectly, to lend, contribute or provide to, or has been or will be otherwise made available for the purpose of funding, any activity or business in any Designated Jurisdiction in violation of Sanctions or for the purpose of funding any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, in violation of Sanctions, or in any other manner that will result in any violation by any party to this Agreement of Sanctions.

7.21 Anti-Corruption. Neither the Borrower nor any of its Subsidiaries, nor, to the knowledge of the Borrower, any of their respective directors, officers or employees, directly or, to the knowledge of the Borrower, indirectly, has (i) materially violated or is in material violation of any applicable anti-corruption Law, or (ii) made, offered to make, promised to make or authorized the payment or giving of, directly or, to the knowledge of the Borrower, indirectly, any Prohibited Payment.

7.22 [Reserved].

7.23 Priority of Obligations. The Obligations constitute unsubordinated obligations of the Obligors, and except for any obligations which have priority under applicable Law, rank at least pari passu in right of payment with all other unsubordinated Indebtedness of the Obligors.

7.24 Royalty and Other Payments. Except as set forth on **Schedule 7.24**, no Obligor, nor any of its Subsidiaries, is obligated to pay any royalty, milestone payment, deferred payment or any other contingent payment in respect of any Product.

7.25 Non-Competes. Neither the Borrower, any other Obligor, nor any of their respective Subsidiaries, nor any of their respective directors, officers or employees, is subject to a non-compete agreement that prohibits or will interfere with any of the Product Commercialization and Development Activities, including the development, commercialization or marketing of any Product.

7.26 [Reserved].

7.27 Reimbursement from Medical Reimbursement Programs. Each Obligor has the requisite provider number to bill Medicare (to the extent such Person participates in Medicare), the respective Medicaid program in the state or states in which such Person operates (to the extent such Person participates in the Medicaid program in such state or states), and all other commercial payor programs currently bills. There is no investigation, audit, claim review, or other action pending with respect to any Obligor or, to the knowledge of any Obligor, threatened in writing which could reasonably be expected to result in a revocation, suspension, termination, probation, restriction, limitation, or non-renewal of any provider number issued to any Obligor or result in the exclusion of any Obligor from Medicare or Medicaid, nor is there any action pending or, to any Obligor's knowledge, threatened in writing, pursuant to which any Governmental Authority seeks to impose material sanctions with respect to such Obligor's business.

SECTION 8.
AFFIRMATIVE COVENANTS

Each Obligor covenants and agrees with the Administrative Agent and the Lenders that, until the Commitments have expired or been terminated and all Obligations (other than Warrant Obligations and inchoate indemnification and expense reimbursement obligations for which no claim has been made) have been indefeasibly paid in full in cash:

8.01 Financial Statements and Other Information. The Borrower will furnish to the Administrative Agent:

(a) as soon as available and in any event within forty-five (45) days after the end of the first three (3) fiscal quarters of each fiscal year (i) the consolidated balance sheets of the Borrower and its Subsidiaries as of the end of such fiscal quarter and (ii) the related consolidated statements of income, shareholders' equity and cash flows of the Borrower and its Subsidiaries for such quarter and the portion of the fiscal year through the end of such fiscal quarter, in each case prepared in accordance with GAAP consistently applied, all in reasonable detail and setting

forth in comparative form the figures for the corresponding period in the preceding fiscal year, together with (iii) a certificate of a Responsible Officer of the Borrower stating that (x) such financial statements fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as at such date and (y) the results of operations of the Borrower and its Subsidiaries for the period ended on such date have been prepared in accordance with GAAP consistently applied, subject to changes resulting from normal, year-end audit adjustments and except for the absence of notes; provided that documents required to be furnished pursuant to this Section **8.01(a)** shall be deemed furnished on the date that such documents are publicly available on "EDGAR" (with the related certificate separately delivered);

(b) as soon as available and in any event within ninety (90) days after the end of each fiscal year (i) the consolidated balance sheets of the Borrower and its Subsidiaries as of the end of such fiscal year and (ii) the related consolidated statements of income, shareholders' equity and cash flows of the Borrower and its Subsidiaries for such fiscal year, in each case prepared in accordance with GAAP consistently applied, all in reasonable detail and setting forth in comparative form the figures for the previous fiscal year, accompanied by a report and opinion thereon of Deloitte & Touche LLP or another firm of independent certified public accountants of recognized national standing reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and, commencing with the first such financial statements required to be delivered under this Section 8.01(b) in which the Borrower reports revenue in respect of sales of Oral Paclitaxel, such report and opinion shall not be subject to any "going concern" or like qualification or exception or emphasis of matter of going concern footnote or any qualification or exception as to the scope of such audit, and in the case of such consolidated financial statements, certified by a Responsible Officer of the Borrower; provided that documents required to be furnished pursuant to this Section **8.01(b)** shall be deemed furnished on the date that such documents are publicly available on "EDGAR";

(c) together with the financial statements required pursuant to **8.01(a)** and **(b)**, a compliance certificate signed by the chief financial or accounting Responsible Officer of the Borrower as of the end of the applicable accounting period (which delivery may be by electronic communication including fax or email and shall be deemed to be an original, authentic counterpart thereof for all purposes) substantially in the form of **Exhibit E** (a "***Compliance Certificate***") including (i) details of any issues that are material that are raised by auditors and any occurrence or existence of any event, circumstance, act or omission that would cause any representation or warranty contained in **Section 7.07**, **Section 7.18** or **Section 7.23** to be incorrect in any material respect (or in any respect if such representation or warranty is qualified by materiality or by reference to Material Adverse Effect or Material Adverse Change) if such representation or warranty were to be made at the time of delivery of a Compliance Certificate and (ii) (A) prior to the Revenue Covenant Termination Date, (x) the calculation of the Consolidated Leverage Ratio as of the last day of the fiscal period to which the financial statements so delivered relate and (y) a certification as to whether or not the Borrower is in compliance with the Minimum Revenue Covenant as of the last day of such period, and (B) beginning with the first fiscal quarter of the Borrower following the Revenue Covenant Termination Date, a certification as to whether or not the Borrower is in compliance with the Leverage Ratio Covenant. For the avoidance of doubt, no representation or warranty contained in

Section 7 (including **Section 7.07**, **Section 7.18** or **Section 7.23**) is required to be, shall be or shall be deemed to be made in connection with a delivery of any Compliance Certificate;

(d) after being prepared by the Borrower and approved by its Board, and promptly following the Administrative Agent's request therefor, a consolidated financial forecast for the Borrower and its Subsidiaries for the fiscal year to which such forecast relates; provided that, for each fiscal year, on or before the sixtieth (60th) day following the beginning of such fiscal year, the Borrower shall prepare, and its Board shall approve such consolidated financial forecast for such fiscal year, and the Borrower shall notify the Administrative Agent promptly after the Board has given such approval;

(e) promptly after the same are released, copies of all press releases; provided that documents required to be furnished pursuant to this Section **8.01(e)** shall be deemed furnished on the date that such documents are publicly available on "EDGAR";

(f) promptly, and in any event within five (5) Business Days after receipt thereof by an Obligor thereof, copies of each notice or other correspondence received from any securities regulator or exchange to the authority of which the Borrower may become subject from time to time concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of such Obligor; provided that documents required to be furnished pursuant to this Section **8.01(f)** shall be deemed furnished on the date that such documents are publicly available on "EDGAR";

(g) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of each Obligor and its Subsidiaries, and copies of all annual, regular, periodic and special reports and registration statements which any Obligor or its Subsidiaries may file or be required to file with any securities regulator or exchange to the authority of which such Obligor or such Subsidiary, as applicable, may become subject from time to time; provided that documents required to be furnished pursuant to this Section **8.01(g)** shall be deemed furnished on the date that such documents are publicly available on "EDGAR";

(h) the information regarding insurance maintained by the Borrower and its Subsidiaries as required under **Section 8.05**;

(i) as soon as possible and in any event within five (5) Business Days after the Borrower obtains knowledge of any Claim related to any Product or inventory involving more than $2,500,000 (or the Equivalent Amount in other currencies), written notice thereof from a Responsible Officer of the Borrower which notice shall include a statement setting forth details of such return, recovery, dispute or claim;

(j) together with the delivery of the Compliance Certificate, evidence satisfactory to the Administrative Agent, based upon the Borrower's bank account statements that the Borrower has met its minimum liquidity requirement set out in **Section 10.01**; and

(k) such other information respecting the businesses, financial performance, operations condition of the assets or liabilities of the Obligors (including with respect to the

Collateral), taken as a whole, as the Administrative Agent may from time to time reasonably request.

8.02 Notices of Material Events. The Borrower will furnish to the Administrative Agent written notice of the following (x) with respect to **clause (a)** below within three (3) Business Days and (y) with respect to **clause (b)** through **(m)** below, within five (5) Business Days, in each case, after a Responsible Officer of the Borrower first learns of or acquires knowledge with respect to:

(a) the occurrence of any Default or Event of Default;

(b) the occurrence of any event with respect to the property or assets of the Borrower or any of its Subsidiaries resulting in a Loss aggregating $2,500,000 (or the Equivalent Amount in other currencies) or more;

(c) (i) any proposed acquisition of stock, assets or property by the Borrower or any of its Subsidiaries that could reasonably be expected to result in material Environmental Liability, and (ii) any spillage, leakage, discharge, disposal, leaching, migration or release of any Hazardous Material by the Borrower or any of its Subsidiaries required to be reported to any Governmental Authority and that would reasonably be expected to result in material Environmental Liability;

(d) the assertion of any Claim under any Environmental Law by any Person against, or with respect to the activities of, the Borrower or any of its Subsidiaries and any alleged liability or non-compliance with any Environmental Laws or any permits, licenses or authorizations issued pursuant to Environmental Laws which could reasonably be expected to involve damages in excess of $2,500,000 (or the Equivalent Amount in other currencies) other than any such Claim or alleged violation that would not (either individually or in the aggregate) reasonably be expected to have a Material Adverse Effect;

(e) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any of its Affiliates that would reasonably be expected to result in a Material Adverse Effect;

(f) (i) the intention of any ERISA Affiliate to file any notice of intent to terminate any Title IV Plan, a copy of such notice and (ii) the filing by any ERISA Affiliate of a request for a minimum funding waiver under Section 412 of the Code with respect to any Title IV Plan or Multiemployer Plan, in each case in writing and in reasonable detail (including a description of any action that any ERISA Affiliate proposes to take with respect thereto, together with a copy of any notice filed with the PBGC or the IRS pertaining thereto);

(g) (i) the termination of any Material Agreement or any Permitted License in clause (D) or (G) of the definition thereof other than in accordance with its terms and not as a result of a breach or default, (ii) the receipt by the Borrower or any of its Subsidiaries of any notice of a material breach or default under any Material Agreement (and a copy thereof) or any Permitted License in clause (D) or (G) of the definition thereof asserting a default by such Obligor or any of its Subsidiaries where such alleged default would permit such counterparty to terminate such Material Agreement, (iii) the entering into of (A) any new Material Agreement by any Obligor (and a copy thereof) or (B) any Permitted License in clause (D) or (G) of the definition thereof or

(iv) any material amendment to a Material Agreement or any Permitted License in clause (D) or (G) of the definition thereof that would be adverse in any material respect to the Lenders (and a copy thereof); provided, that the Borrower shall not be required to provide such notice if such documents become publicly available on "EDGAR" within the time period notice would otherwise be required pursuant to this **Section 8.02**;

(h) any material change in accounting policies or financial reporting practices by the Borrower or any of its Subsidiaries;

(i) any labor controversy resulting in or threatening to result in any strike, work stoppage, boycott, shutdown or other material labor disruption against or involving an Obligor;

(j) any licensing agreement or arrangement entered into by the Borrower or any of its Subsidiaries in connection with any Claim of infringement or alleged infringement by or against the Borrower or any of its Subsidiaries of any Intellectual Property of another Person; provided that such agreement or arrangement would otherwise qualify as a Material Agreement hereunder;

(k) the creation, development or other acquisition (including any in-bound exclusive licenses) of any Material Intellectual Property by the Borrower or any Subsidiary after the Closing Date that is registered or becomes registered or the subject of an application for registration with any Governmental Authority; provided that, with respect to any such Material Intellectual Property created, developed or acquired (including through any in-bound exclusive license) in any fiscal year, notice thereof pursuant to this **Section 8.02(k)** shall be made in accordance with the timing of the financial statements for such fiscal year required pursuant to **Section 8.01(b)**;

(l) any change to any Obligor's or any of its Subsidiaries' ownership of any Controlled Account, by delivering the Administrative Agent a notice setting forth a complete and correct list of all such accounts as of the date of such change; and

(m) any other development that results in a Material Adverse Effect.

Each notice delivered under this **Section 8.02** shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto. Nothing in this **Section 8.02** is intended to waive, consent to or otherwise permit any action or omission that is otherwise prohibited by this Agreement or any other Loan Document.

8.03 Existence. Such Obligor shall, and shall cause each of its Subsidiaries to, preserve, renew and maintain in full force and effect its legal existence; provided that the foregoing shall not prohibit any merger, amalgamation, consolidation, liquidation or dissolution permitted under **Section 9.03**.

8.04 Payment of Obligations. Such Obligor will, and will cause each of its Subsidiaries to, pay and discharge its obligations, including (i) all material Taxes, fees, assessments and governmental charges or levies imposed upon it or upon its properties or assets prior to the date on which penalties attach thereto, and all lawful claims for labor, materials and supplies which, if unpaid, might become a Lien upon any properties or assets of the Borrower or any of its

Subsidiaries, except to the extent such Taxes, fees, assessments or governmental charges or levies or such claims are being contested in good faith by appropriate proceedings and are adequately reserved against in accordance with GAAP and (ii) all lawful claims which, if unpaid, would by law become a Lien upon its property not constituting a Permitted Lien.

8.05 Insurance. Such Obligor will, and will cause each of its Subsidiaries to maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses. Upon the request of the Administrative Agent, the Borrower shall furnish the Administrative Agent from time to time with (i) material information as to the insurance carried by it and, if so requested, copies of all such insurance policies and (ii) a certificate from the Borrower's insurance broker or other insurance specialist stating that all premiums then due on the policies relating to insurance on the Collateral have been paid and that such policies are in full force and effect. Receipt of notice of termination or cancellation of any such insurance policies or reduction of coverages or amounts thereunder shall entitle the Secured Parties to renew any such policies, cause the coverages and amounts thereof to be maintained at levels required pursuant to the first sentence of this **Section 8.05** or otherwise to obtain similar insurance in place of such policies, in each case, the Borrower will be responsible for the reasonable and documented cost of such insurance (to be payable on demand). The amount of any such reasonable and documented expenses shall accrue interest at the Default Rate if not paid on demand and shall constitute "Obligations."

8.06 Books and Records; Inspection Rights. Such Obligor will, and will cause each of its Subsidiaries to, keep proper books of record and account in which full, true and correct (in all material respects) entries are made of all dealings and transactions in relation to its business and activities. Such Obligor will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent or the Lenders, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition (financial or otherwise) with its officers and independent accountants, during normal business hours (but not more often than once per quarter unless an Event of Default has occurred and is continuing) as the Administrative Agent or the Lenders may request; provided that such representative shall use its commercially reasonable efforts to minimize disruption to the business and affairs of the Borrower as a result of any such visit, inspection, examination or discussion. Notwithstanding anything to the contrary contained herein, no Obligor nor any of its Subsidiaries will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes trade secrets or proprietary information, (ii) in respect of which disclosure to any Lender (or their respective representatives or contractors) is prohibited by any applicable Law or any binding agreement with a third party (so long as such agreement is not entered into in contemplation of this Agreement) or (iii) that is subject to attorney-client or similar privilege, which could reasonably be expected to be lost or forfeited if disclosed to the Administrative Agent or any Lender. The Borrower shall pay all reasonable and documented costs of all such inspections.

8.07 Compliance with Laws and Other Obligations. Such Obligor will, and will cause each of its Subsidiaries to, (i) comply with all Laws (including Anti-Terrorism Laws, Sanctions and Environmental Laws) applicable to it and its business activities, (ii) comply in all material

respects with all Healthcare Laws and Governmental Approvals (including Product Authorizations) applicable to it and its business activities and (iii) maintain in full force and effect, remain in compliance with, and perform all obligations under all Material Agreement to which it is a party, except, in the case of **clause (i)** and **(iii)** above, where the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Within 60 days after the Closing Date, each Obligor shall institute (if not already in effect) and thereafter maintain in effect and enforce policies and procedures reasonably designed to promote compliance by such Obligor, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Terrorism Laws and Sanctions.

8.08 Maintenance of Properties, Etc. Such Obligor shall, and shall cause each of its Subsidiaries to, maintain and preserve all of its assets and properties, including all assets and properties, whether tangible or intangible, relating to its Products or Product Commercialization and Development Activities, necessary or useful in the conduct of its business in good working order and condition in accordance with the general practice of other Persons of similar character and size, ordinary wear and tear and damage from casualty or condemnation excepted and except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

8.09 Licenses. Such Obligor shall, and shall cause each of its Subsidiaries to, obtain and maintain all Governmental Approvals necessary in connection with the execution, delivery and performance of the Loan Documents, the consummation of the Transactions or the operation and conduct of its business and ownership of its properties (including its Product Commercialization and Development Activities), except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

8.10 Debt Service Reserve Account. From the Closing Date until the Maturity Date, the Borrower shall at all times fund and maintain cash in a segregated debt service reserve account (the "Debt Service Reserve Account"), in an amount equal to at least the amount required to pay interest on the Loans for a period of the next twelve (12) months; provided that from the Closing Date until the earlier of (x) the Account Control Agreement Completion Date and (y) the date on which a control agreement in respect of the Debt Service Reserve Account is executed, the Borrower may satisfy this requirement by designating such amount of cash on its balance sheet as a reserved amount. Subject to **Section 8.19(a)**, the Debt Service Reserve Account shall at all times be a Controlled Account.

8.11 Use of Proceeds. The proceeds of the Loans will be used only as provided in **Section 2.05**. No part of the proceeds of the Loans will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board of Governors of the Federal Reserve System, including Regulations T, U and X.

8.12 Certain Obligations Respecting Subsidiaries; Further Assurances.

(a) **Subsidiary Guarantors, etc**. Subject to **clauses (c), (d)** and **(~~d~~e)** below, in the event that the Borrower or any of its Subsidiaries shall form or acquire any new Subsidiary, the Borrower shall promptly (and in any event within thirty (30) calendar days):

(i) cause such new Subsidiary to become a "Subsidiary Guarantor" hereunder pursuant to a Guarantee Assumption Agreement and a "Grantor" under the Security Agreement;

(ii) take such action or cause such Subsidiary to take such action (including joining the Security Agreement and delivering shares of stock together with undated transfer powers executed in blank, applicable control agreements and other instruments) as shall be reasonably necessary or desirable or reasonably requested by the Administrative Agent in order to create and perfect, in favor of the Administrative Agent, for the benefit of the Secured Parties, valid and enforceable first priority Liens on substantially all of the personal property of such new Subsidiary as collateral security for the Obligations hereunder; provided that any such security interest or Lien shall be subject to the relevant requirements of the Security Documents and the Intercompany Subordination Agreement;

(iii) to the extent that the parent of such Subsidiary is not a party to the Security Agreement or has not otherwise pledged Equity Interests in its Subsidiaries in accordance with the terms of the Security Agreement and this Agreement, cause the parent (if possible) of such Subsidiary to execute and deliver a pledge agreement in favor of the Administrative Agent, for the benefit of the Secured Parties, in respect of all outstanding issued shares of such Subsidiary;

(iv) deliver such proof of corporate action, incumbency of officers, and other applicable documents as is consistent with those delivered by each Obligor pursuant to **Section 6.01** or as the Administrative Agent shall reasonably request; and

(v) cause each new Subsidiary (other than any Subsidiary that is neither an Obligor nor a Pledged Entity) to become a party to the Intercompany Subordination Agreement.

(b) **Further Assurances**. Subject to **clauses (c), (d)** and **(~~d~~e)** below:

(i) such Obligor will take such action from time to time as shall reasonably be requested by the Administrative Agent to effectuate the purposes and objectives of this Agreement and the Security Agreement; and

(ii) in the event that such Obligor acquires Intellectual Property during the term of this Agreement, then the provisions of this Agreement and the Security Agreement shall and hereby does automatically apply thereto and any such Intellectual Property shall automatically constitute part of the Collateral under the Security Documents, without further action by any party, in each case from and after the date of such acquisition; and

(iii) without limiting the generality of the foregoing, each Obligor will, and will cause each Person that is required to be a Subsidiary Guarantor to, take such action from time to time (including joining the Security Agreement and delivering shares of stock together with undated transfer powers executed in blank, applicable control agreements and other instruments) as shall be reasonably requested by the Administrative Agent to create, in favor of the Secured Parties, perfected security interests and Liens in substantially all of the personal property (other than Excluded Assets (as defined in the Security Agreement)) of such Obligor as collateral security for the Obligations; provided that any such security interest or Lien shall be subject to the relevant requirements of the Security Documents; provided, further that, without limiting the

right of the Administrative Agent to require a Lien or security interest in any newly acquired or created Subsidiary or asset, upon the prior written request of the Borrower, the Borrower and the Administrative Agent shall consult, in good faith, as to whether the cost of obtaining a Lien or security interest thereon would be unreasonably excessive relative to the benefit thereof.

(c) **CFCs, etc**. Notwithstanding any term or provision of this Agreement to the contrary notwithstanding, (x) no Subsidiary that is a (i) CFC, (ii) CFC Holding Company or (iii) Domestic Subsidiary of either of the foregoing, shall be required to become a Subsidiary Guarantor, and (y) the Obligors shall not be required to pledge (or cause to be pledged) to the Administrative Agent, for the benefit of the Secured Parties, Equity Interests of any Subsidiary representing, in the aggregate, more than sixty-five percent (65%) of the Equity Interests of any CFC or CFC Holding Company.

(d) **Limitations on Certain Obligations**. Notwithstanding anything to the contrary contained in this Agreement or any other Loan Document, no Obligor shall be required to enter into or obtain any mortgage, deed of trust, leasehold mortgage or any similar agreement in respect to any fee interest or leasehold interest in real property.

(e) **Klisyri SPV**. Notwithstanding any term or provision of this Agreement to the contrary notwithstanding, (x) the Klisyri SPV shall not be required to become a Subsidiary Guarantor, and (y) the Obligors shall not be required to pledge (or cause to be pledged) to the Administrative Agent, for the benefit of the Secured Parties, Equity Interests of the Klisyri SPV.

8.13 Termination of Non-Permitted Liens. In the event that any Obligor shall become aware of, or be notified by the Administrative Agent or any Lender of the existence of, any outstanding Lien against any assets or property of such Obligor or any of its Subsidiaries, which Lien is not a Permitted Lien, such Obligor shall use its commercially reasonable efforts to promptly terminate or cause the termination of such Lien.

8.14 Board Materials; Oaktree Lender Board Observer.

(a) (i)The Borrower shall deliver to the Administrative Agent copies of any agenda and other written materials provided to the board of directors (or any committee thereof) of the Borrower prior to any meeting of the board of directors (or such committee thereof), at or reasonably promptly after such materials are furnished to the members of the board of directors (or such committee thereof), (ii) copies of all minutes of meetings of the board of directors (or any committee thereof) of the Borrower at or promptly after such minutes are furnished to the members of the board of directors (or such committee thereof), (iii) copies of all material written consents duly passed by the board of directors (or any committee thereof) of the Borrower and (iv) promptly upon presentation of any regular periodic materials to the board of directors (or any committee thereof) of the Borrower reporting on the current, past or future financial performance and business and operations of the Borrower or any of its Subsidiaries (which shall include, among other things, development updates with respect to material Products, and updates with respect to material events relating to other Material Agreements), copies of such materials shall be delivered to the Administrative Agent; provided that any such material may be redacted by the Borrower to (A) exclude information pertaining to the Borrower's strategy regarding the Loans, (B) preserve attorney-client privilege or (C) protect individually identifiable health

information (as defined under HIPAA) or other confidential information relating to healthcare patients; provided, further that such redactions are restricted so as to be only as extensive as is reasonably necessary in order to exclude information described in clauses (A), (B) or (C).

(b) Upon the request of the Oaktree Lender, the Borrower shall permit a single designee of the Oaktree Lender to be a board observer to the Borrower or any committee thereof performing such functions (the "**Board Observer**"). In such capacity, the Board Observer shall be entitled to attend all meetings of the board of directors of the Borrower and any committee thereof. The Borrower shall ensure that the Board Observer is invited to each such meeting at the same time as each other member of the board of directors and that such Board Observer receives all board materials at the same time as each other member of the board of directors; provided that any such material may be redacted by Borrower, and Borrower may exclude the Board Observer from meetings of the board of directors or any committee thereof, in order to (i) prevent the Board Observer from receiving or learning information relating to the Borrower's strategy regarding the Loans, (ii) preserve attorney-client privilege or (iii) protect individually identifiable health information (as defined under HIPAA) or other confidential information relating to healthcare patients; provided, further, that such redactions and the exclusion of the Board Observer are restricted so as to be only as extensive as is reasonably necessary in order to exclude or prevent access to the Board Observer to information described in clauses (i), (ii) or (iii). If appointed, the Board Observer may resign or withdraw at any time, or, at the request of the Oaktree Lender, be replaced by a designee of the Oaktree Lender that is reasonably acceptable to the Borrower.

8.15 [Reserved].

8.16 Maintenance of Regulatory Approvals, Contracts, Intellectual Property, Etc.

. With respect to the Products and all Product Commercialization and Development Activities, such Obligor will, and will cause each of its Subsidiaries (to the extent applicable) to, (i) maintain in full force and effect all Regulatory Approvals, Material Agreements, Material Intellectual Property and other rights, interests or assets (whether tangible or intangible) reasonably necessary for the operations of such Person's business, except as would not reasonably be expected to have a Material Adverse Effect, (ii) maintain in full force and effect, and pay all costs and expenses relating to, such Regulatory Approvals, Material Agreements and Material Intellectual Property owned, used or controlled by such Obligor or any such Subsidiary that are used in or necessary for any related Product Commercialization and Development Activities, except as would not be reasonably expected to have a Material Adverse Effect, (iii) promptly after obtaining knowledge thereof, notify the Administrative Agent of any infringement or other violation by any Person of such Obligor's or any such Subsidiaries' Material Intellectual Property, and use commercially reasonable efforts to stop, curtail or abate such infringement if determined appropriate by the Borrower in the exercise of its business judgment and (iv) promptly after obtaining knowledge thereof, notify the Administrative Agent of any Claim by any Person that the conduct of the business of any Obligor or any of its Subsidiaries, including in connection with any Product Commercialization and Development Activities, has infringed upon any Intellectual Property of such Person, where such Claim could reasonably be expected to have a Material Adverse Effect.

8.17 ERISA Compliance. Such Obligor shall comply, and shall cause each of its Subsidiaries to comply, with the provisions of ERISA with respect to any Plans to which such Obligor or such Subsidiary is a party as an employer in all material respects.

8.18 Cash Management. Such Obligor shall, and shall cause each of its Subsidiaries (other than the Klisyri SPV) to:

(a) maintain at all times after the Account Control Agreement Completion Date both (i) an aggregate amount of cash of the Borrower and its Subsidiaries at least equal to the Minimum Liquidity Amount and (ii) no less than 70% of the aggregate amount of cash of the Borrower and its Subsidiaries (excluding any cash held by Axis Therapeutics or the Klisyri SPV, and deeming any cash paid pursuant to the XPH License Agreement being held in China that is due to be repatriated to the United States as cash held in a deposit account in the U.S. subject to the Administrative Agent's control solely to the extent (A) the amount of such deemed cash does not exceed at any time 10% of such aggregate amount, (B) the Borrower or one of its Subsidiaries is diligently pursuing any necessary or advisable applications with relevant Governmental Authorities to enable the repatriation of the funds to the United States, as evidenced to the reasonable satisfaction of the Administrative Agent and (C) such cash is repatriated to the United States within 20 Business Days of the receipt thereof), in each case, in deposit accounts, disbursement accounts, investment accounts (and other similar accounts) and lockboxes with a bank or financial institution within the U.S. which, subject to **Section 8.19(a)**, has executed and delivered to the Administrative Agent an account control agreement, in form and substance reasonably acceptable to the Administrative Agent (each such deposit account, disbursement account, investment account (or similar account) and lockbox, a "***Controlled Account***"); each such Controlled Account shall be a cash collateral account, with all cash, checks and other similar items of payment in such account securing payment of the Obligations, and each Obligor shall have granted a Lien to the Administrative Agent, for the benefit of the Secured Parties, over such Controlled Accounts;

(b) deposit promptly, and in any event no later than five (5) Business Days after the date of receipt thereof, all cash, checks, drafts or other similar items of payment relating to or constituting payments made in respect of any and all accounts and other rights and interests into Controlled Accounts; and

(c) at any time after the occurrence and during the continuance of an Event of Default, at the request of the Administrative Agent, each Obligor shall cause all payments constituting proceeds of accounts to be directed into lockbox accounts under agreements in form and substance satisfactory to the Administrative Agent

8.19 Post-Closing Obligations.

(a) **Controlled Accounts.** Within sixty (60) days following the Closing Date (or such longer period of time as agreed by the Administrative Agent in its sole discretion) (the "**Account Control Agreement Completion Date**"), the Administrative Agent shall have received evidence that (i) all deposit accounts, lockboxes, disbursement accounts, investment accounts or other similar accounts (other than Excluded Accounts) of each Obligor located within the U.S. are Controlled Accounts and (ii) such Controlled Accounts are subject to one or

more account control agreements, in favor of, and satisfactory in form and substance to, the Administrative Agent that (A) ensures, to the extent necessary under applicable Law, the perfection of a first priority security interest in favor of the Administrative Agent on such Controlled Account, (B) provides that, upon written notice from the Administrative Agent, such bank or financial institution shall comply with instructions originated by the Administrative Agent directing disposition of the funds in such Controlled Account without further consent by the applicable Obligor, and (C) may not be terminated without prior written consent of Agent.

(b) **Financial Covenant Compliance**. On the Account Control Agreement Completion Date, the Administrative Agent shall have received written evidence reasonably satisfactory to it that, as of the Account Control Agreement Completion Date, the Borrower is in compliance with **Section 10.01** and **Section 8.18(a)**.

(c) **Real Property Security Documents**. Within sixty (60) days following the Closing Date (or such longer period of time as agreed by the Administrative Agent in its sole discretion), the Borrower shall use commercially reasonable efforts to obtain (i) Landlord Consents with respect to (w) the lease of Athenex Pharma Solutions, LLC for property located at 11342 Main Street, Clarence, New York 14031, (x) the lease of the Borrower for property located at Coventus Building, 1001 Main Street, Suite 600, Buffalo, New York 14203 and (y) the lease of the Borrower for property located at 20 Commerce Drive, Suite 100, Cranford, NJ 07016 and (z) the lease of by Athenex Pharma Solutions LLC for property located at 1953 Kenmore Ave., Building # 7, Buffalo, NY 14217 and (ii) Bailee Letters from (x) Dohmen Life Science Services in respect of inventory of Athenex Pharmaceutical Division, LLC at 4580 S. Mendenhall Road, Memphis, Tennessee 38141 and from the lessor of the property located 10 N. Martingale Road, Suite 230, Shaumburg, IL 60173 and (y) Speed Global Services in respect of inventory of Athenex, Inc. located at 1953 Kenmore Ave., Building # 7, Buffalo, NY 14217.

(d) **Intercompany Subordination Agreement**. Within thirty (30) days following the Closing Date (or such longer period of time as agreed by the Administrative Agent in its sole discretion), the Obligors shall, and shall cause its Subsidiaries to, duly execute and deliver the Intercompany Subordination Agreement or such other subordination agreement in form and substance reasonably satisfactory to the Administrative Agent.

(e) **Insurance**. Within thirty (30) days following the Closing Date (or such longer period of time as agreed by the Administrative Agent in its sole discretion), all such insurance policies required pursuant to each Loan Document shall name the Administrative Agent (for its benefit and the benefit of the Lenders) loss payee or additional insured, as applicable, and provide that no cancellation of the policies will be made without at least ten (10) days prior written notice to the Administrative Agent and the Administrative Agent shall have received certified copies of such insurance policies (or binders in respect thereof).

(f) **Foreign Law Security Documents**. Within sixty (60) days following the Closing Date (or such longer period of time as agreed by the Administrative Agent in its sole discretion), the Borrower shall (i) duly execute and deliver foreign law Security Documents in form and substance reasonably satisfactory to the Administrative Agent pursuant to which 65% of the Equity Interests of all directly owned Foreign Subsidiaries of the Borrower shall be pledged to the Administrative Agent for the benefit of the Secured Parties, together with proof of corporate

action, incumbency of officers, customary opinions of counsel and other applicable documents as is consistent with those delivered by each Obligor pursuant to **Section 6.01**.

(g) **Share Certificates**. Within seventy-five (75) days following the Closing Date (or such longer period of time as may be agreed by the Administrative Agent, which consent shall not be unreasonably denied (it being understood and agreed that the Administrative Agent shall appropriately take into account any request to extend such deadline due to the inability of Perceptive Credit Holdings II, LP to deliver such Pledged Collateral to the Borrower due to the COVID-19 pandemic after its use of commercially reasonable efforts), the Borrower shall deliver, or cause to be delivered, to the Administrative Agent, each of the certificates representing all the Pledged Collateral (as defined in the Security Agreement) to the extent such Pledged Collateral are certificated, accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance reasonably satisfactory to the Administrative Agent.

SECTION 9.
NEGATIVE COVENANTS

Each Obligor covenants and agrees with the Administrative Agent and the Lenders that, until the Commitments have expired or been terminated and all Obligations (other than Warrant Obligations and inchoate indemnification and expense reimbursement obligations for which no claim has been made), have been indefeasibly paid in full in cash:

9.01 Indebtedness. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, create, incur, assume or permit to exist any Indebtedness, whether directly or indirectly, except:

(a) the Obligations;

(b) Indebtedness existing on the date hereof and set forth on **Schedule 7.13(a)** and Permitted Refinancings thereof; provided that, if such Indebtedness is intercompany Indebtedness, such Indebtedness shall be subject to the Intercompany Subordination Agreement;

(c) accounts payable to trade creditors for goods and services and current operating liabilities (not the result of the borrowing of money) incurred in the ordinary course of such Obligor's or such Subsidiary's business in accordance with customary terms and paid within the specified time, unless contested in good faith by appropriate proceedings and reserved for in accordance with GAAP;

(d) Indebtedness consisting of guarantees resulting from the endorsement of negotiable instruments for collection in the ordinary course of business;

(e) Indebtedness of an Obligor owing to any other Obligor or a Pledged Entity owing to any other Pledged Entity, in each case subject to the Intercompany Subordination Agreement;

(f) Indebtedness of any Subsidiary that is neither an Obligor nor a Pledged Entity owing to any other Subsidiary (other than the Klisyri SPV) that is neither an Obligor nor a Pledged Entity;

(g) Indebtedness of any Obligor or any Pledged Entity owing to any Subsidiary that is not an Obligor (other than the Klisyri SPV), subject to the Intercompany Subordination Agreement; provided any Indebtedness owing by an Obligor to a Pledged Entity shall not exceed $2,000,000 in the aggregate outstanding at any one time;

(h) Indebtedness of any Subsidiary (other than the Klisyri SPV) owing to any Obligor or Pledged Entity in connection with any Product Commercialization and Development Activities in an aggregate outstanding principal amount not to exceed an amount (without double counting Indebtedness pursuant to this **Section 9.01(h)** incurred using proceeds of other Indebtedness incurred pursuant to this **Section 9.01(h)**) equal to (i) $80,000,000, plus (ii) the amount of any net cash proceeds received by the Borrower from the issuance of Qualified Equity Interests (other than Permitted Cure Securities) of the Borrower since the Closing Date (in each case, or the Equivalent Amount in other currencies); provided that any Subsidiary that is neither an Obligor nor a Pledged Entity may only incur Indebtedness pursuant to this **Section 9.01(h)** (without double counting Indebtedness pursuant to this **Section 9.01(h)** incurred using proceeds of other Indebtedness incurred pursuant to this **Section 9.01(h)**) in an aggregate outstanding principal amount not to exceed $30,000,000 (or the Equivalent Amount in other currencies);

(i) Guarantees by any Obligor of Permitted Indebtedness of any other Obligor;

(j) Ordinary Course equipment and software financing and leasing; provided that (i) if secured, the collateral therefor consists solely of the assets being financed, the products and proceeds thereof and books and records related thereto, and (ii) (A) the aggregate outstanding principal amount of such Indebtedness incurred with respect to such financing in relation to the manufacturing facility of the Borrower located in Dunkirk, NY does not exceed $10,000,000 (or the Equivalent Amount in other currencies) at any time and (B) the aggregate outstanding principal amount of such Indebtedness incurred with respect to such financing in relation to the active pharmaceutical ingredient manufacturing facility of the Borrower located in Chongqing, China does not exceed $18,000,000 (or the Equivalent Amount in other currencies) at any time;

(k) Indebtedness under (i) Permitted Hedging Agreements and (ii) Permitted Bond Hedge Transactions not exceeding, net of the proceeds of any Permitted Warrant Transactions entered in connection therewith, 15% of the proceeds obtained in the related Permitted Convertible Debt issuance;

(l) Indebtedness assumed pursuant to any Permitted Acquisition; provided that (i) no such Indebtedness (individually) shall exceed 15% of the total purchase price paid in connection with such Permitted Acquisition, (ii) the aggregate outstanding principal amount of Indebtedness permitted pursuant to this **Section 9.01(l)** shall not exceed $10,000,000 (or the Equivalent Amount in other currencies) at any time outstanding and (iii) no such Indebtedness was created or incurred in connection with, or in contemplation of, such Permitted Acquisition;

(m) Indebtedness in respect of working capital facilities of the Borrower or any of its Subsidiaries in an aggregate outstanding principal amount not to exceed $15,000,000 (or the Equivalent Amount in other currencies); provided that the documentation governing such Indebtedness shall be in form and substance reasonably satisfactory to the Administrative Agent in its sole discretion;

(n) Indebtedness in an aggregate outstanding principal amount not to exceed $50,000,000 pursuant to any Royalty Interest Financing;

(o) other Indebtedness in an aggregate outstanding principal amount not to exceed $10,000,000 (or the Equivalent Amount in other currencies);

(p) Permitted Convertible Debt in aggregate principal amount not to exceed $250,000,000 in principal amount at any time outstanding;

(q) Indebtedness in respect of letters of credit, bank guarantees, bankers' acceptances or similar instruments issued or created, or related to obligations or liabilities incurred, in the ordinary course of business, including in respect of workers compensation claims, health, disability or other employee benefits or property, leases, commercial contracts, Indebtedness permitted pursuant to Section 9.01(s), casualty or liability insurance or self-insurance or other reimbursement-type obligations regarding workers compensation claims;

(r) Indebtedness arising in connection with the financing of insurance premiums in the ordinary course of business;

(s) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations arising in the ordinary course of business;

(t) Indebtedness in respect of netting services, overdraft protections, business credit cards, purchasing cards, payment processing, automatic clearinghouse arrangements, arrangements in respect of pooled deposit or sweep accounts, check endorsement guarantees, and otherwise in connection with deposit accounts or cash management services;

(u) Indebtedness in respect of Investments permitted pursuant to **Section 9.05(o)**;

(v) purchase price adjustments, indemnity payments and other Deferred Acquisition Consideration in connection with any Permitted Acquisition, in each case that are permitted pursuant to the definition of "Permitted Acquisition";

(w) Permitted Refinancings of any items of Permitted Indebtedness (a) through (v) above; ~~and~~

(x) Permitted Warrant Transactions that constitute Indebtedness; and

(y) obligations of the Borrower in respect of "True-Up Payments" (as defined in the Klisyri Revenue Interest Purchase Agreement) pursuant to the Kliryri Transaction Documents.

Notwithstanding anything in this Agreement to the contrary, from and after the Second Amendment Effective Date, each Obligor will not, and will not permit any of its Subsidiaries to, create, incur or assume any additional Indebtedness of Axis Therapeutics or any of its Subsidiaries owing to any Obligor or any of its Subsidiaries, other than Permitted Axis Advances.

9.02 Liens. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, create, incur, assume or permit to exist any Lien on any property now owned by it or such Subsidiary, except:

(a) Liens securing the Obligations;

(b) any Lien on any property or asset of such Obligor or any of its Subsidiaries existing on the ~~date hereof~~Closing Date and set forth on **Schedule 7.13(b)** and renewals and extensions thereof in connection with Permitted Refinancings of the Indebtedness being secured by such Lien; provided that (i) no such Lien (including any renewal or extension thereof) shall extend to any other property or asset of such Obligor or any of its Subsidiaries and (ii) any such Lien shall secure only those obligations which it secures on the date hereof and renewals, extensions and replacements thereof in connection with Permitted Refinancings of the Indebtedness being secured by such Lien that do not increase the outstanding principal amount thereof;

(c) Liens securing Indebtedness permitted under **Section 9.01(j)**; provided that such Liens are restricted solely to the collateral described in **Section 9.01(j)**;

(d) Liens imposed by any Law arising in the ordinary course of business, including (but not limited to) carriers', warehousemen's, landlords', and mechanics' liens, liens relating to leasehold improvements and other similar Liens arising in the ordinary course of business and which (x) do not in the aggregate materially detract from the value of the property subject thereto or materially impair the use thereof in the operations of the business of such Person or (y) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the property subject to such Liens and for which adequate reserves have been made if required in accordance with GAAP;

(e) pledges or deposits made in the Ordinary Course in connection with bids, contract leases, appeal bonds, workers' compensation, unemployment insurance or other similar social security legislation;

(f) Liens securing Taxes, assessments and other governmental charges, the payment of which is not yet due or is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made;

(g) servitudes, easements, rights of way, restrictions and other similar encumbrances on real property imposed by any Law and Liens consisting of zoning or building restrictions, easements, licenses, restrictions on the use of property or minor imperfections in title thereto which, in the aggregate, are not material, and which do not in any case materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of any of the Obligors or any of their Subsidiaries; and

(h) with respect to any real property, (i) such defects or encroachments as might be revealed by an up-to-date survey of such real property; (ii) the reservations, limitations, provisos and conditions expressed in the original grant, deed or patent of such property by the original owner of such real property pursuant to all applicable Laws; and (iii) rights of expropriation,

access or user or any similar right conferred or reserved by or in any Law, which, in the aggregate for **clauses (i)**, **(ii)** and **(iii)**, are not material, and which do not in any case materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of any of the Obligors or its Subsidiaries;

(i) Bankers liens, rights of setoff and similar Liens incurred on deposits made in the Ordinary Course;

(j) Liens securing Indebtedness permitted under **Section 9.01(l)**; provided that (i) such Lien is not created in contemplation of or in connection with such Permitted Acquisition pursuant to which such Indebtedness was assumed, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Subsidiary and (iii) such Lien shall secure only those obligations that it secured immediately prior to the consummation of such Permitted Acquisition and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(k) Liens securing Indebtedness permitted under **Sections 9.01(q), (r), (s), (t),** and **(w)**.

(l) Any judgment lien or lien arising from decrees or attachments not constituting an Event of Default;

(m) Liens arising from precautionary UCC financing statement filings regarding operating leases of personal property and consignment arrangements entered into in the Ordinary Course;

(n) other Liens which secure obligations in an aggregate amount not to exceed $5,000,000 (or the Equivalent Amount in other currencies) at any time outstanding;

(o) Liens on (i) proceeds resulting from sales of Oral Paclitaxel in an amount not exceeding 5% of such proceeds and (ii) subject to **Section 12.13**, the Intellectual Property, Accounts (as defined in the UCC), payment intangibles arising therefrom and Proceeds (as defined in the UCC) thereof relating to Oral Paclitaxel, in each case, securing Indebtedness permitted under clause (n) of **Section 9.01** and which are subject to a Permitted Intercreditor Agreement;

(p) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods and incurred in the ordinary course of business;

(q) Permitted Licenses; provided that the written consent of the Administrative Agent (not to be unreasonably withheld, delayed or conditioned) shall be obtained prior to Borrower (or any of its Subsidiaries) entering into any Permitted License described in clause (D)(ii)(y) of the definition thereof;

(r) Liens on cash and Cash Equivalents securing obligation under Permitted Hedging Agreements; ~~and~~

(s) (i) Liens to secure payment of workers' compensation, employment insurance, old age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA) and (ii) deposits in respect of letters of credit, bank guarantees or similar instruments issued for the account of any Obligor or any Subsidiary in the Ordinary Course supporting obligations of the type set forth in clause (i) above; and

(t) Liens granted to the Purchasers (as defined in the Klisyri Revenue Interest Purchase Agreement) in the Retained Product Assets (as defined in the Klisyri Intercreditor Agreement) and in the Equity Interests of the Klisyri SPV, in each case pursuant to the Klisyri Transaction Documents subject to the Klisyri Intercreditor Agreement;

provided that no Lien otherwise permitted under any of the foregoing **clauses (b), (c), (d), (e)** and **(g)** through **(q)** of this **Section 9.02** shall apply to any Material Intellectual Property, except for (x) Liens securing Indebtedness permitted under clause **(o)** of this **Section 9.02** and (y) Permitted Licenses incurred pursuant to the terms of the definition thereof with the consent of the Administrative Agent if so required pursuant to this **Section 9.02**.

9.03 Fundamental Changes and Acquisitions. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisryi SPV) to, (i) enter into any transaction of merger, amalgamation or consolidation, (ii) liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), (iii) sell or issue any of its Disqualified Equity Interests or (iv) other than Permitted Acquisitions, make any Acquisition or otherwise acquire any business or substantially all the property from, or Equity Interests of, or be a party to any Acquisition of, any Person, except:

(a) the merger, amalgamation or consolidation or liquidation of any (i) Subsidiary with or into any Obligor or Pledged Entity; provided that with respect to any such transaction involving (x) the Borrower, the Borrower must be the surviving or successor entity of such transaction, (y) any other Obligor, such Obligor must be the surviving or successor entity of such transaction (unless such transaction involves more than one Obligor, then an Obligor must be the surviving or successor entity of such transaction) and (z) any Pledged Entity (but not a transaction involving the Borrower or another Obligor, which is subject to **clauses (x)** and **(y)** above, respectively), such Pledged Entity must be the surviving or successor entity of such transaction (unless such transaction involves more than one Pledged Entity, then a Pledged Entity must be the surviving or successor entity of such transaction) or (ii) any Subsidiary that is not an Obligor nor a Pledged Entity with or into any other Subsidiary that is not an Obligor nor a Pledged Entity;

(b) the sale, lease, transfer or other disposition by (i) any Subsidiary of any or all of its property (upon voluntary liquidation or otherwise) to any Obligor, (ii) any Subsidiary that is not an Obligor of any or all of its property (upon voluntary liquidation or otherwise) to any Pledged Entity or (iii) any Subsidiary that is neither an Obligor nor a Pledged Entity of any or all of its property (upon voluntary liquidation or otherwise) to any other Subsidiary that is neither an Obligor nor a Pledged Entity;

(c) the sale, transfer or other disposition of the Equity Interests of (i) any Subsidiary to any Obligor, (ii) any Subsidiary that is not an Obligor to any Pledged Entity or (iii) any

Subsidiary that is neither an Obligor nor a Pledged Entity to any other Subsidiary that is neither an Obligor nor a Pledged Entity; and

(d) any Obligor may enter into mergers, amalgamations and consolidations to effect Permitted Acquisitions, *provided* that (i) if any Obligor is party to such transaction, (x) such Obligor shall be the continuing or surviving entity or (y) other than in the case of the Borrower, the surviving Person or the acquiring Person shall agree to assume, and shall expressly assume, all of the obligations of such Obligor hereunder and under the other Loan Documents pursuant to an agreement in form and substance reasonably satisfactory to the Majority Lenders and (ii) such Permitted Acquisitions effected by such merger, consolidation or amalgamation are otherwise permitted under the Loan Documents without giving effect to this clause (d).

9.04 Lines of Business. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, engage in any business other than the business engaged in on the date hereof by such Persons or a business reasonably related, incidental or complementary thereto or reasonable extensions thereof.

9.05 Investments. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, make, directly or indirectly, or permit to remain outstanding any Investments except:

(a) Investments (but without giving effect to the cash return provision contained in the definition thereof) outstanding on the date hereof and identified in **Schedule 9.05** and any renewals, amendments and replacements thereof that do not increase the amount thereof of any such Investment, net of cash returns thereon, or require that any additional Investment be made (unless otherwise permitted hereunder);

(b) operating deposit accounts with banks (or similar deposit-taking institutions) that, in the case maintained by Obligors, are Controlled Accounts;

(c) extensions of credit in the nature of accounts receivable or notes receivable arising from the sales of goods or services in the Ordinary Course;

(d) Permitted Cash Equivalent Investments;

(e) Investments by an Obligor (i) in another Obligor, (ii) in connection with a Permitted Acquisition, or (iii) in a Subsidiary that is not an Obligor; provided that Investments made pursuant to this **clause (iii)** shall not exceed an amount permitted under **Section 9.01(h)**;

(f) Investments by a Subsidiary that is not an Obligor in any other Subsidiary that is not an Obligor;

(g) Permitted Hedging Agreements;

(h) Investments consisting of prepaid expenses, negotiable instruments held for collection or deposit, security deposits with utilities, landlords and other like Persons and deposits in connection with workers' compensation and similar deposits, in each case, made in the Ordinary Course;

(i) employee loans, travel advances and guarantees in accordance with the Borrower's usual and customary practices with respect thereto (if permitted by applicable Laws) which in the aggregate shall not exceed $2,500,000 outstanding at any time (or the Equivalent Amount in other currencies);

(j) Investments received in connection with any Insolvency Proceedings in respect of any customers, suppliers or clients and in settlement of delinquent obligations of, and other disputes with, customers, suppliers or clients;

(k) the increase in value of any Investment otherwise permitted pursuant to this **Section 9.05**;

(l) other Investments in an aggregate amount not to exceed $25,000,000 (or the Equivalent Amount in other currencies) in any fiscal year;

(m) Investments of any Person in existence at the time such Person becomes a Subsidiary; provided such Investment was not made in connection with or anticipation of such Person becoming a Subsidiary and any modification, replacement, renewal or extension thereof; and

(n) Investments permitted under **Section 9.03**; ~~and~~

(o) Investments consisting of cash payments due to the Borrower in connection with the XPH License Agreement being held by a Subsidiary of the Borrower that is not an Obligor subject to the conditions specified in **Section 8.18(a)(i)(B)** and **(C)**; and

(p) Investments required pursuant to the Klisyri Transaction Documents.

Notwithstanding anything in this Agreement to the contrary (i) the Borrower shall not, and shall not permit any of its Subsidiaries to (x) directly or indirectly transfer, by means of contribution, sale, assignment, lease or sublease, license or sublicense, or other disposition (which in the case of leasehold interests set forth in clause (iii) of the definition of Specified Assets, to the extent such disposition is voluntary) of any kind, any Material Intellectual Property or any Specified Asset held by the Borrower or any other Obligor to any Person other than the Borrower or a Subsidiary Guarantor, pursuant to Permitted Licenses or as permitted pursuant to **Section 9.09(g)**, **(m)** or **(n)** or (y) permit any Person other than the Borrower or a Subsidiary Guarantor to hold any interest in such Material Intellectual Property or any Specified Asset (other than (A) pursuant to non-exclusive intercompany licenses or Permitted Licenses, (B) any Material Intellectual Property or Specified Asset held by a Subsidiary that is not an Obligor on the Closing Date or (C) as permitted by **Section 9.10(g)** or **(n)**), (ii) no Material Intellectual Property or Specified Asset held by the Borrower or a Subsidiary Guarantor shall be contributed as an Investment to any Subsidiary other than a Subsidiary Guarantor (other than Permitted Licenses) and (iii) from and after the Second Amendment Effective Date, each Obligor shall not, and shall not permit any of its Subsidiaries to, make, directly or indirectly, any additional Investments in Axis Therapeutics or any of its Subsidiaries, other than Permitted Axis Advances.

9.06 Restricted Payments. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, declare or make, or agree to pay or make, directly or indirectly,

any Restricted Payment; provided that the following Restricted Payments shall be permitted so long as no Event of Default has occurred and is continuing or could reasonably be expected to occur or result from such Restricted Payment:

(a) dividends with respect to the Borrower's Equity Interests payable solely in shares of its Qualified Equity Interests (or the equivalent thereof);

(b) the Borrower's purchase, redemption, retirement, or other acquisition of shares of its Equity Interests with the proceeds received from a substantially concurrent issue of new shares of its Qualified Equity Interests;

(c) dividends paid by any Subsidiary to any Obligor;

(d) any purchase, redemption, retirement or other acquisition of Equity Interests of the Borrower held by officers, directors and employees or former officers, directors or employees (or their transferees, estates, or beneficiaries under their estates) of Borrower and its Subsidiaries not to exceed $2,500,000 (or the Equivalent Amount in other currencies) in any fiscal year;

(e) cashless exercises of options and warrants;

(f) cash payments made by the Borrower to redeem, purchase, repurchase or retire its obligations under warrants issued by it (in the nature of cash payments in lieu of fractional shares) in accordance with the terms thereof;

(g) Borrower may acquire (or withhold) its Equity Interests pursuant to any employee stock option or similar plan to pay withholding taxes for which Borrower is liable in respect of a current or former officer, director, employee, member of management or consultant upon such grant or award (or upon vesting or exercise thereof); and

(h) other Restricted Payments in an aggregate amount not to exceed $2,500,000 (or the Equivalent Amount in other currencies) in any fiscal year.

Notwithstanding anything to the contrary in the foregoing, the issuance of, entry into (including any payments of premiums in connection therewith), performance of obligations under (including any payments of interest), and conversion, exercise, repurchase, redemption, settlement or early termination or cancellation of (whether in whole or in part and including by netting or set-off) (in each case, whether in cash, common stock of the Borrower or, following a merger event or other change of the common stock of Borrower, other securities or property), or the satisfaction of any condition that would permit or require any of the foregoing, any Permitted Convertible Debt, any Permitted Bond Hedge Transaction and any Permitted Warrant Transaction, in each case, shall not constitute a Restricted Payment by the Borrower.

9.07 Payments of Indebtedness. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, make any payments in respect of any Indebtedness other than (i) payments of the Obligations, (ii) scheduled payments of other Indebtedness (including the Royalty Interest Financing) to the extent permitted pursuant to the terms, if any, of any applicable subordination or intercreditor agreement in respect of the Obligations, (iii)

intercompany indebtedness permitted under **Section 9.01**, (iv) Indebtedness permitted to be incurred under **Sections 9.01(b), (j), (k), (l), (m), (o), (q)**, and **(t), (v)** Indebtedness permitted to be incurred under **Sections 9.01(p)** and **(x)**; provided that any such payments shall only be made in Equity Interests and cash in lieu of fractional shares (as well as cash to pay any accrued interest on the date of any payment made in Equity Interests), (vi) scheduled payments of interest on such Indebtedness permitted pursuant to **Section 9.01(p)** and (vii) Permitted Refinancings permitted hereunder.

9.08 Change in Fiscal Year. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, change the last day of its fiscal year from that in effect on the date hereof, except to change the fiscal year of a Subsidiary acquired in connection with an Acquisition to conform its fiscal year to that of the Borrower.

9.09 Sales of Assets, Etc. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, sell, lease or sublease (as lessor or sub-lessor), sale and leaseback, assign, convey, exclusively license (in terms of geography or field of use), transfer, or otherwise dispose of any of its businesses, assets or property of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired (including accounts receivable and Equity Interests of Subsidiaries), or forgive, release or compromise any amount owed to such Obligor or Subsidiary, in each case, in one transaction or series of transactions (any thereof, an "***Asset Sale***"), except:

(a) sales, transfers and other dispositions of receivables in connection with the compromise, settlement or collection thereof in the Ordinary Course;

(b) sales of inventory in the Ordinary Course in an Arm's-Length Transaction;

(c) the forgiveness, release or compromise of any amount owed to any Obligor or Subsidiary in the Ordinary Course;

(d) Permitted Licenses;

(e) transfers of assets, rights or property by any Subsidiary Guarantor to any other Obligor;

(f) dispositions (including by way of abandonment or cancellation) of any equipment and other tangible property that is obsolete or worn out or no longer used or useful in the Business disposed of in the Ordinary Course;

(g) dispositions resulting from Casualty Events;

(h) the unwinding of any Hedging Agreements permitted by **Section 9.05** pursuant to its terms;

(i) in connection with any transaction permitted under **Section 9.03** or **9.05**;

(j) dispositions identified in **Schedule 9.09**;

(k) so long as no Event of Default has occurred and is continuing, other Asset Sales with a fair market value not in excess of $5,000,000 (or the Equivalent Amount in other currencies) in the aggregate in any fiscal year;

(l) other Asset Sales not in excess of $15,000,000 (or the Equivalent Amount in other currencies) in the aggregate in any fiscal year in which any Obligor or any Subsidiary will receive cash proceeds in an amount equal to no less than seventy-five percent (75%) of the total consideration (fixed or contingent) paid or payable to such Obligor or Subsidiary, but only so long as, unless otherwise waived by Administrative Agent in its sole discretion, the net cash proceeds of such Asset Sale are utilized to repay or prepay, in whole or in part, Indebtedness under and in accordance with this Agreement and the other Loan Documents;

(m) dispositions in the ordinary course of business consisting of the abandonment of intellectual property rights (other than Material Intellectual Property) which, in the reasonable good faith determination of Borrower, are not material to the conduct of the business of the Obligors and the Subsidiaries;

(n) any sublease or manufacturing agreement with respect to the manufacturing facility of the Borrower located in Dunkirk that is an Arm's-Length Transaction and does not exceed 50% of the capacity of the facility; ~~and~~

(o) the Dunkirk Transaction (as defined in Amendment No. 3) solely in accordance with the terms and conditions set forth in Amendment No. 3 (the parties acknowledge that the Dunkirk Transaction was consummated on February 14, 2022);

(p) the sale and contribution of the Product Assets and Purchased Product Assets (each as defined in the Klisyri Revenue Interest Purchase Agreement) pursuant to the Klisyri Transaction Documents; and

(q) any disposition of the Equity Interests in the Klisyri SPV pursuant to the Klisyri Transaction Documents.

9.10 Transactions with Affiliates. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, directly or indirectly, enter into or permit to exist any transaction to sell, lease, license or otherwise transfer any assets to, or purchase, lease, license or otherwise acquire any assets from, or otherwise engage in any other transactions with, any of its Affiliates, unless such arrangement or transaction (i) is an Arm's-Length Transaction, (ii) is of the kind which would be entered into by a prudent Person in the position of the Borrower with another Person that is not an Affiliate, (iii) is between or among (x) one or more Obligors, on the one hand, and, on the other hand, one or more Obligors, (y) one or more Subsidiaries (other than the Klisyri SPV) of the Obligors that are not Obligors, on the one hand, and, on the other hand, one or more Subsidiaries (other than the Klisyri SPV)of the Obligors that are not Obligors and (z) one or more Obligors or their Subsidiaries (other than the Klisyri SPV) that are not Obligors, on the one hand, and, on the other hand, one or more Obligors or their Subsidiaries that are Obligors (*provided* that, with respect to **clause (z)** only, the terms thereof are no less favorable than those that would be obtained in a comparable arm's-length transaction with a non-affiliated Person), (iv) is permitted under **Section 9.01, 9.03, 9.05, 9.06, 9.07** or **9.09**,

(v) constitutes customary compensation and indemnification of, and other employment arrangements with, directors, officers, and employees of any Obligor or its Subsidiaries in the ordinary course of business, (vi) constitutes payment of customary fees, reimbursement of expenses, and payment of indemnification to officers and directors and customary payment of insurance premiums on behalf of officers and directors by the Obligors or their Subsidiaries, in each case, in the ordinary course of business, (vii) constitutes a Permitted Axis Advance, ~~and~~ (viii) are the transactions set forth on **Schedule 7.19**, or (ix) is with the Klisyri SPV as expressly contemplated by and pursuant to the Klisyri Transaction Documents.

9.11 Restrictive Agreements. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, directly or indirectly, enter into, incur or permit to exist any Restrictive Agreement other than (i) restrictions and conditions imposed by applicable Laws or by the Loan Documents, (ii) Restrictive Agreements listed on **Schedule 7.15**, (iii) limitations associated with Permitted Liens or any document or instrument governing any Permitted Lien, (iv) any documentation governing Indebtedness referenced in clauses (l), (n) or (p) of **Section 9.01** (or any Permitted Refinancing thereof), (v) customary provisions in leases, Permitted Licenses and other Contracts restricting the assignment thereof or restricting the assignment or sublease or sublicense of the property leased, licensed or otherwise the subject thereof; (vi) any restrictions or conditions set forth in any agreement in effect at any time any Person becomes a Subsidiary (but not any modification or amendment expanding the scope of any such restriction or condition); provided that such agreement was not entered into in contemplation of such Person becoming a Subsidiary; (vii) restrictions or conditions in any Indebtedness permitted pursuant to **Section 9.01** that is incurred or assumed by Subsidiaries that are not Obligors to the extent such restrictions or conditions are no more restrictive in any material respect than the restrictions and conditions in the Loan Documents; (viii) restrictions or conditions imposed by any agreement relating to purchase money Indebtedness and other secured Indebtedness or to leases and licenses permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness or the property leased or licensed; (ix) customary provisions in contracts for the disposition of any assets; *provided* that the restrictions in any such contract shall apply only to the assets or Subsidiary that is to be disposed of and such disposition is permitted hereunder; and (x) customary provisions regarding confidentiality or restricting assignment, pledges or transfer of any Permitted License or any other agreement entered into in the ordinary course of business

9.12 Modifications and Terminations of Material Agreements and Organic Documents. Such Obligor will not, and will not permit any of its Subsidiaries to:

(a) waive, amend, terminate, replace or otherwise modify any term or provision of any Organic Document in any way or manner adverse to the interests of the Administrative Agent and the Lenders; or

(b) waive, amend, replace or otherwise modify any term or provision of any Permitted License in clause (D) or (G) of the definition thereof in a manner materially adverse to the rights and remedies the Administrative Agent and the Lenders hereunder; or

(c) (x) take or omit to take any action that results in the termination of, or permits any other Person to terminate, any Material Agreement or Material Intellectual Property or (y)

take any action that permits any Material Agreement or Material Intellectual Property to be terminated by any counterparty thereto prior to its stated date of expiration, in each such case if such action or omission could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect; or

(d) Waive, amend, replace or otherwise modify any term or provision of any Klisyri Transaction Document without the prior written consent of the Majority Lenders.

9.13 Outbound Licenses. No Obligor will, nor will it permit any of its Subsidiaries to, enter into or become or remain bound by any outbound exclusive license of Intellectual Property relating to U.S. commercialization rights to the Product Oral Paclitaxel, except for Permitted Licenses.

9.14 Sales and Leasebacks. Except as disclosed on **Schedule 9.14**, except as otherwise consented to in writing by the Administrative Agent (such consent not to be unreasonably delayed, withheld or denied), such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, become liable, directly or indirectly, with respect to any lease, whether an operating lease or a Capital Lease Obligation, of any property (whether real, personal, or mixed), whether now owned or hereafter acquired, (i) which such Person has sold or transferred or is to sell or transfer to any other Person and (ii) which such Obligor or Subsidiary intends to use for substantially the same purposes as property which has been or is to be sold or transferred.

9.15 Hazardous Material. Such Obligor will not, and will not permit any of its Subsidiaries to, use, generate, manufacture, install, treat, release, store or dispose of any Hazardous Material, except in compliance with all applicable Environmental Laws or where the failure to comply could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. If the Administrative Agent at any time has a reasonable basis to believe that there is any material violation by an Obligor of any Environmental Law or the presence or release of any Hazardous Material which could result in an Environmental Liability that would be reasonably expected to result in a Material Adverse Effect, each Obligor shall, and shall cause each Subsidiary to, (i) prepare an environmental assessment of such condition, including where appropriate environmental testing, and the preparation of such environmental report, at the Borrower's sole cost and expense, as the Administrative Agent may reasonably request with respect to any affected parcel of real property subject to a Collateral Document that is a mortgage, deed of trust or similar instrument, which shall be conducted by Persons reasonably acceptable to the Administrative Agent and shall be in form and substance reasonably acceptable to the Administrative Agent, and (ii) if such report is not delivered within thirty (30) days, permit the Administrative Agent or its representatives to have access to all such real property for the purpose of conducting, at the Borrower's sole cost and expense, such environmental audits and testing as the Administrative Agent shall reasonably deem appropriate.

9.16 Accounting Changes. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to, make any significant change in accounting treatment or reporting practices, except as required or permitted by GAAP.

9.17 Compliance with ERISA. No ERISA Affiliate shall cause or suffer to exist (i) any event that could result in the imposition of a Lien with respect to any Title IV Plan or Multiemployer Plan or (ii) any other ERISA Event that could, in the aggregate, reasonably be expected to result in a Material Adverse Effect. No Obligor or any of its Subsidiaries shall cause or suffer to exist any event that could result in the imposition of a Lien with respect to any Benefit Plan.

9.18 Sanctions; Anti-Corruption Use of Proceeds.

(a) Neither the Borrower or any of its Subsidiaries or their respective agents shall (i) conduct any business or engage in any transaction or dealing with any Sanctioned Person, including the making or receiving any contribution of funds, goods or services to or for the benefit of any Sanctioned Person; (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to any Sanctions; or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth any Sanctions, the Patriot Act or any other Anti-Terrorism Law.

(b) The Borrower will not, directly or, to the knowledge of the Borrower, indirectly, use the proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person, (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any applicable anti-corruption Law, or (ii) (A) for the purpose of funding any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of country- or territory-wide Sanctions, in violation of Sanctions or (B) in any other manner that would result in a violation of Sanctions by any party to this Agreement.

9.19 Klisyri SPV. Such Obligor will not, and will not permit any of its Subsidiaries (other than the Klisyri SPV) to (i) make, directly or indirectly, or permit to remain outstanding any Investments in the Klisyri SPV, (ii) make, directly or indirectly, any Asset Sale to the Klisyri SPV, or (iii) otherwise engaged in any transactions with the Klisyri SPV, in each case, except as expressly set forth in the Klisyri Transaction Documents.

SECTION 10.
FINANCIAL COVENANTS

10.01 Minimum Liquidity. The Borrower shall at all times after the Account Control Agreement Completion Date, maintain the Minimum Liquidity Amount in cash or Permitted Cash Equivalent Investments in one or more Controlled Accounts that is free and clear of all Liens, other than Liens granted hereunder in favor of the Administrative Agent. For the avoidance of doubt, any cash in the Debt Service Reserve Account shall count toward the Minimum Liquidity Amount.

10.02 Minimum Revenue. Beginning with the fiscal quarter of the Borrower ended on December 31, 2020 and with respect to each such subsequent fiscal quarter prior to the Revenue Covenant Termination Date, as of the last day of each such fiscal quarter where the Consolidated

Leverage Ratio exceeds 4.50 to 1.00, the Revenue of the Borrower and its Subsidiaries for the twelve (12) consecutive month period ending on the last day of such fiscal quarter shall not be less than ~~50~~70% of the Target Revenue for such quarter (the "***Minimum Revenue Covenant***").

10.03 Leverage Ratio Covenant. Beginning with the first fiscal quarter of the Borrower following the Revenue Covenant Termination Date, the Borrower shall not permit the Consolidated Leverage Ratio to exceed 4.50 to 1.00 as of the last day of any fiscal quarter of the Borrower (the "***Leverage Ratio Covenant***").

SECTION 11.
EVENTS OF DEFAULT

11.01 Events of Default. Each of the following events shall constitute an "***Event of Default***":

(a) **Principal Payment Default**. The Borrower shall fail to pay any principal of the Loan, when and as the same shall become due and payable, whether at the due date thereof, at a date fixed for prepayment thereof or otherwise.

(b) **Other Payment Defaults**. Any Obligor shall fail to pay interest or any other Obligation (other than an amount referred to in **Section 11.01(a)**) when and as the same shall become due and payable, and such failure shall continue unremedied for a period of three (3) Business Days.

(c) **Representations and Warranties**. Any representation or warranty made or deemed made by or on behalf of any Obligor or any of its Subsidiaries in or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof, shall: (i) prove to have been incorrect when made or deemed made to the extent that such representation or warranty contains any materiality or Material Adverse Effect qualifier; or (ii) prove to have been incorrect in any material respect when made or deemed made to the extent that such representation or warranty does not otherwise contain any materiality or Material Adverse Effect qualifier.

(d) **Certain Covenants**. Any Obligor shall fail to observe or perform any covenant, condition or agreement contained in **8.02**, **8.03** (with respect to the Borrower's existence), **8.11**, **8.12**, **8.16**, **8.18**, **8.19**, **Section 9** or **Section 10;** *provided* that any Event of Default under **Sections 10.01 and 10.02** is subject to cure as provided in **Sections 11.04 and 11.05** and an Event of Default with respect to such Section shall not occur until the expiration of the 15th Business Day subsequent to the date on which the financial statements with respect to the applicable fiscal quarter (or the fiscal year ended on the last day of such fiscal quarter) are required to be delivered pursuant to **Section 8.01(a)** or **8.01(b)**, as applicable.

(e) **Other Covenants**. Any Obligor shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in **Section 11.01(a)**, **(b)** or **(d)**) or any other Loan Document, and, in the case of any failure that is capable of cure, such failure shall continue unremedied for a period of thirty (30) or more days.

(f) **Payment Default on Other Indebtedness**. Any Obligor or any of its Subsidiaries shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable after giving effect to any applicable grace or cure period as originally provided by the terms of such Indebtedness.

(g) **Other Defaults on Other Indebtedness**. (i) Any material breach of, or "event of default" or similar event under, any Contract governing any Material Indebtedness shall occur and such breach or "event of default" or similar event shall continue unremedied, uncured or unwaived after the expiration of any grace or cure period thereunder, or (ii) any event or condition occurs (x) that results in any Material Indebtedness becoming due prior to its scheduled maturity or (y) that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of such Material Indebtedness or any trustee or agent on its or their behalf to cause such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this **Section 11.01(g)** shall not apply to (x) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Material Indebtedness, (y) any conversion of any convertible Indebtedness or satisfaction of any condition giving rise to or permitting a conversion of any convertible Indebtedness; provided that the Borrower has the right to settle any such Indebtedness into Equity Interests of the Borrower (and nominal cash payments in respect of fractional shares and cash payments in respect of accrued and unpaid interest) in accordance with the express terms or conditions thereof) and (z) with respect to any Material Indebtedness consisting of Hedging Agreements, termination events or equivalent events pursuant to the terms of such Hedging Agreements and not as a result of any default thereunder by any Obligor or any Subsidiary.

(h) **Insolvency, Bankruptcy, Etc**.

(i) Any Obligor or any of its Material Subsidiaries becomes insolvent, or generally does not or becomes unable to pay its debts or meet its liabilities as the same become due, or admits in writing its inability to pay its debts generally, or declares any general moratorium on its indebtedness, or proposes a compromise or arrangement or deed of company arrangement between it and any class of its creditors.

(ii) Any Obligor or any of its Material Subsidiaries commits an act of bankruptcy or makes an assignment of its property for the general benefit of its creditors or makes a proposal (or files a notice of its intention to do so).

(iii) Any Obligor or any of its Material Subsidiaries institutes any proceeding seeking to adjudicate it an insolvent, or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), or composition of it or its debts or any other relief, under any Law, whether U.S. or non-U.S., now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors or at common law or in equity, or files an answer admitting the material allegations of a petition filed against it in any such proceeding.

(iv) Any Obligor or any of its Material Subsidiaries applies for the appointment of, or the taking of possession by, a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator, voluntary administrator, receiver and manager or other similar official for it or any substantial part of its property.

(v) Any Obligor or any of its Material Subsidiaries takes any action, corporate or otherwise, to approve, effect, consent to or authorize any of the actions described in this **Section 11.01(h)**, or otherwise acts in furtherance thereof or fails to act in a timely and appropriate manner in defense thereof.

(vi) Any petition is filed, application made or other proceeding instituted against or in respect of any Obligor or any of its Material Subsidiaries:

(A) seeking to adjudicate it as insolvent;

(B) seeking a receiving order against it;

(C) seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), deed of company arrangement or composition of it or its debts or any other relief under any Law, whether U.S. or non-U.S., now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors or at common law or in equity; or

(D) seeking the entry of an order for relief or the appointment of, or the taking of possession by, a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator, voluntary administrator, receiver and manager or other similar official for it or any substantial part of its property, and such petition, application or proceeding continues undismissed, or unstayed and in effect, for a period of forty-five (45) days after the institution thereof; provided that if an order, decree or judgment is granted or entered (whether or not entered or subject to appeal) against such Obligor or such Subsidiary thereunder in the interim, such grace period will cease to apply; provided, further, that if such Obligor or Material Subsidiary files an answer admitting the material allegations of a petition filed against it in any such proceeding, such grace period will cease to apply.

(vii) Any other event occurs which, under the Laws of any applicable jurisdiction, has an effect equivalent to any of the events referred to in **Section 11.01(h)**.

(i) **Judgments**. One or more judgments for the payment of money in an aggregate amount in excess of $10,000,000 (or the Equivalent Amount in other currencies) (except to the extent fully covered (other than to the extent of customary deductibles) by insurance pursuant to which the insurer has not denied coverage) shall be rendered against any Obligor or any of its Subsidiaries or any combination thereof and the same shall remain undischarged for a period of forty-five (45) calendar days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Obligor to enforce any such judgment.

(j) **ERISA**. An ERISA Event shall have occurred that when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in liability of the Borrower and its Subsidiaries in an aggregate amount in excess of $10,000,000 (or the Equivalent Amount in other currencies).

(k) **Change of Control**. A Change of Control shall have occurred.

(l) **[Reserved].**

(m) **Regulatory Matters, Etc.** If any of the following occurs: (i) the FDA or any other Regulatory Authority initiates enforcement action against, or issues a warning letter with respect to, any Obligor, any Product or any manufacturing facilities for the Product Oral Paclitaxel or "Tirbanibulin" (the "***Specified Products***") that causes any Obligor to discontinue or withdraw, or could reasonably be expected to cause any Obligor to discontinue or withdraw, marketing or sales of any Specified Product, or causes a delay in the manufacture or sale of any Specified Product, which discontinuance or delay could reasonably be expected to last for more than thirty (30) days, (ii) a recall of any Specified Product that has generated or is expected to generate at least $15,000,000 (or the Equivalent Amount in other currencies) in revenue for the Borrower and its Subsidiaries for sales or licenses to third parties over any period of twelve (12) consecutive months or (iii) any Obligor enters into a settlement agreement with the FDA or any other Regulatory Authority in respect of the Specified Products that results in aggregate liability as to any single or related series of transactions, incidents or conditions, in excess of $10,000,000 (or the Equivalent Amount in other currencies).

(n) **[Reserved].**

(o) **Impairment of Security, Etc.** Subject in all respects to any applicable post-closing periods and certain other time periods under the Loan Documents for any Obligor or Subsidiary to take perfection actions, if any of the following events occurs: (i) Any Lien created by any of the Security Documents shall at any time not constitute a valid and perfected Lien on the applicable Collateral in favor of the Secured Parties, free and clear of all other Liens (other than Permitted Liens) except due to the action or inaction of the Administrative Agent, (ii) except for expiration in accordance with its terms, any of the Security Documents or any Guarantee of any of the Obligations (including that contained in **Section 13**) shall for whatever reason cease to be in full force and effect, (iii) any Obligor shall, directly or indirectly, contest in any manner such effectiveness, validity, binding nature or enforceability of any such Lien or any Loan Document, or (iv) any injunction, whether temporary or permanent, shall be rendered against any Obligor that prevents the Obligors from selling or manufacturing the Products or their commercially available successors, or any of their other material and commercially available products in the United States for more than forty-five (45) calendar days.

11.02 Remedies.

(a) **Defaults Other Than Bankruptcy Defaults**. Upon the occurrence of any Event of Default, then, and in every such event (other than an Event of Default described in **Section 11.01(h)**), and at any time thereafter during the continuance of such event, the Administrative Agent may, by notice to the Borrower, declare the Loans then outstanding to be due and payable

in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other Obligations, including any applicable Prepayment Fee and the Exit Fee, shall become due and payable immediately (in the case of the Loans, at the Prepayment Price therefor), without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Obligor.

(b) **Bankruptcy Defaults**. In case of an Event of Default described in **Section 11.01(h)**, the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other Obligations, including any applicable Prepayment Fee and the Exit Fee, shall automatically become due and payable immediately (in the case of the Loans, at the Prepayment Price therefor), without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Obligor.

11.03 Additional Remedies. If an Event of Default has occurred and is continuing, if any Obligor shall be in default under a Material Agreement, the Administrative Agent shall have the right (but not the obligation) to cause the default or defaults under such Material Agreement to be remedied (including without limitation by paying any unpaid amount thereunder) and otherwise exercise any and all rights of such Obligor, as the case may be, thereunder, as may be necessary to prevent or cure any default. Without limiting the foregoing, upon any such default, each Obligor shall promptly execute, acknowledge and deliver to the Administrative Agent such instruments as may reasonably be required of such Obligor to permit the Administrative Agent to cure any default under the applicable Material Agreement or permit the Administrative Agent to take such other action required to enable the Administrative Agent to cure or remedy the matter in default and preserve the interests of the Administrative Agent. Any amounts paid by the Administrative Agent pursuant to this **Section 11.03** shall be payable in accordance with **Section 14.03(a)**, shall accrue interest at the Default Rate if not paid when due, and shall constitute "Obligations."

11.04 Minimum Revenue Covenant Cure.

(a) Notwithstanding anything to the contrary contained in **Section11.02**, in the event the Borrower fails to comply with the requirements of the Minimum Revenue Covenant, during the period from the end of the relevant fiscal quarter until the expiration of the fifteenth Business Day subsequent to the date the financial statements are required to be delivered pursuant to **Section 8.018.01(a)** or **8.01(b)**, the Borrower shall have the right to (A) make a Revenue Cure Payment or (B) apply cash then held by the Borrower in excess of the Minimum Cash Balance so long as, immediately after giving effect to the Minimum Revenue Cure Right, the Borrower continues to hold at least the Minimum Cash Balance (the "***Minimum Revenue Cure Right***"). Upon the Administrative Agent's receipt of the applicable Revenue Cure Payment or application of such cash amounts, the Borrower shall then be in compliance with the requirements of the Minimum Revenue Covenant and the Borrower shall be deemed to have satisfied the requirements of the Minimum Revenue Covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach of the Minimum Revenue Covenant and any related default that had occurred shall be deemed cured for the purposes of this Agreement. Any Revenue Cure Payment shall be

applied to the prepayment of the Loans. To the extent the Borrower has made no less than $20,000,000 in Revenue Cure Payments in any calendar year, no breach of the Minimum Revenue Covenant in such calendar year shall constitute an Event of Default hereunder.

(b) Upon the Administrative Agent's receipt of a notice from the Borrower that it intends to exercise the Minimum Revenue Cure Right (a "***Notice of Intent to Cure Revenue Covenant***"), until the fifteenth Business Day subsequent to the date the financial statements are required to be delivered pursuant to **Section 8.01(a)** or **8.01(b)** to which such Notice of Intent to Cure Revenue Covenant relates, no Lender shall be required to extend any credit pursuant to its Commitment during such period. If within such fifteen Business Day period, the Oaktree Lender declines the exercise by the Borrower of the Minimum Revenue Cure Right by written notice to the Administrative Agent and the Borrower to that effect, then the Borrower shall be deemed to have satisfied the requirements of the Minimum Revenue Covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach of the Minimum Revenue Covenant and any related default that had occurred shall be deemed cured for the purposes of this Agreement.

11.05 Leverage Ratio Cure Right.

(a) Notwithstanding anything to the contrary contained in **Section11.02**, in the event the Borrower fails to comply with the requirements of the Leverage Ratio Covenant, during the period from the end of the relevant fiscal quarter until the expiration of the fifteenth Business Day subsequent to the date the financial statements are required to be delivered pursuant to **Section 8.018.01(a)** or **8.01(b)** (the "***Leverage Cure Applicable Time***"), the Borrower shall have the right to (A) issue Permitted Cure Securities for cash or (B) apply cash then held by the Borrower in excess of the Minimum Cash Balance so long as, immediately after giving effect to the Leverage Ratio Cure Right, the Borrower continues to hold at least the Minimum Cash Balance (the "***Leverage Ratio Cure Right***") and, upon the receipt by the Borrower of any such cash proceeds or application of such cash amounts (the "***Cure Amount***") pursuant to the exercise of such Leverage Ratio Cure Right, (i) the Cure Amount shall be applied to the prepayment of the Loans, (ii) the Leverage Ratio Covenant shall be recalculated giving effect to a *pro forma* adjustment by which EBITDA shall be increased with respect to such applicable fiscal quarter and any four-quarter period that contains such quarter, solely for the purpose of measuring the Leverage Ratio Covenant and not for any other purpose under this Agreement, by an amount equal to the Cure Amount and (iii) any reduction in Indebtedness (or cash netting) from the proceeds of the Cure Amount shall not be given *pro forma* effect when measuring compliance with the Leverage Ratio Covenant for such fiscal quarter. The resulting increase to EBITDA from the application of a Cure Amount shall not result in any adjustment to EBITDA or any other financial definition for any purpose under this Agreement other than for purposes of calculating the Leverage Ratio Covenant and, except to the extent of any reduction in Indebtedness (or cash netting) from the proceeds of the Cure Amount, the proceeds of the Cure Amount shall be disregarded for other purposes of this Agreement (including determining pricing, financial ratio-based conditions (subject to clause (ii) of the foregoing sentence) or basket amounts). The Cure Amount shall be no greater than the amount required for purposes of complying with the Leverage Ratio Covenant. If, after giving effect to the adjustments in this **Section 11.05**, the Borrower shall then be in compliance with the requirements of the Leverage Ratio Covenant, the Borrower shall be deemed to have satisfied the requirements of the Leverage

Ratio Covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach of the Leverage Ratio Covenant and any related default that had occurred shall be deemed cured for the purposes of this Agreement.

(b) Upon the Administrative Agent's receipt of a notice from the Borrower that it intends to exercise the Leverage Ratio Cure Right (a "***Notice of Intent to Cure Leverage Covenant***"), until the fifteenth Business Day subsequent to the date the financial statements are required to be delivered pursuant to **Section 8.018.01(a)** or **8.01(b)** to which such Notice of Intent to Cure Leverage Covenant relates, no Lender shall be required to extend any credit pursuant to its Commitment during such period. If within such fifteen Business Day period, the Oaktree Lender declines the exercise by the Borrower of the Minimum Revenue Cure Right by written notice to the Administrative Agent and the Borrower to that effect, then the Borrower shall be deemed to have satisfied the requirements of the Leverage Ratio Covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach of the Leverage Ratio Covenant and any related default that had occurred shall be deemed cured for the purposes of this Agreement.

11.06 Payment of Prepayment Fee and Exit Fee. Notwithstanding anything in this Agreement to the contrary, the Prepayment Fee and the Exit Fee shall automatically be due and payable at any time the Obligations become due and payable prior to the Maturity Date in accordance with the terms hereof as though such Indebtedness was voluntarily prepaid and shall constitute part of the Obligations, whether due to acceleration pursuant to the terms of this Agreement (in which case it shall be due immediately, upon the giving of notice to Borrower in accordance with **Section 11.02(a)**, or automatically, in accordance with **Section 11.02(b)**), by operation of law or otherwise (including, without limitation, on account of any bankruptcy filing), in view of the impracticability and extreme difficulty of ascertaining the actual amount of damages to the Lenders or profits lost by the Lenders as a result of such acceleration, and by mutual agreement of the parties as to a reasonable estimation and calculation of the lost profits or damages of the Lenders as a result thereof. Any Prepayment Fee or Exit Fee (or, if required, both the Prepayment Fee and the Exit Fee) payable pursuant to this Agreement shall be presumed to be the liquidated damages sustained by each Lender as the result of the early termination, acceleration or prepayment and each Obligor agrees that such Prepayment Fee or Exit Fee is reasonable under the circumstances currently existing. The Prepayment Fee and Exit Fee shall also be payable in the event the Obligations (and/or this Agreement) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means. EACH OBLIGOR HEREBY WAIVES THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE PREPAYMENT FEE OR EXIT FEE AND ANY DEFENSE TO PAYMENT, WHETHER SUCH DEFENSE MAY BE BASED IN PUBLIC POLICY, AMBIGUITY, OR OTHERWISE. The Obligors, the Administrative Agent and the Lenders acknowledge and agree that any Prepayment Fee and the Exit Fee due and payable in accordance with this Agreement shall not constitute unmatured interest, whether under Section 5.02(b)(3) of the Bankruptcy Code or otherwise. Each Obligor further acknowledges and agrees, and waives any argument to the contrary, that payment of such amount does not constitute a penalty or an otherwise unenforceable or invalid obligation. Each Obligor expressly agrees that (i) the Prepayment Fee and Exit Fee are each reasonable and each is the product of an arm's-length transaction between

sophisticated business people, ably represented by counsel, (ii) the Prepayment Fee and Exit Fee shall be payable notwithstanding the then prevailing market rates at the time payment is made, (iii) there has been a course of conduct between the Lenders and the Obligors giving specific consideration in this transaction for such agreement to pay the Prepayment Fee and Exit Fee, (iv) the Obligors shall be estopped hereafter from claiming differently than as agreed to in this **Section 11.06**, (v) their agreement to pay the Prepayment Fee and Exit Fee is a material inducement to the Lenders to make the Loans, and (vi) the Prepayment Fee and Exit Fee represent a good faith, reasonable estimate and calculation of the lost profits, losses or other damages of the Lenders and that it would be impractical and extremely difficult to ascertain the actual amount of damages to the Lenders or profits lost by the Lenders as a result of such event.

SECTION 12.
THE ADMINISTRATIVE AGENT

12.01 Appointment and Duties. Subject in all cases to clause (c) below:

(a) **Appointment of the Administrative Agent**. Each of the Lenders hereby irrevocably appoints Oaktree Fund Administration, LLC (together with any successor Administrative Agent pursuant to **Section 12.09**) as the Administrative Agent hereunder and authorizes the Administrative Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Obligor or any of its Subsidiaries, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to the Administrative Agent under such Loan Documents and (iii) exercise such powers as are reasonably incidental thereto. Except as expressly set forth herein, the provisions of this **Section 12** are solely for the benefit of the Administrative Agent and the Lenders, and no Obligor or any Affiliate thereof shall have rights as a third-party beneficiary of any such provisions.

(b) **Duties as Collateral and Disbursing Agent**. Without limiting the generality of **Section 12.01(a)**, the Administrative Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (i) act as the disbursing and collecting agent for the Lenders with respect to all payments and collections arising in connection with the Loan Documents (including in any proceeding described in **Section 11.01(h)** or any other bankruptcy, insolvency or similar proceeding), and each Person making any payment in connection with any Loan Document to any Secured Party is hereby authorized to make such payment to the Administrative Agent, (ii) file and prove claims and file other documents necessary or desirable to allow the claims of the Secured Parties with respect to any Obligation in any proceeding described in **Section 11.01(h)** or any other bankruptcy, insolvency or similar proceeding (but not to vote, consent or otherwise act on behalf of such Secured Party), (iii) act as collateral agent for each Secured Party for purposes of acquiring, holding, enforcing and perfecting all Liens created by the Loan Documents and all other purposes stated therein, (iv) manage, supervise and otherwise deal with the Collateral, (v) take such other action as is necessary or desirable to maintain the perfection and priority of the Liens created or purported to be created by the Loan Documents, (vi) except as may be otherwise specified in any Loan Document, exercise all remedies given to the Administrative Agent and the other Secured Parties with respect to the Collateral, whether under the Loan Documents, applicable Laws or otherwise and (vii) execute any amendment, consent or waiver under the Loan Documents on behalf of any

Lender that has consented in writing to such amendment, consent or waiver; provided that the Administrative Agent hereby appoints, authorizes and directs each Lender to act as collateral sub-agent for the Administrative Agent and the Lenders for purposes of the perfection of all Liens with respect to the Collateral, including any deposit account maintained by a Obligor with, and cash and Cash Equivalents held by, such Lender, and may further authorize and direct the Lenders to take further actions as collateral sub-agents for purposes of enforcing such Liens or otherwise to transfer the Collateral subject thereto to the Administrative Agent, and each Lender hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed.

(c) **Limited Duties**. The Lenders and the Obligors hereby each acknowledge and agree that the Administrative Agent (i) has undertaken its role hereunder purely as an accommodation to the parties hereto and the Transactions, (ii) is receiving no compensation for undertaking such role and (iii) subject only to the notice provisions set forth in **Section 12.09**, may resign from such role at any time for any reason or no reason whatsoever. Without limiting the foregoing, the parties hereto further acknowledge and agree that under the Loan Documents, the Administrative Agent (i) is acting solely on behalf of the Lenders (except to the limited extent provided in **Section 12.11**), with duties that are entirely administrative in nature, notwithstanding the use of the defined term "the Administrative Agent", the terms "agent", "administrative agent" and "collateral agent" and similar terms in any Loan Document to refer to the Administrative Agent, which terms are used for title purposes only, (ii) is not assuming any duty or obligation under any Loan Document other than as expressly set forth therein or any role as agent, fiduciary or trustee of or for any Lender or any other Secured Party and (iii) shall have no implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document (fiduciary or otherwise), in each case, regardless of whether a Default has occurred and is continuing, and each Lender hereby waives and agrees not to assert any claim against the Administrative Agent based on the roles, duties and legal relationships expressly disclaimed in this **clause (c)**. Without in any way limiting the foregoing, the Administrative Agent shall not, except as expressly set forth in this Agreement and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Obligor or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

12.02 Binding Effect. Each Lender agrees that (i) any action taken by the Administrative Agent or the Majority Lenders (or, if expressly required hereby, a greater proportion of the Lenders) in accordance with the provisions of the Loan Documents, (ii) any action taken by the Administrative Agent in reliance upon the instructions of the Majority Lenders (or, where so required, such greater proportion) and (iii) the exercise by the Administrative Agent or the Majority Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Secured Parties.

12.03 Use of Discretion.

(a) **No Action without Instructions**. The Administrative Agent shall not be required to exercise any discretion or take, or to omit to take, any action, including with respect to enforcement or collection, except (subject to **clause (b)** below) any action it is required to take or

omit to take (i) under any Loan Document or (ii) pursuant to written instructions from the Majority Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders).

(b) **Right Not to Follow Certain Instructions**. Notwithstanding **Section 12.03(a)** or any other term or provision of this **Section 12**, the Administrative Agent shall not be required to take, or to omit to take, any action (i) unless, upon demand, the Administrative Agent receives an indemnification satisfactory to it from the Lenders (or, to the extent applicable and acceptable to the Administrative Agent, any other Secured Party) against all Liabilities that, by reason of such action or omission, may be imposed on, incurred by or asserted against the Administrative Agent or any Related Person thereof or (ii) that is, in the opinion of the Administrative Agent, in its sole and absolute discretion, contrary to any Loan Document, Law or the best interests of the Administrative Agent or any of its Affiliates or Related Persons, including, for the avoidance of doubt, any action that may be in violation of the automatic stay in connection with any Insolvency Proceeding..

12.04 Delegation of Rights and Duties. The Administrative Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Loan Document by or through any trustee, co-agent, employee, attorney-in-fact and any other Person (including any Secured Party). The Administrative Agent and any such Person may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. Any such Person and its Related Parties shall benefit from this **Section 12** to the extent provided by the Administrative Agent; provided, however, that the exculpatory provisions of this **Section 12** shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and of any such sub-agent, and shall apply to their respective activities in connection with their activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

12.05 Reliance and Liability.

(a) the Administrative Agent may, without incurring any liability hereunder, (i) consult with any of its Related Persons and, whether or not selected by it, any other advisors, accountants and other experts (including advisors to, and accountants and experts engaged by, any Obligor) and (ii) rely and act upon any notice, request, certificate, consent, statement, instrument, document or other writing (including and electronic message, Internet or intranet website posting or other distribution), telephone message or conversation or oral conversation, in each case believed by it to be genuine and transmitted, signed or otherwise authenticated by the appropriate parties. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received written notice to the contrary from such Lender prior to the making of such Loan.

(b) Neither the Administrative Agent nor any of its Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Lender and the Borrower hereby waive and shall not assert (and the Borrower shall cause each other Obligor to waive and agree not to assert) any right, claim or cause of action based thereon, except to the extent of liabilities resulting primarily from the fraudulent conduct or behavior of the Administrative Agent or, as the case may be, such Related Person (each as determined in a final, non-appealable judgment or order by a court of competent jurisdiction) in connection with the duties expressly set forth herein. Without limiting the foregoing, the Administrative Agent:

(i) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of, or with the consent of, the Majority Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in **Section 14.04**) or for the actions or omissions of any of its Related Persons selected with reasonable care (other than employees, officers and directors of the Administrative Agent, when acting on behalf of the Administrative Agent);

(ii) shall not be responsible to any Secured Party for the (a) validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or (b) due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document;

(iii) makes no warranty or representation, and shall not be responsible, to any Secured Party for, and shall not have any duty to ascertain or inquire into, any statement, document, information, certificate, report, representation or warranty made or furnished by or on behalf of any Related Person, in or in connection with any Loan Document or any transaction contemplated therein, whether or not transmitted by the Administrative Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by the Administrative Agent in connection with the Loan Documents, including, for the avoidance of doubt, the satisfaction of any condition set forth in **Section 6** of this Agreement or elsewhere herein (other than to confirm receipt of items expressly required to be delivered to the Administrative Agent); and

(iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document or whether any condition set forth in any Loan Document is satisfied or waived, including, without limiting the generality of the foregoing, as to the financial condition of any Obligor or as to the existence or continuation or possible occurrence or continuation of any Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from the Borrower, any Lender describing such Default or Event of Default clearly labeled "notice of default" (in which case the Administrative Agent shall promptly give notice of such receipt to all Lenders);

and, for each of the items set forth in **clauses (i)** through **(iv)** above, each Lender and the Borrower hereby waives and agrees not to assert (and the Borrower shall cause each other

Obligor to waive and agree not to assert) any right, claim or cause of action it might have against the Administrative Agent based thereon.

12.06 Administrative Agent Individually. The Administrative Agent and its Affiliates may make loans and other extensions of credit to, acquire stock and stock equivalents of, accept deposits from, act as the financial advisor for or in any other advisory capacity for, or engage in any kind of business with, any Obligor or Affiliate thereof as though it were not acting as the Administrative Agent and may receive separate fees and other payments therefor. To the extent the Administrative Agent or any of its Affiliates makes any Loan or otherwise becomes a Lender hereunder, it shall have and may exercise the same rights and powers hereunder and shall be subject to the same obligations and liabilities as any other Lender and the terms "Lender", "Majority Lender", and any similar terms shall, except where otherwise expressly provided in any Loan Document, include, without limitation, the Administrative Agent or such Affiliate, as the case may be, in its individual capacity as Lender or as one of the Majority Lenders, respectively.

12.07 Lender Credit Decision. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent, any Lender or any of their Related Persons or upon any document (including the Disclosure Documents) solely or in part because such document was transmitted by the Administrative Agent or any of its Related Persons, conducted its own independent investigation of the financial condition and affairs of each Obligor and has made and continues to make its own credit decisions in connection with entering into, and taking or not taking any action under, any Loan Document or with respect to any transaction contemplated in any Loan Document, in each case based on such documents and information as it shall deem appropriate.

12.08 Expenses; Indemnities.

(a) Each Lender agrees to reimburse the Administrative Agent and each of its Related Persons (to the extent not reimbursed by any Obligor) promptly upon demand for such Lender's Proportionate Share of any costs and expenses (including fees, charges and disbursements of financial, legal and other advisors and Other Taxes paid in the name of, or on behalf of, any Obligor) that may be incurred by the Administrative Agent or any of its Related Persons in connection with the preparation, syndication, execution, delivery, administration, modification, consent, waiver or enforcement (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding or otherwise) of, or legal advice in respect of its rights or responsibilities under, any Loan Document.

(b) Each Lender further agrees to indemnify the Administrative Agent (or any sub-agent thereof) and any Related Persons of the Administrative Agent (or any such sub-agent) (to the extent not indefeasibly paid by any Obligor), from and against such Lender's aggregate Proportionate Share of the liabilities (including taxes, interests and penalties imposed for not properly withholding or backup withholding on payments made to on or for the account of any Lender) that may be imposed on, incurred by or asserted against the Administrative Agent (or any sub-agent thereof) or any Related Persons of the Administrative Agent (or any such sub-agent) in any matter relating to or arising out of, in connection with or as a result of any Loan Document, any Related Document or any other act, event or transaction related, contemplated in

or attendant to any such document, or, in each case, any action taken or omitted to be taken by the Administrative Agent (or any sub-agent thereof) or any Related Persons of the Administrative Agent (or any such sub-agent) under or with respect to any of the foregoing; provided that no Lender shall be liable to the Administrative Agent (or any sub-agent thereof) or any Related Persons of the Administrative Agent (or any such sub-agent) to the extent such liability has resulted primarily from the gross negligence or willful misconduct of the Administrative Agent (or any sub-agent thereof) or, as the case may be, such Related Person of the Administrative Agent (or any sub-agent thereof), as determined by a court of competent jurisdiction in a final non-appealable judgment or order.

12.09 Resignation of the Administrative Agent.

(a) At any time upon not less than 30 days prior written notice, the Administrative Agent may resign as the "the Administrative Agent" hereunder, in whole or in part (in the sole and absolute discretion of the Administrative Agent). If the Administrative Agent delivers any such notice, the Majority Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be (i) a Lender holding at least thirty percent (30%) of the outstanding principal amount of the Loans or any Affiliate thereof or (ii) any other financial institution consented to by the Borrower (provided that the consent of the Borrower shall not be required to the extent an Event of Default has occurred and is continuing). If a successor Administrative Agent has not been appointed on or before the effectiveness of the resignation of the resigning Administrative Agent (or such earlier date as shall be agreed by the Majority Lenders) (the "***Resignation Effective Date***"), then the resigning Administrative Agent may (but shall not be obligated to), on behalf of the Lenders, appoint any Person reasonably chosen by it as the successor Administrative Agent, notwithstanding whether the Majority Lenders have appointed a successor or the Borrower has consented to such successor. Whether or not a successor has been appointed, such resignation shall become effective on the Resignation Effective Date.

(b) Effective from the Resignation Effective Date, (i) the resigning Administrative Agent shall be discharged from its duties and obligations under the Loan Documents to the extent set forth in the applicable resignation notice, (ii) the Lenders shall assume and perform all of the duties of the Administrative Agent until a successor Administrative Agent shall have accepted a valid appointment hereunder, (iii) the resigning Administrative Agent and its Related Persons shall no longer have the benefit of any provision of any Loan Document other than with respect to (x) any actions taken or omitted to be taken while such resigning Administrative Agent was, or because the Administrative Agent had been, validly acting as the Administrative Agent under the Loan Documents or (y) any continuing duties such resigning Administrative Agent will continue to perform, and (iv) subject to its rights under **Section 12.04**, the resigning Administrative Agent shall take such action as may be reasonably necessary to assign to the successor Administrative Agent its rights as the Administrative Agent under the Loan Documents. Effective immediately upon its acceptance of a valid appointment as the Administrative Agent, a successor Administrative Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the resigning Administrative Agent under the Loan Documents.

12.10 Release of Collateral or Guarantors. Each Lender hereby consents to the release and hereby directs the Administrative Agent to release, and the Administrative Agent hereby agrees, (or, in the case of **Section 12.10(b)**, release or subordinate) the following:

(a) any Subsidiary of the Borrower from its guaranty of any Obligation of any Obligor (i) if all of the Equity Interests in such Subsidiary owned by any Obligor or any of its Subsidiaries are disposed of in an Asset Sale permitted under the Loan Documents (including pursuant to a waiver or consent), to the extent that, after giving effect to such Asset Sale, such Subsidiary would not be required to guaranty any Obligations pursuant to **Section 8.12(a)** and (ii) upon (x) termination of the Commitments and (y) payment and satisfaction in full of all Loans and all other Obligations that the Administrative Agent has been notified in writing are then due and payable (other than Warrant Obligations and inchoate indemnification and expense reimbursement obligations for which no claim has been made); and

(b) any Lien held by the Administrative Agent for the benefit of the Secured Parties against (i) any Collateral that is disposed of by an Obligor in an Asset Sale permitted by the Loan Documents (including pursuant to a valid waiver or consent), (ii) any property subject to a Lien described in **Section 9.02(c)** and (iii) all of the Collateral and all Obligors, upon (x) termination of the Commitments and (y) payment and satisfaction in full of all Loans and all other Obligations that the Administrative Agent has been notified in writing are then due and payable (other than Warrant Obligations and inchoate indemnification and expense reimbursement obligations for which no claim has been made).

Each Lender hereby directs the Administrative Agent, and the Administrative Agent hereby agrees, upon receipt of reasonable advance notice from the Borrower, to execute and deliver or file such documents and to perform other actions reasonably necessary to release the guarantees and Liens when and as directed in this **Section 12.10** and deliver to the Borrower, at the expense of the Borrower, any portion of such Collateral so released pursuant to this **Section 12.10** that is in possession of the Administrative Agent. In addition, in connection with any Permitted Licenses, each Lender hereby authorizes Administrative Agent to, and at the request of the Borrower, the Administrative Agent shall, negotiate and enter into a non-disturbance agreement and other similar agreements in form and substance reasonably satisfactory to Administrative Agent.

12.11 Additional Secured Parties. The benefit of the provisions of the Loan Documents directly relating to the Collateral or any Lien granted thereunder shall extend to and be available to any Secured Party that is not a Lender as long as, by accepting such benefits, such Secured Party agrees, as among the Administrative Agent and all other Secured Parties, that such Secured Party is bound by (and, if requested by the Administrative Agent, shall confirm such agreement in a writing in form and substance acceptable to the Administrative Agent) this **Section 12** and the decisions and actions of the Administrative Agent and the Majority Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders) to the same extent a Lender is bound; provided that, notwithstanding the foregoing, (i) such Secured Party shall be bound by **Section 12.08** only to the extent of Liabilities, costs and expenses with respect to or otherwise relating to the Collateral held for the benefit of such Secured Party, in which case the obligations of such Secured Party thereunder shall not be limited by any concept of Pro Rata Share or similar concept, (ii) each of the Administrative Agent and each Lender shall

be entitled to act at its sole discretion, without regard to the interest of such Secured Party, regardless of whether any Obligation to such Secured Party thereafter remains outstanding, is deprived of the benefit of the Collateral, becomes unsecured or is otherwise affected or put in jeopardy thereby, and without any duty or liability to such Secured Party or any such Obligation and (iii) such Secured Party shall not have any right to be notified of, consent to, direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under any Loan Document.

12.12 Agent May File Proofs of Claim. In case of the pendency of any Insolvency Proceeding or any other judicial proceeding relating to any Obligor, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower or any other Obligor) shall be entitled and empowered (but not obligated) by intervention or such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under **Section 14.03**) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due to the Administrative Agent under **Section 14.03**.

12.13 Intercreditor Agreement. In connection with the incurrence by the Borrower of any Permitted Indebtedness pursuant to clause **(n)** of **Section 9.01**, the Administrative Agent shall use commercially reasonable efforts to enter into an intercreditor agreement with respect to such Permitted Indebtedness in form and substance satisfactory to the Administrative Agent in its sole discretion, such intercreditor agreement shall in any event provide that (i) such debt financing provider shall have a silent second lien on the Intellectual Property relating to Oral Paclitaxel (except as specifically provided in clause (ii)), (ii) such debt financing provider shall be entitled to a senior Lien on proceeds resulting from sales of Oral Paclitaxel in an amount not exceeding 5% of such proceeds, but such Lien shall be subject to the same restrictions on enforcement and other conditions as the silent second lien (except with respect to the payment on its 5% royalty interest on proceeds resulting from sales of Oral Paclitaxel), which shall be subject to a

customary waterfall) and (iii) to the extent such debt financing provider becomes a Lender hereunder, such debt financing provider shall be required to support any debt restructuring, restructuring, or enforcement action or agreement supported by the Oaktree Lender so long as such Lender's Loans hereunder are treated pro rata with the Loans held by the Oaktree Lender (such intercreditor agreement, a "***Permitted Intercreditor Agreement***").

SECTION 13.
GUARANTY

13.01 The Guaranty. The Subsidiary Guarantors hereby unconditionally jointly and severally guarantee to the Administrative Agent and the Lenders, and their successors and assigns, the full and punctual payment in full or performance (whether at stated maturity, by acceleration or otherwise) of the Obligations, including (i) principal of and interest on the Loans, (ii) all fees and other amounts and Obligations from time to time owing to the Administrative Agent and the Lenders by the Borrower and each other Obligor under this Agreement or under any other Loan Document, in each case strictly in accordance with the terms hereof and thereof and (iii) the punctual and faithful performance, keeping, observance and fulfillment by the Borrower and Subsidiary Guarantors of all the agreements, conditions, covenants and obligations of the Borrower and Subsidiary Guarantors contained in the Loan Documents (such obligations being herein collectively called the "***Guaranteed Obligations***"). The Subsidiary Guarantors hereby further jointly and severally agree that if the Borrower or any other Obligor shall fail to pay any amount in full when due or perform any such obligation (whether at stated maturity, by acceleration or otherwise), the Subsidiary Guarantors will promptly pay the same or perform such obligation at the place and in the manner specified herein or in the relevant Loan Document, as the case may be, without any demand or notice whatsoever, and that in the case of any extension of time of payment or performance or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full or performed when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

13.02 Obligations Unconditional. The obligations of the Subsidiary Guarantors under **Section 13.01** shall constitute a guaranty of payment and performance and not of collection and are absolute and unconditional, joint and several, irrespective of the value, genuineness, validity, regularity or enforceability of the Guaranteed Obligations under this Agreement or any other agreement or instrument referred to herein, or any substitution, release or exchange of any other guarantee of or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by all applicable Laws, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this **Section 13.02** that the obligations of the Subsidiary Guarantors hereunder shall be absolute and unconditional, joint and several, under any and all circumstances. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Subsidiary Guarantors hereunder, which shall remain absolute and unconditional as described above:

(a) at any time or from time to time, without notice to the Subsidiary Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of this Agreement or any other agreement or instrument referred to herein shall be done or omitted;

(c) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be extended, modified, supplemented or amended in any respect, or any right under this Agreement or any other agreement or instrument referred to herein shall be waived or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(d) any lien or security interest granted to, or in favor of, the Secured Parties as security for any of the Guaranteed Obligations shall fail to be perfected or preserved;

(e) any modification or amendment of or supplement to this Agreement or any other Loan Document, including any such amendment which may increase the amount of, or the interest rates applicable to, any of the Guaranteed Obligations guaranteed hereby;

(f) any change in the corporate, partnership, limited liability company or other existence, structure or ownership of the Borrower, any Subsidiary Guarantor or any other guarantor of any of the Guaranteed Obligations, or any Insolvency Proceeding or other similar proceeding affecting the Borrower, any Subsidiary Guarantor or any other guarantor of the Guaranteed Obligations, or any of their respective assets, or any resulting release or discharge of any obligation of the Borrower, any Subsidiary Guarantor or any other guarantor of any of the Guaranteed Obligations;

(g) the existence of any claim, setoff or other rights which any Subsidiary Guarantor may have at any time against the Borrower, any other Subsidiary Guarantor or any other guarantor of any of the Guaranteed Obligations, the Administrative Agent, any Secured Party or any other Person, whether in connection herewith or in connection with any unrelated transactions; *provided* that, notwithstanding any other provisions in this Guaranty, nothing in this Guaranty shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(h) the unenforceability or invalidity of the Guaranteed Obligations or any part thereof or the lack of genuineness, enforceability or validity of any agreement relating thereto or with respect to the collateral, if any, securing the Guaranteed Obligations or any part thereof, or any other invalidity or unenforceability relating to or against the Borrower, any Subsidiary Guarantor or any other guarantor of any of the Guaranteed Obligations, for any reason, related to this Agreement or any other Loan Document, or any provision of applicable Law, decree, order or regulation of any jurisdiction purporting to prohibit the payment of any of the Guaranteed Obligations by the Borrower, any Subsidiary Guarantor or any other guarantor of the Guaranteed Obligations;

(i) the disallowance, under any state or federal bankruptcy, insolvency or similar law, of all or any portion of the claims of the Secured Parties or the Administrative Agent for repayment of all or any part of the Guaranteed Obligations;

(j) the failure of any other guarantor to sign or become party to this Agreement or any amendment, change, or reaffirmation hereof;

(k) any release, surrender, compromise, settlement, waiver, subordination or modification, with or without consideration, of any collateral securing the Guaranteed Obligations or any part thereof, any other guaranties with respect to the Guaranteed Obligations or any part thereof, or any other obligation of any person or entity with respect to the Guaranteed Obligations or any part thereof, or any nonperfection or invalidity of any direct or indirect security for the Guaranteed Obligations; or

(l) any other act or omission to act or delay of any kind by the Borrower, such Guarantor, any other guarantor of the Guaranteed Obligations, the Administrative Agent, any Secured Party or any other Person or any other circumstance whatsoever which might, but for the provisions of this **Section 13.02**, constitute a legal or equitable discharge of any Guarantor's obligations hereunder.

The Subsidiary Guarantors hereby expressly waive diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Administrative Agent or any Lender exhaust any right, power or remedy or proceed against the Borrower or any other Subsidiary Guarantor under this Agreement or any other agreement or instrument referred to herein, or against any other Person under any other guarantee of, or security for, any of the Guaranteed Obligations.

13.03 Discharge Only Upon Payment in Full. Subject to any prior release herefrom of any Subsidiary Guarantor by the Administrative Agent in accordance with (and pursuant to authority granted to the Administrative Agent under) the terms of this Agreement, each Subsidiary Guarantor's obligations hereunder shall remain in full force and effect until all of the Guaranteed Obligations shall have been indefeasibly paid in full in cash (other than Warrant Obligations and inchoate indemnification and expense reimbursement obligations for which no claim has been made) and all other financing arrangements among the Borrower or any Subsidiary Guarantor and the Secured Parties under or in connection with this Agreement and each other Loan Document shall have terminated (herein, the "***Termination Conditions***"), and until the prior and complete satisfaction of the Termination Conditions all of the rights and remedies under this Guaranty and the other Loan Documents shall survive. Notwithstanding the foregoing, the Administrative Agent hereby agrees to release any Subsidiary of the Borrower from its guaranty of any Obligation of any Obligor if all of the Equity Interests in such Subsidiary owned by any Obligor or any of its Subsidiaries are disposed of in an Asset Sale permitted under the Loan Documents (including pursuant to a waiver or consent), to the extent that, after giving effect to such Asset Sale, such Subsidiary would not be required to guarantee any Obligations pursuant to **Section 8.12(a)**.

13.04 Additional Waivers; General Waivers.

(a) *Additional Waivers.* Notwithstanding anything herein to the contrary, each of the Subsidiary Guarantors hereby absolutely, unconditionally, knowingly, and expressly waives:

(i) any right it may have to revoke this Guaranty as to future indebtedness or notice of acceptance hereof;

(ii) (A) notice of acceptance hereof; (B) notice of any other financial accommodations made or maintained under the Loan Documents or the creation or existence of any Guaranteed Obligations; (C) notice of the amount of the Guaranteed Obligations, subject, however, to each Subsidiary Guarantor's right to make inquiry of the Administrative Agent and the Secured Parties to ascertain the amount of the Guaranteed Obligations at any reasonable time; (D) notice of any adverse change in the financial condition of the Borrower or of any other fact that might increase such Subsidiary Guarantor's risk hereunder; (E) notice of presentment for payment, demand, protest, and notice thereof as to any instruments among the Loan Documents; (F) notice of any Event of Default; and (G) all other notices (except if such notice is specifically required to be given to such Subsidiary Guarantor under this Guaranty or under the other Loan Documents) and demands to which each Subsidiary Guarantor might otherwise be entitled;

(iii) its right, if any, to require the Administrative Agent and the Secured Parties to institute suit against, or to exhaust any rights and remedies which the Administrative Agent and the Secured Parties now have or may hereafter have against, any other guarantor of the Guaranteed Obligations or any third party, or against any collateral provided by such other guarantors or any third party; and each Subsidiary Guarantor further waives any defense arising by reason of any disability or other defense (other than the defense that the Guaranteed Obligations shall have been fully and finally performed and indefeasibly paid) of any other guarantor of the Guaranteed Obligations or by reason of the cessation from any cause whatsoever of the liability of any other guarantor of the Guaranteed Obligations in respect thereof;

(iv) (A) any rights to assert against the Administrative Agent and the Secured Parties any defense (legal or equitable), set-off, counterclaim, or claim which such Subsidiary Guarantor may now or at any time hereafter have against any other guarantor of the Guaranteed Obligations or any third party liable to the Administrative Agent and the Secured Parties; (B) any defense, set-off, counterclaim or claim, of any kind or nature, arising directly or indirectly from the present or future lack of perfection, sufficiency, validity or enforceability of the Guaranteed Obligations or any security therefor; (C) any defense such Subsidiary Guarantor has to performance hereunder, and any right such Subsidiary Guarantor has to be exonerated, arising by reason of: (1) the impairment or suspension of the Administrative Agent's and the Secured Parties' rights or remedies against any other guarantor of the Guaranteed Obligations; (2) the alteration by the Administrative Agent and the Secured Parties of the Guaranteed Obligations; (3) any discharge of the obligations of any other guarantor of the Guaranteed Obligations to the Administrative Agent and the Secured Parties by operation of law as a result of the Administrative Agent's and the Secured Parties' intervention or omission; or (4) the acceptance by the Administrative Agent and the Secured Parties of anything in partial satisfaction of the Guaranteed Obligations; and (D) the benefit of any statute of limitations affecting such Subsidiary Guarantor's liability hereunder or the enforcement thereof, and any act which shall defer or delay the operation of any statute of limitations applicable to the Guaranteed Obligations

shall similarly operate to defer or delay the operation of such statute of limitations applicable to such Subsidiary Guarantor's liability hereunder; and

(v) any defense arising by reason of or deriving from (A) any claim or defense based upon an election of remedies by the Administrative Agent and the other Secured Parties; or (B) any election by the Administrative Agent and the other Secured Parties under any provision of any state or federal bankruptcy, insolvency or similar law to limit the amount of, or any collateral securing, its claim against the Subsidiary Guarantors.

(b) *General Waivers*. Each Subsidiary Guarantor irrevocably waives, to the fullest extent permitted by law, any notice not provided for herein.

13.05 Reinstatement. The obligations of the Subsidiary Guarantors under this **Section 13** shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower in respect of the Guaranteed Obligations is at any time rescinded, annulled, avoided, set aside, invalidated, declared to be fraudulent or must be otherwise restored or repaid by any holder of any of the Guaranteed Obligations, whether as a result of any proceedings in bankruptcy or reorganization, equitable cause or otherwise, and the Subsidiary Guarantors jointly and severally agree that they will indemnify the Secured Parties on demand for all reasonable costs and expenses (including fees of counsel) incurred by such Persons in connection with such rescission, repayment or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any state or federal bankruptcy, insolvency or similar law. The provisions of this **Section 13.05** shall survive termination of this Guaranty.

13.06 Subrogation. The Subsidiary Guarantors hereby jointly and severally agree that, until the prior and complete satisfaction of all Termination Conditions, they (i) shall have no right of subrogation with respect to the Guaranteed Obligations and (ii) (ii) waive any right to enforce any remedy which the Secured Parties or the Administrative Agent now have or may hereafter have against the Borrower, any endorser or any other guarantor of all or any part of the Guaranteed Obligations or any other Person, and each Subsidiary Guarantor waives any benefit of, and any right to participate in, any security or collateral that may from time to time be given to the Secured Parties and the Administrative Agent to secure the payment or performance of all or any part of the Guaranteed Obligations or any other liability of the Borrower to the Secured Parties. Should any Subsidiary Guarantor have the right, notwithstanding the foregoing, to exercise its subrogation rights prior to complete satisfaction of the Termination Conditions, each Subsidiary Guarantor hereby expressly and irrevocably (A) subordinates any and all rights at law or in equity to subrogation, reimbursement, exoneration, contribution, indemnification or set-off that such Subsidiary Guarantor may have prior to the complete satisfaction of the Termination Conditions, and (B) waives any and all defenses available to a surety, guarantor or accommodation co-obligor until all Termination Conditions are satisfied in full. Each Subsidiary Guarantor acknowledges and agrees that this subordination is intended to benefit the Administrative Agent and the Secured Parties and shall not limit or otherwise affect such Subsidiary Guarantor's liability hereunder or the enforceability of this Guaranty, and that the Administrative Agent, the Secured Parties and their respective successors and assigns are intended third party beneficiaries of the waivers and agreements set forth in this **Section 13.06**.

13.07 Remedies. The Subsidiary Guarantors jointly and severally agree that, as between the Subsidiary Guarantors, on one hand, and the Administrative Agent and the Lenders, on the other hand, the obligations of the Borrower under this Agreement and under the other Loan Documents may be declared to be forthwith due and payable as provided in **Section 11** (and shall be deemed to have become automatically due and payable in the circumstances provided in **Section 11**) for purposes of **Section 13.01** notwithstanding any stay, injunction or other prohibition, including any such stay upon an Insolvency Proceeding, preventing such declaration (or such obligations from becoming automatically due and payable) as against the Borrower and that, in the event of such declaration (or such obligations being deemed to have become automatically due and payable), such obligations (whether or not due and payable by the Borrower) shall forthwith become due and payable by the Subsidiary Guarantors for purposes of **Section 13.01**.

13.08 Instrument for the Payment of Money. Each Subsidiary Guarantor hereby acknowledges that the guarantee in this **Section 13** constitutes an instrument for the payment of money, and consents and agrees that the Administrative Agent and the Lenders, at their sole option, in the event of a dispute by such Subsidiary Guarantor in the payment of any moneys due hereunder, shall have the right to proceed by motion for summary judgment in lieu of complaint pursuant to N.Y. Civ. Prac. L&R § 3213.

13.09 Continuing Guarantee. The guarantee in this **Section 13** is a continuing guarantee, and shall apply to all Guaranteed Obligations whenever arising.

13.10 Contribution with Respect to Guaranteed Obligations.

(a) To the extent that any Subsidiary Guarantor shall make a payment under this Guaranty (a "***Guarantor Payment***") which, taking into account all other Guarantor Payments then previously or concurrently made by any other Subsidiary Guarantor, exceeds the amount which otherwise would have been paid by or attributable to such Subsidiary Guarantor if each Subsidiary Guarantor had paid the aggregate Guaranteed Obligations satisfied by such Guarantor Payment in the same proportion as such Subsidiary Guarantor's "Allocable Amount" (as defined below) (as determined immediately prior to such Guarantor Payment) bore to the aggregate Allocable Amounts of each of the Subsidiary Guarantors as determined immediately prior to the making of such Guarantor Payment, *then*, following the prior and complete satisfaction of the Termination Conditions, such Subsidiary Guarantor shall be entitled to receive contribution and indemnification payments from, and be reimbursed by, each other Subsidiary Guarantor for the amount of such excess, *pro rata* based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment.

(b) As of any date of determination, the "***Allocable Amount***" of any Subsidiary Guarantor shall be equal to the maximum amount of the claim which could then be recovered from such Subsidiary Guarantor under this Agreement without rendering such claim voidable or avoidable under any state or federal bankruptcy, insolvency or similar law or other applicable Law.

(c) This **13.10** is intended only to define the relative rights of the Subsidiary Guarantors, and nothing set forth in this **13.10** is intended to or shall impair the obligations of the

Subsidiary Guarantors, jointly and severally, to pay any amounts as and when the same shall become due and payable in accordance with the terms of this Agreement.

(d) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Subsidiary Guarantor or Subsidiary Guarantors to which such contribution and indemnification is owing.

(e) The rights of the indemnifying Subsidiary Guarantors against other Subsidiary Guarantors under this **Section 13.10** shall be exercisable only upon the prior and complete satisfaction of the Termination Conditions.

13.11 General Limitation on Guarantee Obligations. In any action or proceeding involving any provincial, territorial or state corporate law, or any state or federal bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Subsidiary Guarantor under **Section 13.01** would otherwise be held or determined to be void, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under **Section 13.01**, then, notwithstanding any other provision hereof to the contrary, the amount of such liability shall, without any further action by such Subsidiary Guarantor, the Administrative Agent, any Lender or any other Person, be automatically limited and reduced to the highest amount that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

SECTION 14.
MISCELLANEOUS

14.01 No Waiver. No failure on the part of the Administrative Agent or the Lenders to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under any Loan Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

14.02 Notices. All notices, requests, instructions, directions and other communications provided for herein (including any modifications of, or waivers, requests or consents under, this Agreement) or in the other Loan Documents shall be given or made in writing (including by telecopy or email) delivered, if to the Borrower, another Obligor, the Administrative Agent or any Lender, to its address specified on the signature pages hereto or its Guarantee Assumption Agreement, as the case may be, or at such other address as shall be designated by such party in a written notice to the other parties. Except as otherwise provided in this Agreement or therein, all such communications shall be deemed to have been duly given upon receipt of a legible copy thereof, in each case given or addressed as aforesaid. All such communications provided for herein by telecopy shall be confirmed in writing promptly after the delivery of such communication (it being understood that non-receipt of written confirmation of such communication shall not invalidate such communication).

14.03 Expenses, Indemnification, Etc.

(a) **Expenses**. Each Obligor, jointly and severally, agrees to pay or reimburse (i) the Administrative Agent and the Lenders and their respective Affiliates for all of their reasonable and documented out of pocket costs and expenses (including the reasonable and documented out of pocket fees, expenses, charges and disbursements of Sullivan & Cromwell LLP, counsel to the Lenders, the fees (if necessary) of local counsel for both of the Administrative Agent and the Lenders in each relevant material jurisdiction, and any sales, goods and services or other similar taxes applicable thereto, and reasonable and documented printing, reproduction, document delivery, communication and travel costs) in connection with (x) the negotiation, preparation, execution and delivery of this Agreement and the other Loan Documents and the making of the Loans (exclusive of post-closing costs), (y) post-closing costs (including, without limitation, costs of the administration of this Agreement and the other Loan Documents) and (z) the negotiation or preparation of any modification, supplement or waiver of any of the terms of this Agreement or any of the other Loan Documents (whether or not consummated); *provided*, that, in the case of such expenses on the Closing Date, the amount of such expenses obligated to be paid by the Obligors shall not exceed $350,000 and (ii) each of the Administrative Agent and the Lenders for all of their documented out of pocket costs and expenses (including the fees and expenses of any legal counsel) in connection with the enforcement, exercise or protection of their rights in connection with this Agreement and the other Loan Documents, including their rights under this **Section 14.03**, or in connection with the Loans made hereunder, including such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(b) **Indemnification**. Each Obligor, jointly and severally, hereby indemnifies the Administrative Agent (and any sub-agent thereof), the Lenders and their respective Affiliates, directors, officers, employees, attorneys, agents, advisors and controlling parties (each, an "***Indemnified Party***") from and against, and agrees to hold them harmless against, any and all Claims and Losses of any kind including reasonable and documented out of pocket fees and disbursements of any counsel for each Indemnified Party (limited to one legal counsel in each relevant jurisdiction), that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or relating to (i) Agreement or any of the other Loan Documents or the Transactions, (ii) any use made or proposed to be made with the proceeds of the Loans, (ii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Obligor or any of its Subsidiaries, or (iv) any actual or prospective claim, investigation, litigation or proceeding relating to any of the foregoing, whether based on contract, tort, or any other theory, whether or not such investigation, litigation or proceeding is brought by any Obligor, any of its Subsidiaries, shareholders or creditors, an Indemnified Party or any other Person, or an Indemnified Party is otherwise a party thereto, and whether or not any of the conditions precedent set forth in **Section 6** are satisfied or the other transactions contemplated by this Agreement are consummated, except to the extent such Claim or Loss is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or willful misconduct. No Obligor shall assert any claim against any Indemnified Party, on any theory of liability, for consequential, indirect, special or punitive damages arising out of or otherwise relating to this Agreement or any of the other Loan Documents or any of the Transactions or the actual or proposed use of the proceeds of the Loans. The Borrower, its Subsidiaries and Affiliates and their respective directors, officers, employees, attorneys, agents, advisors and controlling parties are each sometimes referred to in this Agreement as a "***Borrower Party***". No Lender shall assert any

claim against any Borrower Party, on any theory of liability, for consequential, indirect, special or punitive damages arising out of or otherwise relating to this Agreement or any of the other Loan Documents or any of the Transactions or the actual or proposed use of the proceeds of the Loans. This Section shall not apply to Taxes other than Taxes relating to a non-Tax Claim or Loss governed by this **Section 14.03(b)**.

14.04 Amendments, Etc. Except as otherwise expressly provided in this Agreement, any provision of this Agreement and any other Loan Document (except for the Warrant, which may be amended, waived or supplemented in accordance with the terms thereof) may be modified or supplemented only by an instrument in writing signed by the Borrower, the Administrative Agent and the Majority Lenders; provided that:

(a) any such modification or supplement that is disproportionately adverse to any Lender as compared to other Lenders or subjects any Lender to any additional obligation shall not be effective without the consent of such affected Lender;

(b) the consent of all of the Lenders shall be required to:

(i) amend, modify, discharge, terminate or waive any of the terms of this Agreement or any other Loan Agreement if such amendment, modification, discharge, termination or waiver would increase the amount of the Loans or Commitment, reduce the fees payable hereunder, reduce interest rates or other amounts payable with respect to the Loans, extend any date fixed for payment of principal (it being understood that the waiver of any prepayment of Loans shall not constitute an extension of any date fixed for payment of principal), interest or other amounts payable relating to the Loans or extend the repayment dates of the Loans; provided, for the avoidance of doubt, that any waiver or amendment relating to an Event of Default or Default arising out of breach or prospective breach of the Minimum Revenue Covenant or the Leverage Ratio Covenant shall only require the consent of the Majority Lenders;

(ii) amend, modify, discharge, terminate or waive any Security Document if the effect is to release all or substantially all of the Collateral subject thereto other than pursuant to the terms hereof or thereof; or

(iii) amend this **Section 14.04** or the definition of "Majority Lenders".

14.05 Successors and Assigns.

(a) **General**. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto or thereto and their respective successors and assigns permitted hereby or thereby, except that no Obligor may assign or otherwise transfer any of its rights or obligations hereunder (except in connection with an event permitted under **Section 9.03**) without the prior written consent of the Administrative Agent. Any Lender may assign or otherwise transfer any of its rights or obligations hereunder or under any of the other Loan Documents (i) to an assignee in accordance with the provisions of **Section 14.05(b)**, (ii) by way of participation in accordance with the provisions of **Section 14.05(e)**, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of **Section 14.05(f)**. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby,

Participants to the extent provided in **Section 14.05(e)** and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) **Assignments by Lender**. Any Lender may at any time assign to one or more Eligible Transferees (or, if an Event of Default has occurred and is continuing, to any Person) all or a portion of its rights and obligations under this Agreement (including all or a portion of the Loans at the time owing to it) and the other Loan Documents; provided that (i) no such assignment shall be made to any Obligor, any Affiliate of any Obligor, any employees or directors of any Obligor at any time and (ii) no such assignment shall be made without the prior written consent of the Administrative Agent. The consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed) shall be required unless (x) a Default or Event of Default has occurred and is continuing at the time of such assignment or (y) such assignment is to an Eligible Transferee described in clause (vi) of the definition thereof); provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received written notice thereof. At the request of the Borrower, the Oaktree Lender agrees to assign to any Person identified to the Administrative Agent in writing prior to the Closing Date (or, with respect to any other Person (such Person to be reasonably acceptable to the Oaktree Lender), to use its commercially reasonable efforts to assign) within forty-five (45) days from the date hereof (subject to applicable Law) no more than $40,000,000 aggregate principal amount of Loans and Commitments pro rata across the respective Tranches of Loans and Applicable Commitments then outstanding to a party who has provided the Royalty Interest Financing for a purchase price equal to the Oaktree Lender's valuation of the Loans plus accrued and unpaid interest on the Loans so assigned to the date of such assignment and such assignment shall be on customary LSTA terms (except such assignment shall be on a non-recourse basis to the Oaktree Lender). Subject to the recording thereof by the Administrative Agent pursuant to **Section 14.05(d)**, and to receipt by the Administrative Agent of a processing and recordation fee in the amount of $3,500 (provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment) from and after the date such Assignment and Assumption is recorded in the Register, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of the Lender under this Agreement and the other Loan Documents, and correspondingly the assigning Lender shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) and the other Loan Documents but shall continue to be entitled to the benefits of **Section 5** and **Section 14.03**. Any assignment or transfer by the Lender of rights or obligations under this Agreement that does not comply with this **Section 14.05(b)** shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with **Section 14.05(e)**.

(c) **Amendments to Loan Documents**. Each of the Administrative Agent, the Lenders and the Obligors agrees to enter into such amendments to the Loan Documents, and such additional Security Documents and other instruments and agreements, in each case in form and substance reasonably acceptable to the Administrative Agent, the Lenders and the Obligors,

as shall reasonably be necessary to implement and give effect to any assignment made under this **Section 14.05**.

(d) **Register**. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in the United States a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "***Register***"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior written notice. Notwithstanding anything to the contrary, any assignment of any Loan shall be effective only upon appropriate entries with respect thereto being made in the Register.

(e) **Participations**. Any Lender may at any time, without the consent of, or notice to, the Borrower, sell participations to any Eligible Transferee (other than a natural person or any Obligor or any of its Affiliates or Subsidiaries) (each, a "***Participant***") in all or a portion of the Lender's rights and/or obligations under this Agreement (including all or a portion of the Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower shall continue to deal solely and directly with such Lender in connection therewith. Any agreement or instrument pursuant to which any Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce the Loan Documents and to approve any amendment, modification or waiver of any provision of the Loan Documents; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that would (i) increase or extend the term of such Lender's Commitment, (ii) extend the date fixed for the payment of principal of or interest on the Loans or any portion of any fee hereunder payable to the Participant, (iii) reduce the amount of any such payment of principal, or (iv) reduce the rate at which interest is payable thereon to a level below the rate at which the Participant is entitled to receive such interest. Subject to **Section 14.05(f)**, the Borrower agrees that each Participant shall be entitled to the benefits of **Section 5.01** or **5.03** (subject to the requirements and limitations therein, including the requirements under **Section 5.03(f)** (it being understood that the documentation required under **Section 5.03(f)** shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to **Section 14.05(b)**; provided that such Participant (i) agrees to be subject to the provisions of **Section 5.04** as if it were an assignee under **Section 14.05(b)** and (ii) shall not be entitled to receive any greater payment under **Section 5.01** or **5.03**, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a change in Law that occurs after the Participant acquired the applicable participation. To the extent permitted by Law, each Participant also shall be entitled to the benefits of **Section 4.03(a)** as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated

interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "***Participant Register***"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(f) **Limitations on Rights of Participants**. A Participant shall not be entitled to receive any greater payment under **Section 5.01** or **5.03** than such Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent.

(g) **Certain Pledges**. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under the Loan Documents to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

14.06 Survival. The obligations of the Borrower under **5.01**, **5.02**, **5.03**, **14.03**, **14.05**, **14.06**, **14.09**, **14.10**, **14.11**, **14.12**, **14.13**, **14.14** and the obligations of the Subsidiary Guarantors under Section 13 (solely to the extent guaranteeing any of the obligations under the foregoing Sections) shall survive the repayment of the Obligations and the termination of the Commitments and, in the case of the Lenders' assignment of any interest in the Commitments or the Loans hereunder, shall survive, in the case of any event or circumstance that occurred prior to the effective date of such assignment, the making of such assignment, notwithstanding that the Lenders may cease to be "Lenders" hereunder. In addition, each representation and warranty made, or deemed to be made by a Borrowing Notice, herein or pursuant hereto shall survive the making of such representation and warranty.

14.07 Captions. The table of contents and captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

14.08 Counterparts, Effectiveness. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart. Delivery of an executed signature page of this Agreement by facsimile transmission or electronic transmission (in PDF format) shall be effective as delivery of a manually executed counterpart hereof. This Agreement shall become effective when counterparts hereof executed on behalf of the Obligors, the Administrative Agent and the Lender shall have been received by the Administrative Agent.

14.09 Governing Law. This Agreement and the rights and obligations of the parties hereunder shall be governed by, and construed in accordance with, the law of the State of New York.

14.10 Jurisdiction, Service of Process and Venue.

(a) **Submission to Jurisdiction**. Each party hereby irremovably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or tort or otherwise, against such other party in any way relating to this Agreement or any Loan Document or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable Law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(b) **[Reserved]**.

(c) **Waiver of Venue, Etc**. Each party hereto irrevocably waives to the fullest extent permitted by law any objection that it may now or hereafter have to the laying of the venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document and hereby further irrevocably waives to the fullest extent permitted by law any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. A final judgment (in respect of which time for all appeals has elapsed) in any such suit, action or proceeding shall be conclusive and may be enforced in any court to the jurisdiction of which such party is or may be subject, by suit upon judgment.

14.11 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

14.12 Waiver of Immunity. To the extent that any Obligor may be or become entitled to claim for itself or its property or revenues any immunity on the ground of sovereignty or the like from suit, court jurisdiction, attachment prior to judgment, attachment in aid of execution of a judgment or execution of a judgment, and to the extent that in any such jurisdiction there may be attributed such an immunity (whether or not claimed), such Obligor hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity with respect to its obligations under this Agreement and the other Loan Documents.

14.13 Entire Agreement. This Agreement and the other Loan Documents constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the

subject matter hereof, including any confidentiality (or similar) agreements. EACH OBLIGOR ACKNOWLEDGES, REPRESENTS AND WARRANTS THAT IN DECIDING TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS OR IN TAKING OR NOT TAKING ANY ACTION HEREUNDER OR THEREUNDER, IT HAS NOT RELIED, AND WILL NOT RELY, ON ANY STATEMENT, REPRESENTATION, WARRANTY, COVENANT, AGREEMENT OR UNDERSTANDING, WHETHER WRITTEN OR ORAL, OF OR WITH ADMINISTRATIVE AGENT OR THE LENDERS OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

14.14 Severability. If any provision hereof is found by a court to be invalid or unenforceable, to the fullest extent permitted by any Law the parties agree that such invalidity or unenforceability shall not impair the validity or enforceability of any other provision hereof.

14.15 No Fiduciary Relationship. The Borrower acknowledges that the Administrative Agent and the Lenders have no fiduciary relationship with, or fiduciary duty to, the Borrower arising out of or in connection with this Agreement or the other Loan Documents, and the relationship between the Lenders and the Borrower is solely that of creditor and debtor. This Agreement and the other Loan Documents do not create a joint venture among the parties.

14.16 Confidentiality. The Administrative Agent and each Lender agree to keep confidential all non-public information provided to them by any Obligor pursuant to this Agreement that is designated by such Obligor as confidential in accordance with its customary procedures for handling its own confidential information; provided that nothing herein shall prevent the Administrative Agent or any Lender from disclosing any such information (i) to the Administrative Agent, any other Lender, any Affiliate of a Lender or any Eligible Transferee or other assignee permitted under **Section 14.05(b)**, (ii) subject to an agreement to comply with the provisions of this Section, to any actual or prospective direct or indirect counterparty to any Hedging Agreement (or any professional advisor to such counterparty), (iii) to its employees, officers, directors, agents, attorneys, accountants, trustees and other professional advisors or those of any of its affiliates (collectively, its "***Related Parties***"), (iv) upon the request or demand of any Governmental Authority or any Regulatory Authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (v) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Law, (vi) if requested or required to do so in connection with any litigation or similar proceeding, (vii) that has been publicly disclosed (other than as a result of a disclosure in violation of this **Section 14.16**), (viii) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, (ix) in connection with the exercise of any remedy hereunder or under any other Loan Document, (x) on a confidential basis to (A) any rating agency in connection with rating the Borrower or its Subsidiaries or the Loans or (B) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers of other market identifiers with respect to the Loans or (xi) to any other party hereto; provided that, in the case of disclosure pursuant to **clause (iv), (v)** and **(vi)** above, the Administrative Agent or applicable Lender, as applicable,

shall promptly provide notice to the Borrower to the extent reasonable and not prohibited by Law or any applicable Governmental Authority.

14.17 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts that are treated as interest on such Loan under applicable Law (collectively, "***charges***"), shall exceed the maximum lawful rate (the "***Maximum Rate***") that may be contracted for, charged, taken, received or reserved by the Administrative Agent and the Lender holding such Loan in accordance with applicable Law, the rate of interest payable in respect of such Loan hereunder, together with all charges payable in respect thereof, shall be limited to the Maximum Rate. To the extent lawful, the interest and charges that would have been paid in respect of such Loan but were not paid as a result of the operation of this Section shall be cumulated and the interest and charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the amount collectible at the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate for each day to the date of repayment, shall have been received by such Lender. Any amount collected by such Lender that exceeds the maximum amount collectible at the Maximum Rate shall be applied to the reduction of the principal balance of such Loan so that at no time shall the interest and charges paid or payable in respect of such Loan exceed the maximum amount collectible at the Maximum Rate.

14.18 Judgment Currency.

(a) If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder in Dollars into another currency, the parties hereto agree, to the fullest extent permitted by Law, that the rate of exchange used shall be that at which, in accordance with normal banking procedures, the Administrative Agent could purchase Dollars with such other currency at the buying spot rate of exchange in the New York foreign exchange market on the Business Day immediately preceding that on which any such judgment, or any relevant part thereof, is given.

(b) The obligations of the Obligors in respect of any sum due to the Administrative Agent hereunder and under the other Loan Documents shall, notwithstanding any judgment in a currency other than Dollars, be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in such other currency the Administrative Agent may, in accordance with normal banking procedures, purchase Dollars with such other currency. If the amount of Dollars so purchased is less than the sum originally due to the Administrative Agent in Dollars, the Borrower agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent against such loss. If the amount of Dollars so purchased exceeds the sum originally due to the Administrative Agent in Dollars, the Administrative Agent shall remit such excess to the Borrower.

14.19 USA PATRIOT Act. The Administrative Agent and the Lenders hereby notify the Obligors that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "***Patriot Act***"), they are required to obtain, verify and record information that identifies the Obligors, which information includes the name and address

of each Obligor and other information that will allow such Person to identify such Obligor in accordance with the Patriot Act.

14.20 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(i) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

[Signature Pages Follow]

Annex B

Amended and Restated Schedule 3 to the Credit Agreement

Exhibit 10.3

FIFTH AMENDMENT TO CREDIT AND GUARANTY AGREEMENT

THIS **FIFTH AMENDMENT TO CREDIT AND GUARANTY AGREEMENT** (this "**Amendment**"), dated as of June 29, 2022, is made by and among ATHENEX, INC., a Delaware corporation (as applicable, the "**Borrower**"), the Lenders party hereto and OAKTREE FUND ADMINISTRATION, LLC, as administrative agent for the Lenders (in such capacity, the "**Administrative Agent**").

WHEREAS, the parties hereto are party to that certain Credit and Guaranty Agreement, dated as of June 19, 2020 (as amended by that certain First Amendment and Limited Waiver to Credit and Guaranty Agreement, dated as of June 3, 2021, that certain Second Amendment to Credit and Guaranty Agreement, dated December 14, 2021, that certain Third Amendment to Credit and Guaranty Agreement and First Amendment to Warrants, dated as of January 19, 2022, that certain Fourth Amendment to Credit and Guaranty Agreement, Second Amendment to the Warrants and Partial Release of Collateral, dated as of June 21, 2022, and as further amended, restated or modified from time to time, the "**Credit Agreement**") by and among the Borrower, the Guarantors party thereto from time to time, the Lenders party thereto from time to time, and the Administrative Agent; and

WHEREAS, the Borrower has requested that the Lenders and the Administrative Agent agree to make certain amendments to the Credit Agreement, subject to the terms and conditions contained herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows.

SECTION 1Capitalized Terms. All capitalized terms used in this Amendment (including in the recitals hereof) and not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

SECTION 2Amendment to the Credit Agreement. Notwithstanding anything in the Credit Agreement or the other Loan Documents to the contrary, the Lenders and the Borrower hereby agree that on the Fifth Amendment Effective Date, the Credit Agreement is hereby deemed amended as follows:

•On or prior to July 1, 2022, the Borrower shall make a mandatory prepayment in cash to the Administrative Agent for the benefit of the Lenders in principal amount equal to $10,000,000, plus accrued and unpaid interest in respect of the principal amount being repaid, plus a 5.00% fee on the principal amount so prepaid which fee which shall be allocated as follows: 2.00% to Exit Fee and 3.00% to the Prepayment Fee (collectively, the "**Mandatory Prepayment**"). Such Mandatory Prepayment shall be in addition to, and not in lieu of, any other mandatory prepayments required under the Loan Documents, including the prepayments required pursuant to Section 3.03(b)(iv).

•Upon making the Mandatory Prepayment no additional Prepayment Fee shall be due solely on the such principal repaid in respect of the Mandatory Prepayment.

•Concurrently with the receipt by the Administrative Agent of the Mandatory Prepayment, the definition of "Minimum Liquidity Amount" shall be amended in its entirety to read as follows: "'Minimum Liquidity Amount'" means $10,000,000".

•Section 9.02(t) is hereby amended and restated in its entirety to read as follows: "Liens granted to the Purchasers (as defined in the Klisyri Revenue Interest Purchase Agreement) in (x) the Retained Product Assets (as defined in the Klisyri Intercreditor Agreement) and in the Equity Interests of the Klisyri SPV and (y) the Reverting Product Assets (as defined in the Klisyri Intercreditor Agreement), in each case pursuant to the Klisyri Transaction Documents subject to the Klisyri Intercreditor Agreement;"

SECTION 3Effectiveness. Section 2 to this Amendment shall become effective only upon the satisfaction or waiver by the Lenders of the following conditions precedent (the date of such satisfaction or waiver of the following conditions being referred herein as the "**Fifth Amendment Effective Date**"):

(a)Each of the Borrower and the Lenders shall have executed this Amendment and the Administrative Agent shall have received a fully executed copy of this Amendment.

(b)The representations and warranties of the Borrower set out in Section 4 below shall be true and correct on and as of the Fifth Amendment Effective Date, except for any representation or warranty expressly stated to be made as of a specific date, in which case such representation or warranty shall be true and correct as of such specific date.

SECTION 4Representations and Warranties.

The Borrower represents and warrants as of the date hereof and on the Fifth Amendment Effective Date that:

(a)**Power and Authority**. The Borrower has full power, authority and legal right to enter into and perform its obligations under this Amendment and the other Loan Documents to which it is a party.

(b)**Authorization; Enforceability**. The execution of this Amendment and performance hereunder are within the Borrower's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational action including, if required, approval by all necessary holders of Equity Interests. This Amendment has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, reorganization, moratorium or similar laws of general applicability affecting the enforcement of creditors' rights and (ii) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c)**Governmental and Other Approvals; No Conflicts**. None of the execution, delivery and performance by the Borrower of the Amendment (i) requires any Governmental Approval of, registration or filing with, or any other action by, any Governmental Authority or any other Person, except for such as have been obtained or made and are in full force and effect, (ii) will violate (1) any Law, (2) any Organic Document of the Borrower or (3) any order of any Governmental Authority, that in the case of **clause (ii)(1)** or **clause (ii)(3)**, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect, (iii) will violate or result in a default under any Material Agreement binding upon the Borrower that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect or (iv) will result in the creation or imposition of any Lien (other than Permitted Liens) on any asset of any Obligor or any of its Subsidiaries.

(d)**No Default or Event of Default**. No event has occurred and is continuing or would result after giving effect to this Amendment that would constitute an Event of Default or a Default.

SECTION 5Miscellaneous.

(a)**References Within Loan Documents**. Each reference in the Credit Agreement on and after the Fifth Amendment Effective Date to "this Agreement" and the words "hereof," "herein," "hereunder," or words of like import, shall mean and be a reference to the Credit Agreement as amended by Section 2 of this Amendment,.

(b)**Binding Effect**. This Amendment binds and is for the benefit of the successors and permitted assigns of each party.

(c)**No Waiver**. Except as specifically modified above, (i) the Credit Agreement and all other Loan Documents shall remain in full force and effect, and are hereby ratified and confirmed and (ii) the execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Administrative Agent or the Lenders nor constitute a waiver of any provision of the Credit Agreement or any of the Loan Documents. None of the Administrative Agent or any Lender is under any obligation to enter into this Amendment. The entering

into this Amendment by such parties shall not be deemed to limit or hinder any rights of any such party under the Loan Documents, nor, except as provided in Section 2, as applicable, shall it be deemed to create or infer a course of dealing between any such party, on the one hand, and the Borrower, on the other hand, with regard to any provision of the Loan Documents.

(d)**Governing Law**. **THIS AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

(e)**Severability of Provisions.** Each provision of this Amendment is severable from every other provision in determining the enforceability of any provision.

(f)**Counterparts**. This Amendment may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Amendment. Delivery of an executed counterpart of a signature page of this Amendment by facsimile, portable document format (.pdf) or other electronic transmission will be as effective as delivery of a manually executed counterpart hereof.

(g)**Loan Documents**. This Amendment and the documents related thereto shall constitute Loan Documents.

(h)**Electronic Execution of Certain Other Documents**. The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Amendment and the transactions contemplated hereby (including without limitation assignments, assumptions, amendments, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

[Balance of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment, as of the date first above written.

NEX, INC.,

a Delaware corporation

By: /s/ Johnson Y.N. Lau
Name: Dr. Johnson Y.N. Lau
Title: Chairman and Chief Executive Officer

ADMINISTRATIVE AGENT:

OAKTREE FUND ADMINISTRATION, LLC

By: Oaktree Capital Management, L.P.
Its: Managing Member

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

LENDERS AND WARRANT HOLDERS:

OAKTREE-TCDRS STRATEGIC CREDIT, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

EXELON STRATEGIC CREDIT HOLDINGS, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-NGP STRATEGIC CREDIT, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-MINN STRATEGIC CREDIT LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-FORREST MULTI-STRATEGY LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-TBMR STRATEGIC CREDIT FUND C, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-TBMR STRATEGIC CREDIT FUND F, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-TBMR STRATEGIC CREDIT FUND G, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE-TSE 16 STRATEGIC CREDIT, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

INPRS STRATEGIC CREDIT HOLDINGS, LLC

By: Oaktree Capital Management, L.P.
Its: Manager

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE HUNTINGTON-GCF INVESTMENT FUND, L.P.

By: Oaktree Huntington-GCF Investment Fund GP, L.P.
Its: General Partner

By: Oaktree Huntingon-GCF Investment Fund GP, LLC
Its: General Partner

By: Oaktree Fund GP I, L.P.
Its: Managing Member

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Authorized Signatory

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Authorized Signatory

OAKTREE STRATEGIC INCOME II, INC.

By: Oaktree Fund Advisors, LLC
Its: Investment Advisor

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE SPECIALTY LENDING CORPORATION

By: Oaktree Fund Advisors, LLC
Its: Investment Adviser

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE STRATEGIC INCOME CORPORATION

By: Oaktree Fund Advisors, LLC
Its: Investment Adviser

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Vice President

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Vice President

OAKTREE GILEAD INVESTMENT FUND, L.P.

By: Oaktree Gilead Investment Fund GP, L.P.
Its: General Partner

By: Oaktree Fund GP, LLC
Its: General Partner

By: Oaktree Fund GP I, L.P.
Its: Managing Member

By: /s/ Jessica Dombroff
Name: Jessica Dombroff
Title: Authorized Signatory

By: /s/ Maria Attaar
Name: Maria Attaar
Title: Authorized Signatory

SAGARD HEALTHCARE ROYALTY PARTNERS, LP, acting through its general partner, SAGARD HEALTHCARE ROYALTY PARTNERS GP LLC

By: /s/ Adam Vigna
Name: Adam Vigna
Title: Chief Investment Officer

By: /s/ Jason Sneah
Name: Jason Sneah
Title: Manager

OPB SHRP CO-INVEST CREDIT LIMITED

By: /s/ Jennifer Hartviksen
Name: Jennifer Hartviksen
Title: Managing Director, Global Credit

SIMCOE SHRP CO-INVEST CREDIT LTD.

By: /s/ Jennifer Hartviksen
Name: Jennifer Hartviksen
Title: Managing Director, Global Credit

EQUITY PURCHASE AGREEMENT

among

TIHE CAPITAL (BEIJING) CO. LTD.（泰和中投投资基金管理（北京）有限公司）,

ATHENEX API LIMITED,

ATHENEX PHARMACEUTICALS (CHINA) LIMITED,

POLYMED THERAPEUTICS, INC.

and

ATHENEX, INC.

Dated July 7, 2022

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EQUITY PURCHASE AGREEMENT

THIS EQUITY PURCHASE AGREEMENT (this "Agreement") is made and entered into as of July 7, 2022, by and among TIHE CAPITAL (BEIJING) CO. LTD.（泰和中投投资基金管理（北京）有限公司）, a company organized under the laws of the People's Republic of China ("Buyer"), Athenex API Limited, a company organized under the laws of Hong Kong ("Athenex API") and Polymed Therapeutics, Inc., a company organized under the laws of the State of Texas ("Polymed US" and, together with Athenex API, each a "Taihao Owner" and collectively, "Taihao Owners") and Athenex Pharmaceuticals (China) Limited, a company organized under the laws of Hong Kong ("Huiyuan Owner" and, together with Taihao Owners, each, a "Seller" and collectively, "Sellers") and ATHENEX, INC., a Delaware corporation ("Seller Parent" and, together with Seller, the "Seller Parties"). Buyer and each Seller Party is referred to herein as a "Party" and together as the "Parties".

RECITALS

A. Athenex API owns 80% of the equity interests of Chongqing Taihao Pharmaceutical Co., Ltd.（重庆泰濠制药有限公司）, a company formed under the laws of the People's Republic of China ("Taihao"), and Polymed US owns 20% of the equity interests of Taihao and Huiyuan Owner owns 100% of the equity interests of Athenex Pharmaceuticals (Chongqing) Limited（重庆惠源医药有限公司）, a company formed under the laws of the People's Republic of China ("Huiyuan" and, together with Taihao, each a "Company" and, collectively, the "Companies").

B. Taihao owns all of the equity interests in the Subsidiary identified on Schedule 3.5 (the "Company Subsidiary").

C Seller Parent owns, indirectly, 100% of the issued and outstanding equity interests in each Seller.

D. Each Seller desires to sell to Buyer, and Buyer desires to purchase from each Seller, all of the equity interests in the respective Companies held by each Seller, in exchange for the consideration and on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I.
THE TRANSACTION

1.1 Purchase Transaction. On and subject to the terms and conditions of this Agreement, at Closing, (a) Buyer shall purchase from Athenex API, and Athenex API shall sell to Buyer, 80% of the equity interests in Taihao (the "80% Taihao Equity Interests"), and (b) Buyer shall purchase from Polymed US, and Polymed US shall sell to Buyer, 20% of the equity interests in Taihao (the "20% Taihao Equity Interests" and, together with the 80% Taihao Equity Interests, the "Taihao Equity Interests"), and (c) Buyer shall purchase from Huiyuan Owner, and Huiyuan Owner shall sell to Buyer, all of equity interests in Huiyuan (the "Huiyuan Equity

Interests" and, together with the Taihao Equity Interests , the "Company Equity Interests"), in each case, free and clear of all Encumbrances and together with all rights attaching or accruing to them, in exchange for the Purchase Price. The Company Equity Interests owned by Sellers and transferred to Buyer hereunder shall constitute all of equity interests in each Company on the Closing Date.

1.2 Purchase Price. Subject to the provisions of this Agreement, the total purchase price for the Company Equity Interests shall be an amount equal to RMB124,400,000 (the "Purchase Price"). The Purchase Price shall be allocated between Sellers as provided in a written notice delivered by Sellers to Buyer prior to the Closing (the "Seller Allocation") and shall be payable to Sellers in accordance with the provisions of Section 1.3.

1.3 Payment of Purchase Price. The Purchase Price shall be payable by Buyer to Sellers as follows:

(a) At the Closing, Buyer shall pay to Sellers, in accordance with the Seller Allocation, an amount equal to at least 70% of the Purchase Price (the "Closing Date Payment"), by wire transfer of immediately available RMB funds to one or more accounts that have been designated in writing by Sellers.

(b) Within three (3) months after the Closing Date, Buyer shall pay to Sellers, in accordance with the Seller Allocation, an amount equal to 20% of the Purchase Price (the "Second Payment"), by wire transfer of immediately available RMB funds to one or more accounts that have been designated in writing by Sellers.

(c) Within six (6) months after the Closing Date, Buyer shall pay to Sellers the full remaining balance of the Purchase Price (the "Final Payment") in accordance with the Seller Allocation, by wire transfer of immediately available funds to one or more accounts that have been designated in writing by Sellers.

1.4 Security for Payment. If Buyer fails to pay all or any portion of the Second Payment or the Final Payment when due pursuant to Section 1.3 (such unpaid amount, the "Unpaid Amount"), and does not cure such failure within fifteen (15) Business Days after the due date, then, in addition to any other rights available to Sellers under this Agreement or applicable Law, Sellers shall have the right (but not the obligation), exercisable on written notice delivered to Buyer, to require Buyer to issue and deliver to Sellers (in accordance with the Seller Allocation or as otherwise directed in writing by Sellers), in payment of the Unpaid Amount, equity interests of Buyer having a value, as agreed upon by Buyer and Sellers, equal to the Unpaid Amount. Within ten (10) Business Days after receipt of such notice, Buyer shall (i) issue and deliver such equity interests to Sellers, free and clear of all Encumbrances, (ii) execute and deliver all certificates, instruments, and documents required for such issuance, and (iii) take all action as may be required to register such issuance with the local SAMR.

ARTICLE II.
CLOSING

2.1 Closing Date. The closing of the Proposed Transaction (the "Closing") shall take place at such place as is agreed in writing by Buyer and Sellers, or via electronic transmittal of documents, as promptly as practicable but in no event later than three Business Days after the date on which all conditions precedent to the Closing (except those conditions set forth in Section 2.4 that are to be satisfied at Closing) set forth in (a) Section 2.4(a) are all satisfied or waived by Buyer in writing and (b) Section 2.4(b) are all satisfied or waived by Sellers in writing (the date on which the Closing occurs, the "Closing Date"). For financial accounting and tax purposes, to the extent permitted by Law, the Closing shall be deemed to have become effective as of 11:59 p.m. on the Closing Date (the "Effective Time"). This Agreement and all other agreements, certificates, documents and instruments furnished in connection with this Agreement or the other agreements, certificates, documents and instruments at the Closing shall be deemed to be delivered simultaneously on the Closing Date and may be delivered by means of an exchange of executed documents by facsimile or an attachment in "pdf" or similar format to an electronic mail message.

2.2 Closing Deliveries.

(a) Deliveries by Buyer. At the Closing, in addition to any items the delivery of which is made an express condition pursuant to Section 2.4(b), Buyer shall deliver or cause to be delivered the following to Sellers or other Persons as specified below:

(i) the Closing Date Payment in accordance with Section 1.3(a);

(ii) a supply agreement between Seller Parent or its Affiliate and Buyer or its Affiliate (including a Company or Company Subsidiary), in a form agreed upon by Buyer and Seller Parent (the "Supply Agreement"), duly executed by Buyer or its Affiliate;

(iii) an agreement between Seller Parent or its Affiliate and Buyer or its Affiliate (including a Company or Company Subsidiary) providing Buyer or its Affiliate with a first right of negotiation with respect to rights to certain products in the Restricted Territory, substantially in the form attached hereto as Annex 1 (the "Product Rights Agreement"), duly executed by Buyer or its Affiliate;

(iv) a letter confirming receipt of the documents, materials and items set out in the Company Handover Checklist; and

(v) such other agreements, certificates and documents as may be reasonably requested by Sellers to effectuate or evidence the Proposed Transaction.

(b) Deliveries by Sellers. At the Closing, in addition to any items the delivery of which is made an express condition pursuant to Section 2.4(a), Seller Parties shall deliver or cause to be delivered the following to Buyer:

(i) a certified copy of a resolution of the board of directors of each Seller Party authorizing the execution of and the performance by such Seller Party of its obligations under this Agreement and each of the other Transaction Documents to be executed by it;

(ii) duly executed transfers of the Company Equity Interests to Buyer together with certificates, if any, evidencing the Company Equity Interests, duly endorsed by the applicable Seller or accompanied by assignments or other instruments of transfer duly executed by the applicable Seller for transfer to Buyer, free and clear of all Encumbrances, together with any instruments or documents required to be filed by such Seller with any Authority to give effect to such resignation, duly executed by such Seller if required;

(iii) a written tender of resignation of each Person holding a position of director or officer (or similar position) of each Company and Company Subsidiary, together with any instruments or documents required to be filed by any such Person with any Authority to give effect to such resignation, duly executed by such Person if required;

(iv) the Supply Agreement, duly executed by Seller Parent or its Affiliate;

(v) the Product Rights Agreement, duly executed by Seller Parent or its Affiliate;

(vi) an updated list of equity holders or register of members of each Company showing the Buyer or its assignee as the sole equity holder of each Company, affixed with the company chop of each Company and signed by the legal representative of each Company, respectively;

(vii) with respect to each Company and Company Subsidiary, all company kits, statutory and corporate records and registers, certificate of incorporation, company chop, common seal, copies of the memorandum and articles of association;

(viii) an enterprise credit information publicity report (企业信用信息公示报告) printed from National Enterprise Credit Information Publicity System (国家企业信用信息公示系统) (or equivalent document) dated not more than 10 days prior to the Closing Date, attesting to the good standing of such Company or Company Subsidiary in such jurisdiction;

(ix) the updated business license and Notice on Permitted Change Registration (准予变更登记通知书) issued by local SAMR which records Buyer or its assignee as the sole equity holder of each Company and the director appointed by Buyer as new director of each Company and Company Subsidiary, and amended Organizational Documents of each Company as registered and certified by SAMR;

(x) an enterprise credit information publicity report (企业信用信息公示报告) printed from National Enterprise Credit Information Publicity System (国家企业信用信息公示系统) (or equivalent document) dated on the Closing Date, attesting each Company has completed the Proposed Transaction;

(xi) the consents from Authorities or other Persons, if any, set forth on Schedule 3.3 in forms reasonably acceptable to Buyer;

(xii) a letter confirming the handover of the documents, materials and items set out in the Company Handover Checklist;

(xiii) such lien releases or other written evidence reasonably satisfactory to Buyer, evidencing the release of all Encumbrances on the assets of each Company and Company Subsidiary that are not Permitted Encumbrances;

(xiv) the documents evidencing that the conditions precedent set forth in Section 2.4(a) have been satisfied; and

(xv) such other agreements, certificates and documents as may be reasonably requested by Buyer to effectuate or evidence the Proposed Transaction.

2.3 Pre-Closing Undertakings.

(a) To the extent permissible under applicable law during the Pre-Closing Period, the Seller Parties shall comply with their obligations set out in Annex 3 (Conduct of the Companies Pre-closing).

(b) During the Pre-Closing Period, the Seller Parties shall, and shall cause each Company and Company Subsidiary to: (a) afford Buyer and its Representatives reasonable access to and the right to inspect all of the properties, assets, premises, books and records, contracts, agreements and other documents and data of the Companies and Company Subsidiary; (b) furnish Buyer and its Representatives with such financial, operating and other data and information as Buyer or any of its Representatives may reasonably request; and (c) instruct the Representatives of the Seller Parties and the Companies and Company Subsidiary to cooperate with Buyer in its investigation of the Companies and Company Subsidiary; provided, however, that any such investigation shall be conducted during normal business hours upon reasonable advance notice to the Seller Parties and in such a manner as not to interfere with the normal operations of the Companies and Company Subsidiary.

(c) During the Pre-Closing Period, Buyer and the Seller Parties shall use commercially reasonable efforts to cause each Guangzhou R&D Staff member to enter into labor or consulting agreements with a company designated by Buyer in a form reasonably acceptable to Buyer. If a Company or Company Subsidiary intends to terminate the employment of any Key Employee during the Pre-Closing Period, it shall notify Buyer prior to such termination of employment.

(d) During the Pre-Closing Period, the Seller Parties shall as soon as reasonably practicable notify the Buyer in writing of:

(i) any fact, circumstance, event or action the existence, occurrence or taking of which, to the Knowledge of the Seller Parties, (i) has had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (ii) has resulted in, or could reasonably be expected to result in, any representation or warranty made by Seller

Parties hereunder not being true and correct in any material aspect, or (iii) has resulted in, or could reasonably be expected to result in, the failure of any of the conditions to closing set forth in Section 2.4(a) and 2.4(b) to be satisfied;

(ii) any written notice or other written communication from any Person alleging that the consent of such Person is or may be required in connection with the Proposed Transaction;

(iii) any written notice or other written communication from any Key Employee advising of the termination of such Key Employee's employment with the applicable Company or Company Subsidiary; and

(iv) any written notice or other written communication from any Authority in connection with the Proposed Transaction other than those received by any of Seller Party or Company or Company Subsidiary in the Ordinary Course of Business.

Buyer's receipt of information pursuant to this Section 2.3(c) shall not operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Seller Parties in this Agreement.

(e) The Seller Parties and Buyer, as the case may be, shall use commercially reasonable efforts to cause the Companies and Company Subsidiary to give all notices to, and obtain all consents from, the Authorities and the other Persons set forth in Schedule 3.3.

(f) During the Pre-Closing Period, upon the reasonable request of Buyer, the Seller Parties shall cause the Companies and the Company Subsidiary to use commercially reasonable efforts to obtain from the applicable owners of the Leased Real Property relevant documents to confirm that all Leased Real Property has been inspected and accepted by the governing Authority with respect to work safety, fire control and construction quality, if and to the extent that a Company or the Company Subsidiary is reasonably required to hold such documents in accordance with applicable Law.

2.4 Conditions to Closing

(a) Conditions to Obligations of Buyer. The obligation of Buyer to consummate the Closing are subject to the fulfillment, to the satisfaction of Buyer (or the waiver by Buyer) of the following conditions:

(i) each of the representations and warranties of the Seller Parties contained in Article III shall be true and correct in all material respects as of the Closing Date, except in either case for those representations and warranties that address matters only as of a particular date, which representations will have been true and complete in all material respects as of such particular date;

(ii) each Seller Party shall have performed and complied in all respects with all obligations and conditions required by this Agreement to be performed or complied with by such Seller Party on or before the Closing Date;

(iii) Buyer shall have received a certificate, dated as of the Closing Date and signed by an authorized officer of each Seller Party, to the effect that the conditions set forth in Sections 2.4(a)(i) and 2.4(a)(ii) have been satisfied.

(iv) the registration of Buyer as the sole equity holder of each Company (Taihao and Huiyuan) with SAMR shall have been completed in accordance with the requirements of applicable Law;

(v) the board of directors of each Seller Party, as the competent decision-making body of each Seller Party, shall have approved in writing respectively the Transaction Documents and the Proposed Transaction;

(vi) the board of directors of each Company and Company Subsidiary shall have approved in writing the Transaction Documents and the Proposed Transaction;

(vii) the current equity holders of each Company and Company Subsidiary shall have approved in writing the Transaction Documents and the Proposed Transaction;

(viii) the persons to be designated by the Buyer shall have been appointed to the board of directors or officers of each Company and Company Subsidiary and registered with SAMR;

(ix) the Chongqing Maliu Riverside Development & Investment Co., Ltd. (重庆麻柳沿江开发投资有限公司, now known as 重庆国际生物城开发投资有限公司) shall have approved the Proposed Transaction (the "Chongqing Consent");

(x) all consents of any competent Authority (other than the Chongqing Consent) or of any other Person that are required to be obtained in connection with the consummation of the Proposed Transaction by (A) any Seller Party or any Company or Company Subsidiary, as set forth on Schedule 3.3, and Buyer, as set forth on Schedule 4.4, shall have been duly obtained and effective as of Closing; and

(xi) no law or order shall have been enacted which (i) prevents or impedes Closing from taking place, or (ii) requires Sellers to transfer the Company Equity Interests to a Person other than Buyer (or another member of the Buyer Group).

(b) Conditions to Obligations of Seller Parties. The obligations of the Seller Parties to consummate the Closing are subject to the fulfillment, to the satisfaction of the Seller Parties (or the waiver by the Seller Parties) of the following conditions:

(i) the representations and warranties of the Buyer contained in Article IV shall be true and correct in all material respects as of the Closing Date, except in either case for those representations and warranties that address matters only as of a particular date, which representations will have been true and complete in all material respects as of such particular date;

(ii) Buyer shall have performed and complied in all material respects with all obligations and conditions required by this Agreement to be performed or complied with by Buyer on or before the Closing Date;

(iii) Seller Parties shall have received a certificate, dated as of the Closing Date and signed by an authorized officer of Buyer, to the effect that the conditions set forth in Sections 2.4(b)(i) and 2.4(b)(ii) have been satisfied;

(iv) the Chongqing Consent shall have been obtained and be effective as of the Closing;

(v) all consents of any competent Authority (other than the Chongqing Consent) or of any other Person that are required to be obtained in connection with the consummation of the Proposed Transaction by (A) any Seller Party or any Company or Company Subsidiary, as set forth on Schedule 3.3, and Buyer, as set forth on Schedule 4.4, shall have been duly obtained and effective as of Closing; and

(vi) no law or order shall have been enacted which (i) prevents or impedes Closing from taking place, or (ii) requires Seller to transfer the Company Equity Interests to a Person other than Buyer (or another member of the Buyer Group).

(c) Efforts. Subject to the terms of this Agreement, each of Buyer and the Seller Parties shall use commercially reasonable efforts to cause the conditions to Closing to be satisfied and for the Closing to occur as promptly as practicable.

(d) Responsibilities of Parties. The Seller Parties shall have primary responsibility for obtaining all consents, approvals or actions of any Authority or other Person which are set forth on Schedule 3.3 (other than the Chongqing Consent) and shall take, or cause the Companies and the Company Subsidiary to take, all steps necessary for that purpose (including making appropriate submissions, notifications and filings, in consultation with Buyer). Buyer shall have primary responsibility for obtaining all consents, approvals or actions of any Authority or other Person which are set forth on Schedule 4.4 (other than the Chongqing Consent) and shall take all steps necessary for that purpose (including making appropriate submissions, notifications and filings, in consultation with the Seller Parties). Buyer and the Seller Parties, jointly, shall be responsible for pursuing and obtaining the Chongqing Consent, and each of the Parties shall take, or cause the Companies and the Company Subsidiary to take, all steps necessary for that purpose (including making appropriate submissions, notifications and filings, in consultation with the other Parties).

In addition, the Seller Parties shall cause each Company to make the filing with SAMR for fulfillment of the condition under Section 2.4(a)(iv) and Section 2.4(a)(viii), provided; however, that Buyer shall provide to the Seller Parties all information required from Buyer to complete such filing, and shall provide reasonable assistance to the Seller Parties with respect to such filing. Furthermore, Buyer shall (i) make the filing of Tax Filing Form for External Payments for Trade in Services (服务贸易等项目对外支付税务备案表), (ii) withhold Corporate Income Tax (CIT) filing, and (iii) proceed with funds remittance procedures for fulfillment of the consents under Schedule 4.4, provided; however, that the Seller Parties shall provide to Buyer all

information required from the Seller Parties to complete such filing, and shall provide reasonable assistance to Buyer with respect to such filing.

(e) Handover Checklist. At least three (3) Business Day prior to the Closing Date, the Seller Parties shall make available to Buyer for examination all the documents and items set forth on the list attached as Annex 6 (the "Company Handover Checklist").

(f) Cooperation. Each Party shall cooperate fully to procure that all the necessary submissions, notifications and filings to any applicable Authority are made promptly and in accordance with the timelines set by such Authority, and, to the extent legally permissible, shall provide the other Party, and its advisers and any Authority with any necessary information and documents reasonably required for the purpose of making any submissions, notifications and filings to any such Authority.

(g) Notification. Sellers and Buyer shall each notify the other promptly (but in any event within two (2) Business Days) upon becoming aware that any of the conditions to Closing have been fulfilled.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES OF SELLER PARTIES

Each Seller Party severally and jointly makes the following representations and warranties to Buyer as at the date of this Agreement and as at the Closing Date, which representations and warranties are qualified by the information set forth in the reports, registrations, documents, filings, statements, schedules and submissions together with any required amendments thereto filed by Seller Parent with the SEC prior to the date of this Agreement (the "SEC Documents"):

3.1 Authority; Execution and Delivery. Each Seller Party has the requisite power and authority to execute and deliver this Agreement and all other Transaction Document to which it is a party, to perform its obligations hereunder and thereunder and to consummate the Proposed Transaction. The execution, delivery and performance by each Seller Party of this Agreement and all other Transaction Documents to which it is a party have been duly authorized by all necessary action. This Agreement and each Transaction Document to which each Seller Party is a party has been duly authorized, executed and delivered by such Seller Party and constitutes a legal, valid and binding obligation of such Seller Party, enforceable against such Seller Party in accordance with its terms and conditions, except as enforcement may be limited by General Enforceability Exceptions.

3.2 Organization. Each Seller Party and each Company and Company Subsidiary is duly organized, validly existing and in good standing (where applicable) under the laws of its jurisdiction of formation, and has the full right, power and authority to own, lease and operate all of its properties and assets and carry out the Business as it is presently conducted. Each Company and Company Subsidiary is duly qualified to do business and is in good standing as a foreign corporation in all jurisdictions where the nature of the property owned or leased by it or the nature of the business conducted by it makes such qualification necessary. Schedule 3.2 sets for a list all jurisdictions in which each Company and Company Subsidiary is authorized to

transact business. Seller Parties have provided to Buyer true and complete copies of the Organizational Documents of each Company and Company Subsidiary, all as amended to date. No bankruptcy, insolvency or judicial composition proceedings have been filed by or against any Seller Party or any Company or the Company Subsidiary. To the Knowledge of the Seller Parties, no circumstances exist which would require an application for any bankruptcy, insolvency or judicial composition proceedings concerning either Seller, either Company, or the Company Subsidiary.

3.3 No Conflict; Consents. Except as set forth on Schedule 3.3, the execution, delivery and performance by each Seller Party of this Agreement and each Transaction Document to which each Seller Party is a party, and the consummation by each Seller Party of the Proposed Transaction does not and will not, with or without the giving of notice or the lapse of time, or both, (a) violate any provision of any Law or Governmental Order to which any Seller Party or any Company or Company Subsidiary is subject, (b) violate any provision of the Organizational Documents of any Seller Party or any Company or Company Subsidiary, or (c) except as set forth on Schedule 3.3 ,violate or result in a breach of or constitute a default (or an event which might, with the passage of time or the giving of notice, or both, constitute a default), or require the consent of any third party, under any Contract or Permit to which any Seller Party or any Company or Company Subsidiary is a party or by which any Seller Party or any Company or Company Subsidiary may be bound or affected, or result in or permit the termination or amendment of any provision of any such Contract or Permit. Except as set forth on Schedule 3.3, no consent, approval, or authorization of, or exemption by, or filing with, any Authority or other Person is required to be obtained or made by any Seller Party or any Company or Company Subsidiary in connection with the execution, delivery, and performance by any Seller Party of this Agreement or any Transaction Document to which any Seller Party is a party, or the taking by any Seller Party, any Company or Company Subsidiary of any other action contemplated hereby or thereby.

3.4 Capitalization; Title to Company Equity Interests.

(a) The Taihao Equity Interests constitute 100% of the registered capital of Taihao and all of the Taihao Equity Interests are validly subscribed and fully paid, and Taihao Owners are the registered and beneficial owner of all Taihao Equity Interests, free and clear of all Encumbrances. Taihao Owners are as of the date of this Agreement entitled to transfer or procure the transfer of the Taihao Equity Interests on the terms of this Agreement.

(b) The Huiyuan Equity Interests constitute 100% of the registered capital of Huiyuan and all of the Huiyuan Equity Interests are validly subscribed, and Huiyuan Owner is the sole registered and beneficial owner of all Huiyuan Equity Interests, free and clear of all Encumbrances. As of the date of this Agreement, the registered capital of Huiyuan is 30 million dollars, of which 11,161,775 dollars have been paid and the unpaid amount is not yet due according to the current Organizational Documents of Huiyuan. Huiyuan Owner is as of the date of this Agreement entitled to transfer or procure the transfer of the Huiyuan Equity Interests on the terms of this Agreement.

(c) The registered capital stock of the Company Subsidiary is set forth on Schedule 3.4(c). All of the registered capital of the Company Subsidiary is validly subscribed, fully paid and non-assessable, and is owned of record and beneficially by Taihao (as set forth on Schedule 3.4(c)), free and clear of all Encumbrances.

(d) There are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the equity interests of any Company or Company Subsidiary or obligating any Seller Party or any Company or Company Subsidiary to issue or sell any shares of capital stock of, or any other equity interest in, any Company or Company Subsidiary. None of the Companies or Company Subsidiary has any outstanding or authorized any equity appreciation, phantom equity, profit participation or similar rights. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Company Equity Interests or any equity interests of any Company Subsidiary.

(e) As at the date of this Agreement, the equity interests of any Company or Company Subsidiary are not the subject matter of any Action or subject to any prohibition, injunction or restriction on sale to Buyer under any decree or order of any Authority.

3.5 Subsidiaries. Except for the Company Subsidiary, none of the Companies or Company Subsidiary (i) directly or indirectly owns any stock of, equity interest in, or other investment in any other corporation, joint venture, partnership, trust or other Person or (ii) has any subsidiaries or any predecessors in interest by merger, liquidation, reorganization, acquisition or similar transaction.

3.6 Title and Condition of Assets.

(a) Each Company and Company Subsidiary, as applicable, has good and valid title to, or a valid leasehold interest in, all items of property and other assets used in the operation of its Business, free and clear of all Encumbrances, except for Permitted Encumbrances. For the avoidance of doubt, the representation and warranty in this Section 3.6(a) does not apply to the Leased Real Property.

(b) The tangible personal property owned by each Company and Company Subsidiary is in good condition and repair (except for ordinary wear and tear and routine maintenance in the Ordinary Course of Business).

3.7 Real Property.

(a) None of the Companies or Company Subsidiary owns, or has ever owned, any real property.

(b) Schedule 3.7(b) sets forth the address of each parcel of real property leased by any Company or Company Subsidiary (collectively, the "Leased Real Property"). All of the Leased Real Property is leased pursuant to leases listed on Schedule 3.7(b) (the "Real Property Leases"). The Leased Real Property comprises all of the real property used by the Companies and the Company Subsidiary in the operation of the Business. Except as set forth on Schedule

3.7(b), the Companies and the Company Subsidiary have obtained all material Permits necessary to operate the Business, as currently conducted, at the Leased Real Property.

(c) The Seller Parties have not received written notice of any pending or threatened Actions relating to any parcel of Leased Real Property.

(d) None of the Seller Parties, the Companies or the Company Subsidiary has received written notice of any condemnation, expropriation or other proceeding in eminent domain affecting any parcel of Leased Real Property or any portion thereof or interest therein.

(e) The Companies and the Company Subsidiary have not received any written notice of violation of any applicable Law affecting the Leased Real Property, except as set forth on Schedule 3.7(e).

(f) To the Knowledge of the Seller Parties, none of the Leased Real Property is subject to any Action, Contract restriction, or order of any Authority which will have a material adverse effect on the ability of the Companies and the Company Subsidiary to continue to carry on their business from the Leased Real Property substantially in the manner presently conducted, except as set forth on Schedule 3.7(f).

(g) To the Knowledge of the Seller Parties, the Companies and the Company Subsidiary are not in breach of any covenant, restriction, condition or obligation (whether statutory or otherwise) binding on the Companies or the Company Subsidiary with respect to the Leased Real Property.

3.8 Intellectual Property.

(a) Schedule 3.8(a)(i) contains a true and complete listing of all material items of Intellectual Property owned by any Company or Company Subsidiary (collectively, the "Owned Intellectual Property"). Schedule 3.8(a)(ii) contains a true and complete listing of all material items of Intellectual Property owned by a third party which any Company or Company Subsidiary has a right to use pursuant to a license, sublicense, agreement or permission (the "Licensed Intellectual Property"), other than any Off-the-Shelf Software. The Owned Intellectual Property and the Licensed Intellectual Property constitute all material Intellectual Property used in connection with the conduct of the Business by the Companies and the Company Subsidiary.

(b) Each item of Owned Intellectual Property is valid and in full force and effect and is owned by the applicable Company or Company Subsidiary, free and clear of all Encumbrances (other than Permitted Encumbrances) and other claims, including any claims of joint ownership or inventorship.

(c) Each of the Companies and Company Subsidiary owns or possesses adequate licenses or other valid rights to use all Owned Intellectual Property and Licensed Intellectual Property. None of the Seller Parties, the Companies or the Company Subsidiary has received any written notices alleging that the conduct of the Business, including the marketing, sale and distribution of the products and services of the Business, infringes, dilutes, misappropriates or otherwise violates any Person's Intellectual Property.

3.9 Material Contracts.

(a) Schedule 3.9(a) contains a complete and accurate list of all Material Contracts (classified (i) through (xviii), as applicable, based on the definition of Material Contracts). As used in this Agreement, "Material Contracts" means all Contracts of the following types to which any Company or Company Subsidiary is a party or by any Company or Company Subsidiary or any of their respective properties or assets is bound: (i) any Real Property Leases; (ii) any labor or employment-related agreements including, without limitation, any agreements or arrangements with any employees, sales representatives, consultants, independent contractors, agents or other representatives (including sales commission agreements or arrangements which result in annual compensation or payments in excess of RMB2,000,000); (iii) any joint venture, consortium, partnership, or profit (or loss) sharing agreement; (iv) mortgages, indentures, loan or credit agreements, security agreements and other agreements and instruments relating to the borrowing of money or extension of credit; (v) agreements for the sale of goods or products or performance of services by or with any vendor or customer (or any group of related vendors or customers) exceeding RMB2,000,000, individually or in the aggregate (vi) lease agreements for machinery and equipment, motor vehicles, or furniture and office equipment or other personal property by or with any vendor (or any group of related vendors); (vii) agreements restricting in any manner the right of any Company or Company Subsidiary to compete with any other Person, or restricting the right of any Company or Company Subsidiary to sell to or purchase from any other Person; (viii) agreements between any Company or Company Subsidiary and any of its Affiliates; (ix) guaranties, performance, bid or completion bonds, surety and appeal bonds, return of money bonds, and surety or indemnification agreements; (x) custom bonds and standby letters of credit; (xi) any license agreement or other agreements to which any Company or Company Subsidiary is a party regarding any Intellectual Property of others, excluding any Off-the-Shelf Software; (xii) other agreements, contracts and commitments which (A) cannot be terminated by any Company or Company Subsidiary on notice of 30 days or less or (B) require payment by any Company or Company Subsidiary of RMB2,000,000 or more upon termination, or (C) default under which will cause a cost to the Companies or the Company Subsidiary (including, for this purpose, a loss of profit) of RMB2,000,000 or more; (xiii) grants powers of attorney, agency or similar authority; (xiv) relates to the sale, issuance, grant, exercise, award, purchase, repurchase or redemption of any equity securities; (xv) involves any provisions providing for exclusivity, "change in control", "most favored nations", rights of first refusal or first negotiation or similar rights; (xvi) involves the waiver, compromise, or settlement of any material dispute, claim, litigation or arbitration; (xvii) is with a Authority, state-owned enterprise, or sole-source supplier of any material product or service; and (xviii) each other agreement or contract to which any Company or Company Subsidiary is a party or by which any Company or Company Subsidiary or their respective assets are otherwise bound which is material to its Business, operation, financial condition or prospects.

(b) Each Material Contract is valid, binding and enforceable against the applicable Company or Company Subsidiary in accordance with its terms and is in full force and effect, except as enforcement may be limited by General Enforceability Exceptions. The applicable Company or Company Subsidiary has performed in all material respects all obligations required to be performed by them under, and is not in Material Default under, any of such Material Contracts. None of the Companies or Company Subsidiary has received any written claim from any other party to any Material Contract that a Company or Company

Subsidiary has breached any obligations to be performed by it thereunder, or is otherwise in Material Default thereunder. Seller has furnished to Buyer a true and complete copy of each Material Contract required to be disclosed on Schedule 3.9(a). For this purpose, Material Default means a default which is likely to have a cost (including, for this purpose, a loss of profit) to any Company or Company Subsidiary of RMB2,000,000 or more.

3.10 Litigation. Except as set forth on Schedule 3.10, there is no, and during the last five years there has not been any, dispute, claim, action, suit, proceeding, review, arbitration, audit or investigation (collectively, "Action") before any Authority pending or, to the Knowledge of the Seller Parties, threatened against any Company or Company Subsidiary or any of their respective properties or assets. Except as set forth on Schedule 3.10, none of the Companies or Company Subsidiary is a party to or bound by any outstanding Governmental Order with respect to or affecting the properties, assets, personnel or Business of any Company or Company Subsidiary.

3.11 Compliance with Laws; Permits. The Company and Company Subsidiary is in compliance in all material respects with all applicable Laws. Set forth on Schedule 3.11 are all material governmental or other industry permits, registrations, certificates, certifications, exemptions, licenses, franchises, consents, approvals and authorizations ("Permits") necessary for the conduct of the Business of any Company or Company Subsidiary as presently conducted and operation of all Leased Real Property, each of which the applicable Company or Company Subsidiary validly possesses and is in full force and effect. Except as set forth on Schedule 3.11, no notice, citation, summons or order has been issued, no complaint has been filed and served, no penalty has been assessed and notice thereof given, and no investigation or review is pending or, to the Knowledge of the Seller Parties, threatened with respect to any Company or Company Subsidiary, by any Authority with respect to any alleged (a) violation in any material respect by any Company or Company Subsidiary of any Law, or (b) failure by any Company or Company Subsidiary to have, or comply with, any Permit required in , connection with the conduct of its Business.

3.12 Environmental Matters. Each Company and Company Subsidiary is conducting its operations and the Business, and has occupied and operated the Leased Real Property in compliance in all material respects with all applicable Environmental Laws, except as set forth on Schedule 3.12. Each Company and Company Subsidiary holds and is in compliance in all respects with all Permits required under applicable Environmental Laws for its operation and the conduct of its Business, and all such Permits are in full force and effect. Except as set forth on Schedule 3.12, there is no Action relating to or arising under applicable Environmental Laws that is pending or, to the Knowledge of the Seller Parties, threatened against any Company or Company Subsidiary or any real property currently operated or leased by any Company or Company Subsidiary. Except as set forth on Schedule 3.12, none of the Companies or Company Subsidiary has received any written notice of, or entered into or assumed by Contract or operation of laws or otherwise, any obligation, Liability, order, settlement, judgment, injunction or decree relating to or arising under applicable Environmental Laws. No authorization, notification, recording, filing, consent, waiting period, remediation, or approval is required under any applicable Environmental Laws in order to consummate the transaction contemplated hereby. Each Company and Company Subsidiary has provided true, correct and complete copies

of all Environmental Permits and environmental reports, audits and studies which are in the possession of the Seller Parties, the Companies and the Company Subsidiary.

3.13 Taxes.

(a) Except as set forth on Schedule 3.13(a)(i), (i) each Company and Company Subsidiary has timely filed or caused to be filed with the appropriate federal, state, local and foreign Authority (individually or collectively, "Taxing Authority") all Tax Returns required to be filed with respect to such Company or Company Subsidiary, and each Company and Company Subsidiary has timely paid or remitted in full or caused to be paid or remitted in full all Taxes required to be paid with respect to such Company or Company Subsidiary; (ii) all Tax Returns are true, correct and complete in all material respects; and (iii) there are no liens for Taxes upon any Company or Company Subsidiary or its respective assets.

(b) There is no Action now pending against any Company or Company Subsidiary in respect of any Tax. No Taxing Authority with which a Company or Company Subsidiary does not file Tax Returns has claimed that such Company or Company Subsidiary is or may be subject to taxation by that Taxing Authority. To the Knowledge of the Seller Parties, (i) no Tax deficiencies have been proposed or assessed against any Company or Company Subsidiary and (ii) there is no pending investigation, non-routine inquiry, or audit by any Taxing Authority.

(c) Each Company and Company Subsidiary has withheld and paid to the proper Taxing Authority all Taxes that it was required to withhold and pay, and has properly completed and timely filed all information returns or reports, that are required to be filed and has accurately reported all information required to be included on such returns or reports. Since January 1, 2017 no Company or Company Subsidiary has paid or become liable to pay to any Taxing Authority any penalty, fine, surcharge or material amount of interest in respect of Tax, or has been criminally convicted of any offence related to Tax.

(d) Each Company and Company Subsidiary has collected all sales Tax and value-added Tax in the Ordinary Course of Business and remitted such sales Tax and value-added Tax amount to the applicable Authority, or has collected tax exemption certificates from all entities from which the applicable Company or Company Subsidiary does not collect sales Tax or value-added Tax.

(e) All Taxes (including any social security, social fund or similar contributions) payable to any Taxing Authority in respect of any earnings of an employee of any Company and Company Subsidiary that are due and payable by any Company or Company Subsidiary up to the date hereof have been paid, and each Company and Company Subsidiary has made all deductions and retentions in respect of such earnings as should have been made under applicable laws and regulations in respect thereof.

(f) Each Company and Company Subsidiary is and has at all times been resident in its country of incorporation for Tax purposes and is not and has not at any time in that period been treated as resident in any other jurisdiction for any Tax purpose (including any double taxation arrangement). No Company or Company Subsidiary is or has been subject to

Tax in any jurisdiction other than its place of incorporation by virtue of having a permanent establishment in that jurisdiction.

(g) Each Company and Company Subsidiary shall not be required to return Tax relief or discounts granted to any Company or Company Subsidiary as a result of the consummation of the Proposed Transaction.

3.14 Employee Relations.

(a) Schedule 3.14(a) sets forth a true and complete list setting forth the name, position, job location, salary or wage rate, benefit amount, commission status, date of hire, full- or part-time status, active or leave status and with respect to employees located in the United States and subject to US Laws, "exempt" or "non-exempt" status, for each employee or independent contractor who is a natural person of each Company and Company Subsidiary as of the date hereof (including any individual absent due to short-term disability, family or medical leave, military leave or other approved absence). Except as set forth on Schedule 3.14(a), none of the Companies or Company Subsidiary is party to any agreements or understandings with any individual providing for employment for a defined period of time or for termination or severance benefits.

(b) None of the Companies or Company Subsidiary is: (i) a party to or otherwise bound by any collective bargaining or other type of union agreement, (ii) a party to, involved in or, to the Knowledge of the Seller Parties, threatened by, any labor dispute or unfair labor practice charge, or (iii) currently negotiating any collective bargaining agreement, and none of the Companies or Company Subsidiary has experienced any work stoppage during the last three years. To the Knowledge of the Seller Parties, there has been no pending or threatened commencement of any such slowdown, work stoppage, or union organizing activity.

(c) Each Company and Company Subsidiary is in compliance in all material respects with all applicable Laws respecting employment and employment practices, terms and conditions of employment and wages and hours, unemployment insurance, worker's compensation, equal employment opportunity, employment discrimination and immigration control. Except as disclosed on Schedule 3.14(c), there are no outstanding claims against any Company or Company Subsidiary or the Employee Plans (other than routine claims for benefits under such plans), whether under Law, regulation, Contract, policy or otherwise, asserted or threatened in writing by or on behalf of any present or former employee or job applicant of any Company or Company Subsidiary. No Person (including any Authority) has asserted or threatened in writing any claims against any Company or Company Subsidiary under or arising out of any regulation relating to equal opportunity employment, discrimination, harassment, or occupational safety in employment or employment practices.

(d) Each Company and Company Subsidiary has made all filings, inspections and examinations as may be required by the applicable labour, safety and health laws in a timely manner and in compliance therewith, including without limitation, annual occupational health examinations of all its employees and the annual occupational health filing with the governing Authority.

3.15 Employee Benefit Matters.

(a) Schedule 3.15(a) lists all Employee Plans maintained, contributed to, or required to be contributed to by any Company or Company Subsidiary or with respect to which any Company or Company Subsidiary may have any material Liability, whether contingent or otherwise (the "Benefit Plans").

(b) As applicable, with respect to each Benefit Plan, Sellers have delivered or made available to Buyer true and complete copies, to the extent applicable, of all plan documents (including all amendments and modifications thereof) and in the case of an unwritten Benefit Plan, a written description of the material terms thereof.

(c) Each Company and Company Subsidiary is in compliance in all material respects with all Laws applicable to the Benefit Plans. Each Benefit Plan has been maintained, operated and administered in compliance, in all material respects, with its terms and any related Contracts and applicable Laws.

(d) Except as set forth on Schedule 3.15(c), no Benefit Plan provides for or continues medical or health benefits, or life insurance or other welfare benefits (through insurance or otherwise) for any Person or any dependent or beneficiary of any Person beyond termination of service or retirement other than coverage mandated by Law.

(e) All contributions (including all employer contributions and employee salary reduction contributions) and premium payments which are or have been due from any Company or Company Subsidiary have been paid to or with respect to each Benefit Plan within the time required by Law.

(f) There are no pending or, to the Knowledge of the Seller Parties, threatened Actions by or on behalf of any Benefit Plan, any employee or beneficiary covered under any Benefit Plan, any Authority with respect to a Benefit Plan, or otherwise involving any Benefit Plan (other than routine claims for benefits). No Benefit Plan is under audit or investigation by any Authority and, to the Knowledge of the Seller Parties, no such audit or investigation is threatened.

3.16 Transactions with Related Parties. Except as described on Schedule 3.16, other than (a) the ownership, in and of itself, of the equity interests of the Companies and the Company Subsidiary, (b) employment arrangements entered into in the Ordinary Course of Business and (c) other Benefit Plans, no member, stockholder, officer, manager or director of any Company or Company Subsidiary, nor any Affiliate of any Company or Company Subsidiary, (i) is a party to any Contract with any Company or Company Subsidiary; or (ii) has any interest in any property or assets used by any Company or Company Subsidiary.

3.17 Insurance. Schedule 3.17 contains a complete and correct list of all policies and Contracts for insurance (including coverage amounts and expiration dates) of which any Company or Company Subsidiary is the owner, insured or beneficiary, or covering any Company's or Company Subsidiary's properties or assets. All such policies are outstanding and in full force and effect. No written notice of cancellation or termination has been received by the

Companies or Company Subsidiary with respect to any such policy (which has not been replaced on substantially similar terms prior to the date of such cancellation).

3.18 Governmental Grants. Except as described on Schedule 3.18, no Company or Company Subsidiary is currently subject to any arrangement for repayment of any grant, subsidy or financial assistance from any Authority. To the Knowledge of the Seller Parties, there are no facts, matters, events or circumstances which will likely result in any arrangement for repayment of any grant, subsidy or financial assistance from any Authority as a result of the change of control of any Company or Company Subsidiary or the consummation of the Proposed Transaction.

3.19 Financial Matters.

(a) Statutory Books. The statutory books of each Company and Company Subsidiary required to be kept by applicable laws in its jurisdiction of incorporation have been maintained in all respects in accordance with such laws and GAAP applied on a consistent basis.

(b) Undisclosed Liabilities. Each Company and Company Subsidiary has no liabilities, obligations or commitments of a type required to be reflected on a balance sheet prepared in accordance with the GAAP, other than those liabilities, obligations or commitments: (a) identified in the Financial Statements and the notes thereto; (b) incurred in the ordinary course of business consistent with past practice; or (c) incurred by the Companies or Company Subsidiary in connection with the Proposed Transaction.

(c) Loans and Security.

(i) Each Company and Company Subsidiary has no overdue third-party Financial Debt (not including any loans due to Affiliates of any Company or Company Subsidiary as described on Schedule 3.19(c).

(ii) Except as described on Schedule 3.19(c), none of the Companies or Company Subsidiary has any long-term third party Financial Debt (not including any loans due to Affiliates of any Company or Company Subsidiary as described on Schedule 3.19(c).

3.20 Brokers. None of the Companies, Company Subsidiary or Seller Parties has retained, nor is any Company, Company Subsidiary or Seller Party obligated for any commission, fee or expense to, any broker, finder or investment banking firm to act on their behalf in connection with the Proposed Transaction and, to the Knowledge of the Seller Parties, no other Person is entitled to receive any brokerage commission, finder's fee or other similar compensation in connection with the Proposed Transaction.

3.21 Exclusivity of Representations and Warranties. Neither the Seller Parties nor any other Person is making any representation or warranty of any kind or nature whatsoever, oral or written, express or implied, relating to the Seller Parties, the Business, or any Company or Company Subsidiary (including any relating to financial condition, results of operations, assets or liabilities of any Company or Company Subsidiary), except as expressly set forth in this Article III, and the Seller Parties hereby disclaim any such other representations or warranties.

ARTICLE IV.
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes the following representations and warranties to the Seller Parties as at the date of this Agreement and as at the Closing Date:

4.1 Organization. Buyer is a company duly organized, validly existing, and in good standing under the laws of PRC, and has all requisite corporate power and authority to carry on its business as it is now being conducted, and to execute, deliver, and perform this Agreement and each Transaction Document to which it is a party, and to consummate the Proposed Transaction.

4.2 Authority. The execution, delivery, and performance by Buyer of this Agreement and each Transaction Document to which Buyer is a party, and the consummation by Buyer of the Proposed Transaction have been duly authorized by all necessary action on the part of Buyer. This Agreement and each Transaction Document to which Buyer is a party has been duly and validly executed and delivered by Buyer and constitutes the valid and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as enforcement may be limited by General Enforceability Exceptions.

4.3 No Conflict. The execution, delivery, and performance by Buyer of this Agreement and each Transaction Document to which Buyer is a party, and the consummation by Buyer of the Proposed Transaction, does not and will not, with or without the giving of notice or the lapse of time, or both, (i) violate any provision of Law to which Buyer is subject, (ii) violate any provision of any Organizational Document of Buyer, or (iii) violate or result in a breach of or constitute a default (or an event which might, with the passage of time or the giving of notice, or both, constitute a default) under, or require the consent of any third party under, or result in or permit the termination or amendment of any provision of, or result in or permit the acceleration of the maturity or cancellation of performance of any obligation under, or result in the creation or imposition of any Encumbrance of any nature whatsoever upon any assets or property or give to others any interests or rights therein under any indenture, deed of trust, mortgage, loan or credit agreement, license, Permit, Contract, lease, or other agreement, instrument or commitment to which Buyer is a party or by which either may be bound or affected; except, in each case, for violations, breaches, defaults, required consents, terminations, accelerations, Encumbrances or rights that in the aggregate would not materially hinder or impair the ability of Buyer to perform its obligations hereunder or the consummation of the Proposed Transaction.

4.4 Consents. Except as set forth on Schedule 4.4, no consent, approval, or authorization of, or exemption by, or filing with, any Authority is required to be obtained or made by Buyer in connection with the execution, delivery and performance by Buyer of this Agreement or any Transaction Document to which Buyer is a party or the taking by Buyer of any other action contemplated hereby or thereby.

4.5 Litigation. There is no Action pending or, to the Knowledge of Buyer, threatened (a) against Buyer which, if adversely determined, would have a material adverse effect on the assets, liabilities, business or financial condition of Buyer or (b) which seeks to prohibit, restrict or delay consummation of the Proposed Transaction. There is no Governmental Order

outstanding or, to the Knowledge of Buyer, threatened (i) against Buyer or its assets or business, or (ii) which seeks to prohibit, restrict or delay consummation of the Proposed Transaction.

4.6 Financial Capability.

(a) Sufficient Funds. Buyer has, and will have on the Closing Date, unrestricted funds available sufficient to (i) consummate the Proposed Transaction, including to make all payments of the Purchase Price at and after the Closing contemplated by Section 1.3, and (ii) pay all costs and expenses and other amounts required to be paid by Buyer in connection with the Closing or otherwise. Buyer has, and at the Closing will have, the resources and capabilities (financial or otherwise) to perform its obligations hereunder, and Buyer has not incurred any Liability or restriction of any kind that would impair or adversely affect such resources and capabilities. There are no circumstances or conditions that could reasonably be expected to prevent or substantially delay the availability of such funds at the Closing.

(b) Obligations Not Conditioned on Financings. In no event shall the receipt or availability of any funds by Buyer or any Affiliate or any other financing be a condition to any of Buyer's obligations under this Agreement. Buyer understands and acknowledges and agrees that under the terms of this Agreement, Buyer's obligation to consummate the Proposed Transaction is not in any way contingent upon or otherwise subject to Buyer's consummation of any financing arrangements, Buyer's obtaining any financing, or the availability, grant, provision or extension of any financing to Buyer.

4.7 Solvency. Buyer is solvent as of the date of this Agreement and, at and immediately after the Closing, after giving effect to the Proposed Transaction (including the payment of the Purchase Price and all other amounts required to be paid, borrowed or refinanced in connection with the consummation of the transactions contemplated by this Agreement and all related fees and expenses or other similar compensation in connection with the Proposed Transaction.

4.8 Brokers. Buyer has not retained, nor is Buyer obligated for any commission, fee or expense to, any broker, finder or investment banking firm to act on its behalf in connection with the Proposed Transaction and, to the Knowledge of Buyer, no other Person is entitled to receive any brokerage commission, finder's fee or other similar compensation in connection with the Proposed Transaction.

4.9 Independent Investigation. Buyer has conducted its own independent investigation, review and analysis of the Business, the Companies and the Company Subsidiary, and acknowledges that it has been provided adequate access to the personnel, properties, premises, and other documents and data of the Companies and Company Subsidiary for such purpose. Buyer acknowledges and agrees that: in making its decision to enter into this Agreement and consummate the Proposed Transaction, Buyer has relied solely upon its own investigation and the express representations and warranties of the Seller Parties set forth in Article III of this Agreement (including related portions of the Schedules).

4.10 Exclusivity of Representations and Warranties. Neither Buyer nor any of Buyer's Affiliates or representatives or any other Person is making any representation or warranty on

behalf of Buyer of any kind or nature whatsoever, oral or written, express or implied, except as expressly set forth in this Article IV and Buyer hereby disclaims any such other representations or warranties.

ARTICLE V.
COVENANTS

5.1 Confidentiality. Following the Closing, each Seller Party shall keep confidential and not disclose to any other Person or use for its own benefit or the benefit of any other Person any confidential or proprietary information, technology, know-how, trade secrets (including all results of research and development), product formulas, industrial designs, franchises, inventions or other intellectual property regarding Buyer, Buyer Group, the Companies, the Company Subsidiary, or any of their respective businesses and operations including, without limitation, any such information regarding the Business ("Confidential Information") in its possession or control. The obligations of each Seller Party under this Section 5.1 shall not apply to Confidential Information which (i) is or becomes generally available to the public without breach of the commitment provided for in this Section; or (ii) is required to be disclosed by Law; provided, however, that, in any such case, the applicable Seller shall notify Buyer as early as reasonably practicable prior to disclosure to allow Buyer to take appropriate measures to preserve the confidentiality of such Confidential Information.

5.2 Restrictive Covenants.

(a) During the period beginning on the Closing Date and ending on the fifth anniversary of the Closing Date (the "Restricted Period"), each Seller Party covenants and agrees, it shall, and shall procure its Affiliates, not to, directly or indirectly and anywhere in the Restricted Territory, conduct, manage, operate, engage in, or have an ownership interest in any business or enterprise engaged in (i) the Business, or (ii) any activities that are otherwise similar to, or competitive with, the Business. Notwithstanding the provisions of this Section 5.2(a), the beneficial ownership of less than five percent of the shares of stock or other equity interests of any corporation or other entity having a class of equity securities actively traded on a national securities exchange or over-the-counter market and not formed for the purpose of circumventing this Agreement shall not be deemed to violate the provisions of this Section 5.2(a).

(b) During the Restricted Period, each Seller Party covenants and agrees, it shall, and shall procure its Affiliates, not to, directly or indirectly, call-on, solicit or induce, or attempt to solicit or induce, any Person which is or was a past, present or prospective customer or other business relation of the Companies or the Company Subsidiary as of the Closing Date for the provision of products or services directly related to, and sold, in the operation of the Business.

(c) During the Restricted Period, each Seller Party covenants and agrees, it shall, and shall procure its Affiliates, not to, directly or indirectly, call-on, solicit or induce, or attempt to solicit or induce, any Person who was employed or engaged as an independent contractor by any Company or Company Subsidiary on or at any time before the Closing Date, to leave the employ or engagement of any Company or Company Subsidiary for any reason

whatsoever, nor shall any Seller Party offer or provide employment , either on a full-time basis or part-time or consulting basis, to any such Person (unless approved in writing by Buyer).

(d) The Seller Parties acknowledge and agree that the provisions of this Section 5.2 are reasonable and necessary to protect the legitimate business interests of Buyer and its acquisition of the Company Equity Interests. None of the Seller Parties shall contest that Buyer's remedies at law for any breach or threat of breach by any Seller Party of the provisions of this Section 5.2 may be inadequate, and that Buyer shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Section 5.2 and to enforce specifically such terms and provisions, in addition to any other remedy to which Buyer may be entitled at law or equity. The restrictive covenants contained in this Section 5.2 are covenants independent of any other provision of this Agreement or any other agreement between the Parties hereunder and the existence of any claim which any Seller may allege against Buyer under any other provision of the Agreement or any other agreement will not prevent the enforcement of these covenants.

(e) If any of the provisions contained in this Section 5.2 shall for any reason be held to be excessively broad as to duration, scope, activity or subject, then such provision shall be construed by limiting and reducing it, so as to be valid and enforceable to the extent compatible with the applicable Law or the determination by a court of competent jurisdiction.

5.3 Excluded Assets; Inventory Disposal.

(a) Transfer of Title to Excluded Assets. Prior to the Closing, Sellers shall cause the Companies and Company Subsidiary, as applicable, to assign and transfer to Sellers or an Affiliate of Sellers (other than any Company or Company Subsidiary), without payment due to Buyer or to any Company or Company Subsidiary, all of the Companies and Company Subsidiary's respective right, title and interest in and to the Excluded Assets. Subject to the provisions of Section 5.3(b) with respect to the Excluded Inventory Assets, Sellers shall cause all tangible assets included in the Excluded Assets to be removed from the facilities of the Companies and Company Subsidiary prior to the Closing.

(b) Excluded Inventory Assets. As provided in Section 5.3(a), title to and ownership of the Excluded Inventory Assets shall be transferred to Sellers or its Affiliates prior to the Closing. Buyer agrees that, after the Closing, Sellers may temporarily store the Excluded Inventory Assets at the facilities of the Companies and Company Subsidiary at Sellers' own cost. At Buyer`s request, Buyer (or its Affiliate) and Sellers (or their Affiliate) shall enter into storage rental agreement or similar agreement with regard to storage and disposal of such Excluded Inventory Assets.

5.4 Further Assurances. From time to time after the Closing, Buyer shall, at the request of the Seller Parties, execute and deliver any further instruments or documents and take all such further action as the Seller Parties may reasonably request in order to evidence the consummation of the Proposed Transaction. From time to time after the Closing, each Seller Party shall, at the request of Buyer, execute and deliver any further instruments or documents and take all such further action as Buyer may reasonably request in order to evidence the consummation of the Proposed Transaction.

5.5 Supply Agreement. Following the Closing, Buyer shall complete the new tirbanibulin API production line in the Sintaho API facility included in the Leased Real Property according to the schedule, and subject to the terms and conditions, set forth in the Supply Agreement.

ARTICLE VI.
TAX MATTERS

6.1 Tax Indemnification. The Seller Parties, jointly and severally, shall indemnify, defend and hold harmless each Company and Company Subsidiary and Buyer from and against the entirety of any Losses any Company or Company Subsidiary or Buyer may suffer resulting from, arising out of or caused by each and all of the following: (a) any and all Taxes (or the non-payment thereof) of any Company or Company Subsidiary for all taxable periods ending on or before the Closing Date, and the portion through the end of the Closing Date for any taxable period that includes (but does not end on) the Closing Date (the "Pre-Closing Tax Period").

6.2 Straddle Period. In the case of any taxable period that includes (but does not end on) the Closing Date (a "Straddle Period"), the amount of any Taxes based on or measured by income or receipts of the applicable Company or Company Subsidiary for the Pre-Closing Tax Period shall be determined based on an interim closing of the books as of the close of business on the Closing Date (and for such purpose, the taxable period of any partnership or other pass-through entity in which any Company or Company Subsidiary holds a beneficial interest shall be deemed to terminate at such time), and the amount of other Taxes of the applicable Company or Company Subsidiary for a Straddle Period that relates to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction the numerator of which is the number of days in the taxable period ending on the Closing Date and the denominator of which is the number of days in such Straddle Period.

6.3 Transfer Taxes. As used in this Agreement, "Transfer Taxes" means all PRC income taxes, sales taxes, transfer taxes, stamp taxes, conveyance taxes, intangible taxes, documentary recording taxes, license and registration fees, recording fees and any similar taxes or fees incurred in connection with the consummation of the Proposed Transaction. Buyer shall be responsible for and pay 100% of all Transfer Taxes. Buyer shall file all necessary Tax Returns and other documentation with respect to Transfer Taxes (except to the extent such Tax Returns are required by law to be filed by the Seller Parties), and the Seller Parties shall cooperate with Buyer in the filing of any such Tax Returns, including promptly supplying any information in its possession that is reasonably necessary to complete such Tax Returns. Buyer and the Seller Parties shall cooperate with each other in any mutually agreeable, reasonable and lawful arrangement designed to minimize any applicable Transfer Taxes. Buyer shall comply with the Enterprise Income Tax Law and its implementation rules, and the Announcement of the State Taxation Administration of the PRC on Matters Concerning Withholding of Income Tax of Non-resident Enterprises at Source (国家税务总局关于非居民企业所得税源泉扣缴有关问题的公告 or the Announcement 37) issued by the State Taxation Administration of the PRC on October 17, 2017 as amended, and the Buyer shall provide certified copies of documents evidencing the payment of applicable Transfer Taxes on the Proposed Transaction as requested by PRC Taxing Authority to the Seller Parties.

6.4 Cooperation on Tax Matters. Buyer and the Seller Parties agree to furnish or cause to be furnished to each other, upon request, as promptly as is practicable, such information and assistance relating to the Companies and the Company Subsidiary (including without limitation access to books and records) as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the preparation for any audit by any Taxing Authority, and the prosecution or defense of any claim, suit or proceeding relating to any Tax. Buyer and the Seller Parties shall retain all books and records with respect to Taxes (including income related Taxes) for any period up to and including the Closing Date, pertaining to any Company or Company Subsidiary, for at least seven years following the Closing Date. At the end of such period, either Party may elect to take possession, at its own expense, of such books and records upon request to the other Party. Buyer and the Seller Parties further agree, upon request, to use their best efforts to obtain any certificate or other document from any Authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including, but not limited to, with respect to the Proposed Transaction.

6.5 Responsibility for Filing Tax Returns. Buyer shall prepare or cause to be prepared and file or cause to be filed all Tax Returns for any Company or Company Subsidiary that are filed after the Closing Date. Buyer shall permit the Seller Parties to review and comment on each such Tax Return relating to a Straddle Period or any period prior to Closing described in the preceding sentence prior to filing and shall make such revisions to such Tax Returns as are reasonably requested by the Seller Parties.

6.6 Refunds and Tax Benefits. Any Tax refunds that are received by Buyer or any Company or Company Subsidiary, and any amounts credited against Tax to which Buyer or any Company or Company Subsidiary becomes entitled, that relate to Tax periods or portions thereof ending on or before the Closing Date shall be for the account of the Seller Parties, and Buyer shall pay over to the Seller Parties any such refund or the amount of any such credit (net of any Taxes of Buyer or any Company or Company Subsidiary attributable to such refund or credit) within 30 days after receipt or entitlement thereto.

6.7 Amended Returns and Retroactive Elections. Buyer shall not, and shall not cause or permit any Company or Company Subsidiary to (i) amend any Tax Returns filed with respect to any Tax year ending on or before the Closing Date or (ii) make any Tax election that has retroactive effect to any such year, in each such case without the prior written consent of the Seller Parties, such consent not to be unreasonably withheld.

ARTICLE VII.
SURVIVAL AND INDEMNIFICATION

7.1 Survival. The covenants and agreements in this Agreement shall survive the Closing. The Buyer Indemnified Parties` right to claim for indemnification under Section 7.2(a) shall survive until the Initial Expiration Date, except claims for breaches by any Seller Party of any Fundamental Warranty shall survive until the Final Expiration Date. The Seller Indemnified Parties` right to claim for indemnification under Section 7.2(b) shall survive until the Initial Expiration Date, except claims for breaches by Buyer of any Fundamental Warranty shall survive until the Final Expiration Date. No action or claim for Losses resulting from any misrepresentation or breach of warranty shall be brought or made after the expiration of the

survival period applicable to such representation or warranty (as provided in this Section), except that such time limitation shall not apply to claims which have been asserted and which are the subject of a written notice from the Seller Parties to Buyer or from Buyer to the Seller Parties, as may be applicable, prior to the expiration of such survival period, or any fraud or intentional misrepresentation or gross negligence or willful misconduct by any Seller Party with respect to this Agreement.

7.2 General Indemnification; Special Indemnification.

(a) Subject to the provisions of this Article VII, the Seller Parties, jointly and severally, shall indemnify, defend and hold harmless Buyer and its Affiliates and their respective assignees, directors, officers, employees, agents and representatives (collectively, the "Buyer Indemnified Parties"), from and against all Losses that are incurred or suffered by any of them in connection with or resulting from any of the following:

(i) any breach of, or inaccuracy in, any representation or warranty made by any Seller Party in this Agreement; or

(ii) any breach of any covenant made by any Seller Party in this Agreement.

(b) Subject to the provisions of this Article VII, Buyer shall indemnify, defend and hold harmless the Seller Parties and their Affiliates and their respective assignees, directors, officers, employees, agents and representatives (collectively, the "Seller Indemnified Parties") from and against all Losses that are incurred or suffered by any of them in connection with or resulting from any of the following:

(i) any breach of, or inaccuracy in, any representation or warranty made by Buyer in this Agreement; or

(ii) any breach of any covenant made by Buyer in this Agreement.

(c) Special Indemnity. Without limiting the generality of the foregoing and subject to the limitations set forth below, the Seller Parties, jointly and several, shall indemnify, defend and hold harmless the Buyer Indemnified Parties from and against direct Losses, monetary fines, penalties, and other payments, in each case to the extent lawfully imposed by and paid to any relevant Authority with jurisdiction and specifically and solely related to the original construction and continued operation of the API plant of (i) Taihao located at no. 105 Erlang Chuangye Road, Jiulongpo District, Chongqing, PRC 400039 (重庆市九龙坡二郎创业路 105 号) (the "Taihao Facility") or (ii) Company Subsidiary located at No. 600, Liuqing Road, Ma Liuzui Town, Banan District, Chongqing(重庆市巴南区麻柳嘴镇柳青路600号) (the "Sintaihao Facility") through the Closing Date, if the relevant Authority lawfully determines that such construction and continued operation are in violation of the PRC Law on Prevention and Control of Water Pollution(水污染防治法), the PRC Law on Prevention and Control of Air Pollution(大气污染防治法) and the Code of Design on Building Fire Protection and Prevention (GB50016-2014)(建筑设计防火规范(GB50016-2014)) and other applicable laws and regulations, due to the proximity of the Taihao Facility or the Sintaihao Facility to the Yangtze River;

provided, however, that the Buyer Indemnified Parties` right to claim for indemnification under this Section 7.2(c) shall (i) terminate on December 31, 2025, (ii) not include any other Losses (including, without limitation, any Losses attributable to any Authority requiring that the facility cease or limit its operations in any way), and (iii) not be prejudiced by any disclosure (in the Schedule or otherwise) by the Seller Parties, the Companies or Company Subsidiary.

7.3 General Limitations. Notwithstanding anything to the contrary contained in this Agreement:

(a) The Indemnified Parties shall use commercially reasonable efforts to mitigate any Losses sustained or incurred by the Indemnified Parties, as and to the extent required by Law.

(b) For purposes of determining the amount of any Losses incurred in connection with any breach of any representation, warranty or covenant set forth in this Agreement, such amount shall be reduced by the amount of any insurance proceeds actually received by, or paid on behalf of, the Indemnified Party in respect of the Losses (net of (i) any deductible amounts and any reasonable costs and expenses actually incurred by the Indemnified Party in collecting such insurance proceeds, including reasonable attorneys' fees, and (ii) any increase in insurance premiums reasonably attributable to insurance proceeds paid in respect of such Losses).

(c) In no event will any Party be liable under this Agreement (for indemnification or otherwise) to any other Party or other Person for special, punitive, or exemplary damages, or to the extent not reasonably foreseeable, for consequential damages (including loss of profit or revenue or diminution in value) in connection with any Losses, regardless of whether such Party or Person was advised of the possibility of such damages or not.

(d) For purposes of determining the amount of Losses incurred in connection with any inaccuracy in or breach of any representation or warranty set forth in this Agreement, but not for purposes of determining whether such breach or inaccuracy has occurred, such representation or warranty shall be read without regard to or giving effect to materiality, Material Adverse Effect or other similar qualification; provided, however, that the term "material" shall not be disregarded to the extent used in requiring that "material" items be listed on a Schedule.

7.4 Indemnification Threshold; Cap Amount; Overall Cap Amount.

(a) Subject to the provisions of Section 7.4(d) and the terms of this Article VII, the Parties shall not be obligated to provide any indemnification for Losses for claims for any breach of, or inaccuracy in, any representations and warranties unless the aggregate amount of Losses incurred by the other party with respect to such breaches of, or inaccuracies in, representations and warranties exceeds RMB2,488,000 (the "Threshold"), in which case the breaching Party will be liable for all Losses in excess of the Threshold.

(b) Subject to the provisions of Section 7.4(d), and the terms of this Article VII, the aggregate amount required to be paid by any Party based upon or arising out of or as a result of any breach of, or inaccuracy in, any representations and warranties, shall not exceed, in the aggregate, an amount equal to RMB12,440,000 (the "Cap Amount").

(c) Subject to the provisions of Section 7.4(d) and the terms of this Article VII, the aggregate amount required to be paid by the Seller Parties pursuant to Section 6.1 or Section 7.2(a), or the aggregate amount required to be paid by the Buyer pursuant to Section 7.2(b),shall not exceed, in the aggregate, an amount equal to the Purchase Price (the "Overall Cap").

(d) None of the Threshold, the Cap Amount or the Overall Cap shall apply to Losses suffered or incurred (i) by any Buyer Indemnified Party as a result of, or arising out of, any fraud or intentional misrepresentation by any Seller Party with respect to this Agreement, or (ii) by any Seller Indemnified Party as a result of, or arising out of, any fraud or intentional misrepresentation by Buyer with respect to this Agreement, or any failure by Buyer to pay any portion of the Purchase Price.

7.5 Process for Indemnification.

(a) A Party entitled to indemnification hereunder shall herein be referred to as an "Indemnified Party." A Party obligated to indemnify an Indemnified Party hereunder shall herein be referred to as an "Indemnifying Party." As soon as is reasonable after an Indemnified Party either (i) receives notice of any claim or the commencement of any Action by any third party which such Indemnified Party reasonably believes may give rise to a claim for indemnification from an Indemnifying Party hereunder (a "Third Party Claim") or (ii) sustains any Loss not involving a Third Party Claim or action which such Indemnified Party reasonably believes may give rise to a claim for indemnification from an Indemnifying Party hereunder, such Indemnified Party shall, if a claim in respect thereof is to be made against an Indemnifying Party under this Article VII, notify such Indemnifying Party in writing of such claim, action or Loss, as the case may be; provided, however, that failure to notify Indemnifying Party shall not relieve Indemnifying Party of its indemnity obligation, except to the extent Indemnifying Party is actually prejudiced in its defense of the Action by such failure. Any such notification must be in writing and must state in reasonable detail the nature and basis of the claim, Action or Loss, to the extent known. Except as provided in this Section 7.5, the Indemnifying Party shall have the right using counsel acceptable to the Indemnified Party, to contest, defend, litigate or settle any such Third Party Claim which involves (and continues to involve) solely monetary damages; provided that the Indemnifying Party shall have notified the Indemnified Party in writing of its intention to do so within 15 days of the Indemnified Party having given notice of the Third Party Claim to the Indemnifying Party; provided, further, that (1) the Indemnifying Party expressly agrees in such notice to the Indemnified Party that, as between the Indemnifying Party and the Indemnified Party, the Indemnifying Party shall be solely obligated to fully satisfy and discharge the Third Party Claim subject to the limitations with respect to indemnification included in this Agreement; (2) if reasonably requested to do so by the Indemnified Party, the Indemnifying Party shall have made reasonably adequate provision to ensure the Indemnified Party of the financial ability of the Indemnifying Party to satisfy the full amount of any adverse monetary judgment that may result from such Third Party Claim; (3) assumption by the Indemnifying Party of such Third Party Claim would not reasonably be expected to cause a material adverse effect on the Indemnified Party's business; and (4) the Indemnifying Party shall diligently contest the Third Party Claim (the conditions set forth in clauses (1), (2), (3) and (4) being collectively referred to as the "Litigation Conditions").

(b) The Indemnified Party shall have the right to participate in, and to be represented by counsel (at its own expense) in any such contest, defense, litigation or settlement conducted by the Indemnifying Party; provided, that the Indemnified Party shall be entitled to reimbursement therefor if the Indemnifying Party shall lose its right to contest, defend, litigate and settle the Third Party Claim or if representation of the Indemnifying Party and the Indemnified Party by the same counsel would, in the reasonable opinion of such counsel, constitute a conflict of interest under applicable standards of professional conduct. The Indemnifying Party shall not be entitled, and shall lose its right, to contest, defend, litigate and settle the Third Party Claim if the Indemnified Party shall give written notice to the Indemnifying Party of any objection thereto based upon the Litigation Conditions.

(c) The Indemnifying Party, if it shall have assumed the defense of any Third Party Claim as provided in this Agreement, shall not consent to a settlement of, or the entry of any judgment arising from, any such Third Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed). The Indemnifying Party shall not, without the prior written consent of the Indemnified Party, enter into any compromise or settlement which commits the Indemnified Party to take, or to forbear to take, any action or which does not provide for a complete release by such third party of the Indemnified Party. The Indemnified Party shall have the sole and exclusive right to settle any Third Party Claim, on such terms and conditions as it deems reasonably appropriate, to the extent such Third Party Claim involves equitable or other non-monetary relief. All expenses (including attorneys' fees) incurred by the Indemnifying Party in connection with the foregoing shall be paid by the Indemnifying Party. No failure by an Indemnifying Party to acknowledge in writing its indemnification obligations under this Article VII shall relieve it of such obligations to the extent such obligations exist.

(d) If an Indemnified Party is entitled to indemnification against a Third Party Claim, and the Indemnifying Party fails to accept a tender of, or assume the defense of, a Third Party Claim pursuant to this Section 7.5, the Indemnifying Party shall not be entitled, and shall lose its right, to contest, defend, litigate and settle such a Third Party Claim, and the Indemnified Party shall have the right, without prejudice to its right of indemnification hereunder, in its discretion exercised in good faith, to contest, defend and litigate such Third Party Claim, and may settle such Third Party Claim either before or after the initiation of litigation, at such time and upon such terms as the Indemnified Party deems fair and reasonable, provided that at least ten (10) days prior to any such settlement, written notice of its intention to settle is given to the Indemnifying Party. If, pursuant to this Section 7.5, the Indemnified Party so contests, defends, litigates or settles a Third Party Claim for which it is entitled to indemnification hereunder, the Indemnified Party shall be reimbursed on a monthly basis by the Indemnifying Party for the reasonable attorneys' fees and other expenses of contesting, defending, litigating and/or settling the Third Party Claim which are incurred from time to time.

7.6 Remedies Exclusive. The remedies provided in this Article VII shall be the sole and exclusive remedies of any Indemnified Party related to any and all Losses incurred because of or resulting from or arising out of this Agreement; provided, however, that nothing contained in this Article VII shall be deemed to limit or restrict in any manner (a) any rights or remedies which any Indemnified Party has, or might have, at law or in equity based on fraud or intentional

misrepresentation, or (b) any Person's right to seek and obtain any equitable relief to which any Person shall be entitled.

7.7 Tax Treatment. Any indemnification payments under this Article VII shall be treated for Tax purposes as adjustments to the Purchase Price to the extent permitted by applicable Law.

ARTICLE VIII.
TERMINATION

8.1 Termination. This Agreement may be terminated, and the Proposed Transaction may be abandoned, prior to the Closing solely as follows, provided that any Party desiring to terminate this Agreement pursuant to this Section 8.1 shall give written notice of such termination to the other Parties to this Agreement:

(a) by the Seller Parties if Buyer materially breaches any of its obligations, representations, warranties, covenants or agreements under this Agreement such that the conditions to Closing set forth in Section 2.4(b)(i) or Section 2.4(b)(ii) would not be satisfied, and such breach is incapable of being cured or, if capable of being cured, has not been cured within thirty (30) Business Days following receipt by Buyer of written notice of such breach from the Seller Parties; provided, that the Seller Parties shall not have the right to terminate this Agreement pursuant to this Section 8.1(a) if any Seller Party is then in material violation or breach of any of its covenants, obligations, representations or warranties set forth in this Agreement and such violation or breach would give rise to the failure of a condition set forth in Section 2.4(a)(i) or Section 2.4(a)(ii);

(b) by Buyer if any Seller Party materially breaches any of its obligations, representations, warranties and covenants under this Agreement such that the condition to Closing set forth in Section 2.4(a)(i) or Section 2.4(a)(ii) would not be satisfied, and such breach is incapable of being cured or, if capable of being cured, has not been cured within thirty (30) Business Days following receipt by the Seller Parties of written notice of such breach from Buyer; provided, that Buyer shall not have the right to terminate this Agreement pursuant to this Section 8.1(b) if Buyer is then in material violation or breach of any of its covenants, obligations, representations or warranties set forth in this Agreement and such violation or breach would give rise to the failure of a condition set forth in Section 2.4(b)(i) or Section 2.4(b)(ii);

(c) by Buyer if any Material Adverse Effect occurs;

(d) by either Buyer or by the Seller Parties, if any Authority shall have issued an order or taken any other action permanently enjoining, restraining or otherwise prohibiting the Closing and such order or other action shall have become final and nonappealable; provided, that the Party seeking to terminate this Agreement pursuant to this Section 8.1(d) shall have used reasonable best efforts to remove such order, injunction, restraint or prohibition, and such order, injunction, restraint or prohibition shall not have been principally caused by the breach by such Party of its covenants or agreements under this Agreement;

(e) by Buyer or the Seller Parties if the Closing shall not have occurred on or before the Longstop Date; provided, however, that a Party shall not have the right to terminate this

Agreement pursuant to this Section 8.1(e) if the failure of the Closing to occur by the Longstop Date results from or was caused by the failure of the Party seeking to terminate this Agreement to comply with any provisions of this Agreement; or

(f) by the mutual written consent of Buyer and the Seller Parties.

8.2 Effect of Termination. In the event of the termination of this Agreement pursuant to Section 8.1, this entire Agreement shall forthwith become void (and there shall be no liability or obligation on the part of Buyer or the Seller Parties or their respective officers, directors or equity holders, with the exception of (i) the provisions of this Section 8.2 and Article IX, together with all applicable defined terms set forth in Article X, each of which provisions shall survive such termination and remain valid and binding obligations of the Parties and (ii) any liability of any Party for any willful breach of this Agreement prior to such termination. For the avoidance of doubt, the Confidentiality Agreement shall survive any termination of this Agreement in accordance with its terms and shall automatically be extended until such date that is two years following the date of termination of this Agreement, and nothing in this Article VIII shall be construed to discharge or relieve any party to the Confidentiality Agreement of its obligations thereunder.

ARTICLE IX.
MISCELLANEOUS

9.1 Interpretive Provisions.

(a) Whenever used in this Agreement, (i) "including" (or any variation thereof) means including without limitation and (ii) any reference to gender shall include all genders. Reference to a particular agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof. The terms "RMB" means the lawful currency from time to time of the PRC. The terms "dollars" and "$" mean United States Dollars. Unless Business Days are specified, all references to "days" hereunder shall mean calendar days. The Annexes, Exhibits and Schedules identified in this Agreement are incorporated into this Agreement by reference and made a part hereof.

(b) The Parties acknowledge and agree that (i) each Party and its counsel have reviewed the terms and provisions of this Agreement and have contributed to its drafting, (ii) the normal rule of construction, to the effect that any ambiguities are resolved against the drafting Party, shall not be employed in the interpretation of it, and (iii) the terms and provisions of this Agreement shall be construed fairly as to all Parties and not in favor of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

9.2 Entire Agreement. This Agreement (including the Annexes, Schedules and the exhibits attached hereto) together with the Transaction Documents constitute the sole understanding and agreement of the Parties with respect to the subject matter hereof. The Parties agree and acknowledge that as of the Closing Date, the mutual non-disclosure agreement, dated March 15, 2022 (the "Confidentiality Agreement"), is terminated.

9.3 Successors and Assigns.

(a) The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties; provided however, that this Agreement may not be assigned by any Party without the prior written consent of the other Parties, except as provided in this Section 9.3(b).

(b) Notwithstanding the Section 9.3(a), Buyer may assign its rights and transfer its obligations under this Agreement to any member of the Buyer Group as if such member were the Buyer under this Agreement, provided that (i) unless otherwise agreed upon in writing by Sellers, Buyer shall deliver a written notice of such assignment and transfer to Sellers no later than fifteen (15) Business Days prior to the Closing, and (ii) Buyer shall remain jointly and severally liable, with the assignee, for all of Buyer's obligations under this Agreement. The Seller Parties and Buyer shall cooperate fully to procure that all the necessary agreements and documents as may be reasonably requested by the other Parties to effectuate or evidence the assignment under this Section 9.3(b).

9.4 Headings. The headings of the Articles, Sections, and paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction hereof.

9.5 Modification and Waiver. No amendment, modification, or alteration of the terms or provisions of this Agreement shall be binding unless the same shall be in writing and duly executed by the Parties, except that any of the terms or provisions of this Agreement may be waived in writing at any time by the Party that is entitled to the benefits of such waived terms or provisions. No single waiver of any of the provisions of this Agreement shall be deemed to or shall constitute, absent an express statement otherwise, a continuous waiver of such provision or a waiver of any other provision hereof (whether or not similar). No delay on the part of any Party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof.

9.6 Expenses. Except as otherwise expressly provided herein, each of the Parties shall bear the expenses incurred by that Party incident to this Agreement and the Proposed Transaction, including all fees and disbursements of counsel and accountants retained by such Party, whether or not the Proposed Transaction shall be consummated.

9.7 Notices. Any notice, request, instruction, or other document to be given hereunder by any Party to any other Party shall be in writing and shall be given by delivery in person, by electronic mail, by electronic facsimile transmission, by overnight courier or by registered or certified mail, postage prepaid (and shall be deemed given when delivered if delivered by hand, when delivered if delivered by electronic mail, when transmission confirmation is received if delivered by facsimile during normal business hours, one Business Day after deposited with an overnight courier service if delivered by overnight courier and three days after mailing if mailed), as follows:

to the Seller Parties:

Athenex, Inc.
Conventus Building
1001 Main Street, Suite 600
Buffalo, NY 14203
Attn: Legal Department
Email: [*]

with a copy to:

Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, New York 14604
Attention: Alexander R. McClean
Email: [*]
Fax No.: (585) 232-2152

to Buyer to:

TiHe Capital (Beijing) Co. Ltd.（泰和中投投资基金管理（北京）有限公司）
4th Floor, Building 3, Huasheng Science Park, Lane 1999, Zhangheng Road, Pudong New Area, Shanghai, China
中国上海市浦东新区张衡路1999弄华盛科技园3号楼4楼
Attn: Jiao Wang王姣
Email: [*]

with a copy to:

JINGTIAN & GONGCHENG SHANGHAI OFFICE（北京市竞天公诚律师事务所上海分所）
45/F, K. Wah Centre, 1010 Huaihai Road (M), Xuhui District, Shanghai 200031, China
上海市徐汇区淮海中路1010号嘉华中心45层 邮编：200031
Attn: Daniel Cui 崔维 & Yao Yao 姚瑶
Email: [*];[*]

or at such other address for a Party as shall be specified by like notice.

9.8 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of PRC applicable to agreements made and to be performed wholly within that jurisdiction.

9.9 Arbitration. Except as otherwise provided in Section 5.2 and Section 7.6, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be determined by final and binding arbitration conducted in Beijing and administered by the China International Economic and Trade Arbitration Commission ("CIETAC") under the CIETAC Administered Arbitration Rules in force when the notice of request for arbitration is submitted. There shall be three arbitrators. Such arbitrators shall be selected, within 15 days following the date of receipt of the notice of arbitration, as follows: (i) Buyer shall select one arbitrator, (ii) Seller Parent shall select one arbitrator; and (iii) Buyer and Seller Parent shall jointly nominate, or entrust the Chairman of CIETAC to appoint, the third arbitrator, who shall act as the presiding arbitrator. The arbitration shall be conducted in English. The award rendered by the arbitrators shall be final, non-reviewable, non-appealable and binding on the Parties and may be entered and enforced in any court having jurisdiction, and any court where a Party or its assets is located (to whose jurisdiction the Parties consent for the purposes of enforcing the award). Judgment on the award shall be final and non-appealable. If more than one arbitration is commenced under this Agreement and any Party contends that two or more arbitrations are substantially related and that the issues should be heard in one proceeding, the arbitrators selected in the first-filed proceeding shall determine whether, in the interests of justice and efficiency, the proceedings should be consolidated before those arbitrators. Except as may be required by applicable Law or the rules of any securities exchange, neither a Party nor the arbitrators may disclose the existence, content or results of any arbitration without the prior written consent of all Parties, unless to protect or pursue a legal right.

9.10 Public Announcements. None of the Seller Parties or Buyer shall make any public statements, including any press releases, with respect to this Agreement and the Proposed Transaction without the prior written consent of the other Parties (which consent shall not be unreasonably withheld) except as may be required by Law. If a public statement is required to be made by Law, the Parties shall consult with each other in advance as to the contents and timing thereof.

9.11 No Third Party Beneficiaries. This Agreement is intended and agreed to be solely for the benefit of the Parties and their permitted successors and assigns, and no other Party shall be entitled to rely on this Agreement or accrue any benefit, claim, or right of any kind whatsoever pursuant to, under, by, or through this Agreement.

9.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument. This Agreement and any of the Transaction Documents, along with any amendments hereto or thereto, to the extent signed and delivered by means of E mail, DocuSign or other means of electronic transmission in portable document format (.pdf), shall be treated in all manner and respects and for all purposes as an original signature, agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

9.13 Simplified Agreement. The Parties or their assignees may enter into a simplified version of this Agreement in Chinese or English (the "Simplified Agreement") solely for the purpose of submission to the local SAMR, Taxing Authority or other Authorities. For the avoidance of doubt, in case of any conflict or inconsistency between the Simplified Agreement and this Agreement, the provisions of this Agreement shall prevail.

9.14 Choice of Language. Each Party acknowledges and agrees that the text of this Agreement and the Transaction Documents, any and all exhibits and other documents attached hereto or derived from this Agreement, have been and will be written in English. Each Party shall bear its own expenses for having text or other communications translated into any other language; provided, however, that notwithstanding any such translation, the English version of any such text or communication shall control.

9.15 Schedule Updates. From time to time prior to the Closing, subject to Buyer's written consent (which consent shall not be unreasonably withheld, conditioned, or delayed), the Seller Parties may supplement, amend or modify the Schedules hereto with respect to any matter hereafter arising or of which they become aware after the date hereof through the Closing Date, which, if existing, occurring or known at the date of this Agreement, would have been required to be set forth or described in the Schedules (each, a "Schedule Supplement"). Each such Schedule Supplement shall be deemed to incorporated into and to supplement and amend the Disclosure Schedules as of the Closing Date.

ARTICLE X.
CERTAIN DEFINITIONS

10.1 Defined Terms. The following terms shall have the following meanings:

"Affiliate" means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

"API" means the active pharmaceutical ingredients.

"Authority" means the PRC, Hong Kong, United States of America or any other nation, any state or other political subdivision thereof, or any entity, agency, commission, court or authority (supra-national, national, foreign, federal, state, municipal or local) any quasi-governmental or private body exercising executive, legislative, judicial, regulatory or administrative functions of government or any arbitrator or mediator, including any Taxing Authority.

"Business" means the business, as conducted by the Companies and the Company Subsidiary, of manufacturing and selling APIs and dosage forms.

"Business Day" means any day other than a day on which banks in Hong Kong and the PRC are required or authorized to be closed.

"Buyer Group" means the Buyer and its Affiliates from time to time.

"Contract" means any written or oral contract, lease, license, loan or credit agreement, bond, debenture, note, mortgage, indenture, supply agreement, sale or purchase order, or any other binding agreement, commitment, arrangement or understanding.

"control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly or as trustee or executor, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of stock, as trustee or executor, by contract or credit arrangement or otherwise.

"Employee Plan" means every written and unwritten benefit plan, program, agreement or arrangement maintained, contributed to or provided by Person for the benefit of any one or more of its employees, former employees or dependent or independent contractors, as applicable, or their respective dependents or beneficiaries including without limitation all bonus, deferred compensation, incentive compensation, share purchase, share option, share appreciation, phantom share, savings, profit sharing, severance or termination pay, health or medical, life, disability or other insurance (whether insured or self-insured), vacation or other leave, fringe benefit, and retirement plans, programs, agreements and arrangements.

"Encumbrances" means any interest or equity of any Person (including any right to acquire, option or right of pre-emption or conversion) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention or any other security agreement or arrangement, or any agreement to create any of the above.

"Environmental Laws" means all PRC, foreign, federal, state and local laws, rules, regulations, ordinances, codes, common law, judgments, orders, consent agreements, legally-binding requirements, work practices, standards and norms relating to (i) the protection of the environment (including air, surface and subsurface water, drinking water supplies, surface and subsurface land, the interior of any building or building component, soil and natural resources) or human health (including without limitation occupational health and safety); (ii) Hazardous Materials; or (iii) pollution or prevention of pollution (including, without limitation, emissions of dust, heat, noise or odor) and Laws relating to maintenance of water or air quality.

"Environmental Permits" means any Permit, license, authorization, consent or similar item required by Environmental Laws for the ownership and operation of the Business or Leased Real Property.

"Excluded Assets" means (i) the assets of the Companies and Company Subsidiary identified on Annex 5, as may be amended by the Parties prior to the Closing, and (ii) the Excluded Inventory Assets.

"Excluded Inventory Assets" means the inventory owned or held on site by the by the Company and Company Subsidiary described on Annex 4, as may be amended by the Parties prior to the Closing.

"Final Expiration Date" means the date that is four (4) years following the Closing Date.

"Financial Debt" means borrowings and indebtedness in the nature of borrowing (including by way of acceptance credits, discounting or similar facilities, loan stocks, bonds, debentures, notes, overdrafts or any other similar arrangements the purpose of which is to raise money) owed to any banking, financial, acceptance credit, lending or other similar institution or organization.

"Financial Statement" means the unaudited and audited balance sheet, profit statement and cash flows statement for Company and Company Subsidiary.

"Fundamental Warranties" means, with respect to the Seller Parties, the representations and warranties set forth in Section 3.1 (Authority; Execution and Delivery), Section 3.2 (Organization) , Section 3.3 (No Conflict; Consents), Section 3.4 (Capitalization; Title to Company Equity Interests), Section 3.5 (Subsidiaries), and Section 3.13 (Taxes); and with respect to Buyer, the representations and warranties set forth in Section 4.1 (Authority; Execution and Delivery) and Section 4.2 (Organization).

"GAAP" means, as applicable with respect to each Company and Company Subsidiary, generally accepted accounting principles in effect in the jurisdiction in which the principal place of business of such Company or Company Subsidiary is located and, with respect to the PRC, includes, without limitation, current and effective PRC Accounting Standards for Enterprises and PRC Accounting Systems for Enterprises.

"General Enforceability Exceptions" means general principles of equity and by bankruptcy, insolvency or similar Laws and general equitable principles affecting the rights of creditors generally.

"Governmental Order" means any order, writ, judgment, injunction, decree, stipulation, ruling, determination or award entered by or with any Authority.

"Guangzhou R&D Staff" means the individuals listed in Part 2 of Annex 2.

"Hazardous Materials" means any and all hazardous or toxic substances, materials, and wastes, solid wastes, industrial wastes, pollutants, contaminants, polychlorinated biphenyls, asbestos, volatile and semi-volatile organic compounds, oil, petroleum products and fractions thereof, radioactive materials and wastes, and any and all other chemicals, substances, materials and wastes regulated under Environmental Law.

"Hong Kong" shall mean the Hong Kong Special Administrative Region of the PRC.

"Initial Expiration Date" means the date that is 18 months following the Closing Date.

"Intellectual Property" means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trade-marks, service marks, trade dress, logos, slogans, trade

names, corporate names, internet domain names, and rights in telephone numbers, together with all translations, adaptations, derivations, and combinations thereof, and all applications, registrations, and renewals in connection therewith, (c) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all mask works and all applications, registrations, and renewals in connection therewith, € all trade secrets and confidential business information (including research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (f) all computer software (including source code, executable code, data, databases, and related documentation), (g) all material advertising and promotional materials, (h) all industrial designs and integrated circuit topography rights, (i) all other proprietary rights, and (j) all copies and tangible embodiments thereof (in whatever form or medium).

"Key Employees" means the individuals listed in Part 1 of Annex 2, who are employees of the Companies or Company Subsidiaries as of the date of this Agreement.

"Knowledge" means (i) with respect to Sellers, the actual knowledge, after reasonable inquiry, of Johnson Lau, Xiaodong Wang, and Xiaoli Yu, and (ii) with respect to Buyer, the actual knowledge, after reasonable inquiry, of Mr. William Zuo and Mr. Yan Zhou. For the avoidance of doubt, reference to any individual in this definition of "Knowledge" is not intended to, and shall not, create or impose personal liability for such individual for purposes of this Agreement.

"Laws" means any PRC, Hong Kong, foreign, federal, state or local law (including, without limitation, principles of common law), statute, ordinance, regulation, Permit, certificate, judgment, order, award or other legally enforceable determination, decision or requirement of any Authority.

"Liabilities" means liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise.

"Longstop Date" means September 30, 2022 or a later date agreed upon by the Parties in writing.

"Losses" means any and all losses, Liabilities, damages, penalties, obligations, awards, fines, deficiencies, demands, interest, claims (including third party claims whether or not meritorious), costs and expenses whatsoever (including reasonable attorneys', consultants' and other professional fees and disbursements of every kind, nature and description) resulting from, arising out of or incident to any matter for which indemnification is provided under this Agreement, *provided*, that, notwithstanding the foregoing or anything contained herein to the contrary, for purposes of Article VII, Losses shall exclude punitive damages and exemplary damages, in each case unless and to the extent awarded in connection with a Third Party Claim.

"Material Adverse Effect" means any event, occurrence, fact, condition or change that is materially adverse to (a) the business, financial condition or results of operations of the

Companies and the Company Subsidiary, taken as a whole; or (b) the ability of Seller Parties to consummate the transactions contemplated hereby provided that none of the following shall be taken into account (either alone or in combination) in determining whether there is or has been a Material Adverse Effect: any event, occurrence, fact, condition or change arising from or relating to: (i) any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of the Buyer; (ii) general economic or political conditions; (iii) any changes in financial, banking or securities markets in general, including any disruption thereof and any decline in the price of any security or any market index or any change in prevailing interest rates; (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; or (v) any changes in applicable Laws or accounting rules (including GAAP) or the enforcement, implementation or interpretation thereof.

"Off-the-Shelf Software" means unmodified commercially-available, off-the-shelf, click-wrap, shrink-wrap or similar software obtained from a Person (a) on general commercial terms and which is generally available on similar commercial terms, and (b) which is not distributed as "open source software" or "free software" or under a similar licensing or distribution model.

"Ordinary Course of Business" means, with respect to the Companies and the Company Subsidiary, the ordinary course of business consistent with their past custom and practice (including with respect to quantity and frequency).

"Organizational Documents" means, with respect to any Person (other than an individual), the certificate or articles of incorporation or organization, articles of association, certificate of limited partnership and any joint venture, limited liability company, operating, voting or partnership agreement, by-laws, or similar documents, instruments or agreements relating to the organization or governance of such Person, in each case, as amended or supplemented.

"Permitted Encumbrances" means (i) statutory liens for Taxes not yet due and payable or the validity or amount of which is being contested in good faith by appropriate proceedings; (ii) mechanics', carriers', workers', repairers' and other similar liens arising or incurred in the Ordinary Course of Business and securing sums that are not yet due and payable or the validity or amount of which is being contested in good faith by appropriate proceedings, and which do not otherwise constitute a breach of or an event of default under any Lease; and (iii) Encumbrances set forth on Schedule 10.1.

"Person" means an individual, corporation, partnership, association, limited liability company, trust, unincorporated organization, or other entity.

"PRC" means the People's Republic of China (excluding, for the purposes of this Agreement, Hong Kong Special Administrative Region, Macau Special Administrative Region and Taiwan).

"Pre-Closing Period" means the period from and including the date of this Agreement up to Closing.

"Proposed Transaction" means the transactions contemplated by the Transaction Documents.

"Restricted Territory" means the PRC.

"Schedules" means the schedule or schedules collectively attached hereto to which the representations and warranties shall be subject to in Article III.

"SAMR" means the State Administration for Market Regulation of the PRC or its competent local counterpart.

"SEC" means the U.S. Securities and Exchange Commission.

"Tax" means (i) any federal, state, local or non-U.S. income, gross receipts, sales, use, value-added, ad valorem, transfer, franchise, license, withholding, payroll, employment, excise, severance, stamp, occupation, property taxes (real or personal), including unpaid property taxes, premium, windfall profits, environmental assessments, alternative or add-on minimum, custom duties, capital stock, profits, social security (or similar), unemployment, disability, estimated, or any other tax of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts, whether disputed or not, and (ii) any obligation to indemnify or otherwise assume or succeed to any Liability described in clause (i) hereof of any other Person whether by Contract or under common law doctrine of de facto merger and successor liability or otherwise.

"Tax Return" means any return, report, information return or other document (including any related or supporting information or any amended return) filed or required to be filed with any Taxing Authority in connection with the determination, assessment, or collection of any Tax paid or payable by or with respect to any Company or Company Subsidiary or the administration of any laws, regulations, or administrative requirements relating to any such Tax.

"Transaction Document" means this Agreement, the Supply Agreement, the Product Rights Agreement, and all other written agreements, documents and certificates listed as closing deliveries in Section 2.2.

"VAT" means value added tax and any similar sales or turnover tax.

10.2 Other Definitions. Each of the following terms is defined in the Section set forth opposite such term:

"Action"	3.10
"Agreement"	Preamble
"Benefit Plans"	3.15(a)
"Buyer"	Preamble
"Buyer Indemnified Parties"	7.2
"Cap Amount"	7.4(b)
"CIETAC"	9.9
"Closing"	2.1

“Closing Date”	2.1
“Closing Date Payment”	1.3(a)
“Confidential Information”	5.1
“Confidentiality Agreement”	9.2
“Company”	Recitals
“Company Equity Interests”	1.1
“Company Handover Checklist”	2.4(e)
“Company Subsidiary”	Recitals
“Company Subsidiary”	Recitals
“Confidential Information”	5.1
“Confidentiality Agreement”	9.2
“Effective Time”	2.1
“Final Payment”	1.3(c)
“Employment Agreement”	2.2(a)(iv)
“Indemnified Party”	7.5(a)
“Indemnifying Party”	7.5(a)
“Leased Real Property”	3.7(b)
“Licensed Intellectual Property”	3.8(a)
“Litigation Conditions”	7.5(a)
“Material Contracts”	3.9(a)
“Material Owned Intellectual Property”	3.8(a)
“Overall Cap”	7.4(c)
“Party”	Preamble
“Parties”	Preamble
“Permits”	3.11
“Pre-Closing Tax Period”	6.1
“Product Rights Agreement”	2.2(a)(iii)
“Purchase Price”	1.2
“Real Property Leases”	3.7(b)
“Restricted Period”	5.2(a)
“SEC Documents”	Article III
“Second Payment”	1.3(b)
“Seller”	Preamble
“Seller Allocation”	1.2
“Seller Indemnified Parties”	7.2(b)
“Seller Parent”	Preamble
“Seller Parties”	Preamble
“Sellers”	Preamble
“Simplified Agreement”	9.13
“Sintaihao Facility”	7.2(c)
“Straddle Period”	6.2
“Supply Agreement”	2.2(a)(ii)
“Taihao Facility”	7.2(c)
“Taxing Authority”	3.13(a)

“Third Party Claim”	7.5(a)
“Threshold”	7.4(a)
“Transfer Taxes”	6.3
“Unpaid Amount”	1.4

[Signature page follows.]

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on its behalf as of the date first above written.

BUYER:
TIHE CAPITAL (BEIJING) CO. LTD.

By: /s/ Yan, Zhou
Name: Yan, Zhou
Title: Authorized Signatory

SELLERS:
ATHENEX API LIMITED

By: /s/ Lau, Yiu Nam
Name: Lau, Yiu Nam
Title: Director

ATHENEX PHARMACEUTICALS (CHINA) LIMITED

By: /s/ Lau, Yiu Nam
Name: Lau, Yiu Nam
Title: Director

POLYMED THERAPEUTICS, INC.

By: /s/ Johnson Lau
Name: Johnson Lau
Title: Director

SELLER PARENT:
ATHENEX, INC.

By: /s/ Johnson Lau
Name: Johnson Lau
Title: Chief Executive Officer and Chairman

ANNEX 1 FORM PRODUCT RIGHTS AGREEMENT

ANNEX 2 KEY EMPLOYEES AND GUANGZHOU R&D STAFF

ANNEX 3 CONDUCT OF THE COMPANIES PRE-CLOSING

ANNEX 4 LIST OF EXCLUDED INVENTORY ASSETS

ANNEX 5 LIST OF EXCLUDED ASSETS

ANNEX 6 COMPANY HANDOVER CHECKLIST

Exhibit 31.1

CERTIFICATION PURSUANT TO
SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002

I, Johnson Y.N. Lau, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Athenex, Inc. (the registrant);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 29, 2022

/s/ Johnson Y.N. Lau
Name: Johnson Y.N. Lau

Title: Chief Executive Officer and Board Chairman

(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION PURSUANT TO
SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002

I, Joe Annoni, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Athenex, Inc. (the registrant);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 29, 2022

/s/ Joe Annoni
Name: Joe Annoni

Title: Chief Financial Officer

(Principal Financial and Accounting Officer)

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In accordance with 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, Johnson Y.N. Lau, Chief Executive Officer and Board Chairman (Principal Executive Officer) of Athenex, Inc. (the "registrant"), and Joe Annoni, Chief Financial Officer of the registrant (Principal Financial and Accounting Officer), each hereby certifies that, to the best of their knowledge:

1. The registrant's Quarterly Report on Form 10-Q for the period ended June 30, 2022, to which this Certification is attached as Exhibit 32.1 (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition of the registrant at the end of the period covered by the Report and results of operations of the registrant for the period covered by the Report.

Date: July 29, 2022

/s/ Johnson Y.N. Lau
Name: Johnson Y.N. Lau

Title: Chief Executive Officer and Board Chairman

(Principal Executive Officer)

/s/ Joe Annoni
Name: Joe Annoni

Title: Chief Financial Officer

(Principal Financial and Accounting Officer)

Document and Entity Information - shares	6 Months Ended Jun. 30, 2022	Jul. 22, 2022
Cover [Abstract]		
Document Type	10-Q	
Document Quarterly Report	true	
Document Transition Report	false	
Entity Interactive Data Current	Yes	
Amendment Flag	false	
Document Fiscal Year Focus	2022	
Document Fiscal Period Focus	Q2	
Document Period End Date	Jun. 30, 2022	
Entity Registrant Name	ATHENEX, INC.	
Entity Central Index Key	0001300699	
Entity Tax Identification Number	43-1985966	
Entity Incorporation, State or Country Code	DE	
Entity File Number	001-38112	
Entity Current Reporting Status	Yes	
Entity Shell Company	false	
Entity Filer Category	Accelerated Filer	
Entity Small Business	true	
Entity Emerging Growth Company	false	
Entity Address, Address Line One	1001 Main Street	
Entity Address, Address Line Two	Suite 600	
Entity Address, City or Town	Buffalo	
Entity Address, State or Province	NY	
Entity Address, Postal Zip Code	14203	
City Area Code	716	
Local Phone Number	427-2950	
Title of 12(b) Security	Common Stock, par value $0.001 per share	
Trading Symbol	ATNX	
Current Fiscal Year End Date	--12-31	
Security Exchange Name	NASDAQ	
Entity Common Stock, Shares Outstanding		121,608,388

Condensed Consolidated Balance Sheets (Unaudited) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Current assets:		
Cash and cash equivalents	$ 22,139	$ 35,202
Restricted cash	13,825	16,500
Short-term investments	1,189	10,207
Accounts receivable, net of chargebacks and other deductions of $26,662 and $22,868, respectively, and provision for credit losses of $9,795 and $9,196, respectively	33,824	26,286
Inventories	37,851	27,049
Prepaid expenses and other current assets	3,975	5,321
Discontinued operations, current portion	4,943	12,831
Total current assets	117,746	133,396
Property and equipment, net	4,194	5,181
Intangible assets, net	72,472	71,896
Operating lease right-of-use assets, net	4,885	5,509
Other assets	991	1,087
Discontinued operations, non-current portion	21,599	50,379
Total assets	221,887	267,448
Current liabilities:		
Accounts payable	21,397	14,519
Accrued expenses	39,285	23,892
Current portion of operating lease liabilities	2,077	2,393
Current portion of long-term debt and finance lease obligations	23,738	46,096
Discontinued operations, current portion	3,674	9,147
Total current liabilities	90,171	96,047
Long-term liabilities:		
Long-term operating lease liabilities	3,898	4,411
Long-term debt and finance lease obligations	22,226	95,607
Royalty financing liability	75,006	
Deferred tax liabilities	1,751	1,751
Contingent consideration	24,129	24,076
Other long-term liabilities	2,689	3,046
Discontinued operations, non-current portion	7,490	8,058
Total liabilities	227,360	232,996
Commitments and contingencies (See Note 18)		
Stockholders' equity:		
Common stock, par value $0.001 per share, 250,000,000 shares authorized at June 30, 2022 and December 31, 2021; 119,323,823 and 111,802,968 shares issued at June 30, 2022 and December 31, 2021, respectively; 117,650,903 and 110,130,048 shares outstanding at June 30, 2022 and December 31, 2021, respectively	119	111
Additional paid-in capital	980,819	972,404
Accumulated other comprehensive loss	1,471	(487)

Accumulated deficit	(962,989)	(913,412)
Less: treasury stock, at cost; 1,672,920 shares at June 30, 2022 and December 31, 2021	(7,485)	(7,485)
Total Athenex, Inc. stockholders' equity	11,935	51,131
Non-controlling interests	(17,408)	(16,679)
Total stockholders' (deficit) equity	(5,473)	34,452
Total liabilities and stockholders' (deficit) equity	$ 221,887	$ 267,448

Condensed Consolidated Balance Sheets (Parenthetical) (Unaudited) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Statement of Financial Position [Abstract]		
Accounts receivable, chargebacks and other deductions (in dollars)	$ 26,662	$ 22,868
Provision for credit losses (in dollars)	$ 9,795	$ 9,196
Common stock, par value (in dollars per share)	$ 0.001	$ 0.001
Common stock, shares authorized	250,000,000	250,000,000
Common stock, shares issued	119,323,823	111,802,968
Common Stock, shares outstanding	117,650,903	110,130,048
Treasury stock, shares	1,672,920	1,672,920

Condensed Consolidated Statements of Operations and Comprehensive Loss (unaudited) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Revenue:				
Total revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850
Cost of sales	23,092	19,117	45,613	34,158
Gross Profit	8,424	1,581	15,045	25,692
Operating expenses:				
Research and development expenses	13,094	20,646	27,179	42,390
Selling, general, and administrative expenses	17,172	17,641	30,979	36,840
Total operating expenses	30,266	38,287	58,158	79,230
Operating loss	(21,842)	(36,706)	(43,113)	(53,538)
Interest income	46	32	122	61
Interest expense	4,307	5,608	8,820	10,538
Loss on extinguishment of debt and write off of deferred issuance costs	(2,051)		1,450	648
Loss before income tax expense	(24,052)	(42,282)	(53,261)	(64,015)
Income tax expense (benefit)	(19)	(11,035)	8	(10,881)
Net loss from continuing operations	(24,033)	(31,247)	(53,269)	(53,134)
Loss (gain) from discontinued operations (Note 4)	8,341	3,368	(2,963)	7,084
Net loss	(32,374)	(34,615)	(50,306)	(60,218)
Less: net loss attributable to non-controlling interests	(217)	(341)	(729)	(894)
Net loss attributable to Athenex, Inc.	(32,157)	(34,274)	(49,577)	(59,324)
Unrealized gain (loss) on investment, net of income taxes	443	(19)	470	(3)
Foreign currency translation adjustment, net of income taxes	953	(263)	1,488	14
Comprehensive loss	$ (30,761)	$ (34,556)	$ (47,619)	$ (59,313)
Net loss from continuing operations, Basic	$ (0.21)	$ (0.30)	$ (0.47)	$ (0.53)
Net loss from continuing operations, Diluted	(0.21)	(0.30)	(0.47)	(0.53)
Net loss (gain) from discontinued operations, Basic	(0.07)	(0.03)	0.03	(0.07)
Net (loss) gain from discontinued operations, Diluted	(0.07)	(0.03)	0.03	(0.07)
Net loss per share attributable to Athenex, Inc. common stockholders, basic (See Note 15)	(0.28)	(0.33)	(0.44)	(0.60)
Net loss per share attributable to Athenex, Inc. common stockholders, diluted (See Note 15)	$ (0.28)	$ (0.33)	$ (0.44)	$ (0.60)
Weighted-average shares used in computing net loss per share attributable to Athenex, Inc. common stockholders, basic (See Note 15)	113,006,158	103,370,268	111,762,029	98,427,561
Weighted-average shares used in computing net loss per share attributable to Athenex, Inc. common stockholders, diluted (See Note 15)	113,006,158	103,370,268	111,762,029	98,427,561
Product Sales, Net				
Revenue:				

Total revenue	$ 25,786	$ 20,394	$ 54,154	$ 38,881
License and Other Revenue				
Revenue:				
Total revenue	$ 5,730	$ 304	$ 6,504	$ 20,969

Condensed Consolidated Statements of Stockholders' Deficit (unaudited) - USD ($) $ in Thousands	Total	Common Stock	Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Treasury Stock	Total Athenex, Inc. Stockholders' Equity	Non-Controlling Interests
Beginning balance at Dec. 31, 2020	$ 165,348	$ 95	$ 901,864	$ (713,644)	$ (1,134)	$ (7,406)	$ 179,775	$ (14,427)
Beginning balance, shares at Dec. 31, 2020		95,066,195				(1,672,920)		
Stock-based compensation cost	2,205		2,205				2,205	
Restricted stock expense	29		29				29	
Stock options exercised	852		852				852	
Stock options exercised, shares		119,425						
Net loss	(25,603)			(25,050)			(25,050)	(553)
Other comprehensive income (loss), net of tax	293				293		293	
Ending balance at Mar. 31, 2021	143,124	$ 95	904,950	(738,694)	(841)	$ (7,406)	158,104	(14,980)
Ending balance, shares at Mar. 31, 2021		95,185,620				(1,672,920)		
Beginning balance at Dec. 31, 2020	165,348	$ 95	901,864	(713,644)	(1,134)	$ (7,406)	179,775	(14,427)
Beginning balance, shares at Dec. 31, 2020		95,066,195				(1,672,920)		
Net loss	(60,218)							
Ending balance at Jun. 30, 2021	169,880	$ 111	966,666	(772,968)	(1,123)	$ (7,485)	185,201	(15,321)
Ending balance, shares at Jun. 30, 2021		110,980,660				(1,672,920)		
Beginning balance at Dec. 31, 2020	165,348	$ 95	901,864	(713,644)	(1,134)	$ (7,406)	179,775	(14,427)
Beginning balance, shares at Dec. 31, 2020		95,066,195				(1,672,920)		
Ending balance at Dec. 31, 2021	34,452	$ 111	972,404	(913,412)	(487)	$ (7,485)	51,131	(16,679)
Ending balance, shares at Dec. 31, 2021		111,802,968				(1,672,920)		
Beginning balance at Mar. 31, 2021	143,124	$ 95	904,950	(738,694)	(841)	$ (7,406)	158,104	(14,980)
Beginning balance, shares at Mar. 31, 2021		95,185,620				(1,672,920)		
Sale of common stock, shares		33,373						
Sale of common stock	133		133				133	
Issuance of common stock in connection with acquisition of Kuur and settlement of transaction incentive liability assumed, shares		15,601,667						
Issuance of common stock in connection with acquisition of Kuur and settlement of transaction incentive liability assumed	58,428	$ 16	58,412				58,428	
Stock-based compensation cost	2,387		2,387				2,387	

Restricted stock expense	57		57				57	
Stock options exercised	727		727				727	
Stock options exercised, shares		160,000						
Treasury stock repurchase	(79)					$ (79)	(79)	
Net loss	(34,615)			(34,274)			(34,274)	(341)
Other comprehensive income (loss), net of tax	(282)				(282)		(282)	
Ending balance at Jun. 30, 2021	169,880	$ 111	966,666	(772,968)	(1,123)	$ (7,485)	185,201	(15,321)
Ending balance, shares at Jun. 30, 2021		110,980,660				(1,672,920)		
Beginning balance at Dec. 31, 2021	34,452	$ 111	972,404	(913,412)	(487)	$ (7,485)	51,131	(16,679)
Beginning balance, shares at Dec. 31, 2021		111,802,968				(1,672,920)		
Sale of common stock through ATM shares		1,646,026						
Sale of common stock through ATM	1,695	$ 2	1,693				1,695	
Stock-based compensation cost	1,623		1,623				1,623	
Restricted stock expense	251		251				251	
Issuance of warrants	148		148				148	
Net loss	(17,932)			(17,420)			(17,420)	(512)
Other comprehensive income (loss), net of tax	562				562		562	
Ending balance at Mar. 31, 2022	20,799	$ 113	976,119	(930,832)	75	$ (7,485)	37,990	(17,191)
Ending balance, shares at Mar. 31, 2022		113,448,994				(1,672,920)		
Beginning balance at Dec. 31, 2021	34,452	$ 111	972,404	(913,412)	(487)	$ (7,485)	51,131	(16,679)
Beginning balance, shares at Dec. 31, 2021		111,802,968				(1,672,920)		
Net loss	(50,306)							
Ending balance at Jun. 30, 2022	(5,473)	$ 119	980,819	(962,989)	1,471	$ (7,485)	11,935	(17,408)
Ending balance, shares at Jun. 30, 2022		119,323,823				(1,672,920)		
Beginning balance at Mar. 31, 2022	20,799	$ 113	976,119	(930,832)	75	$ (7,485)	37,990	(17,191)
Beginning balance, shares at Mar. 31, 2022		113,448,994				(1,672,920)		
Sale of common stock through ATM shares		5,501,866						
Sale of common stock through ATM	2,780	$ 5	2,775				2,780	
Sale of common stock through ESPP shares		372,963						
Sale of common stock through ESPP	188	$ 1	187				188	
Stock-based compensation cost	1,358		1,358				1,358	
Restricted stock expense	245		245				245	
Issuance of warrants	135		135				135	

Net loss	(32,374)			(32,157)			(32,157)	(217)
Other comprehensive income (loss), net of tax	1,396				1,396		1,396	
Ending balance at Jun. 30, 2022	$ (5,473)	$ 119	$ 980,819	$ (962,989)	$ 1,471	$ (7,485)	$ 11,935	$ (17,408)
Ending balance, shares at Jun. 30, 2022		119,323,823				(1,672,920)		

Condensed Consolidated Statements of Stockholders' Deficit (Parenthetical) (unaudited) - USD ($) $ in Thousands	3 Months Ended	
	Jun. 30, 2022	Mar. 31, 2022
Statement of Stockholders' Equity [Abstract]		
Stock issuance costs	$ 86	$ 52

Condensed Consolidated Statements of Cash Flows (unaudited) - USD ($) $ in Thousands	6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021
Cash flows from operating activities:		
Net loss from continuing operations	$ (53,269)	$ (53,134)
Net gain (loss) from discontinued operations	2,963	(7,084)
Adjustments to reconcile net loss to net cash used in operating activities of continuing operations:		
Depreciation and amortization	1,470	1,986
Stock-based compensation expense	3,477	4,678
Amortization of debt discount	1,029	1,533
Change in fair value of contingent consideration	53	398
Loss on disposal of assets and impairment charges	78	
Loss on extinguishment of debt and write off of deferred issuance costs	1,450	648
Deferred income taxes		(10,940)
Changes in operating assets and liabilities:		
Receivables, net	(7,538)	520
Prepaid expenses and other assets	1,443	(261)
Inventories	(10,802)	(613)
Accounts payable and accrued expenses	25,798	(8,579)
Net cash used in operating activities of continuing operations	(36,811)	(63,764)
Cash flows from investing activities of continuing operations:		
Purchase of property and equipment	(360)	(491)
Payments for licenses	(668)	(1,588)
Cash acquired from Kuur acquisition		1,425
Purchases of short-term investments	(9,488)	(67,600)
Sales and maturities of short-term investments	18,976	152,950
Net cash provided by investing activities of continuing operations	8,460	84,696
Cash flows from financing activities of continuing operations:		
Proceeds from sale of stock	4,663	133
Proceeds from issuance of royalty financing liability	80,000	
Proceeds from exercise of stock options		1,579
Repurchase of treasury stock		(79)
Costs incurred related to the issuance of royalty financing liability	(4,982)	
Costs incurred related to the prepayment of debt	(5,625)	
Repayment of finance lease obligations and long-term debt and royalty financing liability	(92,584)	(99)
Net cash (used in) provided by financing activities of continuing operations	(18,528)	1,534
Net (decrease) increase in cash, cash equivalents, and restricted cash from continuing operations	(46,879)	22,466
Net cash used in operating activities of discontinued operations	(7,535)	(5,326)
Net cash provided by (used in) investing activities of discontinued operations	37,747	(9,968)
Net cash used in financing activities of discontinued operations	(792)	(85)

Net increase (decrease) in cash and cash equivalents from discontinued operations	29,420	(15,379)
Cash, cash equivalents, and restricted cash, beginning of period	51,702	86,087
Effect of exchange rate changes on cash, cash equivalents, and restricted cash	1,721	267
Cash, cash equivalents, and restricted cash, end of period (See Note 5)	35,964	93,441
Supplemental cash flow disclosures		
Interest paid	7,702	7,708
Interest paid by discontinued operations	15	7
Non-cash investing and financing activities:		
Accrued purchases of property and equipment from continuing operations	17	123
Accrued purchases of property and equipment from discontinued operations	1,213	2,585
Accrued purchases of licenses	1,925	$ 1,600
ROU assets derecognized from modification of operating lease obligations	(128)	
ROU assets recognized in exchange for operating lease obligations	$ 78	

Company and Nature of Business	6 Months Ended Jun. 30, 2022
Organization, Consolidation and Presentation of Financial Statements [Abstract]	
Company and Nature of Business	

1. Company and Nature of Business

Organization and Description of Business

Athenex, Inc. and subsidiaries (the “Company” or “Athenex”), originally under the name Kinex Pharmaceuticals LLC (“Kinex”), formed in November 2003, commenced operations on February 5, 2004, and operated as a limited liability company until it was incorporated in the State of Delaware under the name Kinex Pharmaceuticals, Inc. on December 31, 2012. The Company changed its name to Athenex, Inc. on August 26, 2015.

Athenex is a biopharmaceutical company dedicated to becoming a leader in the discovery, development, and commercialization of next generation drugs for the treatment of cancer. The Company’s mission is to improve the lives of cancer patients by creating more effective, safer, and accessible treatments. The Company has assembled a strong and experienced leadership team and has established operations across the pharmaceutical value chain to execute our goal of becoming a leader in bringing innovative cancer treatments to the market and improving health outcomes.

The Company is organized around three operating segments: (1) its Oncology Innovation Platform, dedicated to the research and development of our proprietary drugs; (2) its Commercial Platform, focused on the sales and marketing of our specialty drugs and the market development of our proprietary drugs; and (3) its Global Supply Chain Platform, providing sterile injectable drugs to hospital pharmacies across the U.S. The Company’s current clinical pipeline in the Oncology Innovation Platform is derived mainly from the following core technologies: (1) Cell Therapy, based on natural killer T ("NKT") cells, and (2) Orascovery, based on a P-glycoprotein (“P-gp”) pump inhibitor.

The Company is primarily engaged in conducting research and development activities through corporate collaborators, in-licensing and out-licensing pharmaceutical compounds and technology, conducting preclinical and clinical testing, identifying and evaluating additional drug candidates for potential in-licensing or acquisition, and raising capital to support development and commercialization activities. The Company also conducts commercial sales of specialty products through its wholly owned subsidiary, Athenex Pharmaceutical Division (“APD”), and 503B products through its wholly owned subsidiary, Athenex Pharma Solutions (“APS”).

Going Concern

These condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles applicable to a going concern, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business.

The Company has incurred operating losses since its inception and, as a result, as of June 30, 2022 and December 31, 2021 had an accumulated deficit of $963.0 million and $913.4 million, respectively. As of June 30, 2022, the Company had cash and cash equivalents of $22.1 million, restricted cash of $13.8 million, and short-term investments of $1.2 million. The Company projects insufficient liquidity to fund its operations through the next twelve months beyond the date of the issuance of these condensed consolidated financial statements. This condition raises substantial doubt about the Company’s ability to continue as a going concern.

Additionally, the Company has financial covenants associated with its Senior Credit Agreement with Oaktree that are measured each quarter. The Company is in compliance with such financial covenants as of June 30, 2022. However, the Company is forecasting that it will be in violation of the minimum liquidity covenant included within the Senior Credit Agreement

during the twelve month period subsequent to the date of this filing. Pursuant to ASC 205-40-50, the Company's forecast does not reflect management's plans that are outside of the Company's control as described below. Violation of any covenant under the Credit Agreement provides the lenders with the option to accelerate the maturity of the Credit Facility, which carried an outstanding principal balance of $57.5 million as of June 30, 2022. Should the lenders accelerate the maturity of the Credit Facility, the Company would not have sufficient cash on hand or available liquidity to repay the outstanding debt in the event of default. These conditions and events raise substantial doubt about the Company's ability to continue as a going concern.

In response to these conditions, management's plans include seeking additional funding through planned product launches, raising capital, including leveraging the existing sales agreement with SVB Securities LLC (described below), asset monetization and/or seeking funding through alternative means. There can be no assurances, however, that additional funding will be available on favorable terms, or at all. Because management's plans have not yet been finalized and are not within the Company's control, such plans cannot be considered probable of being achieved. As a result, the Company has concluded that management's plans do not alleviate substantial doubt about the Company's ability to continue as a going concern.

These condensed consolidated financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts or the amounts and classification of liabilities that might result from the outcome of this uncertainty.

Other Significant Risks and Uncertainties

In February 2021, the Company received a Complete Response Letter ("CRL") from the U.S. Food and Drug Administration ("FDA") regarding the Company's New Drug Application ("NDA") for oral paclitaxel and encequidar ("Oral Paclitaxel") for the treatment of metastatic breast cancer ("mBC"). The FDA issues a CRL to indicate that the review cycle for an application is complete and that the application is not ready for approval in its present form. In the CRL, the FDA indicated its concern of safety risk to patients in terms of an increase in neutropenia-related sequelae on the Oral Paclitaxel arm compared with the IV paclitaxel arm in the Phase III study. The FDA also expressed concerns regarding the uncertainty over the results of the primary endpoint of objective response rate (ORR) at week 19 conducted by blinded independent central review ("BICR"). The FDA stated that the BICR reconciliation and re-read process may have introduced unmeasured bias and influence on the BICR. The FDA recommended that Athenex conduct a new adequate and well-conducted clinical trial in a patient population with mBC representative of the population in the U.S. The FDA determined that adequate risk mitigation strategies to improve toxicity, which may involve dose optimization as well as, or in addition to, exclusion of patients deemed to be at higher risk of toxicity, would be required in any new clinical trial of Oral Paclitaxel. During the second quarter of 2021, the Company held a Type A meeting with the FDA. At the meeting, the Company provided additional analyses, including overall survival (OS) data on patient subgroups, to provide a more comprehensive summary of the risk/benefit assessment. The Company also proposed to collect additional OS data that could inform the design of a new clinical study. In October 2021, the Company held another Type A meeting with the FDA, and the purpose of the meeting was to review with the FDA a proposed design for a new clinical trial intended to address the deficiencies raised in the CRL and discuss the potential regulatory path forward for Oral Paclitaxel in mBC in the U.S. After careful consideration of the feedback provided by the FDA, the Company decided that it will not currently be pursuing regulatory approval for Oral Paclitaxel monotherapy for the treatment of mBC in the U.S. and determined to redeploy its resources to focus on its cell therapy platform and other ongoing studies of Oral Paclitaxel.

The Company is subject to a number of risks, including, but not limited to, the lack of available capital; the possible delisting of our common stock from Nasdaq, possible failure of preclinical testing or clinical trials; inability to obtain regulatory approval of product candidates; competitors developing new technological innovations; potential interruptions in the manufacturing and commercial supply operations; unsuccessful commercialization strategy and launch plans for its proprietary drug candidates; risks inherent in litigation, including purported class actions; market acceptance of the Company's products; and protection of proprietary technology. If the Company or its partners do not successfully commercialize any of the Company's product candidates, it will be unable to generate sufficient revenue and might not, if ever, achieve profitability and positive cash flow.

Recent Financing Activity

Sale of U.S. and European tirbanibulin royalty and milestone interests

On June 21, 2022, the Company and ATNX SPV, LLC, its newly-formed subsidiary (the "SPV"), entered into a Revenue Interest Purchase Agreement (the "RIPA") with affiliates of Sagard Healthcare Partners ("Sagard") and funds managed by Oaktree Capital Management, L.P. ("Oaktree" and together with Sagard, the "Purchasers"), for the sale of revenues from U.S. and European royalty and milestone interests in Klisyri® (tirbanibulin) for an aggregate purchase price of $85.0 million ("Purchase Price"). On June 29, 2022, the Purchasers paid the Company the Purchase Price. Of the total Purchase Price, $5.0 million was placed into escrow to be paid to the Company upon the satisfaction of certain manufacture and supply milestones for Klisyri prior to December 31, 2025, $5.0 million was used to pay for transaction expenses, $56.6 million was used to pay down principal, interest, and fees on the Company's Senior Credit Agreement with Oaktree, and $7.5 million was deposited and held in a segregated account of the Company (the "Segregated Funds"). Subject to the satisfaction of certain conditions, the Segregated Funds will either be distributed to the Company as a cash payment or distributed to Oaktree Fund Administration, LLC as administrative agent to pay down the Company's existing indebtedness under the Senior Credit Agreement. The remaining proceeds of $10.9 million were available for the Company's operations. Refer to Note 11 - *Debt and Lease Obligations* for additional information.

In connection with this transaction, the Company formed the Subsidiary and contributed its interest in the License and Development Agreement with Almirall S.A. relating to Klisyri (the "License Agreement") and certain related assets to the Subsidiary. Oaktree and Sagard each own a 10% equity interest in the Subsidiary. Pursuant to the RIPA, the Subsidiary will sell its right to the cash received in respect of certain royalties and certain milestone interests under the License Agreement to the Purchasers. The Subsidiary will retain the right to receive 50% of certain of the milestone interests under the License Agreement, equal to $155.0 million in the aggregate if those milestones are achieved, and 50% of the royalties paid under the License Agreement for sales of Klisyri once net sales of Klisyri exceed a certain dollar amount. Under its operating agreement, the Subsidiary will be governed by a five-member board of directors to which the Company will appoint three directors, Oaktree will appoint one director, and Sagard will appoint one director.

At-the-market offering

On August 20, 2021, the Company entered into a sales agreement (the "Sales Agreement") with SVB Securities LLC, in connection with the offer and sale of up to $100,000,000 of shares of the Company's common stock, par value $0.001 per share ("ATM Shares"). The ATM Shares to be offered and sold under the Sales Agreement will be issued and sold pursuant to a registration

statement on Form S-3 (File No. 333-258185) that became effective on August 12, 2021. During the year ended December 31, 2021, the Company sold 762,825 shares of its common stock for an average price of $1.49 per share under the Sales Agreement. During the six months ended June 30, 2022, the Company sold 7,147,892 shares of its common stock for an average price of $0.63 per share under the Sales Agreement.

Senior Secured Loan Agreement and Detachable Warrants

On June 19, 2020, the Company entered into a senior secured loan agreement and related security agreements (the "Senior Credit Agreement") with Oaktree to borrow up to $225.0 million in five tranches with a maturity date of June 19, 2026, bearing interest at a fixed annual rate of 11.0%. The first tranche of $100.0 million was drawn by the Company prior to June 30, 2020, with the proceeds used in part to repay in full the outstanding loan and fees under the credit agreement with Perceptive Advisors LLC and its affiliates ("Perceptive"). The second and third tranches of $25.0 million each were drawn by the Company prior to December 31, 2020. The additional debt tranches amounting to an aggregate of $75.0 million were subject to the approval Oral Paclitaxel in the treatment of mBC, and therefore, became unavailable to the Company when it decided to no longer pursue regulatory approval in the U.S. The Company is required to make quarterly interest-only payments until June 19, 2022, after which the Company is required to make quarterly amortizing payments, with the remaining balance of the principal

plus accrued and unpaid interest due at maturity. The loan agreement contains specified financial maintenance covenants. The Company was in compliance with such covenants as of June 30, 2022.

In connection with the Senior Credit Agreement, the Company granted warrants to Oaktree to purchase an aggregate of up to 908,393 shares of the Company's common stock at an initial purchase price of $12.63 per share. This transaction was accounted for as a detachable warrant at its fair value, using the relative fair value method, which is based on a number of unobservable inputs, and is recorded as an increase to additional paid-in-capital on the consolidated statement of stockholders' equity. The fair value of the warrants was reflected as a discount to the term loan and amortized over the life of the term loan.

On January 19, 2022, the Company entered into an amendment to the Senior Credit Agreement with Oaktree (the "Third Amendment"). The Third Amendment also amended the warrants held by Oaktree and Sagard that were issued on June 19, 2020 and August 4, 2020. The Third Amendment became effective on February 14, 2022, upon the closing of the Company's sale of its leasehold interest in the manufacturing facility in Dunkirk, New York and certain other related assets (the "Dunkirk Transaction," see Note 4 - *Discontinued Operations*). The Third Amendment required the Company to make a mandatory prepayment of principal to Oaktree equal to 62.5% of the cash proceeds of the Dunkirk Transaction. The Company was also required to pay (i) accrued and unpaid interest and (ii) a 7.0% fee, allocated as a 2.0% Exit Fee and a 5.0% Prepayment Fee (each as defined in the Senior Credit Agreement), on the principal amount being repaid. The Company was required to pay Oaktree an amendment fee of $0.3 million and certain related expenses upon the closing of the Dunkirk Transaction. The Third Amendment required the Company to make an additional mandatory prepayment of $12.5 million in principal plus the costs and fees described above by June 14, 2022, within 120 days of the closing of the Dunkirk Transaction. Consistent with the Company's decision to not pursue regulatory approval for Oral Paclitaxel monotherapy for the treatment of mBC in the United States, the Third Amendment reduced to zero the amount of the last two tranches of borrowing that had been available under the Senior Credit Agreement upon the achievement of commercial milestones. The warrants were amended to change the exercise price to be paid per share upon exercise of the warrants. The original exercise price of the warrants was $12.63 per share; 50% of the shares underlying the warrants were repriced to $1.10 per share under the Third Amendment. The Dunkirk Transaction closed on February 14, 2022. The Company received proceeds of $40.0 million and used these proceeds to repay $27.4 million, inclusive of principal, fees, and accrued interest, of the Senior Credit Agreement with Oaktree according to the terms of the Third Amendment. The Company recorded a $3.5 million loss on the partial extinguishment of debt as the result of this prepayment. During June 2022, the Company made the additional prepayment under the Third Amendment in the aggregate amount of $13.7 million, inclusive of principal, fees, and accrued interest, as provided in the Fourth Amendment, described below.

In June 2022, the Company entered into additional amendments to the Senior Credit Agreement with Oaktree (the "Fourth Amendment" and the "Fifth Amendment" or the "Amendments"), in connection with the execution of the RIPA with Sagard and Oaktree. Under the Fourth Amendment, Oaktree permitted the Company to pay $7.5 million in principal amount due pursuant to the Third Amendment on the closing date of the RIPA. Under the Fifth Amendment, the Company agreed to make an additional prepayment of principal to Oaktree of $10.0 million on or before July 1, 2022. The Company was also required to pay (i) accrued and unpaid interest and (ii) a 5.0% fee, allocated as a 2.0% Exit Fee and a 3.0% Prepayment Fee (each as defined in the Senior Credit Agreement), on the principal amount being repaid pursuant to the Amendments.

The Fourth Amendment also amended the warrants held by Oaktree and Sagard that were issued on June 19, 2020 and August 4, 2020, as previously amended on January 19, 2022. The warrants were amended to change the exercise price to be paid per share upon exercise of the warrants. The original exercise price of the warrants was $12.63 per share. The Third Amendment had reduced the exercise price of 50% of the shares underlying the Warrants to $1.10 per share, with the remaining 50% exercisable at $12.63 per share. The Fourth Amendment reduced the exercise price of all of the warrants to $0.50 per share.

As of June 30, 2022 and December 31, 2021, the Company's outstanding principal on the Senior Credit Agreement with Oaktree amounted to $57.5 million, and $150.0 million, respectively. Refer to Note 11 - *Debt and Lease Obligations* for additional information.

Summary of Significant Accounting Policies

Accounting Policies [Abstract]

Summary of Significant Accounting Policies

6 Months Ended Jun. 30, 2022

2. Summary of Significant Accounting Policies

Basis of Presentation and Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles in the United States of America ("GAAP") for interim financial information (Accounting Standards Codification ("ASC") 270, *Interim Reporting*) and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, these financial statements do not include all of the information necessary for a full presentation of financial position, results of operations, and cash flows in conformity with GAAP. In the opinion of management, the condensed consolidated financial statements reflect all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation of the results of the Company for the periods presented. These condensed consolidated financial statements reflect the accounts and operations of Athenex, Inc. and those of its subsidiaries in which Athenex, Inc. has a controlling financial interest. Intercompany transactions and balances have been fully eliminated in consolidation.

Results of the Company's operations for the three and six months ended June 30, 2022 are not necessarily indicative of the results expected for the year ending December 31, 2022, or for any other future annual or interim period. These condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2021, filed with the Securities and Exchange Commission ("SEC") on March 16, 2022.

The Company has consolidated its newly-formed subsidiary, ATNX SPV, LLC into the accompanying unaudited condensed consolidated financial statements under the variable interest model.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the consolidated financial statements and the reported amount of revenue and expenses during the reporting period. Such management estimates include those relating to assumptions used in clinical research accruals, chargebacks, measurement of acquired assets and assumed liabilities in business combinations, provision for credit losses, inventory reserves, deferred income taxes, the estimated useful life and recoverability of long-lived assets, contingent consideration, accounting for debt extinguishment and the royalty financing liability, and the valuation of stock-based awards and other items as appropriate. Actual results could differ from those estimates.

Contingent Consideration

Contingent consideration arising from a business acquisition is included as part of the purchase price and is recorded at fair value as of the acquisition date. Subsequent to the acquisition date, the Company remeasures contingent consideration arrangements at fair value at each reporting period until the contingency is resolved. The changes in fair value are recognized within selling, general, and administrative expenses in the Company's consolidated statement of operations and comprehensive loss. Changes in fair values reflect new information about the likelihood of the payment of the contingent consideration and the passage of time.

Liability related to the sale of future royalties

The Company treats the liability related to the sale of future royalties, as discussed further in Note 11 - *Debt and Lease Obligations*, as a debt instrument, amortized under the effective interest rate method over the estimated life of the revenue streams. The Company recognizes interest expense thereon using the effective rate, which is based on its current estimates of future

revenues over the life of the arrangement. The Company periodically assesses its expected revenues using internal projections, imputes interest on the carrying value of the deferred royalty obligation, and records interest expense using the imputed effective interest rate. To the extent its estimates of future revenues are greater or less than previous estimates or the estimated timing of such payments is materially different than previous estimates, the Company will account for any such changes by adjusting the effective interest rate on a prospective basis, with a corresponding impact to the reclassification of the royalty financing liability. The assumptions used in determining the expected repayment term of the royalty financing liability and amortization period of the issuance costs require that the Company makes significant estimates that could impact the short-term and long-term classification of the royalty financing liability, interest recorded on such liability, as well as the period over which such costs will be amortized.

Concentration of Credit Risk, Other Risks and Uncertainties

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and cash equivalents, restricted cash, and short-term investments. The Company deposits its cash equivalents in interest-bearing money market accounts and certificates of deposit, invests in highly liquid U.S. treasury notes, commercial paper, and corporate bonds. The Company deposits its cash with multiple financial institutions. Cash balances exceed federally insured limits. The primary focus of the Company's investment strategy is to preserve capital and meet liquidity requirements. The Company's investment policy addresses the level of credit exposure by limiting the concentration in any one corporate issuer and establishing a minimum allowable credit rating. The Company also has significant assets and liabilities held in its overseas manufacturing facility, and research and development facility in China, and therefore is subject to foreign currency fluctuation and regulatory uncertainties.

Business Combination

Business Combinations [Abstract]

Business Combination

6 Months Ended
Jun. 30, 2022

3. Business Combination

On May 4, 2021, the Company entered into an Agreement and Plan of Merger (the "Merger Agreement") with Kuur Therapeutics, Inc., a ("Kuur") whereby it acquired 100% of the outstanding shares of Kuur (the "Merger"). Under the terms of the Merger Agreement, the Company's Athenex Pharmaceuticals LLC, a Delaware limited liability company, merged with and into Kuur, with Kuur surviving as a wholly owned subsidi is a leading developer of off-the-shelf CAR-NKT cell immunotherapies for the treatment of solid and hematological malignancies. The Company strategically combines its TCR technology with the groundbreaking NKT cell platform to provide a solution that may address some of the known with the first generation of cell therapy treatments focused on autologous CAR-T.

Pursuant to the Merger Agreement, an upfront fee of $70.0 million was paid to Kuur shareholders and its former employees and directors, equity in the Company's common stock. Additionally, Kuur shareholders and its former employees and directors are eligible to receive up to $115 payments, which may be paid, at the Company's sole discretion, in either cash or additional common stock of the Company (or a combination of t the Company's shareholders approved the issuance of shares of common stock as milestone payments under the Merger Agreement.

The Company identified the Merger as a business combination pursuant to ASC 805 and used the acquisition method of accounting to acc The purchase price, after adjusted for closing conditions, consisted of 14,228,066 shares of the Company's common stock issued at $3.71 per shar $52.8 million, plus the fair value of the future milestone payments amounting to $19.8 million, recorded as contingent consideration. The Compar of this contingent consideration as a liability based on the probabilities of Kuur achieving the milestones and the present value of such payments. observable in the market and therefore are considered Level 3 inputs.

The Company estimated fair values on May 4, 2021 for the allocation of consideration to the net tangible and intangible assets acquired ar connection with the Merger. During the measurement period, the Company continued to obtain information to assist in finalizing the fair value of liabilities assumed. Measurement period adjustments were applied in the reporting period in which the adjustments were determined. During the y 2021, the Company recorded a measurement period adjustment to reflect the estimated fair value of in-process research and development ("IPR& in the underlying assumptions, including projected expenses and the estimated discount rate. This measurement period adjustment resulted in the million, a decrease in the deferred tax liability assumed of $0.2 million, and a decrease in goodwill of $1.6 million from the initial measurement r 2021. To estimate the fair value of the identifiable intangible assets acquired, the Company used projected discounted cash flow method, which re projected revenues and expenses and an estimated discount rate, among other inputs, each of which is not observable in the market and thus are co The Company assumed $8.9 million of transaction incentive liability to Kuur's key employees and independent company directors, of which $3.3 and $5.6 million was paid in 1,373,601 shares of the

Company's common stock at $4.11 per share. The following table summarizes the final purchase price allocation to the fair value of assets and li date of acquisition (in thousands):

Allocation of Consideration:	
Stock issued (14,228,066 shares at $3.71)	$
Contingent consideration	
Purchase price:	$
Net assets acquired:	
Cash and cash equivalents	$
Prepaid expenses and other current assets	
In-process research & development	
Accounts payable	
Accrued expenses	
Deferred income tax liability	
Transaction incentive liability	
Total identifiable net assets	
Goodwill	
Total purchase price allocation	$

Goodwill in the amount of $28.7 million was recorded for the excess of the purchase price over the fair value of the assets acquired and li goodwill recorded in connection with this acquisition is not deductible for income tax purposes. A deferred tax liability in the amount of $12.5 mi to the future taxable income as a result of the book to tax basis difference arising from the IPR&D.

The fair value of the acquired IPR&D relates to two products, including (a) an allogenic product in which NKT cells are engineered with and (b) an allogenic product in which NKT cells are engineered with a CAR targeting GPC3. These IPR&D projects were valued using an income projected discounted cash flow method, adjusted for the probability of technical success (PTS). The projected discounted cash flow models used t IPR&D reflect significant assumptions regarding the estimates a market participant would make in order to evaluate a drug development asset inc

- Estimates of potential cash flows to be generated by the project and resulting asset, which was developed utilizing estimates of total patie penetration rates, demand risk adjustment factors, and product pricing;
- Estimates regarding the timing of and the expected cost of goods sold, research and development expenses, selling, general, and administ advance the clinical programs to commercialization;
- Estimates of profit sharing and cash flow adjustments;
- The projected cash flows were then adjusted using PTS factors that were selected considering both the current state of development and t indication; and
- Finally, the resulting probability-adjusted cash flows were discounted to present value using a risk-adjusted discount rate, developed cons present in the forecast and the size of the asset.

This acquisition was made to benefit the Company's R&D efforts, providing synergies with other assets in the Company's pipeline and th Oncology Innovation Platform. The operating results of Kuur have been included within the Company's Oncology Innovation Platform operating acquisition. Kuur added revenue of $0.1 for both the three and six months ended June 30, 2022 and contributed a net loss of $3.7 million and $6.1

six months ended June 30, 2022, respectively. Kuur added revenue of $0 for both the three and six months ended June 30, 2021 and contributed a
for the three and six months ended June 30, 2021.

No acquisition-related costs were incurred during the six months ended June 30, 2022. Acquisition-related costs, including legal, regulato
amounted to $3.5 million for the six months ended June 30, 2021, and are included within selling, general, and administrative expenses in the Co
statement of operations and comprehensive loss.

Unaudited Pro Forma Financial Results

The following table presents supplemental unaudited pro forma information for the acquisition as if it had occurred on January 1, 2021. T
financial results for the six months ended June 30, 2022 do not include proforma adjustments, as the results of Kuur have been consolidated withi
statements for that period. The unaudited pro forma financial results for the three and six months ended June 30, 2021 include the following adjus
direct acquisition-related costs which would not have been incurred had the businesses been owned on the beginning of the prior reporting period

deferred tax effect if the intangible assets and purchase accounting were recorded as of the beginning of the prior reporting period, and (3) the rem
value of Kuur convertible debt which was converted prior to the consumption of the acquisition. The pro forma results do not include any antici
expected benefits of the acquisitions. The unaudited pro forma financial information is for informational purposes only and is not necessarily indi
results of operations of the combined entity or results that might have been achieved had the acquisitions been consummated as of the beginning o
period. The following table presents the unaudited pro forma consolidated financial information for the three and six months ended June 30, 2022

Unaudited pro forma financial information (Athenex and Kuur Consolidated)	**Three Months Ended June 30,**		**Six M Ended J**
	2022	**2021**	**2022**
Consolidated revenue	$ 31,516	$ 20,698	$ 60,658
Consolidated net loss	$ (32,157)	$ (31,261)	$ (49,577)

Discontinued Operations

Discontinued Operations and Disposal Groups [Abstract]

Discontinued Operations

6 Months Ended
Jun. 30, 2022

4. Discontinued Operations

On January 7, 2022, the Company entered into a definitive agreement (the “Dunkirk Agreement”) with ImmunityBio, Inc. (the "Dunkirk B Company agreed to sell to the Dunkirk Buyer its leasehold interest in a manufacturing facility in Dunkirk, New York (the “Dunkirk Facility”) and assets, as described below, in exchange for reimbursement of certain expenditures that the Company made in the Dunkirk Facility totaling $40.0 m closed on February 14, 2022 and was subject to approval from the Company's lender, Oaktree. The provisions of this approval included prepayme loans, as described in Note 11 - *Debt and Lease Obligations*. The Dunkirk Buyer has agreed to manufacture 503B products for the Company on m commercial terms.

In addition to the leasehold interest in the Dunkirk Facility, the Dunkirk Buyer purchased the Company’s interests in certain leased manuf personal property, and owned personal property and inventory at the Dunkirk Facility, along with the Company’s rights in and obligations under it the Dunkirk Facility with Empire State Development ("ESD"), Fort Schuyler Management Corporation ("FSMC"), and County of Chautauqua Ind Agency ("CCIDA") and other parties (collectively, the "Dunkirk Operations"). The Dunkirk Buyer assumed all capital expenditure and hiring obl related to the Dunkirk Operations pursuant to the Company’s existing agreements with ESD and FSMC. The Company did not assign any of its ri headquarters in Buffalo, New York, under the Dunkirk Agreement and retained all of its rights and obligations with respect to its corporate headqu

As of June 30, 2022, the Dunkirk Operations met all conditions required to be classified as discontinued operations. Therefore, the operati Operations are reported as gain (loss) from discontinued operations in the accompanying consolidated statements of operations and comprehensiv liabilities related to the Dunkirk Operations are reported as assets and liabilities of discontinued operations in the accompanying balance sheets as December 31, 2021. These assets are recorded at the lesser of cost or fair value less cost to sell. The Dunkirk Operations have historically been in Supply Chain Platform on the Company's consolidated financial statements.

Additionally, on July 7, 2022, the Company entered into an Equity Purchase Agreement with TiHe Capital (Beijing) Co. Ltd. (the "API B the Company agreed to sell 100% of the equity interests in Chongqing Taihao Pharmaceutical Co., Ltd. and Athenex Pharmaceuticals (Chongqing Interests”) for RMB124.4 million, or approximately $19 million (“EPA Purchase Price”). The Equity Interests primarily represent the Company’s pharmaceutical ingredient (“API”) manufacturing business in China, including the right to operate the Taihao API facility in Chongqing, China, a API facility in Chongqing, China, with Chongqing Maliu Riverside Development and Investment Co., LTD (“CQ”), (collectively "China API Ope of this transaction (“Closing Date”) the Buyer will pay at least 70% of the EPA Purchase Price to the Company in cash. The remainder of the EPA paid in cash, with 20% of the EPA Purchase Price to be paid within three months after the Closing Date and the remaining balance of the EPA Pur within six months after the Closing Date. On the Closing Date, the Company and the Buyer are expected to enter into a supply agreement and an a Buyer the right of first negotiation for certain of the Company’s products in China. The deal is subject to customary closing conditions, including regulatory approvals in China. Refer to Note 19 - *Subsequent Events* for additional information.

As of June 30, 2022, the China API Operations met all conditions required to be classified as discontinued operations. Therefore, the oper API Operations are reported within loss (gain) from discontinued operations in the accompanying consolidated statements of operations and comp and liabilities related to the China API Operations are reported as assets and liabilities of discontinued operations in the accompanying balance sh and December 31, 2021. These assets are recorded at the lesser of cost or fair value less cost to sell. The China API Operations have historically b Global Supply Chain Platform on the Company's consolidated financial statements.

The following table presents the financial results of the discontinued operations (in thousands):

	Three Months Ended June 30, 2022	2021	Six mont 2022
Discontinued Dunkirk operations:			
Selling, general, and administrative expenses	$ —	$ (2,425)	$ (1,9
Gain on sale of discontinued operations	—	—	14,4
(Loss) gain from discontinued Dunkirk operations	—	(2,425)	12,5
Discontinued China API operations:			
Revenue	$ 424	$ 1,225	$ 1,0
Cost of sales	(7,343)	(546)	(8,1
Research and development expenses	(157)	(481)	(6
Selling, general, and administrative expenses	(1,540)	(1,165)	(2,6
Other income	280	24	8
Interest expense	(5)	—	(
Loss from discontinued China API operations	$ (8,341)	$ (943)	$ (9,5
(Loss) gain from discontinued operations	$ (8,341)	$ (3,368)	$ 2,9

The Dunkirk operations selling, general, and administrative costs during the periods presented was comprised primarily of compensation a as well as operating expenses needed to prepare the facility.

The gain on sale of the Dunkirk discontinued operation was the result of the $40.0 million cash proceeds from the sale, less the net book v liabilities transferred to the Dunkirk Buyer, including property and equipment of $27.1 million, accounts payable and accrued expenses of $1.3 m long-term finance lease obligations of $0.2 million.

The revenue and cost of sales of the China API discontinued operation arose from the sales of API. Cost of sales of the China API discont write-off of excess and obsolete inventory of $7.1 million for the three and six months ended June 30, 2022. Research and development costs of th operation represent development of API manufacturing methods and API product development for the Company's Orascovery platform. Other inc discontinued operation includes the sale of pilot product which was previously developed at the facility and included within research and develop

The consolidated statements of cash flows include cash flows related to the discontinued operations due to the Company's centralized trea management processes. The following table presents additional cash flow information for the discontinued operations (in thousands):

	Six months ende 2022
Supplemental information for discontinued Dunkirk operations:	
Depreciation expense	$ 185
Cash paid for capital expenditures	(1,949)

Repayment of finance lease obligations		(7)
Supplemental information for discontinued China API operations:		
Depreciation expense	$	30
Impairment of PPE		230
Write-off of inventory		7,120
Cash paid for capital expenditures		(327)
Proceeds from issuance of debt		—
Repayment of long-term debt		(785)

The following table presents the aggregate carrying amounts of the classes of assets and liabilities of discontinued operations (in thousand

		June 30, 2022
Discontinued Dunkirk operations:		
Prepaid expenses and other current assets	$	—
Property and equipment, net		—
Discontinued China API operations:		
Accounts receivable		362
Inventories		2,204
Prepaid expenses and other current assets		2,393
Property and equipment, net		21,120
Operating lease right-of-use assets, net		463
Total assets attributable to discontinued operations	$	26,542
Discontinued Dunkirk operations:		
Accounts payable	$	—
Accrued expenses		—
Current portion of finance lease obligation		—
Long-term finance lease obligation		—
Discontinued China API operations:		
Accounts payable	$	2,725
Accrued expenses		716
Current portion of operating lease liabilities		233
Current portion of long-term debt		—
Long-term debt and lease obligations		7,490
Total liabilities attributable to discontinued operations	$	11,164

Restricted Cash	6 Months Ended Jun. 30, 2022
Restricted Cash [Abstract]	
Restricted Cash	

5. Restricted Cash

The Company had a restricted cash balance of $13.8 million and $16.5 million as of June 30, 2022 and December 31, 2021, respectively, held in a controlled bank account in connection with the Senior Credit Agreement with Oaktree and the RIPA. The Senior Credit Agreement requires the Company to maintain, in a debt service reserve account, a minimum cash balance equal to twelve months of interest on the outstanding loans under the Senior Credit Agreement, which amounted to $6.3 million and $16.5 million as of June 30, 2022 and December 31, 2021, respectively. Further, the Company holds $7.5 million of the proceeds from the RIPA as Segregated Funds, classified as restricted cash, which may be released to the Company upon satisfaction of certain milestone events under the RIPA.

Inventories	6 Months Ended Jun. 30, 2022
Inventory Disclosure [Abstract]	
Inventories	

6. Inventories

Inventories consist of the following (in thousands):

	June 30, 2022	December 31, 2021
Raw materials and purchased parts	$ 8,637	$ 5,490
Work in progress	69	66
Finished goods	29,145	21,493
Total inventories	$ 37,851	$ 27,049

Intangible Assets, net

6 Months Ended
Jun. 30, 2022

Goodwill and Intangible Assets Disclosure [Abstract]

Intangible Assets, net

7. Intangible Assets, net

The Company's identifiable intangible assets, net, consist of the following (in thousands):

	June 30, 2022			
	Cost/Fair Value	Accumulated Amortization	Impairments	Net
Amortizable intangible assets:				
Licenses	$ 13,946	$ 6,987	$ —	$ 6,
Indefinite-lived intangible assets:				
CDE in-process research and development (IPR&D)	728	—	78	
Kuur IPR&D	64,900	—	—	64,
Effect of currency translation adjustment	(37)	—	—	
Total intangible assets, net	$ 79,537	$ 6,987	$ 78	$ 72,

	December 31, 2021			
	Cost/Fair Value	Accumulated Amortization	Impairments	Net
Amortizable intangible assets				
Licenses	$ 12,654	$ 6,376	$ —	$ 6,
Indefinite-lived intangible assets:				
CDE in-process research and development (IPR&D)	728	—	—	
Kuur IPR&D	64,900	—	—	64,
Effect of currency translation adjustment	(10)	—	—	
Total intangibles, net	$ 78,272	$ 6,376	$ —	$ 71,

In connection with the acquisition of Kuur, the Company identified three drug candidate projects and two were classified as I recorded at their fair value on the acquisition date. Included in the IPR&D is the historical know-how, cell treatment protocols, and expected to be needed to complete the related phase of testing. The fair value of IPR&D was determined for each project, or unit of using unobservable, level 3 inputs (see Note 3—*Business Combination*). IPR&D intangible assets are not amortized, but rather are r for impairment on an annual basis or more frequently if indicators of impairment are present, until the project is completed, abando transferred to a third party.

As of June 30, 2022, licenses at cost include an Orascovery license of $0.4 million, licenses purchased from Gland Pharma L ("Gland") of $3.8 million, a license purchased from MAIA Pharmaceuticals, Inc. ("MAIA") for $4.0 million, licenses purchased fr Pharmaceuticals, LLC ("Ingenus") for $3.0 million, and licenses of other specialty products with various licensors of $2.8 million. Orascovery license with Hanmi Pharmaceuticals Co. Ltd. ("Hanmi") was purchased directly from Hanmi and is being amortized on straight-line basis over a period of 12.75 years, the remaining life of the license agreement at the time of purchase. The licenses pur from Gland are being amortized on a straight-line basis over a period of 5 years, the remaining life of the license agreement at the ti purchase. The license purchased from MAIA is being amortized over a period of 7 years, the remaining life of the license agreemen time of purchase. Of the $3.0 million licenses purchased from Ingenus, a $2.0 million license is being amortized over a period of 5 estimated useful life of the license agreement and a $1.0 million license purchased from Ingenus is being amortized over a period o the remaining life of the license agreement at the time of purchase.

The remaining intangible asset was acquired in connection with the acquisitions of Comprehensive Drug Enterprises ("CDE" CDE IPR&D will not be amortized until the related projects are completed. IPR&D is tested annually for impairment, unless condit causing an earlier impairment test (e.g., abandonment of project). The Company recorded impairment of a project within CDE IPR the six months ended June 30, 2022, amounting to $0.1 million, which is included within research and development expenses on th Company's condensed consolidated statements of operations and comprehensive loss. The weighted-average useful life for all intan was 6.0 years as of June 30, 2022.

The Company recorded $0.3 million and $0.5 million of amortization expense for the three months ended June 30, 2022 and respectively and recorded $0.6 million and $1.1 million of amortization expense for the six months ended June 30, 2022 and 2021, respectively.

The Company's previous goodwill balance is the result of prior period acquisitions and is allocated to the Global Supply Cha reporting unit and the Oncology Innovation Platform reporting unit. During the fourth quarter of 2021, the Company performed a g impairment test and, based on the results, determined that the carrying value of each of our reporting units exceeded their fair value goodwill was determined to be impaired. As a result, $26.6 million, representing the full amount of goodwill allocated to the Globa Chain Platform, and $41.1 million, representing the full amount of goodwill allocated to the Oncology Innovation Platform was rec impairment expense during the fourth quarter of 2021. No such impairments were recorded during the six months ended June 30, 2

Fair Value Measurements

6 Months Ended
Jun. 30, 2022

Fair Value Disclosures [Abstract]
Fair Value Measurements

8. Fair Value Measurements

Financial instruments consist of cash and cash equivalents, restricted cash, short-term investments, an available-for-sale equi investment, accounts receivable, accounts payable, accrued liabilities, contingent consideration, and debt. Short-term investments, t investment, and contingent consideration are stated at fair value. Cash and cash equivalents, restricted cash, accounts receivable, ac payable and accrued liabilities, and debt, are stated at their carrying value, which approximates fair value due to the short time to th receipt or payment date of such amounts. The Company believes that the carrying value of its long-term debt approximates fair valu current interest rates.

ASC 820, *Fair Value Measurements*, establishes a framework for measuring fair value. That framework provides a fair value that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to unobservable inputs (leve measurements). The three levels of the fair value hierarchy under the ASC 820 are described as follows:

Level 1—Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets Company has the ability to access.

Level 2—Inputs to the valuation methodology include:

•Quoted prices for similar assets or liabilities in active markets;

•Quoted prices for identical or similar assets or liabilities in inactive markets;

•Inputs other than quoted prices that are observable for the asset or liability;

•Inputs that are derived principally from or corroborated by observable market data by correlation or other means; and

•If the asset or liability has a specified (contractual) term, the Level 2 input must be observable for substantially the full term asset or liability.

Level 3—Inputs to the valuation methodology are unobservable, supported by little or no market activity, and are significant value measurement.

Transfers between levels, if any, are recorded as of the beginning of the reporting period in which the transfer occurs. There transfers between Levels 1, 2 or 3 for any of the periods presented.

The following tables represent the fair value hierarchy for those assets and liabilities that the Company measures at fair value recurring basis (in thousands):

	Fair Value Measurements at June 30, 2022 Using:			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobserva Inputs (Level 3)
Assets:				
Financial assets included within cash and cash equivalents				
Short-term investments - money market funds	$ 2,561	$ 2,561	$ —	$
Short-term investments - certificates of deposit	401	—	401	
Available-for-sale investment	1,189	1,189	—	
Total assets	$ 4,151	$ 3,750	$ 401	$
Liabilities:				
Contingent consideration - Kuur	$ 24,129	$ —	$ —	$ 24,
Total liabilities	$ 24,129	$ —	$ —	$ 24,

	Fair Value Measurements at December 31, 2021 Using:			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobserva Inputs (Level 3)
Assets:				
Financial assets included within cash and cash equivalents				
Money market funds	$ 7,937	$ 7,937	$ —	$
Short-term investments - certificates of deposit	2,000	—	2,000	
Short-term investments - commercial paper	10,446	—	10,446	
Financial assets included within short-term investments				
Short-term investments - certificates of deposit	9,488	—	9,488	
Available-for-sale investment	719	719	—	
Total assets	$ 30,590	$ 8,656	$ 21,934	$

Liabilities:				
Contingent Consideration - Kuur	$ 24,076	$ —	$ —	$ 24,
Total assets	$ 24,076	$ —	$ —	$ 24,

The Company classifies its money market funds within Level 1 because it uses quoted market prices to determine their fair v Company classifies its commercial paper, corporate notes, certificates of deposit, and U.S. government bonds within Level 2 becaus quoted prices for similar assets or liabilities in active markets and each has a specified term and all Level 2 inputs are observable fo substantially the full term of each instrument.

The Company owns 68,000 shares of PharmaEssentia, a company publicly traded on the Taiwan OTC Exchange. As of June and December 31, 2021, the Company's investment in PharmaEssentia was valued at the reported closing price on such dates. This is classified as a Level 1 investment and is recorded as an available-for-sale investment within short-term investments on the Comp condensed consolidated balance sheets.

The Company accounted for the acquisition of Kuur as business combinations under the acquisition method of accounting. A and liabilities were measured at fair value as of the acquisition date. As a result of the purchases, the Company became liable for co consideration payable to certain previous owners of Kuur. This contingent consideration is measured at fair value using unobservab inputs, including (a) the estimated amount and timing of projected cash flows; (b) the probability of the achievement of the regulato on which the contingency is based; and (c) the risk-adjusted discount rate used to present value the probability-weighted cash flows Significant increases (decreases) in any of those inputs could result in a lower or higher fair value measurement, and such changes i value measurement could have an impact on future earnings. The total undiscounted amount of the milestone payments underlying liability is $115.0 million. These payments are contingent on the achievement of various regulatory milestones which are expected between 2023 and 2027, and may be paid, at the Company's sole discretion, in either cash or common stock (or a combination of bo milestone payments have been adjusted based on a weighted average probability of occurrence of 40.4%, and the discount rates use calculate the present value of future payments were based on risk-free rates plus risk-adjusted spreads based on the Company's esti incremental borrowing rate and was between 20.1% and 20.4% for the valuation of the contingent consideration as of June 30, 202 acquisition of Kuur is described in Note 3—*Business Combination* and the fair value of the contingent consideration is discussed fu Note 12 – *Contingent Consideration*.

Accrued Expenses

6 Months Ended
Jun. 30, 2022

Payables and Accruals [Abstract]
Accrued Expenses

9. Accrued Expenses

Accrued expenses consist of the following (in thousands):

	June 30, 2022	December 31, 2021
Accrued selling fees, rebates, and royalties	13,035	6,890
Accrued inventory purchases	7,632	4,217
Accrued clinical expenses	6,140	3,116
Accrued wages and benefits	4,796	2,034
Deferred revenue	2,781	2,799
Accrued operating expenses	3,117	2,654
Accrued tax withholdings	1,668	1,800
Accrued interest	—	266
Accrued R&D licensing fees	116	116
Total accrued expenses	$ 39,285	$ 23,892

Income Taxes	6 Months Ended Jun. 30, 2022
Income Tax Disclosure [Abstract]	
Income Taxes	

10. Income Taxes

The Company did not record a provision for U.S. federal income taxes for the six months ended June 30, 2022 because it expects to generate a loss for the year ending December 31, 2022 and the Company's net deferred tax assets continue to be fully offset by a valuation allowance. Income tax expense for the six months ended June 30, 2022 is primarily the result of the taxes payable in foreign jurisdictions.

Debt and Lease Obligations

6 Months Ended
Jun. 30, 2022

Debt And Lease Obligations [Abstract]

Debt and Lease Obligations

11. Debt and Lease Obligations

Debt

The Company's debt as of June 30, 2022 and December 31, 2021, consists of the following (in thousands):

	June 30, 2022	December 31, 2021
Current portion of senior secured loan	$ 23,600	$ 45,938
Current portion of finance lease obligations	138	158
Current portion of operating lease obligations	2,077	2,393
Long-term portion of finance lease obligations	152	207
Long-term portion of operating lease obligations	3,898	4,411
Senior secured loan, net of debt discount and financing fees of $11,825 and $8,663, respectively	22,074	95,400
Royalty financing liability, long-term, net of financing fees of $4,982	75,006	—
Total	$ 126,945	$ 148,507

Senior Credit Agreement

On June 19, 2020, the Company entered into the Senior Credit Agreement with Oaktree to borrow up to $225.0 million in five tranches, with a maturity date of June 19, 2026. Three tranches ("Tranche A", "Tranche B", and "Tranche D") of the term loans with an aggregate principal amount of $150.0 million were drawn by the Company in 2020. The last two tranches ("Tranche C" and "Tranche E"), amounting to an aggregate of $75.0 million, were dependent on the approval of oral paclitaxel for the treatment of mBC. Under the Third Amendment on January 19, 2022, the amount of these tranches was reduced to $0 and are no longer available to the Company. The loan bears interest at a fixed annual rate of 11.0%. The Company allocated the proceeds of the drawn tranches between liability and equity components and the fair value of such equity components, along with the direct costs related to the issuance of the debt were recorded as an offset to long-term debt on the consolidated balance sheets. The debt discount and financing fees are amortized on a straight-line basis, which approximates the effective interest method, over the remaining maturity of the Senior Credit Agreement. The effective interest rate of Tranches A, B and D, including the amortization of debt discount and financing fees amounts to 13.3% annually. The Company is required to make quarterly interest-only payments until June 19, 2022, after which the Company is required to make quarterly amortizing payments, with the remaining balance of the principal plus accrued and unpaid interest due at maturity. Beginning on September 17, 2020, the Company was required to pay a commitment fee on any undrawn commitments equal to 0.6% per annum, payable on each subsequent funding date or the commitment termination date. These commitments were terminated pursuant to the Third Amendment.

Under the Third Amendment, the Company was required to make a mandatory prepayment of principal to Oaktree equal to 62.5% of the cash proceeds of the Dunkirk Transaction. The Company was also required to pay (i) accrued and unpaid interest and (ii) a 7.0% fee, allocated as a 2.0% Exit Fee and a 5.0% Prepayment Fee, on the principal amount being repaid. The Company was required to pay Oaktree an amendment fee of $0.3 million and certain related expenses upon the closing of the Dunkirk Transaction. The Third Amendment required the Company to make an additional mandatory prepayment of $12.5 million in principal plus the costs and fees described above by June 14, 2022, of which $5.0 million in principal was paid on

June 14, 2022 and $7.5 million was paid on the closing date of the RIPA pursuant to the terms of the Fourth Amendment. Using proceeds from the RIPA, the Company made additional prepayments of principal to Oaktree of $42.5 million. The Company was also required to pay (i) accrued and unpaid interest and (ii) a 5.0% fee, allocated as a 2.0% Exit Fee and a 3.0% Prepayment Fee, on the principal amount being repaid. The Company made payments, inclusive of principal, interest, and fees, to Oaktree in the aggregate amount of $97.6 million pursuant to the Third Amendment, Fourth Amendment, and Fifth Amendment during the six months ended June 30, 2022. Additional prepayments of the loan, in whole or in part, will be subject to early prepayment fee which declines each year until June 2024, after which no prepayment fee is required. Upon the final payment, the Company must also pay an exit fee calculated based on a percentage of the aggregate principal amount of all tranches advanced to the Company, and as of June 30, 2022, the Company has reflected an exit fee liability of $1.2 million. As of June 30, 2022, the Company has classified $23.6 million of the senior secured loan as current portion of long-term debt, comprised of one quarterly payment of $3.1 million and three quarterly payments of $2.8 million each, due within 12 months of June 30, 2022, and $12.0 million expected to be due from funds received in connection with the sale of the China API operations (see Note 4 - *Discontinued Operations*). The Company has classified $22.1 million of the senior secured loan as long-term debt on the consolidated balance sheet, comprised of the remaining principal due, less debt discount and financing fees of $11.8 million.

The Senior Credit Agreement contains certain representations and warranties, affirmative covenants, negative covenants and conditions that were customarily required for similar financings. The Company is subject to certain financial covenants under the Senior Credit Agreement, including (1) a minimum liquidity amount in cash or permitted cash equivalent investments, which initially was $20.0 million from the closing date until the date on which the aggregate principal amount of loans outstanding is greater than or equal to $150.0 million (the “First Step-Up Date”), $25.0 million from the First Step-Up Date until the date on which the aggregate principal amount of loans outstanding balance is equal to $225.0 million (the “Second Step-Up Date”), and $30.0 million from the Second Step-up Date until the maturity date; (2) minimum revenue no less than 50% of target revenue beginning with the fiscal quarter ended on December 31, 2020 and with respect to each such subsequent fiscal quarter prior to the revenue covenant termination date; (3) leverage ratio covenant not to exceed 4.50 to 1.00 as of the last day of any fiscal quarter beginning with the first fiscal quarter following the revenue covenant termination date. The minimum liquidity amount was decreased to $10.0 million under the Fifth Amendment. The minimum revenue targets were modified in the Fourth Amendment to reflect the Company's current business, and the minimum revenue covenant was similarly modified to require the Company to have minimum revenue of no less than 70% of target revenue at the end of any fiscal quarter in which the leverage ratio exceeds 4.50 to 1.00. As of June 30, 2022, the Company was in compliance with all applicable debt covenants.

Royalty Financing Liability

On June 21, 2022, the Company and the SPV entered into the RIPA with the Purchasers for the sale of revenues from U.S. and European royalty and milestone interests in Klisyri® (tirbanibulin) for an aggregate Purchase Price of $85.0 million. Of the total Purchase Price $5.0 million was placed into escrow to be paid to the Company upon the satisfaction of certain manufacture and supply milestones for Klisyri prior to December 31, 2025, $5.0 million was used to pay for transaction expenses, $52.5 million was used to pay down the Company's Senior Credit Agreement with Oaktree, and $7.5 million in segregated funds was deposited and held in a segregated account of the Company. Subject to the satisfaction of certain conditions, the Segregated Funds will either be distributed to the Company as a cash payment or distributed to the Lenders to pay down the Company’s existing indebtedness under the Credit Agreement. The remaining proceeds were available for the Company's operations.

In connection with this transaction, the Company formed the SPV and contributed its interest in the License Agreement with Almirall S.A. relating to Klisyri and certain related assets to the SPV. Oaktree and Sagard each own a 10% equity interest in the SPV. Pursuant to the RIPA, the SPV sold its right to the cash received in respect of certain royalties and certain milestone interests under the License Agreement to the Purchasers. The SPV retained the right to receive 50% of certain of the milestone interests under the License Agreement, equal to $155.0 million in the aggregate if those milestones are achieved, and 50% of the royalties paid under the License Agreement for sales of Klisyri once net sales of Klisyri exceed a certain dollar amount.

The Company has evaluated the terms of the RIPA and concluded that the features of the transaction, namely the Company's significant involvement in the cash flows due to the Purchasers, are similar to those of a debt instrument. The Company received funds of $75.0 million, net of transaction costs of $5.0 million, during June 30, 2022, and the Company recorded such amount as long-term debt as of June 30, 2022. This purchase price of this transaction reflected its fair value. The $5.0 million which is held in escrow represents a loan commitment which the Company may be entitled to in the event that certain manufacturing and supply milestones are met.

The Company amortizes the royalty financing liability using the effective interest rate method over the estimated life of the revenue streams. The Company recognizes interest expense thereon using the effective rate, which is based on its current estimates of future revenues over the life of the arrangement. The Company periodically assesses its expected revenues using internal projections, imputes interest on the carrying value of the deferred royalty obligation, and records interest expense using the imputed effective interest rate. To the extent its estimates of future revenues are greater or less than previous estimates or the estimated timing of such payments is materially different than previous estimates, the Company will account for any such changes by adjusting the effective interest rate on a prospective basis, with a corresponding impact to the reclassification of the deferred royalty obligation. The assumptions used in determining the expected repayment term of the royalty financing liability and amortization period of the issuance costs require that the Company makes significant estimates that could impact the short-term and long-term classification of the royalty financing liability, interest recorded on such liability, as well as the period over which such costs will be amortized. The Company's estimated royalty cash flows extend through 2035 and imply an effective annual interest rate of 28.6%. Changes to these estimates may have a material effect on the Company's financial statements. During the six months ended June 30, 2022, the Company received Klisyri royalties of $0.5 million, which were remitted to the Purchasers.

Gain/Loss on Extinguishment of Debt

The Company considered the combined effect of the RIPA and the Fourth and Fifth Amendment to the Senior Credit Agreement, both of which are held with Sagard and Oaktree under ASC 470. The Company performed a cash flow test on a lender-by-lender basis and concluded that these transactions represented an extinguishment of debt. The Company extinguished the previous balance of its Senior Credit Agreement commensurate with the prepayments under the Fourth and Fifth Amendments and recorded the surviving debt at its fair value. To determine the fair value of the remaining debt, the Company utilized an estimate of its incremental borrowing rate. As of June 30, 2022, the Company's incremental borrowing rate was 20.57%, which was utilized as the effective interest rate of the balance outstanding on the Senior Credit Agreement. Accordingly, the Company recorded a liability of $45.7 million, net of debt discount of $11.8 million. The extinguishment of debt and recording the surviving debt at its fair value resulted in a gain on extinguishment of debt of of $2.1 million during the three months ended June 30, 2022.

Credit Agreements, Bank Loan and Mortgage

During the second quarter of 2019, the Company entered into a credit agreement which amended the existing partnership agreement with Chongqing Maliu Riverside Development and Investment Co., LTD (“CQ”), for a Renminbi ¥50.0 million (USD $7.5 million at June 30, 2022) line of credit to be used for the construction of the new API plant in China. The Company is required to repay the principal amount with accrued interest within three years after the plant receives the cGMP certification, with 20% of the total loan with accrued interest due within the first twelve months following receiving the certification, 30% of the total loan with accrued interest due within twenty-four months, and the remaining balance with accrued interest due within thirty-six months. Interest accrues at the three-year loan interest rate by the People’s Bank of China for the same period on the date of the deposit of the full loan amount, which is expected to approximate 4.75% annually. If the Company fails to obtain the cGMP certification within three years upon the acceptance of the plant, it shall return all renovation costs with the accrued interest to CQ in a single transaction within the first ten business days. As of June 30, 2022, the balance due to CQ was $7.5 million, which was included within long-term liabilities attributable to discontinued operations on the Company's condensed consolidated balance sheet.

On May 15, 2020, the Company entered into a credit agreement with China Merchants Bank, enabling the Company to draw up to Renminbi ¥5.0 million (USD $0.8 million at June 30,

2022) through May 14, 2021. The Company drew the entire available credit in July 2020 and repaid the credit agreement in full on May 14, 2021. On May 28, 2021, the Company entered into a credit agreement on the same terms as that which was repaid, and withdrew the full Renminbi ¥5.0 million (USD $0.8 million at June 30, 2022) on that date. This loan had a maturity date of May 28, 2022 and was paid in full during the three months ended June 30, 2022. This repayment is included within net cash used in financing activities of discontinued operations on the Company's condensed consolidated statement of cash flows.

Lease Obligations

The Company has operating leases for office and manufacturing facilities in several locations in the U.S., Asia, and Latin America and has a finance lease for equipment used in its facility in Buffalo, NY. The components of lease expense are as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Operating lease cost	$ 538	$ 607	$ 1,099	$ 1,213
Finance lease cost:				
Amortization of assets	42	32	85	64
Interest on lease liabilities	9	2	19	6
Total net lease cost	$ 589	$ 641	$ 1,203	$ 1,283

The Company has elected to exclude short-term leases from its operating lease right-of-use ("ROU") assets and lease liabilities. Lease costs for short-term leases were not material to the financial statements for the three and six months ended June 30, 2022 and 2021. Variable lease costs for the three and six months ended June 30, 2022 were not material to the financial statements.

Supplemental balance sheet information related to leases is as follows (in thousands, except lease term and discount rate):

	June 30, 2022	December 31, 2021
Finance leases:		
Property and equipment, at cost	$ 1,203	$ 1,203
Accumulated amortization, net	(901)	(585)
Property and equipment, net	$ 302	$ 618
Current obligations of finance leases	$ 138	$ 158
Long-term portion of finance leases	152	207
Total finance lease obligations	$ 290	$ 365
Weighted average remaining lease term (in years):		
Operating leases	3.37	3.53
Finance leases	2.00	2.25
Weighted average discount rate:		
Operating leases	13.0%	12.9%
Finance leases	10.1%	9.8%

Supplemental cash flow information related to leases is as follows (in thousands):

	Six Months Ended June 30, 2022	Six Months Ended June 30, 2021
Cash paid for amount included in the measurements of lease liabilities:		

Operating cash flows from operating leases	$	(1,309)	$	(1,360)
Operating cash flows from finance leases		(9)	$	(10)
Financing cash flows from finance leases		(79)	$	(67)
ROU assets derecognized from modification of operating lease obligations	$	(128)	$	—
ROU assets recognized in exchange for operating lease obligations	$	78	$	—

Future minimum payments and maturities of leases is as follows (in thousands):

Year ending December 31:	Operating Leases	Finance Leases
2022 (remaining six months)	$ 1,117	$ 73
2023	2,090	147
2024	2,034	109
2025	1,472	—
2026	347	—
Thereafter	132	—
Total lease payments	7,192	329
Less: Imputed interest	(1,217)	(39)
Total lease obligations	5,975	290
Less: Current obligations	(2,077)	(138)
Long-term lease obligations	$ 3,898	$ 152

On January 5, 2021, Chongqing Sintaho Pharmaceuticals Co., Ltd. (“CQ Sintaho”), a subsidiary of the Company in China, entered into a lease agreement with Chongqing International Biological City Development & Investment Co., Ltd (“CQ D&I”). Under the lease agreement, the provisions of which are consistent with those agreed upon in the 2015 Agreement, CQ Sintaho leased the newly constructed API facility, or Sintaho API Facility, of 34,517 square meters rent-free, for the first 10-year term, with an option to extend the lease for an additional 10-year term, during which, if CQ Sintaho is profitable, it will pay a monthly rent of 5 RMB per square meter of space occupied. The Company determined the lease commenced in the first quarter of 2021, as it was operational and CQ Sintaho could direct the use of the facility. The Company also evaluated the probability of exercising the renewal and purchase options, and determined that it is not reasonably certain whether it will exercise those options. Therefore, the lease term is comprised only of the rent-free period and the recognition of the right-of-use asset and liability did not have a significant effect on the Company’s consolidated financial statements. This lease is expected to be assumed by the China API Buyer, refer to Note 19 - *Subsequent Events* for additional information.

The Company exercises judgment in determining the discount rate used to measure the lease liabilities. When rates are not implicit within an operating lease, the Company uses its incremental borrowing rate as its discount rate, which is based on yield trends in the biotechnology and healthcare industry and debt instruments held by the Company with stated interest rates. The Company re-assesses its incremental borrowing rate when new leases arise, or existing leases are modified.

Contingent Consideration

	6 Months Ended Jun. 30, 2022
Contingent Consideration Disclosure [Abstract]	
Contingent Consideration	

12. Contingent Consideration

The fair value measurements of contingent consideration liabilities are determined using unobservable Level 3 inputs. These inputs includ amount and timing of projected cash flows; (b) the probability of the achievement of the factors on which the contingency is based; and (c) the ris used to present value the probability-weighted cash flows. Significant increases (decreases) in any of those inputs could result in a lower or higher The Company expects that these milestones will be achieved at varying times between 2023 and 2027.

The following table represents a reconciliation of the contingent consideration liability related to the acquisition of Kuur measured on a re inputs as of June 30, 2022 (in thousands):

Balance as of May 4, 2021	$
Adjustment to fair value	
Balance as of December 31, 2021	
Adjustment to fair value	
Balance as of June 30, 2022	$

The increase of the contingent consideration was due to the time value of money from the initial measurement date (Kuur acquisition date as updated probabilities of future cash flows related to R&D milestones. The discount rate used in measuring the fair value of this liability is the C borrowing rate, which is updated on a quarterly basis. The probabilities of the R&D milestones represent the probability of technical success for e milestones are related, and these probabilities are updated on a quarterly basis, based on the clinical stage of the therapy, along with consideration data obtained during each quarter. The adjustment to the contingent consideration liability is included within selling, general, and administrative e condensed consolidated statements of operations and comprehensive loss. Refer to Note 8 - *Fair Value Measurements* for additional information c measurement of contingent consideration.

Related Party Transactions

Related Party Transactions [Abstract]

Related Party Transactions

6 Months Ended Jun. 30, 2022

13. Related Party Transactions

During the six months ended June 30, 2022 and 2021, the Company entered into transactions with individuals and companies that have financial interests in the Company. Related party transactions included the following:

a)In June 2018, the Company entered into two in-licensing agreements with Avalon BioMedical (Management) Limited and its affiliates ("Avalon") wherein the Company obtained certain IP from Avalon to develop and commercialize the underlying products. Under these agreements the Company is required to pay upfront fees and future milestone payments and sales-based royalties. During the six months ended June 30, 2022 and 2021, no fees were paid to Avalon in connection with the license agreements. Certain members of the Company's board and management collectively have a controlling interest in Avalon. The Company does not hold any interest in Avalon and does not have any obligations to absorb losses or any rights to receive benefits from Avalon. As of June 30, 2022, and December 31, 2021, Avalon held 786,061 shares of the Company's common stock, which represented less than 1% of the Company's total issued shares for both periods. Balances due from Avalon recorded on the condensed consolidated balance sheets were not significant. In July 2021, the Company made $2.0 million milestone payment to Avalon pursuant to its license agreement. No such payments were made during the six months ended June 30, 2022.

In June 2019, the Company entered into an agreement whereby Avalon would hold a 90% ownership interest and the Company would hold a 10% ownership interest of the newly formed entity under the name Nuwagen Limited ("Nuwagen"), incorporated under the laws of Hong Kong. Nuwagen is principally engaged in the development and commercialization of herbal medicine products for metabolic, endocrine, and other related indications. The Company contributed nonmonetary assets in exchange for the 10% ownership interest. In July 2020, the transaction closed. The activities of Nuwagen were not material to the financial statements for the three and six months ended June 30, 2022 or 2021.

b)The Company earns licensing revenue from PharmaEssentia, an entity in which the Company has an investment classified as available-for-sale (see Note 8—*Fair Value Measurements*). During the six months ended June 30, 2022 and 2021, respectively, the Company recorded $0 and a $0.5 million milestone fee earned from PharmaEssentia under a license agreement. The Company received less than $0.1 million under the cost-sharing agreements during the six months ended June 30, 2022. There were no funds paid to PharmaEssentia under the cost-sharing agreements for the six months ended June 30, 2022 or 2021.

In September 2020, Axis Therapeutics Limited ("Axis"), a majority-owned subsidiary of the Company, entered into a collaboration agreement with PharmaEssentia, pursuant to which Axis granted to PharmaEssentia an exclusive, non-transferrable and revocable sublicense of TCR-engineered T-Cell therapy for the development of the technology in Taiwan. Axis received license fees of $1.0 million, net of $0.3 million withholding tax, in each of the fourth quarter of 2020 and the third quarter of 2021. These fees, amounting to $2.0 million, were recorded as deferred revenue as of June 30, 2022.

c)Certain directors and family members of executives perform consulting services for the Company. Such services were not significant to the condensed consolidated financial statements.

Stock-Based Compensation

6 Months Ended Jun. 30, 2022

Share-Based Payment Arrangement [Abstract]

Stock-Based Compensation

14. Stock-Based Compensation

Common Stock Option Plans

The Company has four equity compensation plans, adopted in 2017, 2013, 2007 and 2004 (the "Plans") which, taken together, authorize t 16,000,000 shares of common stock to employees, directors, and consultants. On May 23, 2019, the board of directors approved the amendment a 2017 Omnibus Incentive Plan (the "2017 Plan"), which increases the number of shares available for issuance under the 2017 Plan by up to 3,500,(approved by the Company's stockholders at the Company's 2020 annual meeting of stockholders. On April 26, 2021, the board of directors appro 2017 Plan, which increases the number of shares available for issuance under the 2017 Plan by 5,000,000 shares, which was approved by the Con Company's 2021 annual meeting of stockholders. The Company also has an employee stock purchase plan, the 2017 Employee Stock Purchase Pl on June 14, 2017, which authorizes the issuance of up to 1,000,000 shares of common stock for future issuances to eligible employees.

During 2022, the Company entered into Salary Deduction and Stock Purchase Agreements (the "Purchase Agreements") with certain of it officers. Under the Purchase Agreements, on each payroll date, the Company is authorized by the director or executive officer, in advance, to ded individual's after-tax base salary. This deducted amount is used to purchase a number of shares of the Company's common stock determined using Closing Price per share on the applicable payroll date.

Stock Options

The total fair value of stock options vested and recorded as compensation expense during the three months ended June 30, 2022 and 2021 million, respectively, and was $2.9 million and $4.5 million during the six months ended June 30, 2022 and 2021, respectively. As of June 30, 202 unrecognized cost related to non-vested stock options was expected to be recognized over a weighted-average period of approximately 1.2 years. options exercised was approximately $0 and $0.2 million for the six months ended June 30, 2022 and 2021, respectively.

The following table summarizes the status of the Company's stock option activity granted under the Plans to employees, directors, and co intrinsic value in thousands):

	Stock Options	Weighted-Average Exercise price	Weighted-Average Remaining Contractual Term	
Outstanding at December 31, 2021	12,662,070	$ 8.96	4.88	$
Granted	171,500	0.60	—	
Forfeited and expired	(647,365)	7.84	—	
Outstanding at June 30, 2022	12,186,205	$ 8.90	4.45	$
Vested and exercisable at June 30, 2022	10,029,540	$ 9.08	3.64	$

The Company determines the fair value of stock-based awards on the grant date using the Black-Scholes option pricing model, which is in regarding several highly subjective variables. The following table summarizes the weighted-average assumptions used as inputs to the Black-Scho periods indicated:

	Six Months Ended June 30,	
	2022	2021
Weighted average grant date fair value	$ 0.60	$ 6.18
Expected dividend yield	—%	—
Expected stock price volatility	66%	68
Risk-free interest rate	2.72%	1.45
Expected life of options (in years)	5.3	6.3

Restricted Stock Awards

The total fair value of restricted stock awards vested and recorded as compensation expense during the three months ended June 30, 2022 million and $0.1 million, respectively. The total fair value of restricted awards vested and recorded as compensation expense during the six month 2021 was $0.5 million and $0.1 million, respectively. Restricted stock awards cliff vest on the anniversaries of their grant date. As of June 30, 202 unrecognized cost related to non-vested restricted stock awards were expected to be recognized over a weighted-average period of approximately

The following table summarizes the status of the Company's restricted stock awards.

	Shares of Restricted Stock
Nonvested at December 31, 2021	924,595
Granted	50,000
Forfeited	(151,540)
Nonvested at June 30, 2022	823,055

Employee Stock Purchase Plan

The ESPP is available to eligible employees (as defined in the plan document). Under the ESPP, shares of the Company's common stock discount (15%) of the lesser of the closing price of the Company's common stock on the first trading or the last trading day of the offering period. period extends from June 1, 2022 to November 30, 2022. The Company expects to offer six-month offering periods after the current period. The E shares of common stock for issuance under the ESPP. Stock-based compensation related to the ESPP amounted to less than $0.1 million for each June 30, 2022 and 2021 and amounted to $0.1 million for each of the six months ended June 30, 2022 and 2021.

Stock-Based Compensation Cost

The components of stock-based compensation and the amounts recorded within cost of sales, research and development expenses and sell
administrative expenses in the Company's consolidated statements of operations and comprehensive loss consisted of the following for the three a
30, 2022 and 2021 (in thousands):

	Three Months Ended June 30,		Six Mo Ended J
	2022	2021	2022
Stock options	$ 1,321	$ 2,341	$ 2,924
Restricted stock expense	245	57	496
Employee stock purchase plan	37	46	57
Total stock-based compensation expense	$ 1,603	$ 2,444	$ 3,477
Cost of sales	$ 52	$ 59	$ 78
Research and development expenses	395	671	964
Selling, general, and administrative expenses	1,156	1,714	2,435
Total stock-based compensation expense	$ 1,603	$ 2,444	$ 3,477

Net Loss per Share Attributable to Athenex, Inc. Common Stockholders

6 Months Ended

Jun. 30, 2022

Earnings Per Share [Abstract]

Net Loss per Share Attributable to Athenex, Inc. Common Stockholders

15. Net Loss per Share Attributable to Athenex, Inc. Common Stockholders

Basic net loss per share is calculated by dividing net loss attributable to Athenex, Inc. common stockholders by the weighted number of common shares issued, outstanding, and vested during the period. Diluted net loss per share is computed by dividing net attributable to common stockholders by the weighted-average number of common stock and common stock equivalents for the peri the treasury-stock method. For the purposes of this calculation, warrants to purchase common stock and stock options are considere stock equivalents but are only included in the calculation of diluted net loss per share when their effect is dilutive.

The following outstanding shares of common stock equivalents were excluded from the calculation of diluted net loss per sha attributable to common stockholders for the periods presented because including them would have been antidilutive:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Stock options and other common stock equivalents	13,629,787	13,568,672	13,601,134	13,560,
Unvested restricted shares	847,051	52,566	844,607	37,
Total potential dilutive shares	14,476,838	13,621,238	14,445,741	13,598,

Business Segment, Geographic, and Concentration Risk Information

Segment Reporting [Abstract]

Business Segment, Geographic, and Concentration Risk Information

6 Months Ended

Jun. 30, 2022

16. Business Segment, Geographic, and Concentration Risk Information

The Company has three operating segments, which are organized based mainly on the nature of the business activities performed and regulatory environments in which they operate. The Company also considers the types of products from which the reportable segments derive their revenue (only applicable to two reportable segments). Each operating segment has a segment manager who is held accountable for operations and has discrete financial information that is regularly reviewed by the Company's chief operating decision-maker. Consequently, the Company has concluded each operating segment to be a reportable segment. The Company's operating segments are as follows:

Oncology Innovation Platform— This operating segment performs research and development on certain of the Company's proprietary drugs, from the preclinical development of its chemical compounds, to the execution and analysis of its several clinical trials. It focuses specifically on cell therapy programs and the Orascovery research platform.

Global Supply Chain Platform— This operating segment includes APS, a manufacturing company that supplies sterile injectable drugs to hospital pharmacies across the U.S. APS manufactures products under Section 503B of the Compounding Quality Act within the Federal Food, Drug & Cosmetic Act ("FDCA"). Additionally, APS provides tirbanibulin product to our partners and provides products for the development and manufacturing of the Company's proprietary drug candidates as well as providing the Company with a cGMP analytical services function.

Commercial Platform— This operating segment includes APD, which focuses on the manufacturing, distribution, and sales of specialty pharmaceuticals. This segment provides services and products to external customers based mainly in the U.S.

The Company's Oncology Innovation Platform segment operates and holds long-lived assets located in the U.S., Hong Kong, mainland China, the United Kingdom, and Latin America. The Global Supply Chain Platform segment operates and holds long-lived assets located in the U.S. The Commercial Platform segment operates and holds long-lived assets located in the U.S. For geographic segment reporting, product sales have been attributed to countries based on the location of the customer.

Segment information is as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenue:				
Oncology Innovation Platform	$ 5,730	$ 307	$ 6,504	$ 20,970
Global Supply Chain Platform	6,263	4,887	13,056	11,221
Commercial Platform	19,943	15,791	42,653	29,050
Total revenue for reportable segments	31,936	20,985	62,213	61,241
Intersegment revenue	(420)	(287)	(1,555)	(1,391)
Total consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850

Intersegment revenue eliminated in the above table for the three and six months ended June 30, 2022 reflects $0.4 million and $1.6 million in sales from the Global Supply Chain Platform to the Oncology Innovation Platform.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021

Total revenue by product group:				
License fees	$5,723	$ 296	$6,490	$20,953
Commercial product sales	25,347	19,970	53,271	38,033
Contract manufacturing revenue	439	427	883	857
Other revenue	7	5	14	7
Total consolidated revenue	$31,516	$20,698	$60,658	$59,850

Intersegment revenue is recognized by the selling segment when its customer obtains control of promised goods or services, in an amount that reflects the consideration which it expects to receive in exchange for those goods or services. Upon consolidation, all intersegment revenue and related cost of sales are eliminated from the selling segment's ledger.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Net loss attributable to Athenex, Inc.:				
Oncology Innovation Platform	$(18,062)	$(20,122)	$(47,947)	$(25,563)
Global Supply Chain Platform	(3,324)	(576)	(4,096)	(542)
Commercial Platform	(2,430)	(10,208)	(497)	(26,135)
Segment total	(23,816)	(30,906)	(52,540)	(52,240)
Discontinued operations	(8,341)	(3,368)	2,963	(7,084)
Total consolidated net loss attributable to Athenex, Inc.	$(32,157)	$(34,274)	$(49,577)	$(59,324)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total depreciation and amortization:				
Oncology Innovation Platform	$ 125	$ 224	$ 337	$ 438
Global Supply Chain Platform	243	266	499	542
Commercial Platform	301	461	634	1,006
Segment total	669	951	1,470	1,986
Discontinued operations	42	242	215	481
Total consolidated depreciation and amortization	$ 711	$ 1,193	$1,685	$ 2,467

	June 30, 2022	December 31, 2021
Total assets:		
Oncology Innovation Platform	$ 112,759	$ 131,432
Global Supply Chain Platform	19,143	19,693
Commercial Platform	63,443	53,113
Segment total	195,345	204,238
Discontinued operations	26,542	63,210
Total consolidated assets	$ 221,887	$ 267,448

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenue:				
United States	$31,509	$20,679	$60,644	$59,323
Other foreign countries	7	19	14	527
Total consolidated revenue	$31,516	$20,698	$60,658	$59,850

	June 30, 2022	December 31, 2021
Total property and equipment, net:		
United States	$ 3,757	$ 4,196
China	437	985

Total consolidated property and equipment, net	$ 4,194	$ 5,181

Customer revenue and accounts receivable concentration amounted to the following for the identified periods. These customers relate to the Commercial Platform segment and the Global Supply Chain Platform segment.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Percentage of total revenue by customer:				
Customer A	18%	0%	10%	33%
Customer B	16%	15%	14%	14%
Customer C	15%	16%	15%	16%
Customer D	13%	13%	13%	13%

	June 30, 2022	December 31, 2021
Percentage of total accounts receivable by customer:		
Customer A	27%	35%
Customer B	23%	29%
Customer C	17%	2%
Customer D	12%	15%

Revenue Recognition	6 Months Ended Jun. 30, 2022
Revenue from Contract with Customer [Abstract]	
Revenue Recognition	

17. Revenue Recognition

The Company records revenue in accordance with ASC, Topic 606 "*Revenue from Contracts with Customers*." Under Topic Company recognizes revenue when its customer obtains control of promised goods or services, in an amount that reflects the consi which it expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that the Co determines are within the scope of Topic 606, the entity performs the following five steps: (i) identifies the contract(s) with a custo identifies the performance obligations in the contract; (iii) determines the transaction price; (iv) allocates the transaction price to the performance obligations in the contract; and (v) recognizes revenue when (or as) the entity satisfies a performance obligation. The only applies the five-step model to contracts when it is probable that the entity will collect the consideration it is entitled to in excha goods or services it transfers to the customer. Below is a description of principal activities – separated by reportable segments – fro the Company generates its revenue.

1.Oncology Innovation Platform

The Company out-licenses certain of its IP to other pharmaceutical companies in specific territories that allow the customer t develop, commercialize, or otherwise exploit the licensed IP. In accordance with Topic 606, the Company analyzes the contracts to performance obligations within the contract. Most of the Company's out-license arrangements contain multiple performance obliga variable pricing. After the performance obligations are identified, the Company determines the transaction price, which generally in upfront fees, milestone payments related to the achievement of developmental, regulatory, or commercial goals, and royalty payme sales of licensed products. The Company considers whether the transaction price is fixed or variable, and whether such considerati subject to return. Variable consideration is only included in the transaction price to the extent that it is probable that a significant re the amount of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration is subs resolved. If any portion of the transaction price is constrained, it is excluded from the transaction price until the constraint no longe The Company then allocates the transaction price to the performance obligation to which the consideration is related. Where a porti transaction price is received and allocated to continuing performance obligations under the terms of the arrangement, it is recorded revenue and recognized as revenue when (or as) the underlying performance obligation is satisfied.

The Company's contracts may contain one or multiple promises, including the license of IP and development services. The li is capable of being distinct from the other performance obligations identified in the contract and is distinct within the context of the as upon transfer of the IP, the customer is able to use and benefit from it, and the customer could obtain the development services fr parties. The Company also considers the economic and regulatory characteristics of the licensed IP and other promises in the contra determine if it is a distinct performance obligation. The Company considers if the IP is modified or enhanced by other performance obligations through the life of the agreement and whether the customer is contractually or practically required to use updated IP. Th licensed by the Company has been determined to be functional IP. The IP is not modified during the license period and therefore, th Company recognizes revenues from any portion of the transaction price allocated to the licensed IP when the license is transferred t customer and they can benefit from the right to use the IP. For the six month period ended June 30, 2021, the Company recognized revenue of $21.0 million, of which $20.0 million was recognized upon the achievement of the first commercial milestone pursuant Almirall out-license arrangement upon the launch of Klisyri in the U.S., and $0.5 million was recognized for an upfront fee upon tr IP to the customer upon execution of the second amendment to the 2011 PharmaEssentia license agreement. No such revenue was r the six months ended June 30, 2022. Under the collaboration agreement between Axis Therapeutics and PharmaEssentia, the Comp received $2.0 million of upfront fees allocated to its performance obligation to deliver functional IP to the Customer. As of June 30 Company had not satisfied this performance obligation by delivering the license with the data necessary for the customer to benefit right to use the IP and, therefore, the amount was recorded as deferred revenue.

Other performance obligations included in most of the Company's out-licensing agreements include performing developmen to reach clinical and regulatory milestone events. The Company satisfies these performance obligations at a point-in-time, because customer does not simultaneously receive and consume the benefits as the development occurs, the development does not create or asset controlled by the customer, and the development does not create an asset with no alternative use. The Company considers mil payments to be variable consideration measured using the most likely amount method, as the entitlement to the consideration is con the occurrence or nonoccurrence of future events. The Company allocates each variable milestone payment to the associated milest performance obligation, as the variable payment relates directly to the Company's efforts to satisfy the performance obligation and allocation depicts the amount of consideration to which the Company expects to be entitled for satisfying the corresponding perfor obligation. The Company re-evaluates the probability of achievement of such performance obligations and any related constraint an its estimate of the transaction price as appropriate. To date, no amounts have been constrained in the initial or subsequent assessme transaction price. During the three and six months ended June 30, 2022, the Company recognized license revenue of $5.0 million re line extension milestone in connection with its license agreement with Almirall. The Company did not recognize revenue from othe performance obligations included in the Company's out-licensing agreements during the three and six months ended June 30, 2021.

Certain out-license agreements include performance obligations to manufacture and provide drug product in the future for co sale when the licensed product is approved. For the commercial, sales-based royalties, the consideration is predominantly related to licensed IP and is contingent on the customer's subsequent sales to another commercial customer. Consequently, the sales- or usage royalty exception would apply. Revenue will be recognized for the commercial, sales-based milestones as the underlying sales occu Company recorded $0.6 million and $1.2 million of royalty revenue related to sales of Tirbanibulin during the three and six months June 30, 2022, respectively. During the three and six months ended June 30, 2021, the Company recorded $0.2 million of royalty re related to sales of Tirbanibulin.

The Company exercises significant judgment when identifying distinct performance obligations within its out-license arrange determining the transaction price, which often includes both fixed and variable considerations, and allocating the transaction price t

proper performance obligation. The Company did not use any other significant judgments related to out-licensing revenue during th months ended June 30, 2022 and 2021.

2.Global Supply Chain Platform

The Company's Global Supply Chain Platform generates revenue by providing small to mid-scale cGMP manufacturing of c commercial products for pharmaceutical and biotech companies and selling pharmaceutical products under 503B regulations set for U.S. FDA.

Revenue earned by the Global Supply Platform is recognized when the Company has satisfied its performance obligation, wh shipment or the delivery of drug products. The underlying contracts for these sales are generally purchase orders and the Company revenue at a point-in-time. Any remaining performance obligations related to product sales are the result of customer deposits and a reflected in the deferred revenue contract liability balance.

3.Commercial Platform

The Company's Commercial Platform generates revenue by distributing specialty products through independent pharmaceuti wholesalers. The wholesalers then sell to an end-user, normally a hospital, alternative healthcare facility, or an independent pharma lower price previously established by the end-user and the Company. Upon the sale by the wholesaler to the end-user, the wholesale chargeback the difference, if any, between the original list price and price at which the product was sold to the end-user. The Comp offers cash discounts, which approximate 2.3% of the gross sales price, as an incentive for prompt customer payment, and, consiste industry practice, the Company's return policy permits customers to return products within a window of time before and after the ex product dating. Further, the Company offers contractual allowances, generally in the form of rebates or administrative fees, to certa wholesale customers, group purchasing organizations ("GPOs"), and end-user customers, consistent with pharmaceutical industry p Revenues are recorded net of provisions for variable consideration, including discounts, rebates, GPO allowances, price adjustment chargebacks, promotional programs and other sales allowances. Accruals for these provisions are presented in the consolidated fina statements as reductions in determining net sales and as a contra asset in accounts receivable, net (if settled via credit) and other cur liabilities (if paid in cash). As of June 30, 2022, and December 31, 2021, the Company's total provision for chargebacks and other c included as a reduction of accounts receivable totaled $26.7 million and $22.9 million, respectively. The Company's total provision chargebacks and other revenue deductions was $43.2 million, and $26.9 million for the three months ended June 30, 2022, and 202 respectively and was $80.9 million and $52.5 million for the six months ended June 30, 2022 and 2021, respectively.

The Company exercises significant judgment in its estimates of the variable transaction price at the time of the sale and recog revenue when the performance obligation is satisfied. Factors that determine the final net transaction price include chargebacks, fee service, cash discounts, rebates, returns, warranties, and other factors. The Company estimates all of these variables based on histor obtained from previous sales finalized with the end-user customer on a product-by-product basis. At the time of sale, revenue is rec of each of these deductions. Through the normal course of business, the wholesaler will sell the product to the end-user, determinin chargeback, return products, and take advantage of cash discounts, charge fees for services, and claim warranties on products. The f transaction price per product is compared to the initial estimated net sale price and reviewed for accuracy. The final prices and othe are immediately included in the Company's historical data from which it will estimate the transaction price for future sales. The unc contracts for these sales are generally purchase orders including a single performance obligation, generally the shipment or delivery products and the Company recognizes this revenue at a point-in-time.

Disaggregation of revenue

The following represents the Company's revenue for its reportable segment by country, based on the locations of the custome

	For the Three Months Ended June 30, 2022 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidat Total
United States	$ 5,723	$ 5,843	$ 19,943	$ 31,
Other foreign countries	7	—	—	
Total revenue	$ 5,730	$ 5,843	$ 19,943	$ 31,

	For the Three Months Ended June 30, 2021 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidat Total
United States	$ 288	$ 4,600	$ 15,791	$ 20,
China	9	—	—	
Other foreign countries	10	—	—	
Total revenue	$ 307	$ 4,600	$ 15,791	$ 20,

The Company also disaggregates its revenue by product group which can be found in Note 16 – *Business Segment, Geograp Concentration Risk Information*.

Contract balances

The following table provides information about receivables and contract liabilities from contracts with customers by reportab segments. The Company has not recorded any contract assets from contracts with customers.

	June 30, 2022 (In Thousands)

	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidat Total
Accounts receivable, gross	$ 14,971	$ 4,704	$ 50,606	$ 70,
Chargebacks and other deductions	—	—	(26,662)	(26,
Provision for credit losses	(8,919)	(642)	(234)	(9,
Accounts receivable, net	$ 6,052	$ 4,062	$ 23,710	$ 33,
Deferred revenue	2,739	42	—	2,
Total contract liabilities	$ 2,739	$ 42	$ —	$ 2,

	December 31, 2021 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidat Total
Accounts receivable, gross	$ 10,069	$ 3,983	$ 44,298	$ 58,
Chargebacks and other deductions	—	—	(22,868)	(22,
Provision for credit losses	(8,919)	(180)	(97)	(9,
Accounts receivable, net	$ 1,150	$ 3,803	$ 21,333	$ 26,
Deferred revenue	2,739	60	—	2,
Total contract liabilities	$ 2,739	$ 60	$ —	$ 2,

As of June 30, 2022 and December 31, 2021, the deferred revenue balances relate to customer deposits made by customers o Oncology Innovation Platform and Global Supply Chain Platform and are included within accrued expenses on the condensed cons balance sheets.

There were no other material changes to contract balances during the six months ended June 30, 2022.

Commitments and Contingencies	6 Months Ended Jun. 30, 2022
Commitments and Contingencies Disclosure [Abstract]	
Commitments and Contingencies	

18. Commitments and Contingencies

Future minimum payments under the non-cancelable operating leases consists of the following as of June 30, 2022 (in thousands):

Year ending December 31:	Minimum payments
2022 (remaining six months)	$ 1,117
2023	2,090
2024	2,034
2025	1,472
2026	347
Thereafter	132
	$ 7,192

Legal Proceedings

Following our receipt of the CRL in February 2021 and the subsequent decline of the market price of the Company's common stock, two purported securities class action lawsuits were filed in the U.S. District Court for the Western District of New York on March 3, 2021 and March 22, 2021, respectively, against the Company and certain members of its management team seeking to recover damages for alleged violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934.

The complaints generally allege that between August 7, 2019 and February 26, 2021 (the purported class period), the Company and the individual defendants made materially false and misleading statements regarding the Company's business in connection with the Company's development of Oral Paclitaxel for the treatment of metastatic breast cancer and the likelihood of FDA approval, and that the plaintiffs suffered losses when the Company's stock price dropped after its announcement on February 26, 2021 regarding receipt of the CRL. The complaints seek class certification, damages, fees, costs, and expenses. On August 5, 2021, the Court consolidated the two actions and appointed a lead plaintiff and lead counsel. Pursuant to a stipulated scheduling order, the lead plaintiff filed an amended complaint on November 19, 2021. Defendants filed their motion to dismiss on January 25, 2022. Plaintiffs filed their opposition to that motion on March 28, 2022 and the defendants filed their reply brief on May 20, 2022. The motion to dismiss is now fully briefed and awaits the Court's decision. The Company and the individual defendants believe that the claims in the consolidated lawsuits are without merit, and the Company has not recorded a liability related to these shareholder class actions as the risk of loss is remote. The Company and the individual defendants intend to vigorously defend against these claims but there can be no assurances as to the outcome.

Shareholder Derivative Lawsuit

On June 3, 2021, a shareholder derivative lawsuit was filed in the United States District Court for the District of Delaware by Timothy J. Wonnell, allegedly on behalf of the Company, that piggy-backs on the securities class actions referenced above. The complaint names Johnson Lau, Rudolf Kwan, Timothy Cook, and members of the Board as defendants, and generally alleges that they caused or failed to prevent the securities law violations asserted in the securities class actions. On September 13, 2021, the Court (i) granted the defendants' motion to stay the derivative action until after resolution of the motion to dismiss the consolidated securities class actions, and (ii) administratively closed the derivative litigation, directing the parties to promptly notify the Court when the related securities class action has been resolved so the derivative action can be reopened. The Company and the individual defendants believe the claims in the shareholder derivative action are without merit, and the Company has not recorded a liability

related to this lawsuit as the risk of loss is remote. The Company and the individual defendants intend to vigorously defend against these claims should the case be reopened, but there can be no assurances as to the outcome.

Subsequent Events

6 Months Ended
Jun. 30, 2022

Subsequent Events [Abstract]

Subsequent Events

19. Subsequent Events

On July 7, 2022, the Company entered into an agreement to sell all of its equity interests in its China subsidiaries, which are primarily engaged in API manufacturing operations, to TiHe Capital (Beijing) Co., Ltd. for RMB 124.4 million, or approximately $19.0 million in cash. The Company will receive at least 70% of the proceeds on the Closing Date, followed by 20% within three months after the Closing Date, and the remaining balance within six months after the Closing Date. Proceeds from the transaction will be used in part toward repaying existing debt and operating the business. The transaction is subject to customary closing conditions, including obtaining certain regulatory approvals in China. The Company evaluated the China API Operations as a discontinued operation. Refer to Note 4 - *Discontinued Operations* for additional information. The Company has recorded this transaction as a discontinued operation and has recorded its discontinued assets at the lesser of cost or fair value less cost to sell.

Summary of Significant Accounting Policies (Policies)	6 Months Ended Jun. 30, 2022
Accounting Policies [Abstract]	
Basis of Presentation and Principles of Consolidation	***Basis of Presentation and Principles of Consolidation*** The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles in the United States of America ("GAAP") for interim financial information (Accounting Standards Codification ("ASC") 270, *Interim Reporting*) and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, these financial statements do not include all of the information necessary for a full presentation of financial position, results of operations, and cash flows in conformity with GAAP. In the opinion of management, the condensed consolidated financial statements reflect all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation of the results of the Company for the periods presented. These condensed consolidated financial statements reflect the accounts and operations of Athenex, Inc. and those of its subsidiaries in which Athenex, Inc. has a controlling financial interest. Intercompany transactions and balances have been fully eliminated in consolidation. Results of the Company's operations for the three and six months ended June 30, 2022 are not necessarily indicative of the results expected for the year ending December 31, 2022, or for any other future annual or interim period. These condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2021, filed with the Securities and Exchange Commission ("SEC") on March 16, 2022. The Company has consolidated its newly-formed subsidiary, ATNX SPV, LLC into the accompanying unaudited condensed consolidated financial statements under the variable interest model.
Use of Estimates	***Use of Estimates*** The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the consolidated financial statements and the reported amount of revenue and expenses during the reporting period. Such management estimates include those relating to assumptions used in clinical research accruals, chargebacks, measurement of acquired assets and assumed liabilities in business combinations, provision for credit losses, inventory reserves, deferred income taxes, the estimated useful life and recoverability of long-lived assets, contingent consideration, accounting for debt extinguishment and the royalty financing liability, and the valuation of stock-based awards and other items as appropriate. Actual results could differ from those estimates.
Contingent Consideration	***Contingent Consideration*** Contingent consideration arising from a business acquisition is included as part of the purchase price and is recorded at fair value as of the acquisition date. Subsequent to the acquisition date, the Company remeasures contingent consideration arrangements at fair value at each reporting period until the contingency is resolved. The changes in fair value are recognized within selling, general, and administrative expenses in the Company's consolidated statement of operations and comprehensive loss. Changes in fair values reflect new information about the likelihood of the payment of the contingent consideration and the passage of time.
Liability Related to the Sale of Future Royalties	***Liability related to the sale of future royalties*** The Company treats the liability related to the sale of future royalties, as discussed further in Note 11 - *Debt and Lease Obligations*, as a debt instrument, amortized under the effective interest rate method over the estimated life of the revenue streams. The Company recognizes interest expense thereon using the effective rate, which is based on its current estimates of future

revenues over the life of the arrangement. The Company periodically assesses its expected revenues using internal projections, imputes interest on the carrying value of the deferred royalty obligation, and records interest expense using the imputed effective interest rate. To the extent its estimates of future revenues are greater or less than previous estimates or the estimated timing of such payments is materially different than previous estimates, the Company will account for any such changes by adjusting the effective interest rate on a prospective basis, with a corresponding impact to the reclassification of the royalty financing liability. The assumptions used in determining the expected repayment term of the royalty financing liability and amortization period of the issuance costs require that the Company makes significant estimates that could impact the short-term and long-term classification of the royalty financing liability, interest recorded on such liability, as well as the period over which such costs will be amortized.

Concentration of Credit Risk, Other Risks and Uncertainties

Concentration of Credit Risk, Other Risks and Uncertainties

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and cash equivalents, restricted cash, and short-term investments. The Company deposits its cash equivalents in interest-bearing money market accounts and certificates of deposit, invests in highly liquid U.S. treasury notes, commercial paper, and corporate bonds. The Company deposits its cash with multiple financial institutions. Cash balances exceed federally insured limits. The primary focus of the Company's investment strategy is to preserve capital and meet liquidity requirements. The Company's investment policy addresses the level of credit exposure by limiting the concentration in any one corporate issuer and establishing a minimum allowable credit rating. The Company also has significant assets and liabilities held in its overseas manufacturing facility, and research and development facility in China, and therefore is subject to foreign currency fluctuation and regulatory uncertainties.

Business Combination (Tables)	6 Months Ended Jun. 30, 2022
Business Combinations [Abstract]	
Summary of Final Purchase Price Allocation to Fair Value of Assets and Liabilities Acquired	The following table summarizes the final purchase price allocation to the fair value of assets and liabilities acquired at the date of acquisition (in t

Allocation of Consideration:	
Stock issued (14,228,066 shares at $3.71)	$
Contingent consideration	
Purchase price:	$
Net assets acquired:	
Cash and cash equivalents	$
Prepaid expenses and other current assets	
In-process research & development	
Accounts payable	
Accrued expenses	
Deferred income tax liability	
Transaction incentive liability	
Total identifiable net assets	
Goodwill	
Total purchase price allocation	$

Schedule of Unaudited Pro Forma Consolidated Financial Information

The following table presents the unaudited pro forma consolidated financial information for the three and six months ended June 30, 2022 (in thou

Unaudited pro forma financial information (Athenex and Kuur Consolidated)	Three Months Ended June 30, 2022	2021	Six M Ended J 2022
Consolidated revenue	$ 31,516	$ 20,698	$ 60,658
Consolidated net loss	$ (32,157)	$ (31,261)	$ (49,577)

Discontinued Operations (Tables)

Discontinued Operations and Disposal Groups [Abstract]

Schedule of Financial Results of Discontinued Operations

6 Months Ended Jun. 30, 2022

The following table presents the financial results of the discontinued operations (in thousands):

	Three Months Ended June 30, 2022	2021	Six mont 2022
Discontinued Dunkirk operations:			
Selling, general, and administrative expenses	$ —	$ (2,425)	$ (1,9
Gain on sale of discontinued operations	—	—	14,4
(Loss) gain from discontinued Dunkirk operations	—	(2,425)	12,5
Discontinued China API operations:			
Revenue	$ 424	$ 1,225	$ 1,0
Cost of sales	(7,343)	(546)	(8,1
Research and development expenses	(157)	(481)	(6
Selling, general, and administrative expenses	(1,540)	(1,165)	(2,6
Other income	280	24	8
Interest expense	(5)	—	(
Loss from discontinued China API operations	$ (8,341)	$ (943)	$ (9,5
(Loss) gain from discontinued operations	$ (8,341)	$ (3,368)	$ 2,9

The Dunkirk operations selling, general, and administrative costs during the periods presented was comprised primarily of compensation a as well as operating expenses needed to prepare the facility.

The gain on sale of the Dunkirk discontinued operation was the result of the $40.0 million cash proceeds from the sale, less the net book v liabilities transferred to the Dunkirk Buyer, including property and equipment of $27.1 million, accounts payable and accrued expenses of $1.3 m long-term finance lease obligations of $0.2 million.

The revenue and cost of sales of the China API discontinued operation arose from the sales of API. Cost of sales of the China API discont write-off of excess and obsolete inventory of $7.1 million for the three and six months ended June 30, 2022. Research and development costs of th operation represent development of API manufacturing methods and API product development for the Company's Orascovery platform. Other inc discontinued operation includes the sale of pilot product which was previously developed at the facility and included within research and develop

The consolidated statements of cash flows include cash flows related to the discontinued operations due to the Company's centralized trea management processes. The following table presents additional cash flow information for the discontinued operations (in thousands):

	Six months ende 2022
Supplemental information for discontinued Dunkirk operations:	
Depreciation expense	$ 185
Cash paid for capital expenditures	(1,949)
Repayment of finance lease obligations	(7)
Supplemental information for discontinued China API operations:	
Depreciation expense	$ 30
Impairment of PPE	230
Write-off of inventory	7,120
Cash paid for capital expenditures	(327)
Proceeds from issuance of debt	—
Repayment of long-term debt	(785)

The following table presents the aggregate carrying amounts of the classes of assets and liabilities of discontinued operations (in thousand

	June 30, 2022
Discontinued Dunkirk operations:	
Prepaid expenses and other current assets	$ —
Property and equipment, net	—
Discontinued China API operations:	
Accounts receivable	362
Inventories	2,204
Prepaid expenses and other current assets	2,393
Property and equipment, net	21,120
Operating lease right-of-use assets, net	463
Total assets attributable to discontinued operations	$ 26,542
Discontinued Dunkirk operations:	
Accounts payable	$ —
Accrued expenses	—
Current portion of finance lease obligation	—
Long-term finance lease obligation	—
Discontinued China API operations:	
Accounts payable	$ 2,725
Accrued expenses	716
Current portion of operating lease liabilities	233
Current portion of long-term debt	—
Long-term debt and lease obligations	7,490
Total liabilities attributable to discontinued operations	$ 11,164

Inventories (Tables)

6 Months Ended
Jun. 30, 2022

Inventory Disclosure [Abstract]

Schedule of Inventories

Inventories consist of the following (in thousands):

	June 30, 2022	December 31, 2021
Raw materials and purchased parts	$ 8,637	$ 5,490
Work in progress	69	66
Finished goods	29,145	21,493
Total inventories	$ 37,851	$ 27,049

Intangible Assets, net (Tables)

Goodwill and Intangible Assets Disclosure [Abstract]

Summary of Identifiable Intangible Asset, Net

6 Months Ended Jun. 30, 2022

The Company's identifiable intangible assets, net, consist of the following (in thousands):

	June 30, 2022			
	Cost/Fair Value	Accumulated Amortization	Impairments	Net
Amortizable intangible assets:				
Licenses	$ 13,946	$ 6,987	$ —	$ 6,
Indefinite-lived intangible assets:				
CDE in-process research and development (IPR&D)	728	—	78	
Kuur IPR&D	64,900	—	—	64,
Effect of currency translation adjustment	(37)	—	—	
Total intangible assets, net	$ 79,537	$ 6,987	$ 78	$ 72,

	December 31, 2021			
	Cost/Fair Value	Accumulated Amortization	Impairments	Net
Amortizable intangible assets				
Licenses	$ 12,654	$ 6,376	$ —	$ 6,
Indefinite-lived intangible assets:				
CDE in-process research and development (IPR&D)	728	—	—	
Kuur IPR&D	64,900	—	—	64,
Effect of currency translation adjustment	(10)	—	—	
Total intangibles, net	$ 78,272	$ 6,376	$ —	$ 71,

Fair Value Measurements (Tables)

Fair Value Disclosures [Abstract]

Schedule of Assets and Liabilities Measured at Fair Value on a Recurring Basis

6 Months Ended
Jun. 30, 2022

The following tables represent the fair value hierarchy for those assets and liabilities that the Company measures at fair value recurring basis (in thousands):

	Fair Value Measurements at June 30, 2022 Using:			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobserva Inputs (Level 3)
Assets:				
Financial assets included within cash and cash equivalents				
Short-term investments - money market funds	$ 2,561	$ 2,561	$ —	$
Short-term investments - certificates of deposit	401	—	401	
Available-for-sale investment	1,189	1,189	—	
Total assets	$ 4,151	$ 3,750	$ 401	$
Liabilities:				
Contingent consideration - Kuur	$ 24,129	$ —	$ —	$ 24,
Total liabilities	$ 24,129	$ —	$ —	$ 24,

	Fair Value Measurements at December 31, 2021 Using:			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobserva Inputs (Level 3)
Assets:				
Financial assets included within cash and cash equivalents				
Money market funds	$ 7,937	$ 7,937	$ —	$
Short-term investments - certificates of deposit	2,000	—	2,000	
Short-term investments - commercial paper	10,446	—	10,446	
Financial assets included within short-term investments				
Short-term investments - certificates of deposit	9,488	—	9,488	
Available-for-sale investment	719	719	—	
Total assets	$ 30,590	$ 8,656	$ 21,934	$
Liabilities:				
Contingent Consideration - Kuur	$ 24,076	$ —	$ —	$ 24,
Total assets	$ 24,076	$ —	$ —	$ 24,

Accrued Expenses (Tables)

6 Months Ended
Jun. 30, 2022

Payables and Accruals [Abstract]

Schedule of Accrued Expenses

Accrued expenses consist of the following (in thousands):

	June 30, 2022	December 31, 2021
Accrued selling fees, rebates, and royalties	13,035	6,890
Accrued inventory purchases	7,632	4,217
Accrued clinical expenses	6,140	3,116
Accrued wages and benefits	4,796	2,034
Deferred revenue	2,781	2,799
Accrued operating expenses	3,117	2,654
Accrued tax withholdings	1,668	1,800
Accrued interest	—	266
Accrued R&D licensing fees	116	116
Total accrued expenses	$ 39,285	$ 23,892

Debt and Lease Obligations (Tables)

6 Months Ended Jun. 30, 2022

Debt And Lease Obligations [Abstract]

Schedule of Debt

The Company's debt as of June 30, 2022 and December 31, 2021, consists of the following (in thousands):

	June 30, 2022	December 31, 2021
Current portion of senior secured loan	$ 23,600	$ 45,938
Current portion of finance lease obligations	138	158
Current portion of operating lease obligations	2,077	2,393
Long-term portion of finance lease obligations	152	207
Long-term portion of operating lease obligations	3,898	4,411
Senior secured loan, net of debt discount and financing fees of $11,825 and $8,663, respectively	22,074	95,400
Royalty financing liability, long-term, net of financing fees of $4,982	75,006	—
Total	$126,945	$148,507

Summary of Components of Lease Expense

The components of lease expense are as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Operating lease cost	$ 538	$ 607	$1,099	$ 1,213
Finance lease cost:				
Amortization of assets	42	32	85	64
Interest on lease liabilities	9	2	19	6
Total net lease cost	$ 589	$ 641	$1,203	$ 1,283

Schedule of Supplemental Balance Sheet Information Related to Leases of Debt

Supplemental balance sheet information related to leases is as follows (in thousands, except lease term and discount rate):

	June 30, 2022	December 31, 2021
Finance leases:		
Property and equipment, at cost	$ 1,203	$ 1,203
Accumulated amortization, net	(901)	(585)
Property and equipment, net	$ 302	$ 618
Current obligations of finance leases	$ 138	$ 158
Long-term portion of finance leases	152	207
Total finance lease obligations	$ 290	$ 365
Weighted average remaining lease term (in years):		
Operating leases	3.37	3.53
Finance leases	2.00	2.25
Weighted average discount rate:		
Operating leases	13.0%	12.9%
Finance leases	10.1%	9.8%

Schedule of Supplemental Cash Flow Information Related to Leases

Supplemental cash flow information related to leases is as follows (in thousands):

	Six Months Ended June 30, 2022	Six Months Ended June 30, 2021
Cash paid for amount included in the measurements of lease liabilities:		
Operating cash flows from operating leases	$ (1,309)	$ (1,360)
Operating cash flows from finance leases	(9)	$ (10)
Financing cash flows from finance leases	(79)	$ (67)
ROU assets derecognized from modification of operating lease obligations	$ (128)	$ —
ROU assets recognized in exchange for operating lease obligations	$ 78	$ —

Schedule of Future Minimum Payments and Maturities of Leases

Future minimum payments and maturities of leases is as follows (in thousands):

Year ending December 31:	Operating Leases	Finance Leases
2022 (remaining six months)	$ 1,117	$ 73
2023	2,090	147
2024	2,034	109
2025	1,472	—
2026	347	—
Thereafter	132	—
Total lease payments	7,192	329
Less: Imputed interest	(1,217)	(39)
Total lease obligations	5,975	290
Less: Current obligations	(2,077)	(138)
Long-term lease obligations	$ 3,898	$ 152

Contingent Consideration (Tables)

Contingent Consideration Disclosure [Abstract]

Schedule of Reconciliation of Contingent Consideration Liability Related to Acquisition

6 Months Ended Jun. 30, 2022

The following table represents a reconciliation of the contingent consideration liability related to the acquisition of Kuur measured on a re
inputs as of June 30, 2022 (in thousands):

Balance as of May 4, 2021	$
Adjustment to fair value	
Balance as of December 31, 2021	
Adjustment to fair value	
Balance as of June 30, 2022	$

Stock-Based Compensation (Tables)

6 Months Ended Jun. 30, 2022

Share-Based Payment Arrangement [Abstract]

Schedule of Stock Option Activity

The following table summarizes the status of the Company's stock option activity granted under the Plans to employees, directors, and co intrinsic value in thousands):

	Stock Options	Weighted-Average Exercise price	Weighted-Average Remaining Contractual Term	
Outstanding at December 31, 2021	12,662,070	$ 8.96	4.88	$
Granted	171,500	0.60	—	
Forfeited and expired	(647,365)	7.84	—	
Outstanding at June 30, 2022	12,186,205	$ 8.90	4.45	$
Vested and exercisable at June 30, 2022	10,029,540	$ 9.08	3.64	$

Schedule of Weighted-Average Assumptions Used as Inputs to Black-Scholes Option Pricing Model

The following table summarizes the weighted-average assumptions used as inputs to the Black-Scholes model during the periods indicated:

	Six Months Ended June 30,	
	2022	2021
Weighted average grant date fair value	$ 0.60	$ 6.18
Expected dividend yield	—%	—
Expected stock price volatility	66%	68
Risk-free interest rate	2.72%	1.45
Expected life of options (in years)	5.3	6.3

Schedule of Status of Restricted Stock Awards

The following table summarizes the status of the Company's restricted stock awards.

	Shares of Restricted Stock
Nonvested at December 31, 2021	924,595
Granted	50,000
Forfeited	(151,540)
Nonvested at June 30, 2022	823,055

Schedule of Stock-Based Compensation Cost

The components of stock-based compensation and the amounts recorded within cost of sales, research and development expenses and sell administrative expenses in the Company's consolidated statements of operations and comprehensive loss consisted of the following for the three a 30, 2022 and 2021 (in thousands):

	Three Months Ended June 30,		Six Mo Ended J
	2022	2021	2022
Stock options	$ 1,321	$ 2,341	$ 2,924
Restricted stock expense	245	57	496
Employee stock purchase plan	37	46	57
Total stock-based compensation expense	$ 1,603	$ 2,444	$ 3,477
Cost of sales	$ 52	$ 59	$ 78
Research and development expenses	395	671	964
Selling, general, and administrative expenses	1,156	1,714	2,435
Total stock-based compensation expense	$ 1,603	$ 2,444	$ 3,477

Net Loss per Share Attributable to Athenex, Inc. Common Stockholders (Tables)

6 Months Ended

Jun. 30, 2022

Earnings Per Share [Abstract]

Schedule Outstanding Shares of Common Stock Equivalents Excluded from the Calculation of Diluted Net Loss Per Share

The following outstanding shares of common stock equivalents were excluded from the calculation of diluted net loss per sha attributable to common stockholders for the periods presented because including them would have been antidilutive:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Stock options and other common stock equivalents	13,629,787	13,568,672	13,601,134	13,560,
Unvested restricted shares	847,051	52,566	844,607	37,
Total potential dilutive shares	14,476,838	13,621,238	14,445,741	13,598,

Business Segment, Geographic, and Concentration Risk Information (Tables)

6 Months Ended

Jun. 30, 2022

Segment Reporting [Abstract]

Summary of Revenue by Segments

Segment information is as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenue:				
Oncology Innovation Platform	$ 5,730	$ 307	$ 6,504	$ 20,970
Global Supply Chain Platform	6,263	4,887	13,056	11,221
Commercial Platform	19,943	15,791	42,653	29,050
Total revenue for reportable segments	31,936	20,985	62,213	61,241
Intersegment revenue	(420)	(287)	(1,555)	(1,391)
Total consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850

Summary of Revenue by Product Group

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenue by product group:				
License fees	$5,723	$ 296	$6,490	$ 20,953
Commercial product sales	25,347	19,970	53,271	38,033
Contract manufacturing revenue	439	427	883	857
Other revenue	7	5	14	7
Total consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850

Summary of Segment Information

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Net loss attributable to Athenex, Inc.:				
Oncology Innovation Platform	$ (18,062)	$ (20,122)	$ (47,947)	$ (25,563)
Global Supply Chain Platform	(3,324)	(576)	(4,096)	(542)
Commercial Platform	(2,430)	(10,208)	(497)	(26,135)
Segment total	(23,816)	(30,906)	(52,540)	(52,240)
Discontinued operations	(8,341)	(3,368)	2,963	(7,084)
Total consolidated net loss attributable to Athenex, Inc.	$ (32,157)	$ (34,274)	$ (49,577)	$ (59,324)

Summary of Depreciation, Amortization and Assets by Segment

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total depreciation and amortization:				
Oncology Innovation Platform	$ 125	$ 224	$ 337	$ 438
Global Supply Chain Platform	243	266	499	542
Commercial Platform	301	461	634	1,006
Segment total	669	951	1,470	1,986
Discontinued operations	42	242	215	481
Total consolidated depreciation and amortization	$ 711	$ 1,193	$ 1,685	$ 2,467

	June 30, 2022	December 31, 2021
Total assets:		

Oncology Innovation Platform	$ 112,759	$ 131,432
Global Supply Chain Platform	19,143	19,693
Commercial Platform	63,443	53,113
Segment total	195,345	204,238
Discontinued operations	26,542	63,210
Total consolidated assets	$ 221,887	$ 267,448

Summary of Revenue by Geographical Segment

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenue:				
United States	$31,509	$20,679	$60,644	$59,323
Other foreign countries	7	19	14	527
Total consolidated revenue	$31,516	$20,698	$60,658	$59,850

Summary of Property and Equipment by Geographical Segment

	June 30, 2022	December 31, 2021
Total property and equipment, net:		
United States	$ 3,757	$ 4,196
China	437	985
Total consolidated property and equipment, net	$ 4,194	$ 5,181

Summary of Customer Revenue and Accounts Receivable Concentration

Customer revenue and accounts receivable concentration amounted to the following for the identified periods. These customers relate to the Commercial Platform segment and the Global Supply Chain Platform segment.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Percentage of total revenue by customer:				
Customer A	18%	0%	10%	33%
Customer B	16%	15%	14%	14%
Customer C	15%	16%	15%	16%
Customer D	13%	13%	13%	13%

	June 30, 2022	December 31, 2021
Percentage of total accounts receivable by customer:		
Customer A	27%	35%
Customer B	23%	29%
Customer C	17%	2%
Customer D	12%	15%

Revenue Recognition (Tables)

6 Months Ended Jun. 30, 2022

Revenue from Contract with Customer [Abstract]

Schedule of Company's Revenue for Reportable Segment by Country Based on Locations of Customer

The following represents the Company's revenue for its reportable segment by country, based on the locations of the custome

	For the Three Months Ended June 30, 2022 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidat Total
United States	$ 5,723	$ 5,843	$ 19,943	$ 31,
Other foreign countries	7	—	—	
Total revenue	$ 5,730	$ 5,843	$ 19,943	$ 31,

	For the Three Months Ended June 30, 2021 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidat Total
United States	$ 288	$ 4,600	$ 15,791	$ 20,
China	9	—	—	
Other foreign countries	10	—	—	
Total revenue	$ 307	$ 4,600	$ 15,791	$ 20,

Summary of Accounts Receivable and Contract Assets Balances by Reportable Segments

The following table provides information about receivables and contract liabilities from contracts with customers by reportab segments. The Company has not recorded any contract assets from contracts with customers.

	June 30, 2022 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidat Total
Accounts receivable, gross	$ 14,971	$ 4,704	$ 50,606	$ 70,
Chargebacks and other deductions	—	—	(26,662)	(26,
Provision for credit losses	(8,919)	(642)	(234)	(9,
Accounts receivable, net	$ 6,052	$ 4,062	$ 23,710	$ 33,
Deferred revenue	2,739	42	—	2,
Total contract liabilities	$ 2,739	$ 42	$ —	$ 2,

	December 31, 2021 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidat Total
Accounts receivable, gross	$ 10,069	$ 3,983	$ 44,298	$ 58,
Chargebacks and other deductions	—	—	(22,868)	(22,
Provision for credit losses	(8,919)	(180)	(97)	(9,
Accounts receivable, net	$ 1,150	$ 3,803	$ 21,333	$ 26,
Deferred revenue	2,739	60	—	2,
Total contract liabilities	$ 2,739	$ 60	$ —	$ 2,

Commitments and Contingencies (Tables)	6 Months Ended Jun. 30, 2022
Commitments and Contingencies Disclosure [Abstract]	
Schedule of Future Minimum Payments Under Non-Cancelable Leases	

Future minimum payments under the non-cancelable operating leases consists of the following as of June 30, 2022 (in thousands):

Year ending December 31:	Minimum payments
2022 (remaining six months)	$ 1,117
2023	2,090
2024	2,034
2025	1,472
2026	347
Thereafter	132
	$ 7,192

Company and Nature of Business - Additional Information (Detail)	Jun. 29, 2022 USD ($)	Jan. 19, 2022 USD ($) Tranche $ / shares	Jun. 19, 2020 USD ($) Tranche $ / shares shares	1 Months Ended Jun. 30, 2022 USD ($) $ / shares	3 Months Ended Jun. 30, 2022 USD ($) $ / shares	Jun. 30, 2021 shares	6 Months Ended Jun. 30, 2022 USD ($) Segment $ / shares shares	Jun. 30, 2021 USD ($)	12 Months Ended Dec. 31, 2021 USD ($) $ / shares shares	Jun. 21, 2022 USD ($)	Aug. 20, 2021 USD ($) $ / shares
Organization Consolidation And Presentation Of Financial Statements [Line Items]											
Number of operating segments | Segment							3				
Accumulated deficit				$ 962,989,000	$ 962,989,000		$ 962,989,000		$ 913,412,000		
Cash and cash equivalents				22,139,000	22,139,000		22,139,000		35,202,000		
Restricted cash				13,800,000	13,800,000		13,800,000				
Short-term investments				1,189,000	1,189,000		$ 1,189,000		10,207,000		
Substantial doubt about going concern, conditions or events							The Company projects insufficient liquidity to fund its operations through the next twelve months beyond the date of the issuance of these condensed consolidated financial statements. This condition raises substantial doubt about the Company's ability to continue as a going concern. Additionally, the Company has financial covenants associated with its Senior Credit Agreement with Oaktree that are measured each quarter. The Company is in compliance with such financial covenants as of June 30, 2022. However, the Company is forecasting that it will be in violation of				

the minimum liquidity covenant included within the Senior Credit Agreement during the twelve month period subsequent to the date of this filing. Pursuant to ASC 205-40-50, the Company's forecast does not reflect management's plans that are outside of the Company's control as described below. Violation of any covenant under the Credit Agreement provides the lenders with the option to accelerate the maturity of the Credit Facility, which carried an outstanding principal balance of $57.5 million as of June 30, 2022. Should the lenders accelerate the maturity of the Credit Facility, the Company would not have sufficient cash on hand or available liquidity to repay the outstanding debt in the event of default. These conditions and events raise substantial doubt about the Company's ability to continue as a

								going concern.				
Substantial doubt about going concern, within next twelve months								true				
Royalty financing liability						75,006,000	75,006,000	$ 75,006,000				
Common stock value						$ 119,000	$ 119,000	$ 119,000		$ 111,000		
Common stock, par value (in dollars per share) | $ / shares						$ 0.001	$ 0.001	$ 0.001		$ 0.001		
Loss on extinguishment of debt							$ (2,051,000)	$ 1,450,000	$ 648,000			
Revenue Interest Purchase Agreement												
Organization Consolidation And Presentation Of Financial Statements [Line Items]												
Royalty financing liability												$ 85,000,000.0
Escrow deposit	$ 5,000,000.0											
Royalty financing liability transaction cost	5,000,000.0											
Senior credit agreement payment	56,600,000											
Deposit and held in segregated account	7,500,000											
Royalty and milestone interests remaining proceeds	$ 10,900,000											
License And Development Agreement With Almairall S.A.												
Organization Consolidation And Presentation Of Financial Statements [Line Items]												
Percentage of ownership interest	10.00%											
Milestone interests percentage	50.00%											
Milestone payments payable	$ 155,000,000.0											
Royalties payment percentage	50.00%											
Common Stock												
Organization Consolidation And Presentation Of Financial Statements [Line Items]												
Number of shares issued and sold | shares									33,373			
Senior Credit Agreement												
Organization Consolidation And Presentation Of Financial Statements [Line Items]												
Line of credit due						$ 57,500,000	57,500,000	$ 57,500,000		$ 150,000,000.0		
Debt instrument, maximum borrowing capacity			$ 225,000,000.0									
Number of tranches | Tranche		2	5									
Senior Credit Agreement, maturity date								Jun. 19, 2026				
Bearing interest at a fixed annual rate			11.00%									
Loss on extinguishment of debt								$ 3,500,000				
Additional debt amount tranches available			$ 75,000,000.0									
Purchase price | $ / shares		$ 12.63										
Amended the warrants held issued, start date		Jun. 19, 2020										

Amended the warrants held issued, end date	Aug. 04, 2020				
Mandatory prepayment of principal percentage	62.50%				
Fee percentage	7.00%		5.00%		
Exit fee percentage	2.00%		2.00%		
Prepayment fee percentage	5.00%		3.00%		
Amendment fee	$ 300,000				
Additional mandatory prepayment in principal	$ 12,500,000				
Number of last tranches | Tranche	2	5			
Percentage of warrant exercise price underlying lower	50.00%				
Proceeds from credit agreement				40,000,000.0	
Repay to credit agreement				27,400,000	
Senior Credit Agreement | Amendment Provides Exercise Price for 50% of Shares Underlying					
Organization Consolidation And Presentation Of Financial Statements [Line Items]					
Purchase price | $ / shares	$ 1.10				
Senior Credit Agreement | Common Stock					
Organization Consolidation And Presentation Of Financial Statements [Line Items]					
Purchase price | $ / shares		$ 12.63			
Senior Credit Agreement | Common Stock | Maximum					
Organization Consolidation And Presentation Of Financial Statements [Line Items]					
Warrant to purchase common stock | shares		908,393			
Senior Credit Agreement | Tranche A					
Organization Consolidation And Presentation Of Financial Statements [Line Items]					
Debt instrument, amount drawn		$ 100,000,000.0			
Senior Credit Agreement | Tranche B					
Organization Consolidation And Presentation Of Financial Statements [Line Items]					
Debt instrument, amount drawn		25,000,000.0			
Senior Credit Agreement | Tranche C					
Organization Consolidation And Presentation Of Financial Statements [Line Items]					
Debt instrument, amount drawn		$ 25,000,000.0			
Senior Credit Agreement Third Amendment					
Organization Consolidation And Presentation Of					

Financial Statements [Line Items]						
Repay to credit agreement		$ 13,700,000				
Senior Credit Agreement Third Amendment | Amendment Provides Exercise Price for 50% of Shares Underlying						
Organization Consolidation And Presentation Of Financial Statements [Line Items]						
Purchase price | $ / shares	1.10					
Senior Credit Agreement Fourth Amendment						
Organization Consolidation And Presentation Of Financial Statements [Line Items]						
Purchase price | $ / shares	$ 0.50					
Senior Credit Agreement Fourth Amendment | Oaktree						
Organization Consolidation And Presentation Of Financial Statements [Line Items]						
Line of credit due		7,500,000	$ 7,500,000	$ 7,500,000		
Senior Credit Agreement Fifth Amendment						
Organization Consolidation And Presentation Of Financial Statements [Line Items]						
Additional prepayment in principal		$ 10,000,000.0				
ATM Shares | Sales Agreement | SVB Securities LLC						
Organization Consolidation And Presentation Of Financial Statements [Line Items]						
Common stock value						$ 100,000,000
Common stock, par value (in dollars per share) | $ / shares						$ 0.001
Number of shares issued and sold | shares				7,147,892	762,825	
Common stock share price | $ / shares		$ 0.63	$ 0.63	$ 0.63	$ 1.49	

Business Combination - Additional Information (Details) - USD ($)	May 04, 2021	3 Months Ended		6 Months Ended		
		Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021	Dec. 31, 2021
Business Acquisition [Line Items]						
Common stock, shares issued		119,323,823		119,323,823		111,802,968
Decrease in deferred tax liability, measurement period adjustment				$ 200,000		
Decrease in goodwill, measurement period adjustment				1,600,000		
Increase of IPR&D, measurement period adjustment				1,400,000		
Revenue		$ 31,516,000	$ 20,698,000	60,658,000	$ 59,850,000	
Contributed net income (loss)		(32,157,000)	(34,274,000)	(49,577,000)	(59,324,000)	
Kuur Therapeutics, Inc.						
Business Acquisition [Line Items]						
Contingent consideration		24,129,000		24,129,000		$ 24,076,000
Merger Agreement | Kuur Therapeutics, Inc.						
Business Acquisition [Line Items]						
Business acquisition, percentage of outstanding shares	100.00%					
Upfront payment to stockholders in common stock	$ 70,000,000.0					
Business acquisition, common stock issued	14,228,066					
Business acquisition, share price	$ 3.71					
Fair value of common stock	$ 52,786,000					
Contingent consideration	19,839,000					
Goodwill	28,711,000					
Deferred tax liability	12,543,000					
Revenue		100,000	0	100,000	0	
Contributed net income (loss)		$ 3,700,000	$ 600,000	6,100,000	600,000	
Acquisition-related costs				$ 0	$ 3,500,000	
Merger Agreement | Kuur Therapeutics, Inc. | key Employees and Independent Directors						
Business Acquisition [Line Items]						

Transaction incentive liability	8,900,000
Cash paid related to transaction incentive liability	3,300,000
Common stock value paid related to transaction incentive liability	$ 5,600,000
Common stock, shares issued	1,373,601
Common stock price per share	$ 4.11
Merger Agreement | Kuur Therapeutics, Inc. | Maximum	
Business Acquisition [Line Items]	
Milestone payments payable	$ 115,000,000.0

Business Combination - Summary of Final Purchase Price Allocation to Fair Value of Assets and Liabilities Acquired (Details) - Kuur Therapeutics, Inc. - USD ($) $ in Thousands	May 04, 2021	Jun. 30, 2022	Dec. 31, 2021
Allocation of Consideration:			
Contingent consideration		$ 24,129	$ 24,076
Merger Agreement			
Allocation of Consideration:			
Stock issued (14,228,066 shares at $3.71)	$ 52,786		
Contingent consideration	19,839		
Purchase price:	72,625		
Net assets acquired:			
Cash and cash equivalents	1,425		
Prepaid expenses and other current assets	133		
In-process research & development	64,900		
Accounts payable	(39)		
Accrued expenses	(1,037)		
Deferred income tax liability	(12,543)		
Transaction incentive liability	(8,925)		
Total identifiable net assets	43,914		
Goodwill	28,711		
Total purchase price allocation	$ 72,625		

Business Combination - Summary of Final Purchase Price Allocation to Fair Value of Assets and Liabilities Acquired (Parenthetical) (Details) - Merger Agreement - Kuur Therapeutics, Inc.	May 04, 2021 $ / shares shares
Business Acquisition [Line Items]	
Business acquisition, common stock issued | shares	14,228,066
Business acquisition, share price | $ / shares	$ 3.71

Business Combination - Schedule of Unaudited Pro Forma Consolidated Financial Information (Details) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Business Combinations [Abstract]				
Consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850
Consolidated net loss	$ (32,157)	$ (31,261)	$ (49,577)	$ (58,197)

Discontinued Operations - Additional Information (Detail) $ in Thousands, ¥ in Millions	Jul. 07, 2022 USD ($)	Jan. 07, 2022 USD ($)	3 Months Ended Jun. 30, 2022 USD ($)	6 Months Ended Jun. 30, 2022 USD ($)	Jul. 07, 2022 CNY (¥)	Dec. 31, 2021 USD ($)
Dunkirk Facility						
Income Statement, Balance Sheet and Additional Disclosures by Disposal Groups, Including Discontinued Operations [Line Items]						
Property and equipment						$ 26,848
Dunkirk Facility | ImmunityBio, Inc | Discontinued Operations, Disposed of by Sale						
Income Statement, Balance Sheet and Additional Disclosures by Disposal Groups, Including Discontinued Operations [Line Items]						
Exchange for reimbursement of expenditures amount		$ 40,000				
Transaction closed date		Feb. 14, 2022				
Cash proceeds from sale of discontinued operations				$ 40,000		
Property and equipment			$ 27,100	27,100		
Accounts payable and accrued expenses			1,300	1,300		
Current and long-term finance lease obligations			200	200		
China API Operations						
Income Statement, Balance Sheet and Additional Disclosures by Disposal Groups, Including Discontinued Operations [Line Items]						
Property and equipment			21,120	21,120		$ 22,797
China API Operations | Discontinued Operations, Disposed of by Sale						
Income Statement, Balance Sheet and Additional Disclosures by Disposal Groups, Including Discontinued Operations [Line Items]						
Write-off of excess and obsolete inventory			$ 7,100	$ 7,100		
China API Operations | TiHe Capital (Beijing) Co. Ltd. | Discontinued Operations, Disposed of by Sale | Subsequent Event						

Income Statement, Balance Sheet and Additional Disclosures by Disposal Groups, Including Discontinued Operations [Line Items]		
Percentage of equity interests	100.00%	100.00%
Purchase price	$ 19,000	¥ 124.4
Percentage of proceeds to be received in cash at closing date	70.00%	
Percentage of proceeds to be received in cash within three months after closing date	20.00%	

Discontinued Operations - Schedule of Financial Results of Discontinued Operations (Detail) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended		
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021	Dec. 31, 2021
Disposal Group, Including Discontinued Operation, Income Statement Disclosures [Abstract]					
(Loss) gain from discontinued operations	$ (8,341)	$ (3,368)	$ 2,963	$ (7,084)	
Disposal Group, Including Discontinued Operation, Balance Sheet Disclosures [Abstract]					
Total assets attributable to discontinued operations	26,542		26,542		$ 63,210
Total liabilities attributable to discontinued operations	11,164		11,164		17,205
Dunkirk Operations					
Disposal Group, Including Discontinued Operation, Income Statement Disclosures [Abstract]					
Selling, general, and administrative expenses		(2,425)	(1,927)	(3,808)	
Gain on sale of discontinued operations			14,464		
(Loss) gain from discontinued operations		(2,425)	12,537	(3,808)	
Discontinued Operation, Alternative Cash Flow Information [Abstract]					
Depreciation expense			185	29	
Cash paid for capital expenditures			(1,949)	(7,185)	
Repayment of finance lease obligations			(7)	(85)	
Disposal Group, Including Discontinued Operation, Balance Sheet Disclosures [Abstract]					
Prepaid expenses and other current assets					1,280
Property and equipment, net					26,848
Accounts payable					3,763
Accrued expenses					1,198
Current portion of finance lease obligation					101
Long-term finance lease obligations					126
China API Operations					
Disposal Group, Including Discontinued Operation, Income Statement Disclosures [Abstract]					
Revenue	424	1,225	1,007	3,098	
Cost of sales	(7,343)	(546)	(8,118)	(1,910)	
Research and development expenses	(157)	(481)	(613)	(1,807)	
Selling, general, and administrative expenses	(1,540)	(1,165)	(2,669)	(2,703)	
Other income	280	24	832	46	
Interest expense	(5)		(13)		
(Loss) gain from discontinued operations	(8,341)	$ (943)	(9,574)	(3,276)	
Discontinued Operation, Alternative Cash Flow Information [Abstract]					
Depreciation expense			30	348	

Impairment of PPE		230	
Write-off of inventory		7,120	
Cash paid for capital expenditures		(327)	(2,783)
Proceeds from issuance of debt			783
Repayment of long-term debt		(785)	$ (783)
Disposal Group, Including Discontinued Operation, Balance Sheet Disclosures [Abstract]			
Accounts receivable	362	362	351
Inventories	2,204	2,204	7,636
Prepaid expenses and other current assets	2,393	2,393	3,564
Property and equipment, net	21,120	21,120	22,797
Operating lease right-of-use assets, net	463	463	734
Accounts payable	2,725	2,725	2,223
Accrued expenses	716	716	561
Current portion of operating lease liabilities	233	233	516
Current portion of long-term debt			785
Long-term debt and lease obligations	$ 7,490	$ 7,490	$ 7,932

Restricted Cash - Additional Information (Detail) - USD ($)	6 Months Ended	
	Jun. 30, 2022	Dec. 31, 2021
Restricted Cash [Line Items]		
Restricted cash	$ 13,825,000	$ 16,500,000
Senior Credit Agreement and RIPA		
Restricted Cash [Line Items]		
Restricted cash	$ 13,800,000	16,500,000
Senior Credit Agreement		
Restricted Cash [Line Items]		
Period of interest on outstanding loans to be maintained in debt service reserve account	12 months	
Minimum cash balance maintained to equal to twelve months of interest on outstanding loans	$ 6,300,000	$ 16,500,000
RIPA		
Restricted Cash [Line Items]		
Proceeds from purchase agreement	$ 7,500,000	

Inventories - Schedule of Inventories (Detail) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Inventory Disclosure [Abstract]		
Raw materials and purchased parts	$ 8,637	$ 5,490
Work in progress	69	66
Finished goods	29,145	21,493
Total inventories	$ 37,851	$ 27,049

Intangible Assets, Net - Summary of Identifiable Intangible Asset, Net (Details) - USD ($) $ in Thousands	6 Months Ended Jun. 30, 2022	12 Months Ended Dec. 31, 2021
Schedule Of Finite And Indefinite Lived Intangible Assets [Line Items]		
Finite-lived intangible asset, Accumulated Amortization	$ 6,987	$ 6,376
Indefinite-lived intangible asset, Net	72,472	
Intangible asset, Effect of currency translation adjustment	(37)	(10)
Intangible assets Cost/Fair Value	79,537	78,272
Intangible assets Impairments	78	
Intangible assets, net	72,472	71,896
CDE In- Process Research and Development		
Schedule Of Finite And Indefinite Lived Intangible Assets [Line Items]		
Indefinite-lived intangible asset, Cost/Fair Value	728	728
Indefinite-lived intangible asset, Impairments	78	
Indefinite-lived intangible asset, Net	650	728
Kurr In- Process Research and Development		
Schedule Of Finite And Indefinite Lived Intangible Assets [Line Items]		
Indefinite-lived intangible asset, Cost/Fair Value	64,900	64,900
Indefinite-lived intangible asset, Net	64,900	64,900
Licenses		
Schedule Of Finite And Indefinite Lived Intangible Assets [Line Items]		
Finite-lived intangible asset, Cost/Fair Value	13,946	12,654
Finite-lived intangible asset, Accumulated Amortization	6,987	6,376
Finite-lived intangible asset, Net	$ 6,959	$ 6,278

Intangible Assets, Net - Additional Information (Details) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended		
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021	May 04, 2021
Finite Lived Intangible Assets [Line Items]					
Weighted-average useful life of intangible assets			6 years		
Amortization expense of intangible assets	$ 300	$ 500	$ 600	$ 1,100	
Research and development expenses	13,094	$ 20,646	27,179	$ 42,390	
CDE IPR&D					
Finite Lived Intangible Assets [Line Items]					
Research and development expenses			100		
Global Supply Chain Platform					
Finite Lived Intangible Assets [Line Items]					
Goodwill	26,600		26,600		
Oncology Innovation Platform					
Finite Lived Intangible Assets [Line Items]					
Goodwill	$ 41,100		41,100		
Kuur | Merger Agreement					
Finite Lived Intangible Assets [Line Items]					
Goodwill					$ 28,711
Hanmi Pharmaceuticals Co. Ltd. | Licensing Agreements					
Finite Lived Intangible Assets [Line Items]					
Finite-lived intangible assets acquired			$ 400		
Acquired finite-lived intangible assets, amortization period			12 years 9 months		
Gland Pharma Limited | Licensing Agreements					
Finite Lived Intangible Assets [Line Items]					
Finite-lived intangible assets acquired			$ 3,800		
Acquired finite-lived intangible assets, amortization period			5 years		
MAIA Pharmaceuticals, Inc | Licensing Agreements					
Finite Lived Intangible Assets [Line Items]					
Finite-lived intangible assets acquired			$ 4,000		
Acquired finite-lived intangible assets, amortization period			7 years		
Ingenus Pharmaceuticals, LLC | Licensing Agreements					
Finite Lived Intangible Assets [Line Items]					
Finite-lived intangible assets acquired			$ 3,000		
Ingenus Pharmaceuticals, LLC | Licensing Agreements Amortized Over a Period of 5 years					
Finite Lived Intangible Assets [Line Items]					
Finite-lived intangible assets acquired			$ 2,000		
Acquired finite-lived intangible assets, amortization period			5 years		
Ingenus Pharmaceuticals, LLC | Licensing Agreements Amortized Over a Period of 3 years					
Finite Lived Intangible Assets [Line Items]					

Finite-lived intangible assets acquired	$ 1,000
Acquired finite-lived intangible assets, amortization period	3 years
Ingenus Pharmaceuticals, LLC | Licenses of Other Specialty Products	
Finite Lived Intangible Assets [Line Items]	
Finite-lived intangible assets acquired	$ 2,800

Fair Value Measurements - Additional Information (Detail) - USD ($)	May 04, 2021	6 Months Ended Jun. 30, 2022	12 Months Ended Dec. 31, 2021
Fair Value Assets And Liabilities Measured On Recurring And Nonrecurring Basis [Line Items]			
Fair value assets, Level 1 to Level 2 transfers		$ 0	$ 0
Fair value assets, Level 2 to Level 1 transfers		0	0
Fair value liabilities, Level 1 to Level 2 transfers		0	0
Fair value liabilities, Level 2 to Level 1 transfers		0	0
Fair value assets, transfers into Level 3		0	0
Fair value assets, transfers out of Level 3		0	0
Fair value liabilities, transfers into Level 3		0	0
Fair value liabilities, transfers out of Level 3		$ 0	$ 0
Merger Agreement | Kuur Therapeutics, Inc.			
Fair Value Assets And Liabilities Measured On Recurring And Nonrecurring Basis [Line Items]			
Percentage of milestones payment based on probability of occurrence		40.40%	
Merger Agreement | Kuur Therapeutics, Inc. | Maximum			
Fair Value Assets And Liabilities Measured On Recurring And Nonrecurring Basis [Line Items]			
Total undiscounted amount of the milestone payments payable	$ 115,000,000.0		
Contingent consideration regulatory milestones expected to occur	2027		
Percentage of estimated incremental borrowing rate		20.40%	
Merger Agreement | Kuur Therapeutics, Inc. | Minimum			
Fair Value Assets And Liabilities Measured On Recurring And Nonrecurring Basis [Line Items]			
Contingent consideration regulatory milestones expected to occur	2023		
Percentage of estimated incremental borrowing rate		20.10%	
Pharma Essentia | OTC | Taiwan | Quoted Prices in Active Markets for Identical Assets (Level 1)			
Fair Value Assets And Liabilities Measured On Recurring And Nonrecurring Basis [Line Items]			
Number of shares owned by company		68,000	68,000

Fair Value Measurements - Schedule of Assets and Liabilities Measured at Fair Value on a Recurring Basis (Detail) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Assets:		
Total assets	$ 4,151	$ 30,590
Liabilities:		
Total liabilities	24,129	24,076
Kuur		
Liabilities:		
Contingent consideration	24,129	24,076
Quoted Prices in Active Markets for Identical Assets (Level 1)		
Assets:		
Total assets	3,750	8,656
Significant Other Observable Inputs (Level 2)		
Assets:		
Total assets	401	21,934
Significant Unobservable Inputs (Level 3)		
Liabilities:		
Total liabilities	24,129	24,076
Significant Unobservable Inputs (Level 3) | Kuur		
Liabilities:		
Contingent consideration	24,129	24,076
Money Market Funds | Cash and Cash Equivalents		
Assets:		
Total assets	2,561	7,937
Money Market Funds | Quoted Prices in Active Markets for Identical Assets (Level 1) | Cash and Cash Equivalents		
Assets:		
Total assets	2,561	7,937
Short-term Investments - Commercial Paper | Cash and Cash Equivalents		
Assets:		
Total assets		10,446
Short-term Investments - Commercial Paper | Significant Other Observable Inputs (Level 2) | Cash and Cash Equivalents		
Assets:		
Total assets		10,446
Short-term Investments - Certificates of Deposits | Short-term Investments		
Assets:		
Total assets		9,488
Short-term Investments - Certificates of Deposits | Cash and Cash Equivalents		
Assets:		

Total assets	401	2,000
Short-term Investments - Certificates of Deposits | Significant Other Observable Inputs (Level 2) | Short-term Investments		
Assets:		
Total assets		9,488
Short-term Investments - Certificates of Deposits | Significant Other Observable Inputs (Level 2) | Cash and Cash Equivalents		
Assets:		
Total assets	401	2,000
Available-for-Sale Investment | Short-term Investments		
Assets:		
Total assets	1,189	719
Available-for-Sale Investment | Quoted Prices in Active Markets for Identical Assets (Level 1) | Short-term Investments		
Assets:		
Total assets	$ 1,189	$ 719

Accrued Expenses - Schedule of Accrued Expenses (Detail) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Accrued Liabilities, Current [Abstract]		
Accrued selling fees, rebates, and royalties	$ 13,035	$ 6,890
Accrued inventory purchases	7,632	4,217
Accrued clinical expenses	6,140	3,116
Accrued wages and benefits	4,796	2,034
Deferred revenue	2,781	2,799
Accrued operating expenses	3,117	2,654
Accrued tax withholdings	1,668	1,800
Accrued interest		266
Accrued R&D licensing fees	116	116
Total accrued expenses	$ 39,285	$ 23,892

Income Taxes - Additional Information (Detail) - USD ($)	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Income Tax [Line Items]				
Income tax expense (benefit)	$ (19,000)	$ (11,035,000)	$ 8,000	$ (10,881,000)
Federal				
Income Tax [Line Items]				
Income tax expense (benefit)			$ 0	

Debt and Lease Obligations - Additional Information (Detail) ¥ in Millions	Jun. 21, 2022 USD ($)	Jan. 19, 2022 USD ($) Tranche	Jan. 04, 2022 USD ($)	May 28, 2021 CNY (¥)	Jan. 05, 2021 m² ¥ / m²	Sep. 17, 2020	Jun. 19, 2020 USD ($) Tranche	May 15, 2020 CNY (¥)	1 Months Ended Jun. 30, 2022 USD ($)	3 Months Ended Jun. 30, 2022 USD ($)	Jun. 30, 2019 CNY (¥)	6 Months Ended Jun. 30, 2022 USD ($) Qtr	Jun. 30, 2021 USD ($)	Jun. 14, 2022 USD ($)	Dec. 31, 2021 USD ($)
Debt Instrument [Line Items]															
Current portion of senior secured loan									$ 23,600,000	$ 23,600,000		$ 23,600,000			$ 45,938,000
Royalty financing liability									75,006,000	75,006,000		75,006,000			
Gain on extinguishment of debt										2,051,000		(1,450,000)	$ (648,000)		
Third Amendment to Credit Agreement															
Debt Instrument [Line Items]															
Mandatory prepayment of principal percentage		62.50%													
Fee percentage		7.00%													
Exit fee percentage		2.00%													
Prepayment fee percentage		5.00%													
Amendment fee		$ 300,000													
Additional mandatory prepayment in principal			$ 12,500,000												
Debt instrument payments														$ 5,000,000.0	
Fourth Amendment To Credit Agreement															
Debt Instrument [Line Items]															
Additional prepayment in principal		$ 42,500,000													
Debt instrument payments									7,500,000	7,500,000		$ 7,500,000			
Fourth and Fifth Amendment to Credit Agreement															
Debt Instrument [Line Items]															
Fee percentage		5.00%													
Exit fee percentage		2.00%													
Prepayment fee percentage		3.00%													
Debt incremental borrowing rate												20.57%			
Discount on extinguishment of debt									11,800,000	11,800,000		$ 11,800,000			
Liability recorded									45,700,000	45,700,000		45,700,000			
Gain on extinguishment of debt												2,100,000			
Third, Fourth and Fifth Amendment to Credit Agreement															
Debt Instrument [Line Items]															
Debt instrument periodic payment												97,600,000			
Chinese Subsidiaries | API Facility or Sintaho API Facility | Chongqing International Biological City Development & Investment Co., Ltd															
Debt Instrument [Line Items]															
Area of rent free lease | m²					34,517										
Lease term					10 years										
Renewal lease term					10 years										
Payment of monthly rent per square meter | ¥ / m²					5										
Revenue Interest Purchase Agreement															
Debt Instrument [Line Items]															
Royalty financing liability	$ 85,000,000.0														
Escrow deposit	5,000,000.0								5,000,000.0	5,000,000.0		5,000,000.0			
Royalty financing liability transaction cost	5,000,000.0											5,000,000.0			

Senior credit agreement payment	52,500,000						
Deposit and held in segregated account	7,500,000						
Royalty financing fund received						$ 75,000,000.0	
Royalty financing annual interest rate						28.60%	
Estimated cash flows year						2035	
License And Development Agreement With Almairall S.A.							
Debt Instrument [Line Items]							
Royalty financing fund received						$ 500,000	
License Agreement With Almairall S.A. | ATNX SPV, LLC							
Debt Instrument [Line Items]							
Milestone payments payable	$ 155,000,000.0						
Milestone interests percentage	50.00%						
Royalties payment percentage	50.00%						
Oaktree | License Agreement With Almairall S.A. | ATNX SPV, LLC							
Debt Instrument [Line Items]							
Percentage of equity interests	10.00%						
Sagard | License Agreement With Almairall S.A. | ATNX SPV, LLC							
Debt Instrument [Line Items]							
Percentage of equity interests	10.00%						
Senior Credit Agreement							
Debt Instrument [Line Items]							
Debt instrument, maximum borrowing capacity			$ 225,000,000.0				
Line of credit due				57,500,000	57,500,000	$ 57,500,000	$ 150,000,000.0
Number of tranches | Tranche		2	5				
Debt maturity date						Jun. 19, 2026	
Available borrowing capacity upon approval of oral paclitaxel			$ 75,000,000.0				
Interest rate terms						The loan bears interest at a fixed annual rate of 11.0%. The Company allocated the proceeds of the drawn tranches between liability and equity components and the fair value of such equity components, along with the direct costs related to the issuance of the debt were recorded as an offset to long-term debt on the consolidated balance sheets. The debt discount and financing fees are amortized on	

					a straight-line basis, which approximates the effective interest method, over the remaining maturity of the Senior Credit Agreement. The effective interest rate of Tranches A, B and D, including the amortization of debt discount and financing fees amounts to 13.3% annually. The Company is required to make quarterly interest-only payments until June 19, 2022, after which the Company is required to make quarterly amortizing payments, with the remaining balance of the principal plus accrued and unpaid interest due at maturity.
Bearing interest at a fixed annual rate		11.00%			
Commitment fee percentage will be paid		0.60%			
Exit fee liability			$ 1,200,000	1,200,000	$ 1,200,000
Mandatory prepayment of principal percentage	62.50%				
Fee percentage	7.00%		5.00%		
Exit fee percentage	2.00%		2.00%		
Prepayment fee percentage	5.00%		3.00%		
Amendment fee	$ 300,000				
Additional mandatory prepayment in principal	12,500,000				
Minimum liquidity amount in cash or permitted cash equivalent investments amount		$ 20,000,000.0			
Line of credit from first step up date until maturity		25,000,000.0			
Line of credit facility second step up date outstanding amount		225,000,000.0			
Line of credit from second step up date until maturity		$ 30,000,000.0			
Minimum revenue percentage		50			
Gain on extinguishment of debt					(3,500,000)
Senior Credit Agreement | Third Amendment on January 2022					
Debt Instrument [Line Items]					
Available borrowing capacity upon approval of oral paclitaxel	$ 0				
Senior Credit Agreement | Fourth Amendment To Credit Agreement					

Debt Instrument [Line Items]					
Minimum revenue percentage		70			
Senior Credit Agreement | Fifth Amendment To Credit Agreement					
Debt Instrument [Line Items]					
Revenue targets minimum liquidity amount decreased					10,000,000.0
Senior Credit Agreement | Minimum					
Debt Instrument [Line Items]					
Line of credit facility first step up date outstanding amount		$ 150,000,000.0			
Senior Credit Agreement | Minimum | Fourth Amendment To Credit Agreement					
Debt Instrument [Line Items]					
Covenant leverage ratio		4.50			
Senior Credit Agreement | Maximum					
Debt Instrument [Line Items]					
Covenant leverage ratio		4.50			
Senior Credit Agreement | Tranche A,B and D					
Debt Instrument [Line Items]					
Debt instrument, amount drawn			$ 150,000,000.0	150,000,000.0	150,000,000.0
Amortization of debt discount financing fees percentage		13.30%			
Senior Credit Agreement | Tranche C and E					
Debt Instrument [Line Items]					
Debt instrument, amount drawn			75,000,000.0	75,000,000.0	75,000,000.0
Senior Credit Agreement | Tranche C 90 Days After Closing Date Through June 20, 2022					
Debt Instrument [Line Items]					
Debt instrument, amount drawn		$ 25,000,000.0			
Credit Agreement					
Debt Instrument [Line Items]					
Debt instrument, maximum borrowing capacity			800,000	800,000	800,000
Debt maturity date	May 28, 2022				
Credit agreement repaid date		May 14, 2021			
Dunkirk Transaction					
Debt Instrument [Line Items]					
Current portion of senior secured loan			23,600,000	23,600,000	$ 23,600,000
Number Of quarterly payments | Qtr					1
Senior secured loan as long-term debt			22,100,000	22,100,000	$ 22,100,000
Debt discount and financing fees			11,800,000	11,800,000	11,800,000
Dunkirk Transaction | Quarterly Payment One					
Debt Instrument [Line Items]					
Current portion of senior secured loan			3,100,000	3,100,000	3,100,000
Dunkirk Transaction | Quarterly Payment Two					
Debt Instrument [Line Items]					

Current portion of senior secured loan			2,800,000	2,800,000		2,800,000
Dunkirk Transaction | Quarterly Payment Three						
Debt Instrument [Line Items]						
Current portion of senior secured loan			2,800,000	2,800,000		2,800,000
Dunkirk Transaction | Quarterly Payment Four						
Debt Instrument [Line Items]						
Current portion of senior secured loan			2,800,000	2,800,000		2,800,000
Dunkirk Transaction | Expected To Be Due From Sale of Operations						
Debt Instrument [Line Items]						
Current portion of senior secured loan			12,000,000.0	12,000,000.0		$ 12,000,000.0
Chongqing Maliu Riverside Development and Investment Co., LTD ("CQ")						
Debt Instrument [Line Items]						
Line of credit facility percentage of periodic payment year one					20.00%	
Line of credit facility percentage of periodic payment year two					30.00%	
Line of credit frequency of payments						The Company is required to repay the principal amount with accrued interest within three years after the plant receives the cGMP certification, with 20% of the total loan with accrued interest due within the first twelve months following receiving the certification, 30% of the total loan with accrued interest due within twenty-four months, and the remaining balance with accrued interest due within thirty-six months.
Line of credit due			7,500,000	7,500,000		$ 7,500,000
China | Credit Agreement						
Debt Instrument [Line Items]						
Debt instrument, maximum borrowing capacity | ¥	¥ 5.0	¥ 5.0				
China | Chongqing Maliu Riverside Development and Investment Co., LTD ("CQ")						
Debt Instrument [Line Items]						
Debt instrument, maximum borrowing capacity			$ 7,500,000	$ 7,500,000	¥ 50.0	$ 7,500,000
Long-term line of credit, interest rate					4.75%	

Debt and Lease Obligations - Summary of Balances of Debt (Detail) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Debt Instrument [Line Items]		
Current portion of senior secured loan	$ 23,600	$ 45,938
Current portion of finance lease obligations	138	158
Current portion of operating lease obligations	2,077	2,393
Long-term portion of finance lease obligations	152	207
Long-term portion of operating lease obligations	3,898	4,411
Royalty financing liability, long-term	75,006	
Total	126,945	148,507
Senior Secured Loan		
Debt Instrument [Line Items]		
Senior secured loan, net of debt discount and financing fees of $11,825 and $8,663 respectively	22,074	$ 95,400
Royalty Financing Liability		
Debt Instrument [Line Items]		
Royalty financing liability, long-term	$ 75,006	

Debt and Lease Obligations - Summary of Balances of Debt (Parenthetical) (Detail) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Senior Secured Loan		
Debt Instrument [Line Items]		
Debt discount and financing fees	$ 11,825	$ 8,663
Royalty Financing Liability		
Debt Instrument [Line Items]		
Debt discount and financing fees	$ 4,982	

Debt and Lease Obligations - Summary of Components of Lease Expense (Detail) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Debt And Lease Obligations [Abstract]				
Operating lease cost	$ 538	$ 607	$ 1,099	$ 1,213
Finance lease cost:				
Amortization of assets	42	32	85	64
Interest on lease liabilities	9	2	19	6
Total net lease cost	$ 589	$ 641	$ 1,203	$ 1,283

Debt and Lease Obligations - Schedule of Supplemental Balance Sheet Information Related to Leases of Debt (Detail) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Finance leases:		
Property and equipment, at cost	$ 1,203	$ 1,203
Accumulated amortization, net	(901)	(585)
Property and equipment, net	$ 302	$ 618
Finance Lease, Right-of-Use Asset, Statement of Financial Position [Extensible Enumeration]	Property and equipment, net	Property and equipment, net
Current obligations of finance leases	$ 138	$ 158
Finance Lease, Liability, Current, Statement of Financial Position [Extensible Enumeration]	Long-Term Debt and Lease Obligation, Current	Long-Term Debt and Lease Obligation, Current
Long-term portion of finance leases	$ 152	$ 207
Finance Lease, Liability, Noncurrent, Statement of Financial Position [Extensible Enumeration]	Long Term Debt And Finance Lease Obligations Non Current	Long Term Debt And Finance Lease Obligations Non Current
Total finance lease obligations	$ 290	$ 365
Weighted average remaining lease term (in years):		
Operating leases	3 years 4 months 13 days	3 years 6 months 10 days
Finance leases	2 years	2 years 3 months
Weighted average discount rate:		
Operating leases	13.00%	12.90%
Finance leases	10.10%	9.80%

Debt and Lease Obligations - Schedule of Supplemental Cash Flow Information Related to Leases (Detail) - USD ($) $ in Thousands	6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021
Cash paid for amount included in the measurements of lease liabilities:		
Operating cash flows from operating leases	$ (1,309)	$ (1,360)
Operating cash flows from finance leases	(9)	(10)
Financing cash flows from finance leases	(79)	$ (67)
ROU assets derecognized from modification of operating lease obligations	(128)	
ROU assets recognized in exchange for operating lease obligations	$ 78	

Debt and Lease Obligations - Schedule of Future Minimum Payments and Maturities of Leases (Detail) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Operating Leases		
2022 (remaining six months)	$ 1,117	
2023	2,090	
2024	2,034	
2025	1,472	
2026	347	
Thereafter	132	
Total lease payments	7,192	
Less: Imputed interest	(1,217)	
Total lease obligations	5,975	
Less: Current obligations	(2,077)	$ (2,393)
Long-term lease obligations	3,898	4,411
Finance Leases		
2022 (remaining six months)	73	
2023	147	
2024	109	
Total lease payments	329	
Less: Imputed interest	(39)	
Total finance lease obligations	290	
Less: Current obligations	(138)	(158)
Long-term portion of finance lease obligations	$ 152	$ 207

Contingent Consideration - Additional Information (Details)	6 Months Ended
	Jun. 30, 2022
Contingent Consideration Disclosure [Abstract]	
Contingent consideration milestone term	The Company expects that these milestones will be achieved at varying times between 2023 and 2027.

Contingent Consideration - Schedule of Reconciliation of Contingent Consideration Liability Related to Acquisition (Details) - USD ($) $ in Thousands	6 Months Ended		8 Months Ended
	Jun. 30, 2022	Jun. 30, 2021	Dec. 31, 2021
Business Acquisition Contingent Consideration [Line Items]			
Change in fair value of contingent consideration	$ 53	$ 398	
Kuur Therapeutics, Inc.			
Business Acquisition Contingent Consideration [Line Items]			
Beginning balance	24,076		
Ending balance	24,129		$ 24,076
Kuur Therapeutics, Inc. | Level 3 Inputs			
Business Acquisition Contingent Consideration [Line Items]			
Beginning balance	24,076		
Ending balance	24,129		24,076
Kuur Therapeutics, Inc. | Level 3 Inputs | Fair Value, Recurring			
Business Acquisition Contingent Consideration [Line Items]			
Beginning balance	24,076		19,839
Change in fair value of contingent consideration	53		4,237
Ending balance	$ 24,129		$ 24,076

Related Party Transactions - Additional Information (Detail)	1 Months Ended			3 Months Ended	6 Months Ended		12 Months Ended
	Jul. 31, 2021 USD ($)	Jun. 30, 2019	Jun. 30, 2018 Agreement	Dec. 31, 2020 USD ($)	Jun. 30, 2022 USD ($) shares	Jun. 30, 2021 USD ($)	Dec. 31, 2021 USD ($) shares
Related Party Transaction [Line Items]							
Deferred revenue					$ 2,781,000		$ 2,799,000
Pharma Essentia							
Related Party Transaction [Line Items]							
Milestone fee earned					0	$ 500,000	
Funds paid to related party					0	0	
Pharma Essentia | Maximum							
Related Party Transaction [Line Items]							
Licenses revenue					100,000		
Licenses revenue					$ 100,000		
Nuwagen Limited							
Related Party Transaction [Line Items]							
Percentage of ownership interest of newly formed entity		10.00%					
Avalon BioMedical							
Related Party Transaction [Line Items]							
Common stock shares held by related parties | shares					786,061		786,061
Avalon BioMedical | Maximum							
Related Party Transaction [Line Items]							
Percentage of common stock issued shares					1.00%		1.00%
Avalon BioMedical | Nuwagen Limited							
Related Party Transaction [Line Items]							
Percentage of ownership interest		90.00%					
Avalon BioMedical | In-licensing Agreement							
Related Party Transaction [Line Items]							

Number of in-licensing agreements | Agreement		2		
Milestone fee paid			$ 0	$ 0
Milestone payment	$ 2,000,000.0			
Axis Therapeutics Limited				
Related Party Transaction [Line Items]				
Licenses revenue		$ 1,000,000.0	1,000,000.0	
Licenses revenue		1,000,000.0	1,000,000.0	
License fee received withholding tax		$ 300,000	300,000	
Deferred revenue			$ 2,000,000.0	

Stock-Based Compensation - Additional Information (Detail) - USD ($)	Apr. 26, 2021	May 23, 2019	3 Months Ended		6 Months Ended		
			Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021	Jun. 14, 2017
Share-based Compensation Arrangement by Share-based Payment Award [Line Items]							
Stock-based compensation expense			$ 1,603,000	$ 2,444,000	$ 3,477,000	$ 4,678,000	
Stock Options							
Share-based Compensation Arrangement by Share-based Payment Award [Line Items]							
Stock-based compensation expense			1,321,000	2,341,000	2,924,000	4,500,000	
Unrecognized compensation cost related to non-vested stock options expected to be recognized			10,200,000		$ 10,200,000		
Unrecognized compensation expense related to non-vested stock options, weighted-average period of recognition					1 year 2 months 12 days		
Total intrinsic value of stock options exercised					$ 0	200,000	
Restricted Stock Awards							
Share-based Compensation Arrangement by Share-based Payment Award [Line Items]							
Stock-based compensation expense			245,000	57,000	$ 496,000	86,000	
Unrecognized compensation expense related to non-vested stock options, weighted-average period of recognition					2 years 10 months 24 days		
Total fair value of stock awards vested			200,000	100,000	$ 500,000	100,000	
Unrecognized cost related to non-vested restricted stock awards			$ 2,400,000		$ 2,400,000		
Maximum | Employee Stock Purchase Plan							
Share-based Compensation Arrangement by Share-							

based Payment Award [Line Items]					
Common stock reserved for future issuance					1,000,000
2017, 2013, 2007 and 2004 Plans | Maximum					
Share-based Compensation Arrangement by Share-based Payment Award [Line Items]					
Common stock options authorized grant		16,000,000	16,000,000		
2017 Omnibus Incentive Plan | Maximum					
Share-based Compensation Arrangement by Share-based Payment Award [Line Items]					
Increase in stock available for issuance under plan	5,000,000	3,500,000			
2017 Plans | Employee Stock Purchase Plan					
Share-based Compensation Arrangement by Share-based Payment Award [Line Items]					
Common stock reserved for future issuance		1,000,000	1,000,000		
Stock-based compensation expense			$ 100,000	$ 100,000	
Percentage of discount on purchase price of common stock			15.00%		
Employee stock purchase plan, description			Under the ESPP, shares of the Company's common stock may be purchased at a discount (15%) of the lesser of the closing price of the Company's common stock on the first trading or the last trading day of the offering		

			period. The current offering period extends from June 1, 2022 to November 30, 2022. The Company expects to offer six-month offering periods after the current period.
2017 Plans | Maximum | Employee Stock Purchase Plan			
Share-based Compensation Arrangement by Share-based Payment Award [Line Items]			
Stock-based compensation expense	$ 100,000	$ 100,000	

Stock-Based Compensation - Schedule of Stock Option Activity (Detail) - $ / shares	6 Months Ended Jun. 30, 2022	12 Months Ended Dec. 31, 2021
Stock Options		
Stock Options, Outstanding Beginning Balance	12,662,070	
Stock Options, Granted	171,500	
Stock Options, Forfeited and expired	(647,365)	
Stock Options, Outstanding Ending Balance	12,186,205	12,662,070
Stock Options, Vested and exercisable	10,029,540	
Weighted Average Exercise Price		
Weighted Average Exercise Price, Outstanding Beginning Balance	$ 8.96	
Weighted Average Exercise Price, Granted	0.60	
Weighted Average Exercise Price, Forfeited and expired	7.84	
Weighted Average Exercise Price, Outstanding Ending Balance	8.90	$ 8.96
Weighted Average Exercise Price, Vested and exercisable	$ 9.08	
Weighted Average Remaining Contractual Term		
Weighted Average Remaining Contractual Term, Outstanding	4 years 5 months 12 days	4 years 10 months 17 days
Weighted Average Remaining Contractual Term, Vested and exercisable	3 years 7 months 20 days	

Stock-Based Compensation - Schedule of Weighted-Average Assumptions Used as Inputs to Black-Scholes Option Pricing Model (Detail) - $ / shares	6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021
Share-Based Payment Arrangement [Abstract]		
Weighted average grant date fair value	$ 0.60	$ 6.18
Expected dividend yield	0.00%	0.00%
Expected stock price volatility	66.00%	68.00%
Risk-free interest rate	2.72%	1.45%
Expected life of options (in years)	5 years 3 months 18 days	6 years 3 months 18 days

Stock-Based Compensation - Schedule of Status of Restricted Stock Awards (Detail) - Restricted Stock Awards	6 Months Ended Jun. 30, 2022 $ / shares shares
Share-based Compensation Arrangement by Share-based Payment Award [Line Items]	
Shares of Restricted Stock, Nonvested Beginning Balance | shares	924,595
Shares of Restricted Stock, Granted | shares	50,000
Shares of Restricted Stock, Forfeited | shares	(151,540)
Shares of Restricted Stock, Nonvested Ending Balance | shares	823,055
Weighted Average Fair Value, Nonvested Beginning Balance | $ / shares	$ 3.86
Weighted Average Fair Value, Granted | $ / shares	0.83
Weighted Average Fair Value, Forfeited | $ / shares	3.64
Weighted Average Fair Value, Nonvested Ending Balance | $ / shares	$ 3.52

Stock-Based Compensation - Schedule of Stock-Based Compensation Cost (Detail) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Share Based Compensation Arrangement By Share Based Payment Award [Line Items]				
Stock-based compensation expense recognized	$ 1,603	$ 2,444	$ 3,477	$ 4,678
Stock Options				
Share Based Compensation Arrangement By Share Based Payment Award [Line Items]				
Stock-based compensation expense recognized	1,321	2,341	2,924	4,500
Restricted Stock Expense				
Share Based Compensation Arrangement By Share Based Payment Award [Line Items]				
Stock-based compensation expense recognized	245	57	496	86
Employee Stock Purchase Plan				
Share Based Compensation Arrangement By Share Based Payment Award [Line Items]				
Stock-based compensation expense recognized	37	46	57	92
Cost of Sales				
Share Based Compensation Arrangement By Share Based Payment Award [Line Items]				
Stock-based compensation expense recognized	52	59	78	115
Research and Development Expenses				
Share Based Compensation Arrangement By Share Based Payment Award [Line Items]				
Stock-based compensation expense recognized	395	671	964	1,272
Selling, General, and Administrative Expenses				
Share Based Compensation Arrangement By Share Based Payment Award [Line Items]				
Stock-based compensation expense recognized	$ 1,156	$ 1,714	$ 2,435	$ 3,291

Net Loss per Share Attributable to Athenex, Inc. Common Stockholders - Schedule Outstanding Shares of Common Stock Equivalents Excluded from the Calculation of Diluted Net Loss Per Share (Detail) - shares	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Antidilutive Securities Excluded From Computation Of Earnings Per Share [Line Items]				
Total potential dilutive shares	14,476,838	13,621,238	14,445,741	13,598,324
Stock Options and Other Common Stock Equivalents				
Antidilutive Securities Excluded From Computation Of Earnings Per Share [Line Items]				
Total potential dilutive shares	13,629,787	13,568,672	13,601,134	13,560,708
Unvested Restricted Common Shares				
Antidilutive Securities Excluded From Computation Of Earnings Per Share [Line Items]				
Total potential dilutive shares	847,051	52,566	844,607	37,616

Business Segment, Geographic, and Concentration Risk Information - Additional Information (Detail) $ in Thousands	3 Months Ended		6 Months Ended	
	Jun. 30, 2022 USD ($)	Jun. 30, 2021 USD ($)	Jun. 30, 2022 USD ($) Segment	Jun. 30, 2021 USD ($)
Segment Reporting Information [Line Items]				
Number of operating segments | Segment			3	
Total revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850
Intersegment Eliminations				
Segment Reporting Information [Line Items]				
Total revenue	(420)	$ (287)	$ (1,555)	$ (1,391)
Segments Deriving Revenue				
Segment Reporting Information [Line Items]				
Number of reportable segments | Segment			2	
Oncology Innovation Platform | Intersegment Eliminations				
Segment Reporting Information [Line Items]				
Total revenue	$ 400		$ 1,600	

Business Segment, Geographic, and Concentration Risk Information - Summary of Revenue by Segments (Detail) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Total revenue:				
Total consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850
Operating Segments				
Total revenue:				
Total consolidated revenue	31,936	20,985	62,213	61,241
Operating Segments | Oncology Innovation Platform				
Total revenue:				
Total consolidated revenue	5,730	307	6,504	20,970
Operating Segments | Global Supply Chain Platform				
Total revenue:				
Total consolidated revenue	6,263	4,887	13,056	11,221
Operating Segments | Commercial Platform				
Total revenue:				
Total consolidated revenue	19,943	15,791	42,653	29,050
Intersegment Eliminations				
Total revenue:				
Total consolidated revenue	(420)	$ (287)	(1,555)	$ (1,391)
Intersegment Eliminations | Oncology Innovation Platform				
Total revenue:				
Total consolidated revenue	$ 400		$ 1,600	

Business Segment, Geographic, and Concentration Risk Information - Summary of Revenue by Product Group (Detail) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Total revenue by product group:				
Total consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850
License Fees				
Total revenue by product group:				
Total consolidated revenue	5,723	296	6,490	20,953
Commercial Product Sales				
Total revenue by product group:				
Total consolidated revenue	25,347	19,970	53,271	38,033
Contract Manufacturing Revenue				
Total revenue by product group:				
Total consolidated revenue	439	427	883	857
Other Revenue				
Total revenue by product group:				
Total consolidated revenue	$ 7	$ 5	$ 14	$ 7

Business Segment, Geographic, and Concentration Risk Information - Summary of Segment Information (Detail) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Net loss attributable to Athenex, Inc.:				
Total consolidated net loss attributable to Athenex, Inc.	$ (32,157)	$ (34,274)	$ (49,577)	$ (59,324)
Operating Segments				
Net loss attributable to Athenex, Inc.:				
Total consolidated net loss attributable to Athenex, Inc.	(23,816)	(30,906)	(52,540)	(52,240)
Discontinued operations				
Net loss attributable to Athenex, Inc.:				
Total consolidated net loss attributable to Athenex, Inc.	(8,341)	(3,368)	2,963	(7,084)
Oncology Innovation Platform | Operating Segments				
Net loss attributable to Athenex, Inc.:				
Total consolidated net loss attributable to Athenex, Inc.	(18,062)	(20,122)	(47,947)	(25,563)
Global Supply Chain Platform | Operating Segments				
Net loss attributable to Athenex, Inc.:				
Total consolidated net loss attributable to Athenex, Inc.	(3,324)	(576)	(4,096)	(542)
Commercial Platform | Operating Segments				
Net loss attributable to Athenex, Inc.:				
Total consolidated net loss attributable to Athenex, Inc.	$ (2,430)	$ (10,208)	$ (497)	$ (26,135)

Business Segment, Geographic, and Concentration Risk Information - Summary of Depreciation, Amortization and Assets by Segment (Detail) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended		
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021	Dec. 31, 2021
Total depreciation and amortization:					
Total consolidated depreciation and amortization	$ 711	$ 1,193	$ 1,685	$ 2,467	
Total assets:					
Total consolidated assets	221,887		221,887		$ 267,448
Operating Segments					
Total depreciation and amortization:					
Total consolidated depreciation and amortization	669	951	1,470	1,986	
Total assets:					
Total consolidated assets	195,345		195,345		204,238
Discontinued operations					
Total depreciation and amortization:					
Total consolidated depreciation and amortization	42	242	215	481	
Total assets:					
Total consolidated assets	26,542		26,542		63,210
Oncology Innovation Platform | Operating Segments					
Total depreciation and amortization:					
Total consolidated depreciation and amortization	125	224	337	438	
Total assets:					
Total consolidated assets	112,759		112,759		131,432
Global Supply Chain Platform | Operating Segments					
Total depreciation and amortization:					
Total consolidated depreciation and amortization	243	266	499	542	
Total assets:					
Total consolidated assets	19,143		19,143		19,693
Commercial Platform | Operating Segments					
Total depreciation and amortization:					
Total consolidated depreciation and amortization	301	$ 461	634	$ 1,006	
Total assets:					
Total consolidated assets	$ 63,443		$ 63,443		$ 53,113

Business Segment, Geographic, and Concentration Risk Information - Summary of Revenue by Geographical Segment (Detail) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Total revenue:				
Total consolidated revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850
United States				
Total revenue:				
Total consolidated revenue	31,509	20,679	60,644	59,323
Other Foreign Countries				
Total revenue:				
Total consolidated revenue	$ 7	$ 19	$ 14	$ 527

Business Segment, Geographic, and Concentration Risk Information - Summary of Property and Equipment by Geographical Segment (Detail) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Total property and equipment, net:		
Total consolidated property and equipment, net	$ 4,194	$ 5,181
United States		
Total property and equipment, net:		
Total consolidated property and equipment, net	3,757	4,196
China		
Total property and equipment, net:		
Total consolidated property and equipment, net	$ 437	$ 985

Business Segment, Geographic, and Concentration Risk Information - Summary of Customer Revenue and Accounts Receivable Concentration (Detail) - Customer Concentration Risk	3 Months Ended		6 Months Ended		12 Months Ended
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021	Dec. 31, 2021
Customer Revenue | Customer A					
Concentration Risk [Line Items]					
Concentration risk, percentage	18.00%	0.00%	10.00%	33.00%	
Customer Revenue | Customer B					
Concentration Risk [Line Items]					
Concentration risk, percentage	16.00%	15.00%	14.00%	14.00%	
Customer Revenue | Customer C					
Concentration Risk [Line Items]					
Concentration risk, percentage	15.00%	16.00%	15.00%	16.00%	
Customer Revenue | Customer D					
Concentration Risk [Line Items]					
Concentration risk, percentage	13.00%	13.00%	13.00%	13.00%	
Accounts Receivable | Customer A					
Concentration Risk [Line Items]					
Concentration risk, percentage			27.00%		35.00%
Accounts Receivable | Customer B					
Concentration Risk [Line Items]					
Concentration risk, percentage			23.00%		29.00%
Accounts Receivable | Customer C					
Concentration Risk [Line Items]					
Concentration risk, percentage			17.00%		2.00%
Accounts Receivable | Customer D					
Concentration Risk [Line Items]					
Concentration risk, percentage			12.00%		15.00%

Revenue Recognition - Additional Information (Detail) - USD ($)	3 Months Ended		6 Months Ended		
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021	Dec. 31, 2021
Revenue Recognition Milestone Method [Line Items]					
Revenue recognition cash discount percentage	2.30%		2.30%		
Provision for chargebacks and other deductions included as reduction of accounts receivable total	$ 26,662,000		$ 26,662,000		$ 22,868,000
Upfront fees			2,000,000.0		
Commercial Platform					
Revenue Recognition Milestone Method [Line Items]					
Provision for chargebacks and other deductions included as reduction of accounts receivable total	26,662,000		26,662,000		$ 22,868,000
Chargebacks and other revenue deductions expense	43,200,000	$ 26,900,000	80,900,000	$ 52,500,000	
Licensed IP					
Revenue Recognition Milestone Method [Line Items]					
Revenue recognized		0		0	
Licensed IP | 2017 Almirall Out-License Arrangement in U.S.					
Revenue Recognition Milestone Method [Line Items]					
Revenue recognized	5,000,000.0		5,000,000.0		
Royalty revenue					
Revenue Recognition Milestone Method [Line Items]					
Royalty revenue related to sales	$ 600,000	$ 200,000	1,200,000	200,000	
Transferred at a Point in Time | Licensed IP					
Revenue Recognition Milestone Method [Line Items]					
Revenue recognized			$ 0	21,000,000.0	
Revenue recognized upon achievement of first commercial milestone				500,000	
Transferred at a Point in Time | Licensed IP | 2017 Almirall Out-License Arrangement in U.S.					
Revenue Recognition Milestone Method [Line Items]					
Revenue recognized upon achievement of first commercial milestone				$ 20,000,000.0	

Revenue Recognition - Schedule of Company's Revenue for Reportable Segment by Country Based on Locations of Customer (Detail) - USD ($) $ in Thousands	3 Months Ended		6 Months Ended	
	Jun. 30, 2022	Jun. 30, 2021	Jun. 30, 2022	Jun. 30, 2021
Disaggregation Of Revenue [Line Items]				
Total revenue	$ 31,516	$ 20,698	$ 60,658	$ 59,850
Oncology Innovation Platform | Transferred at a Point in Time				
Disaggregation Of Revenue [Line Items]				
Total revenue	5,730	307		
Global Supply Chain Platform | Transferred at a Point in Time				
Disaggregation Of Revenue [Line Items]				
Total revenue	5,843	4,600		
Commercial Platform | Transferred at a Point in Time				
Disaggregation Of Revenue [Line Items]				
Total revenue	19,943	15,791		
United States				
Disaggregation Of Revenue [Line Items]				
Total revenue	31,509	20,679	$ 60,644	$ 59,323
United States | Oncology Innovation Platform | Transferred at a Point in Time				
Disaggregation Of Revenue [Line Items]				
Total revenue	5,723	288		
United States | Global Supply Chain Platform | Transferred at a Point in Time				
Disaggregation Of Revenue [Line Items]				
Total revenue	5,843	4,600		
United States | Commercial Platform | Transferred at a Point in Time				
Disaggregation Of Revenue [Line Items]				
Total revenue	19,943	15,791		
China				
Disaggregation Of Revenue [Line Items]				
Total revenue		9		
China | Oncology Innovation Platform | Transferred at a Point in Time				
Disaggregation Of Revenue [Line Items]				
Total revenue		9		
Other Foreign Countries Including Austria				
Disaggregation Of Revenue [Line Items]				
Total revenue	7	10		
Other Foreign Countries Including Austria | Oncology Innovation Platform | Transferred at a Point in Time				
Disaggregation Of Revenue [Line Items]				

Total revenue	$ 7	$ 10

Revenue Recognition - Summary of Accounts Receivable and Contract Assets Balances by Reportable Segments (Detail) - USD ($) $ in Thousands	Jun. 30, 2022	Dec. 31, 2021
Accounts Receivable By Reportable Segments [Line Items]		
Accounts receivable, gross	$ 70,281	$ 58,350
Chargebacks and other deductions	(26,662)	(22,868)
Provision for credit losses	(9,795)	(9,196)
Accounts receivable, net	33,824	26,286
Deferred revenue	2,781	2,799
Total contract liabilities	2,781	2,799
Oncology Innovation Platform		
Accounts Receivable By Reportable Segments [Line Items]		
Accounts receivable, gross	14,971	10,069
Provision for credit losses	(8,919)	(8,919)
Accounts receivable, net	6,052	1,150
Deferred revenue	2,739	2,739
Total contract liabilities	2,739	2,739
Global Supply Chain Platform		
Accounts Receivable By Reportable Segments [Line Items]		
Accounts receivable, gross	4,704	3,983
Provision for credit losses	(642)	(180)
Accounts receivable, net	4,062	3,803
Deferred revenue	42	60
Total contract liabilities	42	60
Commercial Platform		
Accounts Receivable By Reportable Segments [Line Items]		
Accounts receivable, gross	50,606	44,298
Chargebacks and other deductions	(26,662)	(22,868)
Provision for credit losses	(234)	(97)
Accounts receivable, net	$ 23,710	$ 21,333

Commitments and Contingencies - Schedule of Future Minimum Payments Under Non-Cancelable Leases (Detail) $ in Thousands	Jun. 30, 2022 USD ($)
Commitments and Contingencies Disclosure [Abstract]	
2022 (remaining six months)	$ 1,117
2023	2,090
2024	2,034
2025	1,472
2026	347
Thereafter	132
Total lease payments	$ 7,192

Commitments and Contingencies - Additional Information (Detail)	6 Months Ended Jun. 30, 2022 USD ($) Lawsuit
Commitment And Contingencies [Line Items]	
Number of purported securities class action lawsuits filed | Lawsuit	2
Shareholder Derivative Lawsuit	
Commitment And Contingencies [Line Items]	
Liability related to class action lawsuit | $	$ 0

Subsequent Events - Additional Information (Detail) - Jul. 07, 2022 - Subsequent Event - China API Operations - Discontinued Operations, Disposed of by Sale - TiHe Capital (Beijing) Co. Ltd. ¥ in Millions, $ in Millions	CNY (¥)	USD ($)
Subsequent Event [Line Items]		
Purchase price	¥ 124.4	$ 19.0
Percentage of proceeds to be received in cash at closing date	70.00%	
Percentage of proceeds to be received in cash within three months after closing date	20.00%	