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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): February 29, 2016

COHERUS BIOSCIENCES, INC.
(Exact name of registrant as specified in its charter)

Delaware	**001-36721**	**27-3615821**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification Number)**

333 Twin Dolphin Drive, Suite 600
Redwood City, CA 94065
(Address of principal executive offices, including Zip Code)

Registrant's telephone number, including area code: (650) 649-3530

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement.

Note Purchase Agreement

On February 29, 2016, Coherus Biosciences, Inc. (the "Company") entered into a Convertible Note Purchase Agreement (the "Purchase Agreement") with HealthCare Royalty Partners III, L.P., MX II Associates LLC, KMG Capital Partners, LLC and KKR Biosimilar L.P. (each an "Investor" and collectively, the "Investors"), and the Guarantors (as defined therein). Pursuant to the Purchase Agreement, on February 29, 2016, the Company issued and sold to the Investors $100 million aggregate principal amount of its 8.2% Convertible Senior Notes due 2022 (the "Notes"). The Notes were issued and sold for cash at a purchase price equal to 100% of their principal amount, less certain expenses, in reliance on the exemption from registration provided by Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act").

The Notes will bear interest at a rate of 8.2% per annum payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year, beginning March 31, 2016. The Notes will mature on March 31, 2022, unless earlier converted, redeemed or repurchased, and bear a premium of 9% of their principal amount, which is payable when the Notes mature or are repurchased or redeemed by the Company. The Notes constitute general, senior unsubordinated obligations of the Company and are guaranteed by certain subsidiaries of the Company.

The holders of the notes may convert their Notes at their option at any time prior to the close of business on the business day immediately preceding March 31, 2022 into shares of the Company's common stock. The initial conversion rate is 44.7387 shares of common stock per $1,000 principal amount of Notes, which is equivalent to an initial conversion price of $22.35, and is subject to adjustment in certain events described in the Purchase Agreement. On or after March 31, 2020, the Company may call the Notes for redemption if the last reported sale price per share of common stock exceeds 160% of the conversion price on each of at least 20 trading days during the 30 consecutive trading days ending on, and including, the trading day immediately before the date the Company sends the related redemption notice. The redemption price will be 109% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date (subject to the right of noteholders on a record date to receive the related interest payment date).

If a "fundamental change" (as defined in the Purchase Agreement) occurs, then, subject to certain exceptions, the Company must offer to repurchase the Notes for cash at a repurchase price of 109% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest to, but excluding, the repurchase date (subject to the right of noteholders on a record date to receive the related interest payment date).

The Notes are subject to customary events of default, upon the occurrence of which all payments on the Notes may (and, in certain circumstances, automatically will) become immediately due.

The Company granted the Investors certain registration rights requiring the Company to register, under the Securities Act, the resale of the shares of common stock issuable upon conversion of the Notes.

The foregoing description is only a summary and is qualified in its entirety by reference to the Purchase Agreement, a copy of which is attached as Exhibit 10.1 to this Current Report on Form 8-K.

Item 2.02 Results of Operations and Financial Conditions

On February 29, 2016, the Company issued a press release regarding its financial results for its fourth quarter and full year ended December 31, 2015. The full text of the press release is furnished as Exhibit 99.1 to this Form 8-K.

This information in this Item 2.02 of this Form 8-K and the Exhibit 99.1 attached hereto shall not be deemed "filed" for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that Section, or incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

Item 2.03 Creation of a Direct Financial Obligation or an Off-Balance Sheet Arrangement

The information provided above under Item 1.01 is incorporated by reference under this Item 2.03.

Item 3.02 Unregistered Sales of Equity Securities

The information provided above under Item 1.01 is incorporated by reference under this Item 3.02.

Item 8.01 Other Events

On February 29, 2016, the Company issued a press release titled "Coherus BioSciences Enters into a $100 Million Financing Transaction." This press release is furnished as Exhibit 99.2 to this Current Report on Form 8-K and is incorporated by reference into this Item 8.01.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
10.1	Convertible Note Purchase Agreement, dated as of February 29, 2016, among Coherus Biosciences, Inc., as Issuer, HealthCare Royalty Partners III, L.P., MX II Associates LLC, KMG Capital Partners, LLC and KKR Biosimilar L.P., each as an Investor, and the Guarantors party thereto (including the form of Note attached thereto as Exhibit A).
99.1	Press release dated February 29, 2016.
99.2	Press release titled "Coherus BioSciences Announces Private Placement of $100 Million Senior Convertible Notes," dated February 29, 2016.

SIGNATURES

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

Date: February 29, 2016

COHERUS BIOSCIENCES, INC.

By: /s/ Jean-Frédéric Viret
Name: Jean-Frédéric Viret
Title: Chief Financial Officer

EXHIBIT INDEX

Exhibit No.	Description
10.1	Convertible Note Purchase Agreement, dated as of February 29, 2016, among Coherus Biosciences, Inc., as Issuer, HealthCare Royalty Partners II, L.P., MX II Associates LLC, KMG Capital Partners, LLC and KKR Biosimilar L.P., each as an Investor, and the Guarantors party thereto.
99.1	Press release dated February 29, 2016.
99.2	Press release titled “Coherus BioSciences Announces Private Placement of $100 Million Senior Convertible Notes,” dated February 29, 2016.

Exhibit 10.1

COHERUS BIOSCIENCES, INC.,

as Issuer,

the Guarantors from time to time party hereto,

as Guarantors

AND

HealthCare Royalty Partners III, L.P.,
MX II Associates LLC,
KMG Capital Partners, LLC

AND

KKR Biosimilar L.P.,

each as an Investor

Senior Convertible Note Purchase Agreement

Dated as of February 29, 2016

8.2% Convertible Senior Notes due 2022

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Exhibit C	Form of Closing Date Certificate

SENIOR CONVERTIBLE NOTE PURCHASE AGREEMENT (this "**Agreement**"), dated as of February 29, 2016 (the "**Closing Date**") among Coherus BioSciences, Inc., a Delaware corporation, as Issuer (the "**Company**"), InteKrin Therapeutics Inc., a Delaware corporation, and Coherus Intermediate Corp., a Delaware corporation, as the Guarantors (as defined below), and HealthCare Royalty Partners III, L.P., MX II Associates LLC, KMG Capital Partners, LLC and KKR Biosimilar L.P. (each, an "**Investor**," and, collectively, the "**Investors**").

RECITALS OF THE COMPANY

WHEREAS, the Company has duly authorized the issuance of its 8.2% Senior Convertible Notes due 2022 (each a "**Note**" and, collectively, the "**Notes**"), representing its unsecured and general, senior unsubordinated obligations, and guaranteed by the Guarantors in the manner hereinafter set forth, and to provide therefor, the Company has duly authorized the execution and delivery of this Agreement; and

WHEREAS, the Company has agreed to issue the Notes to the Investors in exchange for the payment by the Investors to the Company of the Purchase Price (as defined below) and subject to the other terms set forth herein.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, for and in consideration of the premises and the purchases of the Notes by the respective Investors thereof, it is mutually agreed, for the benefit of the Company and the ratable benefit of such Investors (and any subsequent Holder (as defined below)), as follows:

ARTICLE 1.
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01 *Definitions.* For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(i) the terms defined in this Article 1 have the meanings assigned to them in this Article and include the plural as well as the singular;

(ii) "or" is not exclusive;

(iii) references to "dollars" or "$" refer to U.S. dollars;

(iv) references to "interest" that accrues on any Note includes Stated Interest and, if applicable, Additional Interest and Special Interest;

(v) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP; and

(vi) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision of this Agreement.

"**Additional Interest**" means any interest that accrues on any Note pursuant to Section 11.05.

"**Affiliate**" means any Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another Person. For the purposes of this definition, "control," when used with respect to any specified Person means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For purposes of Section 8.01(j) only, the term "Affiliate" shall not include Cowen Group, Inc. and its subsidiaries other than HealthCare Royalty Management and the investment vehicles managed by it.

"**Agreement**" means this Senior Convertible Note Purchase Agreement as originally executed or as it may from time to time be supplemented or amended by one or more agreements supplemental hereto entered into pursuant to the applicable provisions hereof.

"**Allowable Black-Out Period**" has the meaning specified in Section 11.04.

"**Average Life**" means, as of any date, with respect to any Indebtedness, an amount equal to (a) the sum of the product of (x) the number of years (rounded to the nearest one-twelfth (1/12th) of one year) from such date to the dates of each successive scheduled principal payment of such Indebtedness or mandatory redemption; and (y) the amount of such payment, *divided by* (b) the sum of all such payments.

"**Bankruptcy Code**" means Title 11 of the United States Code entitled "Bankruptcy," as now or hereinafter in effect, or any successor statute.

"**Benefited Party**" has the meaning specified in Section 12.01(a).

"**Black-Out Period**" has the meaning specified in Section 11.04.

"**Board of Directors**" means the board of directors of the Company or any committee thereof duly authorized to act on behalf of such board.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

"**Capital Stock**" means, with respect to any Person, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents, including membership interests (however designated, whether voting or nonvoting), of equity of such Person, including, if such Person is a partnership, partnership interests (whether general or limited) and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of property of, such partnership, whether outstanding on the date hereof or issued after the Closing Date; *provided*, *however*, that Capital Stock will not include any Indebtedness that is convertible into or exchangeable for (x) any such equity or (y) any combination of such equity and cash based on the value of such equity.

"**Close of Business**" means 5:00 p.m. New York City time.

"**Closing Date**" has the meaning specified in the preamble of this Agreement.

"**Commission**" means the Securities and Exchange Commission, as from time to time constituted or created under the Exchange Act.

"**Common Equity**" means the Capital Stock of any Person that is generally entitled (a) to vote in the election of the directors of such Person or (b) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management and policies of such Person.

"**Common Stock**" means the shares of common stock, $0.0001 par value per share, of the Company as they exist on the date of this Agreement, subject to the provisions of Section 7.05.

"**Common Stock Change Event**" has the meaning specified in Section 7.05.

"**Company**" means the Person named as the "Company" in the preamble of this Agreement until a successor Person shall have become such pursuant to the applicable provisions of this Agreement, and thereafter "Company" shall mean such successor Person.

"**Confidential Information**" means any and all information, whether communicated orally or in any physical form, including, without limitation, financial and all other information which Disclosing Party or its authorized Representatives provide to the Recipient, together with such portions of analyses, compilations, studies or other documents, prepared by or for the Recipient and its Representatives, which contain or are derived from information provided by Disclosing Party or its authorized Representative. Without limiting the foregoing, information shall be deemed to be provided by the Disclosing Party or its authorized Representative to the extent it is learned or derived by the Recipient or its Representatives (a) from any inspection, examination or other review of books, records, contracts, other documentation or operations of the Disclosing Party or its authorized Representative, (b) from communications with the Disclosing Party or it Representatives or (c) created, developed, gathered, prepared or otherwise derived by the Recipient or its Representatives while in discussions with the Disclosing Party or its Representatives. However, Confidential Information does not include any information which the Recipient can demonstrate (i) is or becomes part of the public domain through no fault of Recipient or its Representatives, (ii) was known by the Recipient on a non-confidential basis prior to disclosure by the Disclosing Party or its Representatives, or (iii) was independently developed by Persons who were not given access to the Confidential Information disclosed to Recipient by the Disclosing Party or its Representatives. For purposes of this Agreement, the party disclosing the Confidential Information shall be referred to as "Disclosing Party" and the party receiving the Confidential Information shall be referred to as the "Recipient."

"**Conversion Date**" has the meaning specified in Section 7.02(a).

"**Conversion Price**" means, as of any time, an amount equal to (a) one thousand dollars ($1,000) *divided by* (b) the Conversion Rate in effect at such time.

"**Conversion Rate**" means initially 44.7387 shares of Common Stock per $1,000 Principal Amount of Notes, subject to adjustment as set forth herein. Whenever this Agreement refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate as of the Close of Business on such date.

"**Credit Parties**" means the Company and the Guarantors.

"**Default**" means any event that is or with the passage of time or the giving of notice or both would become an Event of Default.

"**Default Interest**" has the meaning specified in Section 4.01.

"**Delay Payments**" has the meaning specified in Section 11.04.

"**Demand**" has the meaning specified in Section 11.01.

"**Designated Counsel**" has the meaning specified in Section 11.03(k).

"**Disclosing Party**" has the meaning specified in the definition of "Confidential Information."

"**Disqualified Capital Stock**" of any Person means any class of Capital Stock of such Person that, by its terms, or by the terms of any related agreement or of any security into which it is convertible or exchangeable, is, or upon the happening of any event (other than a Fundamental Change or similar event) or the passage of time would be, required to be redeemed by such Person, at the option of the holder thereof, or matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, in whole or in part, on or prior to the date which is 91 days after the Maturity Date; *provided*, *however*, that any class of Capital Stock of such Person that, by its terms, authorizes such Person to satisfy in full its obligations with respect to the payment of dividends or upon maturity, redemption (pursuant to a sinking fund or otherwise) or repurchase thereof or otherwise by the delivery of Capital Stock that is not Disqualified Capital Stock, and that is not convertible or exchangeable for Disqualified Capital Stock or Indebtedness, will not be deemed to be Disqualified Capital Stock so long as such Person satisfies such obligations solely by the delivery of Capital Stock that is not Disqualified Capital Stock.

"**Distributed Property**" has the meaning specified in Section 7.04(c).

"**Effective Date**" means, for any Registration Statement, the date that such Registration Statement has become effective under the Securities Act.

"**Effectiveness Failure**" has the meaning specified in Section 11.04.

"**Eligible Market**" means the New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors).

"**Equity Interest**" means, with respect to any Person, the Capital Stock of such Person and all warrants, options or other rights to acquire the Capital Stock of such Person; *provided*, *however*, that Equity Interests will not include any Indebtedness that is convertible into or exchangeable for (x) any such Capital Stock or (y) any combination of such Capital Stock and cash based on the value of such Capital Stock.

"**Event of Default**" has the meaning specified in Section 9.01.

"**Ex-Dividend Date**" means, with respect to a issuance, dividend or distribution on the Common Stock, the first date on which the shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution in question, from the Company or, if applicable, from the seller of the shares of Common Stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market. For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Common Stock under a separate ticker symbol or CUSIP number will not be considered "regular way" for this purpose.

"**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"**Expiration Date**" has the meaning specified in Section 7.04(e).

"**Expiration Time**" has the meaning specified in Section 7.04(e).

"**FCPA**" means the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

"**FDA**" means the United States Food and Drug Administration.

"**Foreign Subsidiary**" means a Subsidiary of the Company that is organized under the laws of a jurisdiction other than the United States or any state thereof of the District of Columbia.

"**Fundamental Change**" means:

(a) any "person" or "group" (within the meaning of Sections 13(d)(3) or 14(d)(2) of the Exchange Act), other than the Company or its Wholly Owned Subsidiaries, or their respective employee benefit plans, files any report with the Commission indicating that such person or group is or has become the direct or indirect "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act) of more than fifty percent (50%) of the voting power of the Company's Common Equity then outstanding;

(b) the consummation of (i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision, combination or change in par value) as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities or other property or assets; (ii) any share exchange, consolidation or merger of the Company pursuant to which the Common Stock will be converted into cash, securities or other property or assets; or (iii) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any Person other than one of the

Company's direct or indirect Wholly Owned Subsidiaries; *provided*, *however*, that a transaction described in clause (ii) in which the holders of all classes of the Company's Common Equity immediately prior to such transaction own, directly or indirectly, more than fifty percent (50%) of all classes of Common Equity of the continuing or surviving corporation or transferee or the parent thereof immediately after such transaction in substantially the same proportions (relative to each other) as such ownership immediately prior to such transaction shall not be a Fundamental Change pursuant to this clause (b);

(c) the stockholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company (other than in connection with a transaction described in clause (b) above); or

(d) the Common Stock (or other common stock, if any, then underlying the Notes) ceases to be listed or quoted on an Eligible Market and are not promptly re-listed or re-quoted on an Eligible Market.

A transaction or transactions described in clause (a) or clause (b) above will not constitute a Fundamental Change, however, if at least ninety percent (90%) of the consideration received or to be received by the holders of the Company's Common Equity, excluding cash payments for fractional shares or pursuant to statutory appraisal rates, in connection with such transaction or transactions consist of shares of common stock, depositary receipts representing Common Equity or other certificates representing Common Equity, in each case, that are listed or quoted on any Eligible Market or will be so listed or quoted when issued or exchanged in connection with such transaction or transactions and, as a result of such transaction or transactions, the Notes become convertible into such consideration, excluding cash payments for fractional shares or pursuant to statutory appraisal rights.

"**Fundamental Change Company Notice**" has the meaning specified in Section 4.04(c).

"**Fundamental Change Repurchase Date**" has the meaning specified in Section 4.04(a).

"**Fundamental Change Repurchase Notice**" has the meaning specified in Section 4.04(b)(i).

"**Fundamental Change Repurchase Price**" has the meaning specified in Section 4.04(a).

"**GAAP**" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

"**Governmental Authority**" means any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.

The term "**guarantee**" means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner, including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

"**Guarantee**" means the full and unconditional guarantee provided by the Guarantors in respect of the Notes as made applicable to the Notes in accordance with the provisions of Section 12.01.

"**Guarantee Obligations**" has the meaning specified in Section 12.01.

"**Guarantor**" means the Persons named as such in the first paragraph of this Agreement, each other Person that becomes a Guarantor by executing an amendment or supplement to this Agreement pursuant to Section 12.01(c), and the successors and assigns of the foregoing.

"**HCR Investor**" means HealthCare Royalty Partners III, L.P.

"**Hedging and Short Sales**" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act and all types of forward sale contracts, options, puts, calls, short sales, swaps, derivatives and similar arrangements (including on a total return basis).

"**Holder**" means a person in whose name a Note is registered on the Register; *provided*, *however*, that, solely for purposes of Article 11, Holder means a person in whose name any Registrable Security is registered on the books of the Company or its transfer agent.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"**Indebtedness**" with respect to any Person means any amount (absolute or contingent) payable by such Person as debtor, borrower, issuer, guarantor or otherwise (a) pursuant to an agreement or instrument involving or evidencing money borrowed, the advance of credit, a conditional sale or a transfer with recourse or with an obligation to repurchase or evidenced by a promissory note, bond, debenture or similar instrument, (b) pursuant to a capital lease with substantially the same economic effect as any such agreement or instrument, (c) any obligations of the issuer thereof with respect to Disqualified Capital Stock, (d) pursuant to indebtedness of a third party secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on assets owned or acquired by such Person, whether or not the indebtedness secured thereby has been assumed, (e) pursuant to an interest rate protection agreement, foreign currency exchange agreement or other hedging arrangement, (f) pursuant to a letter of credit issued for the account of such Person, or (g) all guarantees by such Person with respect to Indebtedness of the types specified in clauses (a) through (f) above of another Person. For the avoidance of doubt, the Indebtedness of any Person shall include the Indebtedness of any other entity to the extent such Person is directly 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 Liabilities**" means, collectively, any and all liabilities, obligations, losses, damages, penalties, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel of each Indemnified Party in connection with any investigative, administrative or judicial proceeding commenced or threatened by any Person, whether or not any such Indemnified Party shall be designated as a party or a potential party thereto, and any fees or expenses actually incurred by any such Indemnified Party in enforcing the indemnity provided herein), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations), on common law or equitable cause or on contract or otherwise, imposed on, incurred by, or asserted against any such Indemnified Party, in any manner relating to or arising out of this Agreement or the Note Documents or the transactions contemplated hereby or thereby (including any enforcement of any of the Note Documents).

"**Indemnified Party**" means each Investor and its Affiliates.

"**Initial Notes**" has the meaning specified in Section 3.01.

"**Interest Payment Date**" means, with respect to each Note, each of March 31, June 30, September 30 and December 31 of each year, commencing on the date set forth in the certificate representing such Note.

"**Investor**" and "**Investors**" have the meaning specified in the preamble of this Agreement.

"**Last Reported Sale Price**" of the Common Stock for any Trading Day means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per share) of Common Stock on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is then listed. If the Common Stock is not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per share of Common Stock on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Common Stock is not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per share of Common Stock on such Trading Day from an investment banking firm selected by the Company.

"**Lien**" means any mortgage or deed of trust, pledge, hypothecation, lien, charge, attachment, setoff, encumbrance or other security interest in the nature thereof (including any conditional sale agreement, equipment trust agreement or other title retention agreement, a lease with substantially the same economic effect as any such agreement) or other encumbrance of a similar nature.

"**Maintenance Failure**" has the meaning specified in Section 11.04.

"**Make-Whole Fundamental Change**" means any transaction or event that constitutes a Fundamental Change (as defined above and determined after giving effect to any exceptions to or exclusions from such definition, but without regard to the *proviso* in clause (b) of the definition thereof).

"**Make-Whole Fundamental Change Period**" has the meaning specified in Section 7.07(a).

"**Market Disruption Event**" means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Common Stock is listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Stock or in any options, contracts or future contracts relating to the Common Stock.

"**Material Adverse Effect**" means (a) a material adverse change in the business, operations, prospects, properties, liabilities, results of operations or condition (financial or other) of the Company and the other Credit Parties, taken as a whole; (b) a material adverse effect on the validity or enforceability of the Note Documents or an adverse effect on the validity or enforceability of any material provision thereof; (c) a material adverse effect on the ability of the Company or any other Credit Party to consummate the transactions contemplated by the Note Documents or on the ability of the Company or any of the other Credit Parties to perform its obligations under the Note Documents; (d) a material adverse effect on the rights or remedies of the Holder under any of Note Documents; and (e) a material adverse effect on the right of the Holders to receive the interest or any other payment due under the Note Documents.

"**Material Contract**" means any agreement, contract or other instrument pursuant to which the Company or any of its Subsidiaries is a party or any of the respective assets or properties of the Company or any of its Subsidiaries are bound or committed and for which any breach, violation, nonperformance or early cancellation could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

"**Material Domestic Subsidiary"** of any Person means any Subsidiary of such Person that is organized and existing under the laws of the United States of America, any State thereof or the District of Columbia and has gross assets of at least two million five hundred thousand dollars ($2,500,000).

"**Maturity Date**" means March 31, 2022.

"**Notes**" has the meaning specified in the first paragraph of the Recitals hereof, and includes any Note or Notes, as the case may be, delivered under this Agreement.

"**Note Documents**" means this Agreement and the Notes.

"**Notice of Default**" means written notice provided to the Company by the Holders of a Default by the Company, which notice must specify the Default, demand that it be remedied and expressly state that such notice is a "Notice of Default."

"**Open of Business**" means 9:00 a.m., New York City time.

"**Other Connection Taxes**" means, with respect to any person, Taxes imposed as a result of a present or former connection between such person and the jurisdiction imposing such Tax (other than connections arising from such person 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 this Agreement or any Note, or sold or assigned an interest in this Agreement or any Note).

"**Party**" means the Company, any Guarantor or any Holder; and "**Parties**" means the Company, the Guarantors and the Holders.

"**Payment Default**" has the meaning specified in Section 4.01.

"**Permitted Refinancing Indebtedness**" means any Indebtedness that Refinances any other Indebtedness, including any successive Refinancings, so long as (a) such Refinancing Indebtedness is an aggregate principal amount (or if incurred with original issue discount, an aggregate issue price) not in excess of the sum of (x) the aggregate principal amount (or if incurred with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being Refinanced; and (y) an amount necessary to pay any fees and expenses, including premiums and defeasance costs, related to such Refinancing(s); (b) the Average Life of such Refinancing Indebtedness is equal to or greater than the Average Life of the Indebtedness being Refinanced; (c) the Stated Maturity of such Refinancing Indebtedness is no earlier than the Stated Maturity of the Indebtedness being Refinanced; and (d) such Refinancing Indebtedness is not senior in right of payment to the Indebtedness that is being Refinanced.

"**Person**" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"**Principal Amount**" of a Note means the principal amount as set forth on the face of the Note.

"**Purchase Price**" has the meaning specified in Section 2.01(b).

"**Recipient**" has the meaning specified in the definition of "Confidential Information."

"**Record Date**" means, with respect to any dividend, distribution or other transaction or event in which the holders of the Common Stock have the right to receive any cash, securities or other property or in which the Common Stock is exchanged for or converted into cash, securities or other property, the date fixed for determination of holders of the Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors, statute or contract or otherwise).

"**Redemption**" means the repurchase of any Note by the Company pursuant to Article 5.

"**Redemption Date**" means the date fixed for the repurchase of any Notes by the Company pursuant to a Redemption.

"**Redemption Notice**" has the meaning set forth in Section 5.06.

"**Redemption Notice Date**" means, with respect to a Redemption, the date on which the Company sends the Redemption Notice for such Redemption pursuant to Section 5.06.

"**Redemption Price**" means the cash price payable by the Company to redeem any Note upon its Redemption, calculated pursuant to Section 5.05.

"**Reference Property**" has the meaning specified in Section 7.05.

"**Reference Property Unit**" has the meaning specified in Section 7.05.

"**Refinance**" means, with respect to any specified Indebtedness, to refinance, extend, renew, refund or repay or to issue other Indebtedness in exchange or replacement for such specified Indebtedness. "**Refinanced**" and "**Refinancing**" have meanings correlative to the foregoing.

"**Register**" has the meaning specified in Section 3.05.

"**Registrable Securities**" means, shares of Common Stock actually issued upon conversion of the Notes, which shares of Common Stock are both held by, and proposed to be sold in a registered offering by, the converting Holder. Registrable Securities will continue to be Registrable Securities until the first time at which they (a) are sold pursuant to an effective registration statement under the Securities Act, (b) are sold pursuant to Rule 144, or (c) they have otherwise been transferred and new securities not subject to transfer restrictions under any federal securities laws and not bearing any legend substantially similar to a Restricted Stock Legend will have been delivered by the Company.

"**Registration Statement**" means a Registration Statement of the Company required to be filed pursuant to Section 11.01 under the Securities Act covering the Registrable Securities.

"**Regular Record Date**" means, with respect to any Interest Payment Date, the March 15, June 15, September 15 or December 15, as the case may be, immediately preceding such Interest Payment Date.

"**Reimbursable Investor Expenses**" means the actual, documented, out-of-pocket fees and expenses of the HCR Investor or KKR Biosimilar L.P., as applicable (including, without limitation, legal fees and expenses incurred in connection with such Investor's due diligence investigation), in connection with the negotiation, preparation and execution of this Agreement, in each case incurred on or prior to the Closing Date.

"**Repayment Premium**" means, as of any date on which the Company is obligated hereunder to repurchase any Notes or any Notes otherwise become due and payable (including, without limitation, on the Maturity Date), other than solely upon the conversion of such Notes, a premium equal to nine percent (9%) of the Principal Amount thereof.

"**Reporting Event of Default**" has the meaning specified in Section 9.02(a).

"**Representative**" means, with respect to any Person, any stockholder, member, partner, manager, director, officer, employee, agent, advisor or other representative of such Person.

"**Requesting Holder**" has the meaning specified in Section 11.01.

"**Restricted Note**" has the meaning specified in Section 3.06(a)(i).

"**Restricted Notes Legend**" means a legend substantially in the form of Note set forth in Section 2.02.

"**Restricted Payment**" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest in the Company or its Subsidiaries, or any payment (whether in cash, securities 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 Interest of the Company or its Subsidiaries; *provided*, *however*, that the following will not constitute a Restricted Payment: (a) a dividend, distribution or payment consisting solely of, or made solely with the net cash proceeds of a substantially concurrent sale of, Equity Interests of the Company (other than Disqualified Capital Stock); (b) the repurchase of any Equity Interests deemed to occur upon the exercise of stock options or similar instruments to the extent such Equity Interests represent a portion of the exercise price of such stock options or interests; (c) the payment of cash in lieu of issuing or delivering any fractional share of Common Stock or other Equity Interest; (d) any Dividend or distribution by a Subsidiary of the Company on its Equity Interests; and (e) any other dividend, distribution or payment that does not exceed fifteen million dollars ($15,000,000) in the aggregate since the date of this Agreement.

"**Restricted Stock**" has the meaning specified in Section 3.06(b)(i).

"**Restricted Stock Legend**" means a legend substantially in the form set forth in Exhibit B hereto.

"**Rule 144**" means Rule 144 under the Securities Act (including any successor rule thereto), as the same may be amended from time to time.

"**Securities Act**" means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"**Selling Expenses**" shall mean all underwriting discounts, selling commissions and stock transfer taxes applicable to the sale of Registrable Securities and all fees and disbursements of counsel for any Holder (other than the reasonable fees and disbursements of Designated Counsel to be paid by the Company pursuant to Section 11.03(k)) (which shall, in any event, be paid by such Holder).

"**Shelf Offering**" has the meaning specified in Section 11.01.

"**Significant Subsidiary**" has the meaning specified in Rule 1-02(w) of Regulation S-X under the Securities Act.

"**Special Interest**" means any interest that accrues on any Note pursuant to Section 9.02.

"**Spin-Off**" has the meaning specified in Section 7.04(c).

"**Spin-Off Valuation Period**" has the meaning set forth in 0.

"**Stated Interest**" has the meaning specified in Section 4.01.

"**Stated Maturity**" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"**Stock Price**" has the meaning specified in Section 7.07(c).

"**Subsidiary**" means, with respect to any Person:

(a) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person (or a combination thereof); and

(b) any partnership or limited liability company of which (i) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (ii) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

"**Successor Company**" has the meaning specified in Section 10.01(a).

"**Tax Return**" shall mean all original, amended or estimated returns, statements, filings, attachments and other documents or certifications filed or required to be filed in respect of Taxes.

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

"**Tender/Exchange Offer Valuation Period**" has the meaning specified in Section 7.04(e).

"**Trading Day**" means any day on which (i) trading in the Common Stock generally occurs on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then traded, and (ii) there is no Market Disruption Event. If the Common Stock is not so listed or traded, then "Trading Day" means a Business Day.

"**U.S.**" means the United States of America.

"**Underwritten Offering**" has the meaning specified in Section 11.01.

"**Wholly Owned Subsidiary**" means, with respect to a Person, a Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares) are owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

Section 1.02 *Acts of Holder; Record Dates.* Any request, demand, authorization, direction, notice, consent, waiver or other act of the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Company in reliance thereon, whether or not notation of such action is made upon such Note.

Section 1.03 *Effect of Headings and Table of Contents.* The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof, and all Article and Section references are to Articles and Sections, respectively, of this Agreement unless otherwise expressly stated.

Section 1.04 *Successors and Assigns.* All covenants and agreements in this Agreement by the Company or the Holders, as applicable, shall bind its successors and assigns, whether so expressed or not.

Section 1.05 *Severability Clause.* In case any provision in this Agreement or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 1.06 *Benefits of Agreement.* Nothing in this Agreement or in the Notes, express or implied, shall give to any Person, other than the parties hereto, their respective successors hereunder, any Holder and the persons, entities specifically referenced in Section 11.07 any benefit or any legal or equitable right, remedy or claim under this Agreement; *provided*, *however*, that no right of any Investor, as such, hereunder, will inure to the benefit of any Holder, as such, that is not an Investor.

ARTICLE 2.
PURCHASE AND ISSUANCE OF NOTES

Section 2.01 *Purchase and Sale.*

(a) Upon the terms and subject to the conditions of this Agreement, on the basis of the representations and warranties hereby contained, the Company agrees to issue and sell to each Investor, and each Investor, severally and not jointly, agrees to purchase from the Company upon the satisfaction of the conditions set forth in Section 6.01, a Note having the Principal Amount, and at the cash Purchase Price, payable immediately available funds, in an amount, set forth in Section 2.01(b) below, in each case on the Closing Date.

(b) The purchase price (the "**Purchase Price**") payable by each Holder on the Closing Date and the aggregate Principal Amount of Notes issuable by the Company on the Closing Date to such Holder, in each case upon the terms and subject to the conditions of this Agreement, are set forth below:

(i) for HCR Investor, (x) the Purchase Price is seventy five million dollars ($75,000,000) less Reimbursable Investor Expenses of three hundred and twenty nine thousand three hundred and sixty one dollars ($329,361) for such Investor, and (y) the Principal Amount is seventy five million dollars ($75,000,000);

(ii) for MX II Associates LLC, (x) the Purchase Price is four million dollars ($4,000,000), and (y) the Principal Amount is four million dollars ($4,000,000);

(iii) for KMG Capital Partners, LLC, (x) the Purchase Price is one million dollars ($1,000,000), and (y) the Principal Amount is one million dollars ($1,000,000);

(iv) for KKR Biosimilar L.P., (x) the Purchase Price is twenty million dollars ($20,000,000) less Reimbursable Investor Expenses of twenty four thousand seven hundred and fifty dollars ($24,750) for such Investor, and (y) the Principal Amount is twenty million dollars ($20,000,000).

(c) The Notes shall initially be issued in the form of permanent Notes in registered form in substantially the form set forth in this Article.

Section 2.02 *Form of Notes.* The Notes shall be substantially in the form set forth in Exhibit A, the terms and provisions of which shall constitute, and are hereby expressly incorporated in and made, a part of this Agreement.

ARTICLE 3.
THE SECURITIES

Section 3.01 *Title and Terms; Payments*. The aggregate Principal Amount of Notes that may be executed and delivered under this Agreement is initially limited to $100,000,000 (the "**Initial Notes**"), except for Notes delivered upon registration or transfer of, or in exchange for, or in lieu of, other Notes pursuant to Sections 3.05, 3.07 or 3.09.

The Notes shall be known and designated as the "8.2% Senior Convertible Notes due 2022" of the Company. The Principal Amount plus the Repayment Premium of each outstanding Note shall be payable on the Maturity Date.

The principal of, and interest and premium on, the Notes will be paid by wire transfer of immediately available funds to such Holder's account within the United States, as designated by such Holder to the Company in writing at least five (5) calendar days prior to the applicable payment date.

Any Notes repurchased by the Company will be retired and no longer outstanding hereunder.

Section 3.02 *Ranking*. The Notes constitute general, senior unsubordinated obligations of the Company and are guaranteed by the Guarantors to the extent provided in Article 12.

Section 3.03 *Denominations*. The Notes shall be issuable only in registered form without coupons and in denominations of $1,000 and any integral multiple of $1,000 in excess thereof.

Section 3.04 *Execution, Delivery and Dating*. The Notes shall be executed on behalf of the Company by its Chief Executive Officer, its President or its Chief Financial Officer.

Notes bearing the manual or facsimile signatures of individuals who were, at the time of the execution of such Notes, the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have thereafter ceased to hold such offices.

Each Note shall be dated the date of its issuance.

Section 3.05 *Registration; Registration of Transfer and Exchange*. The Company shall maintain a register (the "**Register**") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Notes and of transfers of Notes.

Subject to Section 3.06 and the other provisions of this Section 3.05, upon surrender for registration of transfer of any Note at an office or agency of the Company designated pursuant to Section 4.02 for such purpose, the Company shall execute one or more new Notes of any authorized denominations and of a like aggregate Principal Amount and tenor, each such Note bearing such restrictive legends as may be required by this Agreement.

All Notes issued upon any registration of transfer or exchange of Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Agreement, as the Notes surrendered upon such registration of transfer or exchange.

Every Note presented or surrendered for registration of transfer or for exchange shall (if so required by the Company) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by the Holder thereof or his attorney duly authorized in writing. As a condition to the registration of transfer of any Notes, the Company may require evidence satisfactory to them as to the compliance with the restrictions set forth in the legend on such Notes.

Section 3.06 *Transfer Restrictions*.

(a) *Restricted Notes*.

(i) Every Note (and all securities issued in exchange therefor or substitution thereof) that bears, or that is required under this Section 3.06 to bear, the Restricted Notes Legend will be deemed to be a "**Restricted Note**." Each Restricted Note will be subject to the restrictions on transfer set forth in the Restricted Notes Legend unless such restrictions on transfer are eliminated or otherwise waived by written consent of the Company, and each Holder of a Restricted Note, by such Holder's acceptance of such Restricted Note, will be deemed to be bound by such restrictions on transfer.

(ii) Any Note (or any security issued in exchange therefor or substitution thereof, except any shares of Common Stock issued upon the conversion thereof) will bear the Restricted Notes Legend unless the Company reasonably determines that the Restricted Notes Legend may be removed from such Note.

(b) *Restricted Stock*.

(i) Every share of Common Stock that bears, or that is required under this Section 3.06 to bear, the Restricted Stock Legend will be deemed to be "**Restricted Stock**." Each share of Restricted Stock will be subject to the restrictions on transfer set forth in the Restricted Stock Legend unless such restrictions on transfer are eliminated or waived by written consent of the Company, and each Holder of Restricted Stock, by such Holder's acceptance of Restricted Stock, will be deemed to be bound by such restrictions on transfer.

(ii) Any share of Common Stock issued upon the conversion of a Note will be issued in book entry form with the applicable transfer agent, subject to the Restricted Stock Legend unless (A) covered by an effective registration statement under the Securities Act and a current prospectus naming as a selling stockholder the person to whom such share is issued or (B) the Company reasonably determines that such share of Common Stock need not bear the Restricted Stock Legend or need not be issued in such format.

(c) As used in this Section 3.06, the term "**transfer**" means any sale, pledge, hedging transaction, transfer, loan, hypothecation or other disposition whatsoever of any Restricted Note or Restricted Stock or any interest therein.

Section 3.07 *Mutilated, Destroyed, Lost and Stolen Notes*. If any mutilated Note is surrendered to the Company, the Company shall execute and deliver in exchange therefor a new Note of like tenor and Principal Amount and bearing an identification number not contemporaneously outstanding.

If there shall be delivered to the Company (a) evidence to its satisfaction of the destruction, loss or theft of any Note and (b) such security or indemnity as may be required by its to save it and any of its agents harmless, then, in the absence of notice to the Company that such Note has been acquired by a bona fide purchaser, the Company shall execute, in lieu of any such destroyed, lost or stolen Note, a new Note of like tenor and Principal Amount and bearing an identification number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Note, pay such Note.

Upon the issuance of any new Note under this Section 3.07, the Company may require payment by the relevant Holder of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith.

Every new Note issued pursuant to this Section 3.07 in lieu of any destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Agreement equally and proportionately with any and all other Notes duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

Section 3.08 *Persons Deemed Owners*. Prior to due presentment of a Note for registration of transfer to the Company or any agent of the Company, the Company or such agent shall treat the Person in whose name such Note is registered as the owner of such Note for the purpose of receiving payment of the principal of such Note and for all other purposes whatsoever, whether or not such Note be overdue, and neither the Company nor any agent of the Company shall be affected by notice to the contrary.

Section 3.09 *Transfer and Exchange*.

(a) *Provisions Applicable to All Transfers and Exchanges*.

(i) Subject to the restrictions set forth in this Section 3.09 and elsewhere in this Agreement, Notes may be transferred or exchanged from time to time as desired, and each such transfer or exchange will be noted by the Company in the Register.

(ii) All Notes issued upon any registration of transfer or exchange in accordance with this Agreement will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Agreement, as the Notes surrendered upon such registration of transfer or exchange.

(iii) No service charge will be imposed on any Holder of a Note for any exchange or registration of transfer, but the Company may require such Holder to pay a sum sufficient to cover any transfer tax that are Other Connection Taxes, assessment or other governmental charge imposed in connection with such registration of transfer or exchange to a person other than the Company or its affiliates.

(iv) Unless the Company specifies otherwise, the Company will not be required to exchange or register a transfer of any Note that has been surrendered for conversion or for which a Fundamental Change Repurchase Notice has been delivered or that is subject to Redemption, except to the extent any portion of such Note is not subject to the foregoing.

(v) Notwithstanding anything to the contrary herein, no transfer or exchange of any Note will be permitted without the prior written consent of the Company (not to be unreasonably withheld, conditioned or delayed).

(b) *Transfer and Exchange of Notes*.

(i) If a transfer of a Note is otherwise permitted hereunder, a Holder may transfer such Note by: (A) surrendering such Note for registration of transfer to the Company, together with any endorsements or instruments of transfer required by the Company; (B) delivering any documentation that the Company requires to ensure that such transfer complies with Section 3.05, Section 3.06 and any applicable securities laws; and (C) satisfying all other requirements for such transfer set forth in this Section 3.09 and in Section 3.05 and Section 3.06. Upon the satisfaction of conditions (A), (B) and (C) above, the Company, in accordance with Section 3.04, will promptly execute and deliver, in the name of the designated transferee or transferees, one or more new Notes, of any authorized denominations, having like aggregate Principal Amount and bearing any restrictive legends required by Section 3.06.

(ii) A Holder may exchange a Note for other Notes of any authorized denominations and aggregate Principal Amount equal to the aggregate Principal Amount of the Notes to be exchanged by surrendering such Notes, together with any endorsements or instruments of transfer required by the Company at any office or agency maintained by the Company for such purposes pursuant to Section 4.02. Whenever a Holder surrenders Notes for exchange, the Company, in accordance with Section 3.04, will promptly execute and deliver the Notes that such Holder is entitled to receive, bearing identification numbers not contemporaneously outstanding and any restrictive legends that such Notes are to bear under Section 3.06.

Section 3.10 *Cancellation*. The Company at any time may cancel any Notes previously delivered hereunder that the Company may have acquired in any manner whatsoever. All Notes surrendered for registration of transfer, exchange, payment, purchase, repurchase, conversion (pursuant to Article 7) or cancellation will be subject to immediate cancellation by the Company. If the Company shall acquire any of the Notes, such acquisition shall not operate as a redemption or satisfaction of the Indebtedness represented by such Notes unless and until the same are cancelled. The Notes so acquired, while held by or on behalf of the Company or any of its Subsidiaries, shall not entitle the Holder thereof to convert the Notes. The Company may not issue new Notes to replace Notes it has paid in full or cancelled.

Section 3.11 *Outstanding Notes*.

(a) *Generally*. The Notes that are outstanding at any time will be deemed to be those Notes that, at such time, have been duly executed and delivered, excluding those Notes (or portions thereof) that have theretofore been (i) delivered to the Company for cancellation in accordance with Section 3.10; (ii) paid in full in accordance herewith; or (iii) deemed to cease to be outstanding to the extent provided in, and subject to, subsection (b), (c) or (d) of this Section 3.11.

(b) *Replaced Notes*. If a Note is replaced pursuant to Section 3.07, then such Note will cease to be outstanding at the time of its replacement, unless the Company receives proof reasonably satisfactory to it that such Note is held by a bona fide purchaser under applicable law.

(c) *Maturing Notes and Notes Subject to Redemption or Repurchase*. If the Company has caused any Note to be (or portion thereof) repaid in full as provided herein, whether a Fundamental Change Repurchase Date, a Redemption Date, the Maturity Date or otherwise, then (i) such Notes (or portion thereof) will be deemed, as of the date of such payment, to cease to be outstanding, and (ii) the rights of the Holders of such Notes (or such portion thereof), as such, will terminate with respect to such Notes (or such portion thereof), in each case subject to the right of Holders as of the Close of Business on a Regular Record Date to receive interest as provided in Section 5.05 or Section 4.04(a), if applicable.

(d) *Notes to Be Converted*. At the Close of Business on the Conversion Date for any Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the consideration due upon conversion or interest due upon such conversion) be deemed to cease to be outstanding, subject to Section 7.03(d).

(e) *Cessation of Accrual of Interest*. Except as provided in Section 4.04(a) or 7.03(d), interest will cease to accrue on each Note from, and including, the date that such Note is deemed, pursuant to this Section 3.11, to cease to be outstanding, unless there occurs a default in the payment or delivery of any cash or other property due on such Note.

ARTICLE 4.
PARTICULAR COVENANTS OF THE COMPANY

Section 4.01 *Payment of Principal and Interest*. The Company covenants and agrees that it shall duly and punctually pay or cause to be paid the principal of, interest and premium on each of the Notes to the applicable Holder of the Notes at the places, at the respective times and in the manner provided herein and in the Notes. Each Note will accrue interest at a rate per annum equal to 8.2% (the "**Stated Interest**"), plus any Special Interest, Additional Interest or Default Interest that may accrue pursuant to Section 9.02, Section 11.05 or this Section 4.01, respectively. Stated Interest on each Note will (a) accrue from, and including, the most recent date to which Stated Interest has been paid or duly provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the date set forth in the certificate representing such Note as the date from, and including, which Stated Interest will begin to accrue in such circumstance) to, but excluding, the date of payment of such Stated Interest; and (b) be, except as otherwise provided in this Agreement, payable quarterly in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in the certificate representing such Note, to the Holder of such Note as of the Close of Business on the immediately preceding Regular Record Date. Interest on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months. If the Maturity Date of a Note is not an Interest Payment Date, then the accrued and unpaid interest on such Note to, but excluding, the Maturity Date will be paid, on the Maturity Date, to the Person to whom the Principal Amount and Repayment Premium of such Note is paid. Special Interest, Additional Interest and Default Interest, if any, will accrue and be paid in the manner set forth in Section 9.02, Section 11.05 and this Section 4.01, respectively.

To the extent that the payment of such interest shall be legally enforceable, upon the occurrence of and during the continuation of a Default or Event of Default under Section 9.01(a) (a "**Payment Default**"), any principal of, or premium or installment of interest on, the Notes which is overdue shall bear interest at the rate of, in each case, five percent (5.0%) per annum ("**Default Interest**") in excess of the rate of interest then borne by the Notes from the date of such Payment Default until cured or waived, and such Default Interest shall be payable in cash on each succeeding Interest Payment Date.

Section 4.02 *Maintenance of Office or Agency*. The Company shall maintain an office or agency in the United States, where the Notes may be surrendered for registration of transfer or exchange or for presentation for payment or for conversion and where notices and demands to or upon the Company in respect of the Notes and this Agreement may be served. The initial location of such office and agency is the Company's address set forth in Section 14.01, and the Company shall give prompt written notice to each Holder of any change in the location of such office or agency.

The Company may also from time to time designate co-registrars and one or more offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations. The Company will give prompt written notice of any such designation or rescission and of any change in the location of any such other office or agency.

Section 4.03 *Reports*. The Company shall furnish to the Holders, on or before the fifth (5th) day after the date that the Company is required to file the same (after giving effect to all applicable grace periods under the Exchange Act), all reports that the Company is required to file with the Commission pursuant to Section 13(a) or 15(d) of the Exchange Act; *provided*, *however*, that the Company need not send to any Holder any material for

which the Company has received, or is seeking in good faith and has not been denied, confidential treatment by the Commission. Any report that the Company files with the Commission through the EDGAR system (or any successor thereto) will be deemed to be sent to the Holders at the time such report is so filed.

Section 4.04 *Offer to Repurchase upon Fundamental Change*.

(a) If a Fundamental Change occurs at any time prior to the Maturity Date, each Holder shall have the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes, or any portion thereof that is equal to $1,000 or an integral multiple of $1,000 in excess thereof, on the date (the "**Fundamental Change Repurchase Date**") specified by the Company that is not less than twenty (20) Business Days or more than thirty (30) Business Days following the date of the Fundamental Change Company Notice at a repurchase price equal to one hundred and nine percent (109%) of the Principal Amount thereof, *plus* accrued and unpaid interest, if any, thereon to, but excluding, the Fundamental Change Repurchase Date (the "**Fundamental Change Repurchase Price**"), unless the Fundamental Change Repurchase Date for any Note to be so repurchased falls after a Regular Record Date but on or prior to the Interest Payment Date to which such Regular Record Date relates, in which case the Company shall instead pay, on such Interest Payment Date, pay to the Holder of record of such Note as of the Close of Business on such Regular Record Date, the amount of interest that would have accrued on such Note to such Interest Payment Date, and the Fundamental Change Repurchase Price of such Note shall be equal to one hundred and nine percent (109%) of the Principal Amount of such Notes.

(b) Repurchases of Notes under this Section 4.04 shall be made, at the option of the Holder thereof. To exercise such right, such Holder must deliver, prior to the Close of Business on the Business Day immediately preceding the Fundamental Change Repurchase Date, to the Company:

(i) a duly completed notice (the "**Fundamental Change Repurchase Notice**") to the Company; and

(ii) the Notes to be repurchased.

The Fundamental Change Repurchase Notice in respect of any Notes to be repurchased shall state:

(i) the certificate numbers of the Notes to be delivered for repurchase;

(ii) the portion of the principal amount of Notes to be repurchased, which must be $1,000 or an integral multiple in excess thereof; and

(iii) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Agreement.

Notwithstanding anything herein to the contrary, any Holder delivering to the Company the Fundamental Change Repurchase Notice contemplated by this Section 4.04 shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice by at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date by delivery of a written notice of withdrawal to the Company in accordance with Section 4.04(e).

(c) On or before the 20th Business Day after the occurrence of a Fundamental Change, the Company shall provide to all Holders of Notes a written notice (the "**Fundamental Change Company Notice**") of the occurrence of the Fundamental Change and of the repurchase right at the option of the Holders arising as a result thereof. Each Fundamental Change Company Notice shall specify:

(i) the events causing the Fundamental Change;

(ii) the date of the Fundamental Change;

(iii) the last date on which a Holder may exercise the repurchase right pursuant to this Section 4.04;

(iv) the Fundamental Change Repurchase Price;

(v) the Fundamental Change Repurchase Date;

(vi) if applicable, the Conversion Rate and any adjustments to the Conversion Rate resulting from the Fundamental Change;

(vii) that the Notes with respect to which a Fundamental Change Repurchase Notice has been delivered by a Holder may be converted only if the Holder withdraws the Fundamental Change Repurchase Notice in accordance with the terms of this Agreement; and

(viii) the procedures that Holders must follow to require the Company to repurchase their Notes.

No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 4.04.

(d) Notwithstanding the foregoing, no Notes may be repurchased by the Company on any date at the option of the Holders upon a Fundamental Change if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes).

(e) A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Company at any time prior to the Close of Business on the Business Day immediately preceding the Fundamental Change Repurchase Date, specifying:

(i) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted, which must be $1,000 or an integral multiple of $1,000 in excess thereof;

(ii) the certificate number of the Note in respect of which such notice of withdrawal is being submitted; and

(iii) the principal amount, if any, of such Note that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in principal amounts of $1,000 or an integral multiple of $1,000 in excess thereof.

(f) The Company shall not be required to repurchase or make an offer to repurchase the Notes upon a Fundamental Change if a third party makes such an offer in the same manner, at the same time and otherwise in compliance with the requirements made for an offer made by the Company as set forth in this Section 4.04 and such third party purchases all Notes properly surrendered and not validly withdrawn under its offer in the same manner, at the same time and otherwise in compliance with the requirements for an offer made by the Company as set forth in this Section 4.04.

(g) Notwithstanding anything to the contrary in this Section 4.04, the Company will not be required to send a Fundamental Change Company Notice, or offer to repurchase or repurchase any Notes pursuant to this Section 4.04, in connection with a Fundamental Change occurring pursuant to clause (b)(i) or (b)(ii) of the definition thereof, if (i) such Fundamental Change constitutes a Common Stock Change Event whose Reference Property consists solely of cash in U.S. dollars; (ii) immediately after such Fundamental Change, the Notes become convertible, pursuant to Section 7.05 and, if applicable, Section 7.07, into solely cash in U.S. dollars in an amount per Note that equals or exceeds the Fundamental Change Repurchase Price per Note (calculated assuming that the same includes accrued interest to, but excluding, the latest possible Fundamental Change Repurchase Date for such Fundamental Change); and (iii) the Company notifies Holders of the occurrence of such Fundamental Change and that, pursuant to this Section 4.04(g), the Company is not required to offer to repurchase the Notes in connection therewith.

Section 4.05 *Existence*. Subject to Article 10, the Company will do or cause to be done and will cause its Subsidiaries to do all things necessary to preserve and keep in full force and effect their respective existence and material rights (charter and statutory); *provided*, *however*, that the Company need not preserve or keep in full force and effect any such existence or right if the Board of Directors determines that (a) the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole; and (b) the loss thereof is not, individually or in the aggregate, materially adverse to the Holders.

Section 4.06 *Limitation on Additional Indebtedness*. Neither the Company nor any of its Subsidiaries shall, directly or indirectly, create, incur, assume or suffer to exist (collectively, "**incur**") any Indebtedness for borrowed money that is (a) unsecured Indebtedness, (b) Indebtedness, or preferred stock, that is convertible into Common Stock, if, in the case of clause (a) or (b) above, such Indebtedness or securities have a final maturity date, principal amortization or mandatory redemption date (other than pursuant to which such Indebtedness or securities are paid solely by, or repurchased, redeemed, exchanged or otherwise retired solely for, Equity Interests that do not constitute Disqualified Capital Stock) that is earlier than twelve (12) months after the Maturity Date, or (c) secured Indebtedness that is senior in right of payment to the Notes unless, in the case of this clause (c), (i) such Indebtedness is incurred after the first *bona fide* commercial sale of at least one of the Company's products and (ii) the outstanding aggregate principal amount of such Indebtedness shall not at any time exceed one hundred million dollars ($100,000,000); *provided*, *however*, that this Section 4.06 will not prohibit the Company or any of its Subsidiaries from incurring any of the following:

(i) any Indebtedness of the Company and its Subsidiaries in existence on the date of this Agreement;

(ii) Indebtedness under the Initial Notes or under this Agreement with respect to the Initial Notes;

(iii) the incurrence by the Company or any of its Subsidiaries of intercompany Indebtedness between or among the Company and any of its Subsidiaries; *provided*, *however*, that:

(A) if the Company or any Guarantor is the obligor on such Indebtedness and the payee is not the Company or a Guarantor, such Indebtedness must be unsecured and expressly subordinated to the prior payment in full in cash of all obligations then due with respect to the Notes, in the case of the Company, or the applicable Guarantee, in the case of a Guarantor; and

(B) (x) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Subsidiary of the Company and (y) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Subsidiary of the Company, will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Subsidiary, as the case may be, that was not permitted by this clause (iii);

(iv) the incurrence by the Company or any of its Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge any Indebtedness (other than intercompany Indebtedness) that was permitted by this Agreement to be incurred under clauses (i), (ii), (iv) and (v) of this Section 4.06; and

(v) any (a) unsecured Indebtedness or (b) secured Indebtedness incurred to finance the acquisition, construction or improvement of any fixed or capital asset constituting purchase money Indebtedness provided that such Indebtedness is incurred within ninety (90) days after such acquisition or the completion of such construction or improvement, not to exceed, in the case of both (a) and (b) together, in the aggregate at any time fifteen million dollars ($15,000,000).

Section 4.07 *Limitation on Dividends*. Neither the Company nor any of its Subsidiaries, directly or indirectly, will declare or make, or agree to declare or make, any Restricted Payment or incur any obligation (contingent or otherwise) to do so.

Section 4.08 *Default Notices*. The Company shall promptly give written notice to each of the Holders of each Default or Event of Default.

Section 4.09 *Payment of Taxes.* Each Credit Party shall pay and discharge promptly when due all Taxes, imposed upon it or upon its income or profits or in respect of its property, before the same shall become delinquent or in default (including in its capacity of a withholding agent); provided that such payment and discharge shall not be required with respect to any such Tax, so long as (i) the validity or amount thereof shall be contested in good faith by appropriate proceedings timely instituted and diligently conducted and the applicable Credit Party shall have set aside on its books adequate reserves or other appropriate provisions with respect thereto in accordance with GAAP and such contest operates to suspend collection of the contested Taxes or (ii) the failure to pay could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

ARTICLE 5.
REDEMPTION

Section 5.01 *No Right to Redeem Before March 31, 2020*. The Company may not redeem the Notes at its option at any time before March 31, 2020.

Section 5.02 *Right to Redeem the Notes on or After March 31, 2020*. Subject to the terms of this Article 5, the Company has the right, at its election, to redeem all, and not less than all, of the Notes not previously converted, at any time, on a Redemption Date on or after March 31, 2020, for a cash purchase price equal to the Redemption Price, but only if the Last Reported Sale Price per share of Common Stock exceeds one hundred and sixty percent (160%) of the Conversion Price on each of at least twenty (20) Trading Days (whether or not consecutive) during the thirty (30) consecutive Trading Days ending on, and including, the Trading Day immediately before the Redemption Notice Date for such Redemption.

Section 5.03 *Redemption Prohibited in Certain Circumstances*. Notwithstanding the foregoing, no Notes may be redeemed by the Company pursuant to this Article 5 on any date if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Redemption Price with respect to such Notes).

Section 5.04 *Redemption Date*. The Redemption Date for any Redemption will be a Business Day of the Company's choosing that is on or after March 31, 2020 and is no more than eighty (80), nor less than twenty (20), calendar days after the Redemption Notice Date for such Redemption.

Section 5.05 *Redemption Price*. The Redemption Price for any Note called for Redemption is an amount in cash equal to one hundred and nine percent (109%) of the Principal Amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Redemption Date for such Redemption; *provided*, *however*, that if such Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then (a) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Redemption, to receive, on such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Redemption Date is before such Interest Payment Date); and (b) the Redemption Price will not include accrued and unpaid interest on such Note to, but excluding, such Redemption Date.

Section 5.06 *Redemption Notice*. To call any Notes for Redemption, the Company must send to each Holder a written notice of such Redemption (a "**Redemption Notice**") stating (a) that the Notes have been called for Redemption, briefly describing the Company's Redemption right under this Agreement; (b) the Redemption Date for such Redemption; (c) the Redemption Price for such Redemption; and (d) the place or places where Notes are to be

surrendered for payment of the Redemption Price. Once a Redemption Notice is given, the Notes shall, on the Redemption Date, become due and payable at the Redemption Price, and upon surrender of any Note for Redemption in accordance with such Redemption Notice, such Note shall be paid by the Company at the Redemption Price.

Section 5.07 *AHYDO Saver*. Notwithstanding anything to the contrary, if the Note would otherwise constitute an "applicable high-yield discount obligation" within the meaning of Section 163(i) of the Internal Revenue Code or any successor provisions, on each Interest Payment Date ending on or after the date that is five years after the Closing Date, the Company shall make a payment in an amount necessary (if any) to ensure that the Note shall not be considered an applicable high yield discount obligation; *provided*, *however*, that, any payment made pursuant to this Section 5.07 shall reduce the amount of any subsequent Repayment Premium required to be paid by the Company and shall not reduce the Principal Amount.

ARTICLE 6.
CONDITIONS

Section 6.01 *Closing Date Conditions*. The obligation of each Investor to purchase the Notes hereunder shall be subject to the satisfaction on the Closing Date of the conditions precedent set forth below:

(a) The Company shall have delivered to the Investors the Notes and this Agreement, each dated the Closing Date.

(b) The Company shall have delivered to the Investors an executed copy of:

(i) a certificate of the Company, dated the Closing Date, substantially in the form set forth in Exhibit C hereto together with the attachments specified therein; and

(ii) an opinion of counsel to the Company, dated the Closing Date, in form and substance reasonably acceptable to the Investors.

(c) The Company shall have delivered to the Investors (i) a certificate, dated the Closing Date, of a senior officer of each Credit Party (the statements made in which to have been true and correct on and as of the Closing Date): (x) attaching copies, certified by such officer as true and complete, of such Credit Party's certificate of incorporation and bylaws (together with any and all amendments thereto); (y) attaching copies, certified by such officer as true and complete, of resolutions of the board of directors (or other governing body) of such Credit Party authorizing and approving the execution, delivery and performance by such Credit Party of this Agreement and the other Note Documents and the transactions contemplated herein and therein; and (x) setting forth the incumbency of the officer or officers of such Credit Party who executed and delivered this Agreement and the other Note Documents including therein a signature specimen of each such officer or officers; and (ii) certificates of the appropriate Governmental Authority of the jurisdiction of formation of such Credit Party and its Subsidiaries, stating that such Credit Party and its Subsidiaries were in good standing under the laws of such jurisdiction as of the Closing Date (or such earlier date as shall be reasonably acceptable to the Investors).

(d) No event shall have occurred and be continuing that (i) constitutes a Default or an Event of Default or (ii) could reasonably be expected to constitute a Material Adverse Effect.

(e) All necessary governmental and third-party approvals, consents and filings required for the issuance of the Notes and entry into the other Note Documents shall have been obtained or made and shall remain in full force and effect.

ARTICLE 7.
CONVERSION

Section 7.01 *Right to Convert*. Subject to and upon compliance with the provisions of this Agreement, each Holder shall have the right, at such Holder's option, at any time prior to the Close of Business on the Business Day immediately preceding the Maturity Date, to convert the Principal Amount of such Holder's Notes, or any portion of such Principal Amount that is $1,000 and any integral multiple of $1,000 in excess thereof, into shares of Common Stock (and, if applicable, cash in lieu of any fractional share of Common Stock). Notwithstanding anything to the contrary:

(a) Notes may be surrendered for conversion only after the Open of Business and before the Close of Business on a day that is a Business Day;

(b) in no event may any Note be converted after the Close of Business on the Business Day immediately preceding the Maturity Date;

(c) if the Company calls any Note for Redemption pursuant to Article 5, then the Holder of such Note may not convert such Note after the Close of Business on the Business Day immediately before the applicable Redemption Date, except to the extent the Company fails to pay the Redemption Price for such Note in accordance with this Indenture;

(d) if a Fundamental Change Repurchase Notice is validly delivered pursuant to Section 4.04(b) with respect to any Note, then such Note may not be converted, except to the extent (i) such Note is not subject to such notice; (ii) such notice is withdrawn in accordance with Section 4.04(e); or (iii) the Company fails to pay the Fundamental Change Repurchase Price for such Note in accordance with this Agreement; and

(e) in no event will any Note be converted unless and until all applicable waiting periods (and any extension thereof) prescribed by the HSR Act, if any, have expired or been terminated.

Section 7.02 *Conversion Procedure*.

(a) In order to exercise the conversion right with respect to any Notes, the Holder of any such Notes to be converted, in whole or in part, shall:

(i) complete and manually sign the conversion notice provided on the back of the Note (or a facsimile of such conversion notice) and deliver the same to the Company;

(ii) surrender the Note to the Company;

(iii) if required, furnish appropriate endorsements and transfer documents,

(iv) if required pursuant to Section 7.08, pay any transfer taxes or duties; and

(v) if required, pay funds equal to interest payable on the next Interest Payment Date as required by Section 7.03(d).

The date on which the Holder satisfies all of the applicable requirements set forth above is the "**Conversion Date**."

(b) In case any Note having a Principal Amount greater than $1,000 shall be surrendered for partial conversion, the Company shall execute and deliver to the Holder of such Note, without charge to such Holder, new Notes in authorized denominations in an aggregate Principal Amount equal to the unconverted portion of such Note.

Each conversion shall be deemed to have been effected as to any such Notes (or portion thereof) on the Conversion Date for such conversion, and the Person in whose name the shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder of record of such shares as of the Close of Business on such the Conversion Date for such conversion.

(c) Each share of Common Stock issued upon conversion of any Notes that are Restricted Notes shall be subject to the Restricted Stock Legend as set forth in Section 3.06.

Section 7.03 *Settlement upon Conversion Into Common Stock.*

(a) The type and amount of consideration due in respect of each $1,000 principal amount of a Note to be converted will be a number of shares of Common Stock equal to the Conversion Rate in effect on the Conversion Date for such conversion; *provided*, *however*, that, subject to Section 7.03(e), in lieu of issuing or delivering any fraction of any share of Common Stock, the Company will instead either, at the Company's option, (I) pay cash in an amount equal to the product of (x) such fraction and (y) the Last Reported Sale Price per share of Common Stock on such Conversion Date; or (II) deliver an additional whole share of Common Stock.

(b) Subject to Section 7.05, the Company will deliver the consideration due upon conversion of any Note on or before the third (3rd) Business Day after the Conversion Date for such conversion.

(c) Subject to Section 7.03(d), upon conversion, Holders shall not receive any separate cash payment for accrued and unpaid interest.

(d) If the Conversion Date for any Note is after a Regular Record Date and before the next Interest Payment Date, then (i) the Holder(s) of such Note at the Close of Business on such Regular Record Date will receive, on such Interest Payment Date, the interest that would have accrued on such Note to, and been payable on, such Interest Payment Date notwithstanding the conversion; and (ii) such Note, when surrendered for conversion, must be accompanied by funds equal to the amount of such interest; *provided*, *however*, that no such payment need be made (x) for conversions whose Conversion Date occurs following the Regular Record Date immediately preceding the Maturity Date, (y) for conversions whose Conversion Date occurs following a Regular Record Date immediately preceding a Redemption Date, or (z) to the extent of any overdue interest, if any overdue interest exists at the time of conversion with respect to such Note.

(e) If multiple Notes shall be surrendered for conversion with the same Conversion Date by the same Holder, the number of full shares which shall be issuable upon such conversion (and the number of fractional shares, if any, for which cash shall be delivered) shall be computed on the basis of the aggregate Principal Amount of such Notes to be so converted.

(f) By delivery to the Holder of the consideration due upon conversion of any Note, the Company will be deemed to satisfy in full its obligation to pay the Principal Amount of the Notes and all accrued and unpaid interest to, but excluding, the Conversion Date. Upon conversion of the Notes, all accrued and unpaid interest to, but excluding, the Conversion Date will be deemed to be paid in full rather than canceled, extinguished or forfeited, subject to Section 7.03(d).

(g) Shares of Common Stock issued upon a conversion shall be delivered pursuant to a book entry with the transfer agent for the Common Stock, and in no event shall paper certificates be issued or delivered, except with the consent of the Holder receiving the same.

Section 7.04 *Adjustment of Conversion Rate*. The Conversion Rate shall be adjusted from time to time by the Company if any of the following events occurs as described below, except that the Company will not make any adjustment to the Conversion Rate if Holders of Notes participate, at the same time and on the same terms as holders of shares of Common Stock, solely as a result of holding the Notes, in any of the transactions described in this Section 7.04, without having to convert their Notes, as if each Holder held, on the applicable Record Date or effective date, a number of shares of Common Stock equal to the Conversion Rate in effect on such Record Date or effective date, *multiplied by* the Principal Amount of Notes held by such Holder, *divided by* $1,000.

(a) If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all of the shares of the Common Stock, or the Company effects a share split or share combination applicable to all shares of the Common Stock (in each case excluding an issuance solely pursuant to a Common Stock Change Event, as to which the provisions set forth in Section 7.05 will apply), the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the Record Date of such dividend or distribution, or immediately prior to the Open of Business on the effective date of such share split or share combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on such Record Date or effective date, as applicable;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the Close of Business on such Record Date or effective date, as applicable; and

OS_1 = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, share split or share combination.

If any dividend, distribution, share split or share combination of the type described in this Section 7.04(a) is declared but not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such share split or share combination, to the Conversion Rate that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

(b) If the Company distributes, to all or substantially all holders of shares of Common Stock, any rights, options or warrants entitling such holders for a period of not more than sixty (60) calendar days after the Record Date of such distribution to subscribe for or purchase shares of Common Stock, at a price per share less than the average of the Last Reported Sale Prices per share of Common Stock over the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately preceding the date of announcement of such distribution, the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS + X}{OS + Y}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the Record Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on such Record Date;

OS = the number of shares of Common Stock outstanding immediately prior to the Close of Business on such Record Date;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants *divided by* the average of the Last Reported Sale Prices per share of Common Stock over the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately preceding such date of announcement.

The foregoing increase in the Conversion Rate shall be successively made whenever any such rights, options or warrants are distributed. If such rights, options or warrants are not so distributed, the Conversion Rate will be immediately readjusted to the Conversion Rate that would then be in effect if such Record Date for such distribution had not been fixed. In addition, to the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Rate shall be immediately readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate made for the distribution of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered upon exercise of such rights, option or warrants.

In determining whether any rights, options or warrants entitle the holders of shares of Common Stock to subscribe for or purchase shares of Common Stock at less than such average of the Last Reported Sale Prices, and in determining the aggregate price payable to exercise such rights, options or warrants, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable upon exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c)

(i) If the Company distributes shares of its Capital Stock, evidences of its Indebtedness, other assets or property of the Company or rights, options or warrants to acquire the Company's Capital Stock or other securities (the "**Distributed Property**"), to all or substantially all holders of shares of Common Stock, excluding:

(A) dividends, distributions, rights, options or warrants for which an adjustment is required (or would be required without regard to Section 7.04(h)) pursuant to Section 7.04(a) or Section 7.04(b);

(B) dividends or distributions paid exclusively in cash for which an adjustment is required (or would be required without regard to Section 7.04(h)) pursuant to Section 7.04(d);

(C) rights issued or otherwise distributed pursuant to a stockholder rights plan, except to the extent provided in Section 7.10;

(D) Spin-Offs for which an adjustment is required (or would be required without regard to Section 7.04(h)) pursuant to Section 7.04(c)(ii); and

(E) a distribution solely pursuant to a Common Stock Change Event, as to which the provisions set forth in Section 7.05 will apply,

then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - FMV}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the Record Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on such Record Date;

SP = the average of the Last Reported Sale Prices per share of Common Stock over the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined by the Board of Directors), as of such Record Date, of such Distributed Property distributed per share of Common Stock pursuant to such distribution.

No adjustment pursuant to the above formula shall result in a decrease of the Conversion Rate. If such distribution is not so paid or made, or such rights, options or warrants are not exercised before their expiration (including as a result of being redeemed or terminated), the Conversion Rate shall be readjusted to be the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid or on the basis of the distribution of only such rights, options or warrants, if any, that were actually exercised, if at all. Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than "SP" (as defined above), then, in lieu of the foregoing increase, each Holder shall receive, in respect of each $1,000 principal amount of Notes that it held on the Record Date for such distribution, at the same time and upon the same terms as holders of the Common Stock receive the Distributed Property, without having to convert its Notes, the amount and kind of Distributed Property such Holder would have received if such Holder owned, on such Record Date, a number of shares of Common Stock equal to the Conversion Rate in effect on such Record Date. If the Board of Directors determines the "FMV" (as defined above) of any distribution for purposes of this Section 7.04(c)(i) by reference to the actual or when-issued trading market for any securities, it shall in doing so consider the prices in such market over the same period used in computing the average Last Reported Sale Prices per share of Common Stock referred to above.

(ii) With respect to an adjustment pursuant to this Section 7.04(c) where there has been a payment of a dividend or other distribution on all or substantially all shares of the Common Stock of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary, or other business unit or Affiliate, of the Company, where such Capital Stock or similar equity interest is listed or quoted (or will be listed or quoted upon consummation of the transaction) on a U.S. or non-U.S. securities exchange (as determined by the Company) (a "**Spin-Off**"), the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + MP}{MP}$$

where,

CR_0 = the Conversion Rate in effect immediately before the Close of Business on the Record Date for such Spin-Off;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on such Record Date;

FMV = the average of the Last Reported Sale Prices per share of Capital Stock or similar equity interest distributed per share of Common Stock in such Spin-Off (determined for purposes of the definition of "Last Reported Sale Price" as if references therein to Common Stock were instead references to such Capital Stock or similar equity interest) over the ten (10) consecutive Trading Days beginning on, and including, the Ex-Dividend Date of the Spin-Off (the "**Spin-Off Valuation Period**"); and

MP = the average of the Last Reported Sale Prices per share of Common Stock over the Spin-Off Valuation Period.

The adjustment to the Conversion Rate pursuant to this Section 7.04(d) will be calculated as of the Close of Business on the last Trading Day of the Spin-Off Valuation Period but will be given effect immediately after the Close of Business on the Record Date for the Spin-Off, with retroactive effect. If a Note is converted and the

Conversion Date occurs during the Spin-Off Valuation Period, then, notwithstanding anything to the contrary, the Company will, if necessary, delay the settlement of such conversion until the third (3rd) Business Day after the last day of the Spin-Off Valuation Period. To the extent any dividend or distribution that constitutes a Spin-Off is declared but not paid or made, the Conversion Rate shall be immediately readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(d) If any cash dividend or distribution is paid or made to all or substantially all holders of shares of Common Stock, the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - C}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the Record Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on such Record Date;

SP = the Last Reported Sale Price per share of Common Stock on the Trading Day immediately prior to such Ex-Dividend Date; and

C = the amount in cash per share of Common Stock in such dividend or distribution.

No adjustment pursuant to the above formula shall result in a decrease of the Conversion Rate. To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid. Notwithstanding the foregoing, if "C" (as defined above) is equal to or greater than "SP" (as defined above), then, in lieu of the foregoing increase, each Holder shall receive, for each $1,000 principal amount of Notes that it held on the Record Date for such distribution, at the same time and upon the same terms as holders of shares of the Common Stock, without having to convert its Notes, the amount of cash that such Holder would have received if such Holder owned, on such Record Date, a number of shares of Common Stock equal to the Conversion Rate on such Record Date.

(e) If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for shares of Common Stock, to the extent that the value (determined as of the Expiration Time by the Board of Directors) of the cash and any other consideration paid per share of Common Stock in such tender or exchange offer exceeds the Last Reported Sale Prices per share of Common Stock on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP \times OS_1)}{OS_0 \times SP}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the time (the "**Expiration Time**") such tender or exchange offer expires;

CR_1 = the Conversion Rate in effect immediately after the Expiration Time;

AC = the aggregate value (determined as of the Expiration Time by the Board of Directors) of all cash and other consideration paid for shares of Common Stock purchased in such tender or exchange offer;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the Expiration Time (prior to giving effect to the purchase of shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);

OS_1 = the number of shares of Common Stock outstanding immediately after the Expiration Time (after giving effect to the purchase of shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Last Reported Sale Prices per share of Common Stock over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, on the Trading Day next succeeding the Expiration Date.

The adjustment to the Conversion Rate pursuant to this Section 7.04(e) will be calculated as of the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If a Note is converted and the Conversion Date occurs during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary, the Company will, if necessary, delay the settlement of such conversion until the third (3rd) Business Day after the last day of the Tender/Exchange Offer Valuation Period. No adjustment pursuant to the above formula shall result in a decrease of the Conversion Rate.

If the Company is obligated to purchase shares of Common Stock pursuant to any such tender or exchange offer, but the Company is ultimately prevented by applicable law from effecting all or any portion of such purchases or all such purchases are rescinded, the Conversion Rate shall immediately be readjusted to the Conversion Rate that would then be in effect if such tender or exchange offer had not been made or had been made only in respect of the purchases that had been effected.

(f) In addition to those Conversion Rate adjustments required by Sections 7.04(a), 7.04(b), 7.04(c), 7.04(d) and 7.04(e), and to the extent permitted by applicable law and subject to the applicable rules of The NASDAQ Global Market (including Market Rule 5635) and, if applicable, any securities exchange on which the Company's securities are then listed, the Company from time to time may (but is not required to) (i) increase the Conversion Rate by any amount for a period of at least twenty (20) Business Days if the Board of Directors determines that such increase would be in the Company's best interest and (ii) increase the Conversion Rate to avoid or diminish any income tax to holders of shares of Common Stock or rights to purchase shares of Common Stock in connection with any dividend or distribution of shares of Common Stock (or rights to acquire shares of Common Stock) or similar event.

(g) Notwithstanding anything to the contrary, the Conversion Rate will not be adjusted:

(i) the sale of shares of Common Stock for a purchase price that is less than the market price per share of Common Stock or less than the Conversion Price;

(ii) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Common Stock under any plan;

(iii) upon the entry into any share repurchase program by the Company, including any accelerated share repurchase transaction or other share repurchase transaction effected through the use of derivatives;

(iv) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of (or assumed by) the Company or any its Subsidiaries;

(v) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in clause (iv) above and outstanding as of the date the Notes were first issued, except as set forth in Section 7.10;

(vi) for a change in the par value of the Common Stock; or

(vii) for accrued and unpaid interest, if any, on the Notes.

(h) Adjustments to the Conversion Rate under this Article 7 shall be calculated to the nearest cent or to the nearest one-ten thousandth (1/10,000th) of a share of Common Stock. Notwithstanding anything to the contrary in Section 7.04, no adjustment shall be made to the Conversion Rate unless such adjustment would require a change of at least one percent (1%) in the Conversion Rate, and any adjustment that would otherwise be required to be made shall be carried forward and taken into account in any future adjustment; *provided, however*, that upon any conversion of the Notes, the Company shall give effect to all adjustments that Company otherwise has deferred pursuant to this sentence, and those adjustments will no longer be carried forward and taken into account in any future adjustment.

(i) After any adjustment to the Conversion Rate pursuant hereto, the Company shall prepare and send to Holders, within 20 days of the effective date of such adjustment, a notice of such adjustment setting forth the adjusted Conversion Rate and the date on which each adjustment became effective. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(j) For purposes of this Section 7.04, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company, so long as the Company does not pay any dividend or make any distribution on such shares, but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

Section 7.05 *Effect of Reclassification, Consolidation, Merger, Sale, Etc*. In the case of (i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination, any stock dividends or any change in par value or from a par value to no par value or from no par value to a par value), (ii) any consolidation, merger or combination involving the Company, (iii) any sale, lease or other transfer to a third party of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, or (iv) any statutory share exchange, in each case, as a result of which the Common Stock would be converted into, or exchanged for, or represent solely the right to receive, stock, other securities or other property or assets (including cash or any combination thereof) (any such event, a "**Common Stock Change Event**," and such stock, securities, property or assets, the "**Reference Property**," and the amount and kind of Reference Property that a holder of one (1) share of Common Stock would be entitled to receive on account of such Common Stock Change Event (without giving effect to any arrangement not to issue fractional shares of securities or other property), a "**Reference Property Unit**"), then, notwithstanding anything to the contrary,

(a) at the effective time of such Common Stock Change Event, (1) the consideration due upon conversion of any Note will be determined in the same manner as if each reference to any number of shares of Common Stock in this Article 7 (or in any related definitions) were instead a reference to the same number of Reference Property Units; and for (2) purposes of the definition of "Fundamental Change" and "Make-Whole Fundamental Change," the term "Common Stock" will be deemed to mean the Common Equity, if any, forming part of such Reference Property;

(b) if such Reference Property Unit consists entirely of cash, then, in respect of all conversions whose Conversion Date occurs on or after the effective date of such Common Stock Change Event, the Company will pay the cash due upon such conversions no later than the third (3rd) Business Day after the relevant Conversion Date;

(c) for these purposes, the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof);

(d) the Company shall promptly execute, and the Holders shall counter-sign, a supplemental agreement pursuant to Article 13 that (1) will provide for subsequent conversions of Notes in the manner set forth in this Section 7.05; (2) will provide for subsequent adjustments to the Conversion Rate pursuant to Section 7.04(a), 7.04(b), 7.04(c), 7.04(d), 7.04(e) and 7.07 in a manner consistent with this Section 7.05; and (3) may contain such other provisions as (i) the Company in good faith determines are appropriate to preserve the economic interests of the Holders and to give effect to the provisions of this Section 7.05 and (ii) to which Holders of at least a majority of the aggregate principal amount of Notes then outstanding reasonably agree.

If such Common Stock Change Event causes the Common Stock to be converted into, or exchanged for, or represent solely the right to receive, more than a single type of consideration (determined based in part upon any form of shareholder election), the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election. The Company shall notify Holders of the Notes of such weighted average as soon as practicable after such determination is made.

The Company shall not become a party to any Common Stock Change Event unless its terms are consistent with this Section 7.05. None of the foregoing provisions shall affect the right of a Holder of Notes to convert its Notes as set forth in Section 7.01 and Section 7.02 prior to the effective date of such Common Stock Change Event.

Section 7.06 *Adjustments of Prices*. Whenever any provision of this Agreement requires a calculation of the Last Reported Sale Prices, or a function thereof, over a span of multiple days, the Company may make adjustments determined by the Company or its agents to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Dividend Date, Record Date, effective date or Expiration Date, as the case may be, of the event occurs, at any time during the period during which such calculations are based.

Section 7.07 *Increased Conversion Rate Applicable to Certain Notes Surrendered in Connection with Make-Whole Fundamental Changes*.

(a) If a Make-Whole Fundamental Change occurs or becomes effective prior to the Maturity Date and a Holder elects to convert any of its Notes in connection with such Make-Whole Fundamental Change, the Company shall, under the circumstances described below, increase the Conversion Rate for such Notes by a number of additional shares of Common Stock (the "**Additional Shares**"), as set forth below. A conversion of Notes shall be deemed for these purposes to be "in connection with" such Make-Whole Fundamental Change if the Conversion Date for such conversion occurs on or after the effective date of the Make-Whole Fundamental Change and on or before the Business Day immediately prior to the related Fundamental Change Repurchase Date (or, if such Make-Whole Fundamental Change is not a Fundamental Change, on or before the 35th Trading Day immediately following the Effective Date of such Make-Whole Fundamental Change) (such period, the "**Make-Whole Fundamental Change Period**"). Notwithstanding anything to the contrary, in no event will the Conversion Rate applicable to the conversion of any Note in connection with a Make-Whole Fundamental Change be increased pursuant to this Section 7.07 if such Make-Whole Fundamental Change constitutes a Fundamental Change pursuant to clause (a) of the definition of such term where the "person" or "group" referred to in such clause is, or includes, the Holder or beneficial owner of such Note or any Affiliate thereof.

(b) If a Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change, constitutes a Common Stock Change Event for which the Reference Property is composed entirely of cash, then, for any conversion of Notes with a Conversion Date following the effective date of such Make-Whole Fundamental Change, the consideration due upon such shall be deemed to be an amount of cash per $1,000 principal amount of converted Notes equal to the applicable Conversion Rate (including any adjustment for Additional Shares), *multiplied by* such Stock Price. The Company shall notify the Holders of Notes of the effective date of any Make-Whole Fundamental Change no later than five (5) Business Days after such effective date.

(c) The number of Additional Shares, if any, by which the Conversion Rate shall be increased shall be determined by reference to the table in Section 7.07(e), based on the date on which the Make-Whole Fundamental Change occurs or becomes effective and the price (the "**Stock Price**") paid (or deemed to be paid) per share of the Common Stock in the Make-Whole Fundamental Change. If the holders of the Common Stock receive in exchange for their Common Stock only cash in a Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change, the Stock Price shall be the cash amount paid per share. Otherwise, the Stock Price shall be the average of the Last Reported Sale Prices per share of Common Stock over the five (5) Trading Days ending on, and including, the Trading Day immediately preceding the Effective Date of the Make-Whole Fundamental Change.

(d) The Stock Prices set forth in the column headings of the table in Section 7.07(e) shall be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Rate is adjusted pursuant to Section 7.04(a), 7.04(b), 7.04(c), 7.04(d) or 7.04(e). The adjusted Stock Prices shall equal the Stock Prices applicable immediately prior to such adjustment, *multiplied by* a fraction, the numerator of which is the Conversion Rate immediately prior to such adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of Additional Shares set forth in the table below shall be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Rate is adjusted pursuant to Section 7.04(a), 7.04(b), 7.04(c), 7.04(d) or 7.04(e).

(e) The following table sets forth the number of Additional Shares of Common Stock by which the Conversion Rate shall be increased per $1,000 principal amount of Notes pursuant to this Section 7.07 for each Stock Price and effective date set forth below:

	Stock Price										
Effective Date	**$13.97**	**$17.00**	**$20.00**	**$22.35**	**$30.00**	**$35.76**	**$40.00**	**$45.00**	**$55.00**	**$65.00**	**$75.00**
February 29, 2016	26.8433	20.2953	16.0710	13.6944	8.9603	6.9600	5.9230	4.9949	3.7175	2.8774	2.2789
March 31, 2017	26.8433	19.1159	14.8280	12.4492	7.8320	5.9597	5.0173	4.1936	3.0951	2.3957	1.9069
March 31, 2018	26.8433	17.9029	13.4685	11.0403	6.4653	4.7148	3.8755	3.1738	2.2936	1.7683	1.4151
March 31, 2019	26.8433	16.7765	12.0940	9.5459	4.8273	3.1390	2.4035	1.8518	1.2631	0.9649	0.7796
March 31, 2020	26.8433	15.7959	10.8685	8.2362	3.2290	1.0825	0.0370	0.0000	0.0000	0.0000	0.0000
March 31, 2021	26.8433	14.4600	9.0065	6.3669	2.2413	0.7640	0.0370	0.0000	0.0000	0.0000	0.0000
March 31, 2022	26.8433	14.0847	5.2615	0.0040	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

If such effective date or Stock Price are not set forth in the table above, then:

(i) if such Stock Price is between two Stock Prices in the table above or the effective date is between two effective dates in the table above, then the number of Additional Shares will be determined by a straight-line interpolation between the numbers of Additional Shares set forth for the higher and lower Stock Prices in the table and the earlier and later effective dates in the table above, as applicable, based on a 365- or 366-day year, as applicable;

(ii) if the Stock Price is greater than $75.00 per share (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above are adjusted pursuant to Section 7.07(d)), then no Additional Shares will be added to the Conversion Rate; and

(iii) if the Stock Price is less than $13.97 per share (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above are adjusted pursuant to Section 7.07(d)), then no Additional Shares will be added to the Conversion Rate.

Notwithstanding anything to the contrary, in no event will the Conversion Rate be increased pursuant to this Section 7.07 to an amount that exceeds 69.3000 shares of Common Stock per $1,000 principal amount of Notes, which amount is subject to adjustment in the same manner as, and at the same time and for the same events for which, the Conversion Rate is required to be adjusted pursuant to Section 7.04(a), 7.04(b), 7.04(c), 7.04(d) or 7.04(e).

Section 7.08 *Taxes on Shares Issued*. Any issue of shares of Common Stock upon the conversion of Notes shall be made without charge to the converting Holder for any documentary, transfer, stamp or any similar tax in respect of the issue thereof, and the Company shall pay any and all documentary, stamp or similar issue or transfer taxes or duties that may be payable in respect of the issue or delivery of shares of Common Stock, if any, upon conversion of Notes pursuant hereto. The Company shall not, however, be required to pay any such tax which may be payable in respect of any transfer involved in the issue and delivery of shares in any name other than that of the Holder of any Notes converted, and, in addition to any other requirements or conditions set forth herein, the Company shall not be required to issue or deliver any such shares unless and until the Person or Persons requesting the issue thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

Section 7.09 *Reservation of Shares; Listing*. The Company shall at all times provide, out of its authorized but unissued shares or shares held in treasury, sufficient shares of Common Stock to provide for the conversion of the Notes from time to time as such Notes are presented for conversion (assuming that, at the time of the computation of such number of shares, all such Notes would be held by a single Holder). The Company will use its best efforts to cause all shares of Common Stock issued upon conversion of the Notes to be listed on any U.S. securities exchange upon which the Common Stock is then listed.

Section 7.10 *Shareholder Rights Plan*. Each share of Common Stock, if any, issued upon conversion of Notes pursuant to this Article 7 shall be entitled to receive the appropriate number of rights, if any, and the certificates, if any, representing such shares shall bear such legends, if any, in each case as may be provided by the terms of any then-effective shareholder rights agreement adopted by the Company, as any such agreement may be amended from time to time. Notwithstanding the foregoing, if, prior to any conversion of any Notes, such rights have separated from the Common Stock in accordance with the provisions of the applicable shareholder rights agreement, then the Conversion Rate shall be adjusted at the time of separation as if the Company had distributed, to all holders of the Common Stock, Distributed Property as described in Section 7.04(c), subject to readjustment in the event of the expiration, termination or redemption of such rights. Unless and until such rights have so separated, no adjustment to the Conversion Rate will be made pursuant to Section 7.04(c) on account of such rights.

Section 7.11 *Company Determination Final*. Any determination that the Board of Directors contemplated pursuant to this Article 7 shall be conclusive if made in good faith and in accordance with the provisions of this Article 7, absent manifest error.

Section 7.12 *Exchange in Lieu of Conversion*. Notwithstanding anything to the contrary in this Article 7, and subject to the terms of this Section 7.12, if a Note is to be converted, the Company may elect to arrange to have such Note exchanged in lieu of conversion by a financial institution designated by the Company. To make such election, the Company must provide written notice of such election to the Holder of such Note before the Close of Business on the Business Day immediately after the Conversion Date for such Note. If the Company has made such election, then:

(a) no later than the Business Day immediately after such Conversion Date, the Company must deliver such Note, together with delivery instructions for the consideration due upon such conversion, to a financial institution designated by the Company that has agreed to deliver such consideration in the manner and at the time the Company would have had to deliver the same pursuant to this Article 7; and

(b) such Note will not cease to be outstanding by reason of such exchange in lieu of conversion;

provided, however, that if such financial institution does not accept such Note or fails to timely deliver such consideration, then the Company will be responsible for delivering such consideration in the manner and at the time provided in this Article 7 as if the Company had not elected to make an exchange in lieu of conversion.

ARTICLE 8.
REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 8.01 *Representations and Warranties of Investors*. Each Investor, severally and not jointly, hereby represents and warrants, as of the Closing Date, as follows:

(a) It is an "accredited investor" as that term is defined in Regulation D as promulgated under the Securities Act. It is purchasing the Notes and the shares of Common Stock, if any, issuable upon conversion thereof for its own account solely for investment purposes and not with a view to the resale or distribution of the Notes or such shares of Common Stock. It has not been formed for the specific purpose of acquiring the Notes or such shares of Common Stock.

(b) It has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of investing in the Notes and shares of Common Stock, if any, issuable upon conversion thereof, and it is experienced in investing in capital markets and is able to bear the economic risk of investing in the Notes and such shares of Common Stock, including a complete loss of such investment.

(c) It is aware that an investment in the Notes and shares of Common Stock, if any, issuable upon conversion thereof involves a high degree of risk, and such securities are, therefore, a speculative investment.

(d) The Company has not given any investment advice or rendered any opinion to it as to whether an investment in the Notes or shares of Common Stock, if any, issuable upon conversion thereof is prudent or suitable.

(e) It acknowledges that it has (i) had the opportunity to ask questions and receive answers from the Company, (ii) been furnished with all other materials that it considers relevant to an investment in the Notes and shares of Common Stock, if any, issuable upon a conversion thereof and (iii) been given the opportunity fully to perform its own due diligence, in each case, to the extent it has determined adequate to invest in the Notes and shares of Common Stock, if any, issuable upon conversion thereof.

(f) It has consulted its own legal, accounting, financial and tax advisors to extent it deems appropriate.

(g) It has not engaged the services of a broker, investment banker or finder to contact any potential investor nor has it agreed to pay any commission, fee or other remuneration to any third party to solicit or contact any potential investor.

(h) It understands that the offer and sale of the Notes and shares of Common Stock, if any, issuable upon conversion thereof have not been registered under the Securities Act, are "restricted securities" (within the meaning of Rule 144 under the Securities Act) and it is purchasing the Notes and shares of Common Stock, if any, issuable upon conversion thereof in accordance with a valid exemption from the registration requirements under the Securities Act. It acknowledges that it will receive the Notes and (in certain circumstances) shares of Common Stock, if any, issuable upon conversion thereof with a restrictive legend imprinted upon them. It will not offer, sell, pledge, hedge or otherwise transfer any Notes or shares of Common Stock, if any, issuable upon conversion thereof except in a transaction that complies with the Securities Act and other applicable securities laws.

(i) It has not been solicited by any Person to purchase any Notes or share of Common Stock issuable upon conversion of the Notes by means of any general solicitation or advertising within the meaning of the Securities Act.

(j) Neither it nor any of its Affiliates has, in connection with the transactions contemplated by this Agreement, directly or indirectly, engaged in any Hedging and Short Sales in connection with the Notes or the shares of Common Stock issuable upon conversion of the Notes.

Section 8.02 *Representations and Warranties of the Credit Parties*. Each Credit Party hereby represents and warrants to the Investors and their respective Affiliates that, as of the Closing Date (except for any representations and warranties which speak as to a specific date, which representations and warranties shall be made as of the date specified):

(a) Existence. The Company and each of its Subsidiaries (i) is a corporation duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation; (ii) has all necessary powers, licenses, authorizations, consents and approvals required to carry on its business as now conducted and to own and lease its properties; and (iii) is duly qualified to do business as a foreign corporation, and is in good standing, in every jurisdiction in which its business or properties require such qualification, except, in the case of clause (ii) or (iii), to the extent that the failure to have such powers, licenses, authorizations, consents or approvals or to be so qualified and in good standing could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Authorization. Such Credit Party has all necessary power and authority to enter into, execute and deliver this Agreement and the other Note Documents and to perform all of the obligations to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereby and thereby.

(c) Enforceability. This Agreement has been duly authorized, executed and delivered by such Credit Party and constitutes, and each of the other Note Documents have been duly authorized by such Credit Party and, when executed and delivered by such Credit Party, will constitute, valid and binding obligations of such Credit Party, enforceable against such Credit Party in accordance with their terms, assuming the due authorization, execution and delivery by the other parties hereto and thereto (if applicable) and subject to laws of general application relating to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles (regardless of whether enforcement is sought in equity or at law) and rules of law governing specific performance, injunctive relief and other equitable remedies.

(d) Governmental Authorization. None of the execution and delivery by such Credit Party of Note Documents, the performance by such Credit Party of any of the obligations to be performed by them hereunder or thereunder, or the consummation by such Credit Party of any of the transactions contemplated hereby or thereby, will require any notice to, action, approval or consent by, or in respect of, or filing or registration with any Governmental Authority or other Person, except (i) filings required to be made with the Commission and NASDAQ and (ii) in connection with the conversion of any Note, any required approval, or the expiration of the applicable waiting period, under the HSR Act.

(e) No Conflicts. Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, no consent or approval of, or notice to, any Person is required by the terms of any Material Contract for the execution or delivery of, or the performance of the obligations of such Credit Party under, this Agreement and the other Note Documents to which such Credit Party is party or the consummation of the transactions contemplated hereby or thereby, and such execution, delivery, performance and consummation will not result in any breach or violation of, or constitute a default under any Material Contract or any law applicable to such Credit Party, any of its Subsidiaries or any of its or their assets.

(f) No Material Adverse Effect. Since December 31, 2014, there has been no change, effect, event, state of facts, development, condition or circumstance that has had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(g) Authorization of the Common Stock. The shares of Common Stock, if any, issuable upon conversion of the Notes have been duly authorized and reserved for issuance upon such conversion by

all necessary corporate action, and such shares, when issued upon such conversion, will be validly issued and will be fully paid and non-assessable and free and clear of all liens under the Company's certificate of incorporation and bylaws or under the Delaware General Corporation Law; and the issuance of such shares upon such conversion will not be subject to the preemptive or other similar rights of any securityholder of the Company pursuant the Company's certificate of incorporation or bylaws, the Delaware General Corporation Law or any Material Contract.

(h) Public Filings, Etc. As of the Closing Date, none of the Company's Annual Report on Form 10-K for the period ended December 31, 2014, Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2015 or other public filings of the Company filed with the Commission since January 1, 2016 pursuant to the Exchange Act included or includes an untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(i) Solvency. Immediately after the issuance of the Initial Notes, (i) excluding contingent liabilities of the Company to Baxalta Incorporated, Baxalta US Inc. and Baxalta GmbH pursuant to that certain Amended and Restated License Agreement by and among the Company, Baxter International Inc., Baxter Healthcare Corporation and Baxter Healthcare SA, dated April 10, 2015, the fair value of the properties and assets of the Company and its Subsidiaries on a going concern basis will exceed its debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of the Company and its Subsidiaries on a going concern basis will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) the Company and its Subsidiaries will be generally able to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) the Company and its Subsidiaries will not have unreasonably small capital with which to conduct its business, as now conducted.

(j) Investment Company Act. Such Credit Party is not an "investment company," as defined in the Investment Company Act of 1940, as amended.

(k) Foreign Corrupt Practices Act. Neither the Company nor any of its Subsidiaries nor, to the Company's knowledge, any of its directors, officers, employees, Affiliates or agents has taken any action, directly or indirectly, that would result in a violation by such Persons of the FCPA, including making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA. The Company, its Subsidiaries and, to the Company's knowledge, its Affiliates have conducted their respective businesses in compliance in all material respects with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(l) Broker's Fees. Except for any fees payable by the Company to J. Wood Capital Advisors LLC, neither the Company nor any of its Subsidiaries has taken any action that would entitle any Person to any commission or broker's, finder's, placement or other similar fee in connection with the transactions contemplated herein.

(m) Private Offering; No Integration or General Solicitation.

(i) Assuming (i) the Initial Notes are issued, sold and delivered under the circumstances contemplated by this Agreement and (ii) the accuracy of the representations and warranties of the Investors set forth in Section 8.01, and their compliance with the agreements set forth herein, it is not necessary in connection with the offer, sale and delivery of the Initial Notes to the Investors in the manner contemplated by this Agreement to register the offer and sale of such Initial Notes to the Investors under the Securities Act.

(ii) The Company has not, directly or indirectly, offered, sold or solicited any offer to buy, and the Company will not, directly or indirectly, offer, sell or solicit any offer to buy, any security of a type or in a manner which would be integrated with the sale of the Initial Notes and require the offer and sale of the Initial Notes to the Investors to be registered under the Securities Act. Neither the Company nor any of its Affiliates or any Person acting on its behalf (other than the Holders, as to whom the Company makes no representation or warranty) has engaged or will engage in any form of general solicitation or advertising (within the meaning of Rule 502(c) under the Securities Act) in connection with the offering and sale of the Initial Notes to the Investors pursuant to this Agreement.

(n) Regulatory Disclosure. The Company has disclosed to HCR Investor and its representatives and consultants all correspondence, notices, information and documents reasonably believed by the Company to be material to the Company's business as of the Closing Date and received from the FDA or any similar Governmental Authority regarding any of the Company's products.

(o) Intellectual Property. To the knowledge of the Company, each Credit Party owns, or is licensed to use, all trademarks, tradenames, copyrights, patents, and other intellectual property used in its business as currently conducted and the use thereof by such Credit Party does not infringe upon the rights of any other Person, except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(p) Tax Returns and Payments. Except for any failure to file or pay, collect or remit that could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, each Credit Party has (i) timely filed or caused to be timely filed all Tax Returns required to have been filed by it and all such Tax Returns are true and correct in all material respects and (ii) duly and timely paid, collected or remitted or caused to be duly and timely paid, collected or remitted all Taxes (whether or not shown on any Tax Return) due and payable, collectible or remittable by it (including in its capacity as a withholding agent), except Taxes that are being contested in good faith by appropriate proceedings and for which the applicable Credit Party has set aside on its books adequate reserves in accordance with GAAP.

(q) Survival of Representations and Warranties. All representations and warranties of the Company and the Guarantors contained in this Agreement shall survive the execution, delivery and acceptance thereof by the Investors and the issuance of the Initial Notes for a period of two (2) years from the Closing Date.

Section 8.03 *HSR Act Matters*. Each of the Company and each Investor agrees to cooperate with each other and use its commercially reasonable efforts to obtain or submit, as the case may be, the approvals and authorizations of, filings and registrations with, and notifications to, or expiration or termination of any applicable waiting period, under the HSR Act, in each case with respect to any proposed conversion of the Notes, if applicable. Without limiting the foregoing, the Investors and the Company will prepare and file a Notification and Report Form pursuant to the HSR Act in connection with any proposed conversion of the Notes, if applicable.

Section 8.04 *Agreement Not to Tender in Certain Fundamental Changes*. If a Fundamental Change occurs pursuant to clause (a) of the definition of such term where the "person" or "group" referred to in such clause is, or includes, any Holder or beneficial owner of Notes, or any Affiliate thereof, then such Holder or owner agrees not, and not to permit any of its Affiliates, to deliver any Fundamental Change Repurchase Notice with respect to, or otherwise tender, any such Notes in any offer to repurchase Notes by the Company in connection with such Fundamental Change.

ARTICLE 9.
EVENTS OF DEFAULT; REMEDIES

Section 9.01 *Events of Default*. "**Event of Default**," wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or Governmental Authority):

(a) default by the Company in any payment of principal, premium or interest on any Notes when due and payable on an Interest Payment Date, the Maturity Date or any Redemption Date or Fundamental Change Repurchase Date, upon declaration of acceleration or otherwise and, in the case of any such default in the payment of interest, such default continues for five (5) days;

(b) failure by the Company to comply with its obligation to convert the Notes in accordance with this Agreement upon exercise of a Holder's conversion right, and such failure continues for a period of five (5) Business Days;

(c) failure by the Company to comply with its obligations under Article 10, hereof and such failure continues for a period of ten (10) Business Days;

(d) any Guarantees cease to be in full force and effect (except as contemplated by the terms of this Agreement), or are declared null and void in a judicial proceeding, or any Credit Party denies or disaffirms (in writing) their respective obligations under this Agreement or the applicable Guarantee;

(e) failure by the Company in the performance of any other covenant or agreement of the Company in the Notes or in this Agreement that continues for a period of thirty (30) days after the earlier of (i) actual knowledge by the Company of such failure and (ii) receipt by the Company from the Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding of a Notice of Default with respect to such failure;

(f) failure by the Company to issue a Fundamental Change Company Notice or notice of the effective date of a Make-Whole Fundamental Change, in each case, for a period of five (5) Business Days after the date the same is due;

(g) a default by the Company or any of its Subsidiaries with respect to any one or more mortgages, agreements or other instruments under which there is outstanding, or by which there is secured or evidenced, any Indebtedness for money borrowed of at least ten million dollars ($10,000,000) (or its foreign currency equivalent) in the aggregate of the Company or any of its Subsidiaries, whether such Indebtedness exists as of the Closing Date or is thereafter created, where such default:

(i) constitutes a failure to pay the principal of any of such indebtedness when due and payable at the stated maturity of such Indebtedness, upon required repurchase, upon declaration of acceleration or otherwise, in each case after the expiration of any applicable grace period; and

(ii) results in such indebtedness becoming or being declared due and payable before its stated maturity;

(h) the entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Company or any Significant Subsidiary of the Company of a voluntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency, reorganization or other similar law, (ii) a decree or order adjudging the Company or a Significant Subsidiary of the Company as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company or any Significant Subsidiary of the Company under any applicable federal, state or foreign law or (iii) appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of a Significant Subsidiary of the Company of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of sixty (60) consecutive days;

(i) the commencement by the Company or by a Significant Subsidiary of the Company of a voluntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or

insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company or of a Significant Subsidiary of the Company in an involuntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable federal, state or foreign bankruptcy, insolvency, reorganization or other similar, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of a Significant Subsidiary of the Company or of any substantial part of such entity's property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company or by a Significant Subsidiary of the Company in furtherance of any such action;

(j) any uninsured judgment, decree or order in excess of ten million dollars ($10,000,000) (excluding amounts subject to indemnification from third parties for which the third party has acknowledged liability) shall be rendered against the Company and any of its Subsidiaries and either (i) enforcement proceedings shall have been commenced upon such judgment, decree or order or (ii) such judgment, decree or order shall not have been settled, satisfied, stayed, vacated or discharged within thirty (30) days from entry; and

(k) an Event of Default declared pursuant to Section 9.03(b).

Section 9.02 *Reporting Defaults*.

(a) Notwithstanding anything to the contrary, the Company may elect that the sole remedy for any Event of Default (a "**Reporting Event of Default**") pursuant to Section 9.01(e) arising from the Company's failure to comply with Section 4.03 will, for each of the first one hundred and eighty (180) calendar days on which a Reporting Event of Default has occurred and is continuing, consist exclusively of the accrual of Special Interest on the Notes. If the Company has made such an election, then the Notes will be subject to acceleration pursuant to Section 9.03 on account of the relevant Reporting Event of Default from, and including, the one hundred and eighty first (181st) calendar day on which a Reporting Event of Default has occurred and is continuing or if the Company fails to pay any accrued and unpaid Special Interest when due.

(b) Any Special Interest that accrues on a Note pursuant to Section 9.02(a) will be payable on the same dates and in the same manner as the Stated Interest on such Note and will accrue at a rate per annum equal to (i) one quarter of one percent (0.25%) of the principal amount thereof for the first ninety (90) calendar days following the Reporting Event of Default and (ii) one half of one percent (0.50%) thereafter until such Reporting Event of Default shall have been cured; *provided, however*, that in no event will Special Interest, together with any Additional Interest, accrue on any day on a Note at a combined rate per annum that exceeds one-half of one percent (0.50%). For the avoidance of doubt, any Special Interest that accrues on a Note will be in addition to the Stated Interest that accrues on such Note and, subject to the proviso of the immediately preceding sentence, in addition to any Additional Interest or Default Interest that accrues on such Note.

(c) To make the election set forth in Section 9.02(a), the Company must send to the Holders, before the date on which each Reporting Event of Default first occurs, a written notice that states that the Company is electing that the sole remedy for such Reporting Event of Default consist of the accrual of Special Interest.

Section 9.03 *Acceleration of Maturity; Waiver of Past Defaults and Rescission*.

(a) If an Event of Default (other than an event of default pursuant to Section 9.01(k), as to which the provisions of Section 9.03(b) will apply, and other than an Event of Default specified in Section 9.01(h) or Section 9.01(i) with respect to the Company and not solely with respect to any Significant Subsidiaries of the Company) occurs and is continuing, then and in every such case the Holders of at least a majority in the aggregate Principal Amount of the outstanding Notes may declare 100% of the Principal Amount *plus* the Repayment Premium *plus* accrued and unpaid interest on all the outstanding Notes to be due and payable immediately, by a notice in writing to the Company (and to the other Holders if given by any Holder), and upon any such declaration, such Principal Amount, Repayment Premium and accrued and unpaid interest shall become immediately due and payable.

Notwithstanding the foregoing, in the case of an Event of Default specified in Section 9.01(h) or Section 9.01(i) with respect to the Company (and not solely with respect to any Significant Subsidiaries of the Company), 100% of the Principal Amount *plus* the Repayment Premium *plus* accrued and unpaid interest on all outstanding Notes will automatically become due and payable without any declaration or other act on the part of any Holder.

(b) If any representation or warranty of the Company or any of its Subsidiaries in any Note Document to which it is party or in any certificate, financial statement or other document delivered by the Company or such Subsidiary in connection with this Agreement proves to have not been true and correct in any material respect at the time it was made (except that any representation or warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects), then Holders of a majority in aggregate Principal Amount of Notes then outstanding which are held by any of the Investors (or their Affiliates) will have the right to designate such event to constitute an Event of Default and the right to declare 100% of the Principal Amount *plus* the Repayment Premium *plus* accrued and unpaid interest on all the outstanding Notes to be due and payable immediately, in each case by a notice in writing to the Company (and to the other Holders if given by any Holder), and upon any such declaration, such Principal Amount, Repayment Premium and accrued and unpaid interest shall become immediately due and payable.

(c) The Holders of a majority in aggregate Principal Amount of the outstanding Notes, by written notice to the Company and each other Holder, may (x) waive any past Default and its consequences and (y) at any time after a declaration of acceleration has been made and before a judgment or decree for payment of the money due has been obtained, rescind any such acceleration with respect to the Notes and its consequences, except, in each case, with respect to a Default described in Section 9.01(a), Section 9.01(b) or Section 9.01(d), or in respect of a covenant or provision hereof which under Article 13 cannot be modified or amended without the consent of the Holder of each outstanding Note affected, if:

(i) such rescission will not conflict with any judgment or decree of a court of competent jurisdiction; and

(ii) all existing Events of Default (except the non-payment of Principal Amount, Repayment Premium and accrued and unpaid interest that has become due solely because of such acceleration) have been cured or waived.

Upon any such waiver, the Default which has been waived shall cease to exist and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of the Agreement; but no such waiver shall extend to any subsequent or other Default or impair any right consequent.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

Section 9.04 *Unconditional Right of Holders to Receive Payment and Convert*. Notwithstanding any other provision of this Agreement, the right of any Holder to receive payment of the Principal Amount (including interest in respect of the Notes held by such Holder, on or after the respective due dates expressed in the Notes or otherwise, as applicable), any accrued and unpaid interest and to convert the Notes in accordance with Article 7, or to bring suit for the enforcement of any such payment on or after such respective dates or the right to convert, shall not be impaired or affected without the consent of such Holder.

Section 9.05 *Restoration of Rights and Remedies*. If any Holder has instituted any proceeding to enforce any right or remedy under this Agreement and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to such Holder, then and in every such case, subject to any determination in such proceeding, the Company and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Holders shall continue as though no such proceeding had been instituted.

Section 9.06 *Rights and Remedies Cumulative*. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in the last paragraph of Section 3.07, no right or remedy herein conferred upon or reserved to the Holders is intended to be exclusive of any other right or remedy,

and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 9.07 *Delay or Omission Not Waiver*. No delay or omission of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Holders.

Section 9.08 *Control by Holders*. The Holders of a majority in aggregate Principal Amount of the outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Holders.

Section 9.09 *Undertaking for Costs*. In any suit for the enforcement of any right or remedy under this Agreement in respect of the Notes, a court may require any party litigant in such suit to file an undertaking to pay the costs of the suit, and the court may assess reasonable costs, including reasonable attorney's fees and expenses, against any party litigant in the suit having due regard to the merits and good faith of the claims or defenses made by the party litigant; but the provisions of this Section 9.09 shall not apply to any suit instituted by the Company or to any suit instituted by any Holder for the enforcement of the payment of the Principal Amount on any Note on or after the Maturity Date of such Note.

ARTICLE 10.
MERGER, CONSOLIDATION OR SALE OF ASSETS

Section 10.01 *Company May Consolidate, etc., only on Certain Terms*. The Company shall not, in a single transaction or through a series of related transactions, consolidate or merge with or into any other Person, or, directly or indirectly, sell, convey, transfer, lease or otherwise dispose of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to another Person or group of affiliated Persons (in each case other than to one or more of its Wholly Owned Subsidiaries), except that the Company may consolidate or merge with or into, or sell, convey, transfer, lease or otherwise dispose of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to another Person or group of affiliated Persons if:

(a) the Company is the surviving Person or the resulting, surviving, transferee or successor Person (the "**Successor Company**") (if other than the Company) expressly assumes, by an agreement supplemental hereto, all obligations of the Company under this Agreement, including payment of the Principal Amount and interest on the Notes, and the performance and observance of all of the covenants and conditions of this Agreement to be performed by the Company; and

(b) immediately after giving effect to such transaction, no Default under this Agreement has occurred and is continuing.

Section 10.02 *Successor Substituted*. Upon any consolidation of the Company with, or merger of the Company with or into, any other Person or any sale, conveyance, transfer, lease or other disposal of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to another Person or group of affiliated Persons in accordance with Section 10.01, the Successor Company formed by such consolidation or with or into which the Company is merged or to which such sale, conveyance, transfer, lease or other disposal is made shall succeed to, and may exercise every right and power of, the Company under this Agreement with the same effect as if such Successor Company had been named as the Company herein. If the predecessor is still in existence after such transaction, it will be released from its obligations and covenants under this Agreement and the Notes, except in the case of a lease of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole.

ARTICLE 11.
REGISTRATION RIGHTS

Section 11.01 *Demand Registrations*.

(a) At any time after the Closing Date, any Holder or Holders (each, together with any Holder requesting registration pursuant to, and in compliance with, Section 11.02, a "**Requesting Holder**") may deliver a written request to the Company in accordance with Section 14.01 (a "**Demand**") that the Company effect a registration with respect to the Registrable Securities under the Securities Act to cover a registered sale of such Registrable Securities for cash by such Requesting Holder. Such Demand shall specify the number of Registrable Securities such Requesting Holder intends to include in such registration and the methods by which such Requesting Holder intends to sell or dispose of such Registrable Securities (including whether such Requesting Holder intends to distribute the Registrable Securities by means of an underwritten offering (an "**Underwritten Offering**") or pursuant to sales from time to time without an underwriter (a "**Shelf Offering**")); *provided*, *however*, that in no event may any Requesting Holder make a Demand for an Underwritten Offering unless the Registrable Securities to be offered and sold by such Requesting Holder in such Underwritten Offering are reasonably expected to result in gross proceeds to such Requesting Holder of at least twenty million dollars ($20,000,000). Upon receipt of such Demand, the Company shall, subject to the terms and conditions of this Article 11, use its commercially reasonably efforts (subject, for the avoidance of doubt, to Blackout Periods to the extent provided in Section 11.04) to (i) file and cause to become effective under the Securities Act a Registration Statement covering the resale of such Registrable Securities by such Requesting Holder as soon as reasonably practicable; (ii) qualify such Registrable Securities under applicable blue sky or other securities laws of any state of the United States of America to the extent set forth herein; and (iii) comply in all material respects with applicable regulations issued under the Securities Act and any other governmental requirements or regulations, in each case in such a manner as would permit or facilitate the distribution in an underwritten offering or other sale of all or any portion of such Registrable Securities as reasonably specified in such Demand.

(b) In connection with any Demand that requests an Underwritten Offering, the Requesting Holders named as selling securityholders in the related Registration Statement shall be entitled to select (subject to the Company's approval, with will not be unreasonably withheld or delayed) the lead managing underwriter thereof, and the Company shall enter into any reasonable and customary agreement requested by such lead managing underwriter in connection with such Underwritten Offering, including, but not limited to, an underwriting agreement in customary form with such lead managing underwriter; *provided*, *however*, that in no event shall the Company be required to include shares of Common Stock or any other securities for its own account in such offering.

(c) Notwithstanding anything to the contrary:

(i) upon the Company's receipt of any Demand by a Requesting Holder pursuant to Section 11.01(a), the Company will have the right to amend any Registration Statement theretofore filed pursuant to this Section 11.01 to add such Requesting Holder as a selling securityholder thereunder; and

(ii) in no event will the Company be obligated to effect more than three (3) Underwritten Offerings pursuant to this Section 11.01 (provided for this purpose, an offering shall not constitute an Underwritten Offering unless and until it is completed).

Section 11.02 *Piggyback Registration*.

(a) If the Company at any time determines to file a registration statement under the Securities Act to register the offer and sale, by the Company, of Common Stock (other than (x) on Form S-4 or Form S-8 under the Securities Act or any successor forms thereto, (y) an at-the-market offering, or (z) a Registration of securities solely relating to an offering and sale to employees or directors of the Company pursuant to any employee stock plan or other employee benefit plan arrangement) or a registration statement, or in connection with an Underwritten Offering, pursuant to Section 11.01, the Company shall, as soon as reasonably practicable (but in no event will the Company be required to provide such notice before the time such Registration Statement is filed with the Commission and in no event will the Company be required to provide any information that might be considered material non-public information), give written notice to each Holder of its intention to so register the offer and sale

of Common Stock and, upon the written request, given within five (5) Business Days after delivery of any such notice by the Company, of any such Holder to include in such registration Registrable Securities (which request shall specify the number of Registrable Securities proposed to be included in such registration), subject to Section 11.02(b), the Company shall cause all such Registrable Securities to be included in such registration statement on the same terms and conditions as the Common Stock otherwise being sold pursuant to such registered offering.

(b) In the event the registration statement referred to in Section 11.02(a) relates to an Underwritten Offering, if the managing underwriter advises the Company that the inclusion of all such Registrable Securities proposed to be included in such registration pursuant to this Section 11.02 would interfere with the successful marketing (including pricing) of the Common Stock to be offered thereby, then the number of shares of Common Stock proposed to be included in such registration shall be allocated among the Company and the selling Investors (i) first, to the Common Stock to be offered by the Company, if any; and (ii) second, to the Registrable Securities to be offered by the Requesting Holders on a *pro rata* basis.

(c) Notwithstanding anything to the contrary, (i) the Company retains the right, exercisable in its sole discretion, to abandon or delay the offering contemplated by any registration statement referred to in Section 11.02(a) and to withdraw any such registration statement, in which event any offering of Registrable Securities contemplated therein will be similarly abandoned or delayed; and (ii) no Holder will have any right to receive any notice or to include any Registrable Securities in any registration statement pursuant to this Section 11.02 to the extent that, at such time, a Registration Statement covering the resale of such Holders Registrable Securities has been filed and is effective in accordance with Section 11.01.

Section 11.03 *Obligations of the Company*. At such time as the Company is obligated to file a Registration Statement with the Commission pursuant to this Article 11, the Company shall also be obligated to use commercially reasonable efforts to take the following actions:

(a) promptly prepare and file with the Commission such amendments and supplements to any Registration Statement filed and the prospectus used in connection therewith as may be necessary to keep such Registration Statement effective, in the case of an Underwritten Offering, until the completion of such offering, and in the case of a Shelf Offering, until such time as the Registrable Securities of the Holders subject to such registration shall have been sold pursuant thereto or such Registrable Securities have been, or could be without restriction, sold pursuant to Rule 144 or another available exemption from the registration requirement of the Securities Act;

(b) a reasonable period of time before filing a Registration Statement or prospectus or any amendments or supplements thereto (excluding documents to be incorporated by reference therein), furnish to one (1) legal counsel for the Holders participating in such offering and, if applicable, one (1) legal counsel for the underwriters, if any, copies of all such documents in substantially the form proposed to be filed, to enable such counsel to review such documents prior to the filing thereof, and the Company shall make such reasonable changes thereto as may be reasonably requested by such counsel;

(c) furnish or make available to each Holder participating in such offering, and each underwriter, if any, without charge, such number of conformed copies of the Registration Statement and each post-effective amendment thereto, including financial statements (but excluding schedules, all documents incorporated or deemed to be incorporated therein by reference, and all exhibits, unless requested in writing by such Holder or underwriter(s)), and such other documents, as such Holders or such underwriter(s) may reasonably request, and upon request a copy of any and all transmittal letters or other correspondence to or received from, the Commission or any other relevant Governmental Authority relating to such offering; *provided*, *however*, that the Company will in no event be required to provide copies of any documents that have been filed with the Commission on its EDGAR system (or any successor thereto);

(d) cooperate with the Holders participating in such offering and the underwriter(s), if any, to facilitate the timely preparation and delivery of certificates (not bearing any legends) representing Registrable Securities to be sold after receiving written representations and covenants from each such Holder in form reasonably satisfactory to the Company that the Registrable Securities represented by the

certificates so delivered by such Holder have been sold, and will be transferred, in accordance with the Registration Statement, and enable such Registrable Securities to be in such denominations and registered in such names as the underwriter(s), if any, or such Holders may request reasonably promptly following such sale;

(e) register and qualify the securities covered by such Registration Statement under "blue sky" laws of such U.S. jurisdictions as shall be reasonably requested by the underwriter(s), if any, and Holders (and to maintain such registrations and qualifications effective for the applicable period of time set forth in Section 11.03(a) above), and to do any and all other acts and things that may be necessary or advisable to enable the underwriter(s), if any, and such Holders to consummate the disposition in such jurisdictions of such shares; *provided*, *however*, that the Company will not be required to (i) qualify generally to do business in any jurisdiction where it would not be required but for this Section 11.03(e), (ii) subject itself to taxation in any such jurisdiction, or (iii) file any general consent to service of process in any such jurisdiction;

(f) notify each Holder of Registrable Securities covered by such Registration Statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such Registration Statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading. The Company will use all reasonable efforts to amend or supplement such prospectus or Registration Statement or any document incorporated or deemed to be incorporated therein by reference, or file any other required document, as applicable, as soon as practicable in order to cause such prospectus to not include any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading;

(g) notify each Holder of Registrable Securities covered by such Registration Statement and the underwriter(s), if any: (i) when the prospectus or any prospectus supplement or post-effective amendment has been filed, and, with respect to the Registration Statement or any post-effective amendment, when the same has become effective; (ii) of any request by the Commission for amendments or supplements to the Registration Statement or the prospectus or for additional information; (iii) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; and (iv) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose;

(h) furnish, in the case of any Underwritten Offering of Registrable Securities pursuant to this Article 11, at the request of the underwriter(s), on the date that such Registrable Securities are delivered to the underwriters, the letter (including any "bring-downs" related thereto) from the independent registered accounting firm of the Company issued pursuant to the underwriting agreement relating to such Underwritten Offering;

(i) cause all Registrable Securities sold pursuant to a Registration Statement to be listed on the stock exchange, if any, on which the Company's Common Stock is then listed;

(j) make such representations and warranties to the underwriter(s), if any, in form, substance and scope as are customarily made by issuers to underwriters in underwritten offerings by selling stockholders of comparable size and confirm the accuracy of the same if and when reasonable and customarily requested by such underwriters, and matters relating to the compliance of the Registration Statement and the prospectus with the Securities Act;

(k) bear all expenses in connection with the procedures in this Article 11 and the registration of the offer and sale of the Registrable Securities pursuant to the Registration Statement, including the reasonable fees and disbursements of a single counsel (together with no more than one local counsel) for the Requesting Holders designated in writing to the Company by Requesting Holders holding a majority of the Registrable Securities (such counsel(s), the "**Designated Counsel**"); *provided*, *however*, that the

Company will in no event bear, and each Holder shall instead bear, the cost of Selling Expenses with respect to such Holder's Registrable Securities, if any, in connection with the offering of the Registrable Securities pursuant to the Registration Statement, and each Holder and any other Person participating in such offering shall bear all such specified Selling Expenses pro rata among each other on the basis of the number of Registrable Securities which have been registered; *provided*, *further*, the fees and disbursements of any Designated Counsel to be borne by the Company will in no event exceed, in the aggregate, fifty thousand dollars ($50,000) per Underwritten Offering or, without duplication, per registration statement filed pursuant to Section 11.01 or Section 11.02 in which any Requesting Holder is named as a selling stockholder.

(l) in the event of the issuance of any stop order suspending the effectiveness of a Registration Statement, or of any order suspending or preventing the use of any related prospectus or suspending the qualification of any Registrable Securities included in such Registration Statement for sale in any jurisdiction, use all reasonable efforts to obtain the withdrawal of such order as soon as practicable; and

(m) to the extent reasonably and customarily requested by any underwriter for purposes of a disposition of Registrable Securities in an Underwritten Offering pursuant to this Article 11, provide such underwriter, its attorneys and agents the opportunity to conduct a reasonable due diligence investigation with respect to the Company; *provided*, *however*, that such Persons will, at the Company's request, first agree in writing with the Company that any information that is reasonably and in good faith designated by the Company as confidential will be kept confidential by such persons and will be used solely for the purposes of contemplated by this Article 11, subject to customary exceptions.

Section 11.04 *Black-Out Periods*. Notwithstanding anything to the contrary herein, the Company may delay the filing or effectiveness of any Registration Statement pursuant to Section 11.01, or to suspend the effectiveness or availability thereof for the offer and sale of any Registrable Securities, for any reason determined in good faith by the Company (including, without limitation, due to the entry of any stop order with respect to such Registration Statement or due to the occurrence or existence of any pending corporate development) (any such delay or suspension, a "**Black-Out Period**"); *provided*, *however*, that the Company shall (i) promptly notify the Requesting Holders in writing of the commencement of such Blackout Period (provided that the Company will not be required to disclose any information that might be considered material non-public information), stating the date on which such Black-Out Period will begin, and (ii) notify the Requesting Holders in writing of the date on which the Black-Out Period ends; and, *provided*, *further*, that Black-Out Periods shall not exceed an aggregate of forty five (45) calendar days during any three hundred sixty five (365) day period (each, an "**Allowable Black-Out Period**"). For purposes of determining the length of a Black-Out Period above, the Black-Out Period shall begin on and include the date the Requesting Holders receive the notice referred to in clause (i) and shall end on and include the later of the date the Requesting Holders receive the notice referred to in clause (ii) and the date referred to in such notice. For the avoidance of doubt, the provisions of Section 11.03(l) hereof shall not be applicable during the period of any Allowable Black-Out Period. Upon expiration of the Black-Out Period, the Company shall again be bound by Section 11.03(g). Notwithstanding anything to the contrary, the Company shall cause its transfer agent to deliver unlegended shares of Common Stock to a transferee of any Holder in accordance with the terms of this Agreement in connection with any sale of Registrable Securities with respect to which a Holder has entered into a contract for sale, and delivered a copy of the prospectus included as part of the applicable Registration Statement (unless an exemption from such prospectus delivery requirement exists), prior to the Holder's receipt of the notice of a Black-Out Period and for which the Holder has not yet settled.

Section 11.05 *Effect of Failure to File and Obtain and Maintain Effectiveness of Registration Statement or Failure to Timely Convert*. Notwithstanding anything herein to the contrary, but subject to Section 11.04, if (a) a Registration Statement covering all of the Registrable Securities required to be covered thereby and required to be filed by the Company pursuant to Section 11.01 is not effective under the Securities Act (an "**Effectiveness Failure**") on or before on or before the ninetieth (90th) calendar day following receipt by the Company of the related Demand; or (b) on any day after the Effective Date of a Registration Statement filed by the Company pursuant to Section 11.01, sales of all of the Registrable Securities required to be included on such Registration Statement cannot be made pursuant to such Registration Statement (including, without limitation, because of a failure to keep such Registration Statement effective, to disclose such information as is necessary for sales to be

made pursuant to such Registration Statement or to register a sufficient number of shares of Registrable Securities) (a "**Maintenance Failure**"), then, as relief for the damages to any Holder by reason of any such Effectiveness Failure or Maintenance Failure, additional interest ("**Additional Interest**") shall accrue on the principal amount of the Notes at a rate of one quarter of one percent (0.25%) per annum until such Effectiveness Failure or Maintenance Failure, as the case may be, is cured; *provided*, *however*, that in no event will Additional Interest, together with any Special Interest, accrue on any day on a Note at a combined rate per annum that exceeds one half of one percent (0.50%); *provided*, *further*, that no Effectiveness Failure or Maintenance Failure will be deemed to existing or be continuing at any time during any Allowable Black-Out Period. The payments to which a Holder shall be entitled pursuant to this Section 11.05 are referred to herein as "**Delay Payments**." Any Delay Payments will be payable in the same form, on the same dates and to the same persons as Stated Interest; *provided*, that any Delay Payments shall be payable only to the affected Requesting Holder(s). For the avoidance of doubt, this Section 11.05 will not apply to any registration statements filed by the Company pursuant to Section 11.02. The Delay Payment will constitute the exclusive and sole remedy available against the Company on account of any Effectiveness Failure or Maintenance Failure and will preclude (to the extent lawful) all other rights and remedies with respect to any Effectiveness Failure or Maintenance Failure.

Section 11.06 *Obligations of Holders*.

(a) Each Holder covenants and agrees that it will comply with the prospectus-delivery requirements of the Securities Act as applicable to it or an exemption therefrom in connection with sale of Registrable Securities pursuant to the Registration Statement.

(b) Each Holder agrees that upon receipt of any notice from the Company of the happening of any event of the kind described in Section 11.03(f) or Section 11.03(g)(ii), (iii) or (iv), such Holder will discontinue the disposition of Registrable Securities pursuant to such Registration Statement or prospectus (or, with respect to a notice pursuant to Section 11.03(g)(iv), discontinue any such disposition in the applicable jurisdiction(s)) until such Holder's receipt of the copies of the supplemented or amended prospectus contemplated by Section 11.03(f), or until it is advised in writing by the Company that the use of the applicable prospectus may be resumed or that the applicable suspension of the qualification has been lifted, and, if applicable, has received copies of any additional or supplemental filings that are incorporated or deemed to be incorporated by reference in such prospectus.

(c) Each Holder shall furnish to the Company materially complete and accurate information regarding such Holder, the Registrable Securities and other securities of the Company held by it and the distribution proposed by such Holder as shall be required by applicable law or requested by the underwriter(s) to effect the registration of their Registrable Securities.

Section 11.07 *Indemnification*.

(a) The Company will indemnify each Requesting Holder, each of its officers, directors, partners, employees and agents, and each Person controlling such Holder (within the meaning of Section 15 of the Securities Act), with respect to any registration, qualification or sale which has been effected pursuant to this Article 11, against all expenses, claims, losses, damages or liabilities (or actions in respect thereof), including any of the foregoing incurred in settlement of any litigation, commenced or threatened, arising out of or based on (i) any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement filed pursuant to this Article 11, or related prospectus, or any amendment or supplement thereto, incident to any such registration, qualification or sale, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of any such prospectus, in the light of the circumstances in which they were made) not misleading, or (ii) any violation (or alleged violation) by the Company of the Securities Act, the Exchange Act or the securities or similar laws of any state or other jurisdiction in which Registrable Securities are sold, and the Company will reimburse or pay for the account of such Requesting Holder, officer, director, partner, employee, agent or controlling person, for any legal and any other expenses reasonably incurred (as and when incurred) in connection with investigating, preparing the defense of or defending any such claim, loss, damage, liability or action.

(b) To the extent permitted by law, each Requesting Holder, severally and not jointly, will, if securities held by such Requesting Holder, are included in the securities as to which a registration, qualification or

sale pursuant to this Article 11 is effected, indemnify the Company, each of its officers, directors, partners, employees and agents, each Person who controls the Company (within the meaning of Section 15 of the Securities Act), and any other Person participating in such registration, each of its officers and directors and each Person controlling (within the meaning of Section 15 of the Securities Act) such Person participating in such registration, against all expenses, claims, losses, damages or liabilities (or actions in respect thereof), including any of the foregoing incurred in settlement of any litigation, commenced or threatened, arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement filed pursuant to this Article 11, or related prospectus, or any amendment or supplement thereto, incident to any such registration, qualification or sale, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of any such prospectus, in the light of the circumstances in which they were made) not misleading, and the Company will reimburse or pay for the account of the Company or such Person, officer, director, partner, employee, agent or controlling person, for any legal and any other expenses reasonably incurred (as and when incurred) in connection with investigating, preparing the defense of or defending any such claim, loss, damage, liability or action; *provided, however,* that in no event shall any Requesting Holder have any liability under this Section 11.07(b) in any such case except to the extent that any such claim, loss, damage, liability or action arises out of or is based on any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with information furnished to the Company by such Requesting Holder.

(c) Each indemnified party under this Section 11.07 shall give notice to the indemnifying party promptly after such indemnified party has actual knowledge of any claim as to which indemnity may be sought and shall permit the indemnifying party to assume the defense of any such claim or any litigation resulting therefrom; *provided*, *however*, that counsel for the indemnifying party, who shall conduct the defense of such claim or litigation, shall be approved by the indemnified party (which approval shall not unreasonably be withheld), and the indemnified party may participate in such defense at such indemnified party's expense; *provided*, *further*, that the failure of any indemnified party to give notice as provided above shall not relieve the indemnifying party of its obligations under this agreement except to the extent that the failure to give such notice is materially prejudicial to an indemnifying party's ability to defend such action. No indemnifying party, in the defense of any such claim or litigation, shall, except with the consent of each indemnified party, consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect to such claim or litigation.

(d) The obligations of the Company and the Requesting Holders under this Section 11.07 shall survive the completion of any offering of Registrable Securities in a Registration Statement pursuant to this Agreement.

(e) If a claim for indemnification under Section 11.07(a) or Section 11.07(b) is available by its terms but is held by a court of competent jurisdiction to be unavailable or insufficient to hold harmless an indemnified party, then each indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of any such claim, loss, damage, liability or action that otherwise would have been indemnified under Section 11.07(a) or Section 11.07(b), as the case may be, in such proportion as is appropriate to reflect the relative fault of the indemnifying party, on the one hand, and the indemnified party, on the other, in connection with the statements or omissions that resulted in such claim, loss, damage, liability or action, as well as any other relevant equitable considerations. The relative fault of the indemnifying party and the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The amount of such claim, loss, damage, liability or action subject to this Section 11.07(e) shall be deemed to include any reasonable legal or other expenses incurred by such indemnified party in connection with investigating or defending any such claim, loss, damage, liability or action (which shall be limited as provided in Section 11.07(c) if the indemnifying party has assumed the defense of any such action in accordance with the provisions thereof). Notwithstanding the foregoing in this Section 11.07(e), no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. Promptly after receipt by an indemnified party of notice of the commencement or threatened commencement of any claims for which a claim for contribution may be made against an indemnifying party under this Section 11.07(e) and if a notice for indemnification has not been otherwise given

under this Section 11.07, such indemnified party shall give written notice thereof in the manner set forth hereunder for a claim for indemnification to the indemnifying party; *provided*, *however*, that the failure to so notify the indemnifying party shall not relieve it of any obligation to provide contribution hereunder except to the extent that the indemnifying party's ability to defend such action is materially prejudiced by the failure to give such timely notice. The parties acknowledge that determining contribution pursuant to this Section 11.07(e) by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in this Section 11.07(e) would not be just or equitable. For the avoidance of doubt, if indemnification is available under Section 11.07(a) or Section 11.07(b), the indemnifying parties shall indemnify each indemnified party to the fullest extent provided in Section 11.07(a) or Section 11.07(b) without regard to the relative fault of said indemnifying party or indemnified party or any other equitable consideration provided for in this Section 11.07(e).

Section 11.08 *Effectiveness; Termination; Survival*. The provisions of Article 11 (other than Section 11.07) shall survive the discharge or termination of this Agreement until the earlier of (a) the time when no Registrable Securities are outstanding; and (ii) four (4) years after the Maturity Date. The provisions of Section 11.07 shall survive the discharge or termination of this Agreement indefinitely.

ARTICLE 12.
GUARANTEES

Section 12.01 *Guarantee*. By its execution hereof, each Guarantor acknowledges and agrees that it receives substantial benefits from the Company and the issuance of the Notes and that the Guarantors are providing their Guarantee for good and valuable consideration, including, without limitation, such substantial benefits. Accordingly, subject to the provisions of this Article 12, the Guarantors hereby jointly and severally unconditionally guarantee, as a primary obligor and not as a surety, to each Holder and its successors and assigns that: (x) the principal of, and premium and interest on the Notes shall be duly and punctually paid in full or performed in accordance with the terms of this Agreement when due, whether at the Maturity Date, upon declaration of acceleration, upon conversion or otherwise, together with interest on overdue principal, premium, interest and (to the extent permitted by law) interest on any overdue interest, if any, on the Notes; (y) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, the same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at the Maturity Date, by acceleration, conversion or otherwise; and (z) all other obligations of the Company to the Holders hereunder or under the Notes (including fees, expenses or other) shall be promptly paid in full or performed, all in accordance with the terms hereof, subject, in the case of clauses (x), (y) and (z) above, to the limitations set forth in Section 12.03 hereof (the obligations set forth in this Section 12.01, collectively, the "**Guarantee Obligations**"). The Guarantee constitutes a senior, unsecured, unsubordinated obligation of each Guarantor.

(a) Subject to the provisions of this Article 12, each Guarantor hereby jointly and severally agrees that its Guarantee hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Agreement, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any thereof, the entry of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of any Guarantor. Each Guarantor hereby waives and relinquishes: (i) any right to require the Holders or the Company (each, a "**Benefited Party**") to proceed against the Company or any other Person or to proceed against or exhaust any security held by a Benefited Party at any time or to pursue any other remedy in any secured party's power before proceeding against the Guarantor; (ii) any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other Person or Persons or the failure of a Benefited Party to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other Person or Persons; (iii) demand, protest and notice of any kind (except as expressly required by this Agreement), including, but not limited to, notice of the existence, creation or incurring of any new or additional Indebtedness or obligation or of any action or non-action on the part of the Guarantor, the Company, any Benefited Party, any creditor of the Guarantor or the Company or on the part of any other Person whomsoever in connection with any obligations the performance of which are hereby guaranteed; (iv) any defense based upon an election of remedies by a Benefited Party, including, but not limited to, an election to proceed against the Guarantor for reimbursement; (v) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (vi) any defense arising because of a Benefited Party's election, in any proceeding instituted under bankruptcy law, of the application of Section 1111(b)(2) of the Bankruptcy Code; and (vii) any defense based

on any borrowing or grant of a security interest under Section 364 of the Bankruptcy Code. Each Guarantor hereby covenants that, except as otherwise provided therein, its Guarantee shall not be discharged except by payment in full of all Guarantee Obligations, including the principal of, and premium and interest on, the Notes and all other costs provided for under this Agreement.

(b) If any Holder is required by any court or otherwise to return to either the Company or any Guarantor, any amount paid by the Company or such Guarantor to such Holder, then the Guarantees, to the extent theretofore discharged, shall be reinstated in full force and effect. The Guarantors jointly and severally agree that they shall not be entitled to any right of subrogation in relation to the Holders in respect of any Guarantee Obligations hereby until payment in full of all such obligations guaranteed hereby. The Guarantors jointly and severally agree that, as between them, on the one hand, and the Holders, on the other hand, (i) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 9 hereof for the purposes hereof, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guarantee Obligations, and (ii) in the event of any acceleration of such obligations as provided in Article 9 hereof, such Guarantee Obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of the Guarantee.

(c) If, at any time after the date of this Agreement, any Person that was not a Guarantor on the date hereof becomes a directly owned Material Domestic Subsidiary of (x) the Company or (y) any Guarantor, then the Company will cause such Material Domestic Subsidiary to (i) execute an amendment or supplement to this Agreement and (ii) otherwise comply with the provisions of this Article 12; *provided*, *however*, that, any Material Domestic Subsidiary of the Company that has no material assets other than equity in one or more Foreign Subsidiaries shall not be required to become a Guarantor pursuant to this Section 12.01(c).

Section 12.02 *Execution and Delivery of Guarantee*. The execution by each Guarantor of this Agreement (or an amendment or supplement to this Agreement pursuant to Section 12.01(c)) evidences the Guarantee of such Guarantor, and the delivery of any Note by the Company constitutes due delivery of each Guarantee on behalf of each Guarantor. A Guarantee's validity will not be affected by the failure of any officer of a Guarantor executing this Agreement or any such amendment or supplement on such Guarantor's behalf to hold, at the time any Note is issued and delivered, the same or any other office at such Guarantor, and each Guarantee will be valid and enforceable even if no notation, certificate or other instrument is set upon or attached to, or otherwise executed and delivered to the Holder of, any Note.

Section 12.03 *Limitation of Guarantors' Liability; Certain Bankruptcy Events*. Each Guarantor, and, by its acceptance hereof, each Holder, hereby confirms that it is the intention of all such parties that the Guarantee Obligations of each Guarantor pursuant to its Guarantee not constitute a fraudulent transfer or conveyance for purposes of any Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law. To effectuate the foregoing intention, the Holders and each Guarantor hereby irrevocably agree that the Guarantee Obligations of the Guarantors under this Article 12 shall be limited to the maximum amount as shall, after giving effect to all other contingent and fixed liabilities of the Guarantors, result in the Guarantee Obligations of the Guarantors under the Guarantee not constituting a fraudulent transfer or conveyance.

Section 12.04 *Releases*. If, in compliance with the terms and provisions of the Note Documents, all of the Capital Stock of any Guarantor is sold or otherwise transferred to a Person or Persons, none of which is the Company or a Subsidiary, then such Guarantor shall, upon the consummation of such sale or transfer, be released from its obligations under this Agreement. Without limiting the generality of the foregoing, the Company may, at its election, execute an amendment or supplement to this Agreement to memorialize any such release in accordance with this Section 12.04.

ARTICLE 13.
AMENDMENTS

Section 13.01 *Amendments*.

(a) Neither this Agreement nor any other Note Document or provision thereof may be waived, amended or modified except by an agreement or agreements in writing executed by the Company, the Guarantors and the Holders of a majority in aggregate Principal Amount of the outstanding Notes, *provided*, *however*, that no such agreement shall do the following without the written consent of each Holder affected thereby: (i) reduce the Principal Amount or Repayment Premium of any Note, (ii) reduce the rate of interest on any Note, (iii) change the Maturity Date of any Note, or extend the time for the payment of any interest thereon or waive or excuse any such payment, (iv) make any change that impairs or adversely affects the conversion rights of any Note or reduces the Fundamental Change Repurchase Price of any Note, (v) change any of the provisions of this Article 13 without the written consent of each Holder, or (vi) adversely affect the economic interests of any Holder hereunder disproportionately to other Holders without the written consent of such Holder. Notwithstanding anything to the contrary in the immediately preceding sentence, this Agreement may be amended or supplemented without the consent of any Holder in order to comply with, and subject to the provisions of, Section 7.05, Article 10, Section 12.01(c) or Section 12.04.

ARTICLE 14.
MISCELLANEOUS

Section 14.01 *Notices*. Any notice or communication shall be in writing (including telecopy promptly confirmed in writing) and delivered in person, sent by electronic email or mailed by overnight mail addressed as follows:

If to the Company or any Guarantor:

Coherus BioSciences, Inc.
333 Twin Dolphin Drive, Suite 600
Redwood City, CA 94065
Attention: Denny Lanfear, Jean-Frederic Viret and Keith Vendola
Email: dlanfear@coherus.com, jviret@coherus.com and kvendola@coherus.com

with copies (which shall not constitute notice) to each of:

J. Wood Capital Advisors LLC
1820 Calistoga Road
Santa Rosa, CA 95404
Attention: Jason Wood
Email: jason@jwoodcapital.com;

and

Latham & Watkins LLP
140 Scott Drive
Menlo Park, CA 94025
Attention: Alan C. Mendelson and Benjamin A. Potter
Email: alan.mendelson@lw.com and benjamin.potter@lw.com

If to any Holder, to the address of such Holder set forth in the Register (except that any notice to a Holder pursuant to Article 11 will be made to the address of such Holder set forth on the books of the Company or its transfer agent);

If to any Investor:

HealthCare Royalty Partners III, L.P.
300 Atlantic Street, Suite 600
Stamford, CT 06901
Attention: Todd C. Davis
E-mail: todd.davis@hcroyalty.com

with a copy (which shall not constitute notice) to each of:

HealthCare Royalty Partners III, L.P.
300 Atlantic Street, Suite 600
Stamford, CT 06901
Attention: Chief Legal Officer
E-mail: royalty@hcroyalty.com

and

Morgan Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178
Attn: Patricia F. Brennan
E-mail: pbrennan@morganlewis.com

MX II Associates LLC
5375 Medpace Way
Cincinnati, OH 45227

and

KMG Capital Partners, LLC
1225 Seventeenth Street
Suite 2420
Denver, CO 80202

and

KKR Biosimilar L.P.
2800 Sand Hill Road
Suite 200
Menlo Park, CA 94025

(a) The Company or any Guarantor, by notice to each of the Holders, may designate additional or different addresses for subsequent notices or communications. Any of the Holders, by notice to the Company, may designate additional or different addresses for subsequent notices or communications.

(b) Any notice or communication sent to a registered Holder shall be e-mailed or mailed to the Holder at the Holder's e-mail or address, as the case may be, as it appears in the Register and shall be sufficiently given if so e-mailed or mailed within the time prescribed.

(c) Failure to send a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is sent in the manner provided above, it is duly given, whether or not the addressee receives it.

(d) Where this Agreement provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice.

Section 14.02 *Confidentiality*.

(a) Except as expressly authorized in this Agreement or the other Note Documents or except with the prior written consent of the Disclosing Party, the Recipient hereby agrees that (i) it will use the Confidential Information of the Disclosing Party solely for the purpose of the transactions contemplated by this Agreement and the other Note Documents and exercising its rights and remedies and performing its obligations hereunder and thereunder; (ii) it will keep confidential the Confidential Information of the Disclosing Party; and (iii) it will not furnish or disclose to any Person any Confidential Information of the Disclosing Party.

(b) Notwithstanding anything to the contrary in this Section 14.02, the Recipient may, without the consent of the Disclosing Party, furnish or disclose Confidential Information of the Disclosing Party to (i) the Recipient's Affiliates and their respective Representatives and actual or potential financing sources, in each such case, who need to know such information to assist the Recipient in evaluating the transactions contemplated by this Agreement and the other Note Documents or in exercising its rights and remedies and performing its obligations hereunder and thereunder and who are, prior to such furnishing or disclosure, informed of the confidentiality and non-use obligations contained in this Section 14.02 and who are bound by written or professional confidentiality and non-use obligations no less stringent than those contained in this Section 14.02; and (ii) potential permitted assignees, purchasers, transferees or successors-in-interest under Section 3.09, in each such case, who need to know such information in connection with such actual or potential assignment, sale or transfer, including, following any such assignment, sale or transfer, in order to exercise their rights and remedies and perform their obligations under this Agreement and the other Note Documents and who are, prior to such furnishing or disclosure, informed of the confidentiality and non-use obligations contained in this Section 14.02 and who are bound by written or professional confidentiality and non-use obligations no less stringent than those contained in this Section 14.02.

(c) In the event that the Recipient, its Affiliates or any of their respective Representatives is required by applicable law, applicable stock exchange requirements 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 the Disclosing Party, the Recipient shall, to the extent legally permitted, provide the Disclosing Party, as promptly as practicable, with written notice of the existence of, and terms and circumstances relating to, such requirement, so that the Disclosing Party may seek, at its expense, a protective order or other appropriate remedy (and, if the Disclosing Party seeks such an order, the Recipient, such Affiliates or such Representatives, as the case may be, shall provide, at their expense, such cooperation as such Disclosing Party shall reasonably require). Subject to the foregoing, the Recipient, such Affiliates or such Representatives, as the case may be, may disclose that portion (and only that portion) of the Confidential Information of the Disclosing Party that is legally required to be disclosed; *provided*, *however*, that the Recipient, such Affiliates or such Representatives, as the case may be, shall exercise reasonable efforts (at their expense) to preserve the confidentiality of the Confidential Information of the Disclosing Party, including by obtaining reliable assurance that confidential treatment will be accorded any such Confidential Information disclosed. Notwithstanding anything to the contrary contained in this Section 14.02, in the event that the Recipient or any of its Affiliates receives a request from an authorized representative of a U.S. or foreign tax authority for a copy of this Agreement or any of the other Note Documents, the Recipient or such Affiliate, as the case may be, may provide a copy hereof or thereof to such tax authority representative without advance notice to, or the consent of, the Disclosing Party; *provided*, *however*, that the Recipient shall, to the extent legally permitted, provide the Disclosing Party with written notice of such disclosure as soon as practicable.

(d) Notwithstanding anything to the contrary contained in Section 14.02, the Recipient may disclose the Confidential Information of the Disclosing Party, including this Agreement, the other Note 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 the Recipient's rights hereunder or thereunder.

(e) Neither Party shall, and each Party shall cause its Affiliates not to, without the prior written consent of the other Party (which consent shall not be unreasonably withheld or delayed), issue any press release or make any other public disclosure with respect to the transactions contemplated by this Agreement or any other Note Document, except if and to the extent that any such release or disclosure is required by applicable law, by the rules and regulations of any applicable stock exchange or by any Governmental Authority of competent jurisdiction, in which case, the Party proposing (or whose Affiliate proposes) to issue such press release or make such public disclosure shall use commercially reasonable efforts to consult in good faith with the other Party regarding the form and content thereof before issuing such press release or making such public announcement.

(f) Except with respect to a Holder's internal communications or private communications with its Representatives, the Holders shall not, and shall cause its Representatives, its Affiliates and its Affiliates' Representatives not to make use of the name, nickname, trademark, logo, service mark, trade dress or other name,

term, mark or symbol identifying or associated with the Company without the Company's prior written consent to the specific use in question, *provided* that the consent of the Company shall not be required with respect to publication of the Company's name and logos in the a Holder's promotional materials, including without limitation the websites for a Holder and its Affiliates consistent with its use of other similarly situated Third Parties' names and logos.

Section 14.03 *When Notes Are Disregarded*. In determining whether the Holders of the required Principal Amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or by any Affiliate of the Company shall be disregarded and deemed not to be outstanding. Also, subject to the foregoing, only Notes outstanding at the time shall be considered in any such determination.

Section 14.04 *Deferral of Payments When Payment Date is Not a Business Day*. If the due date for a payment on a Note as provided in this Agreement is not a Business Day, then, notwithstanding anything to the contrary in this Agreement or the Notes, payment shall be made on the next succeeding day that is a Business Day, and no interest shall accrue for the intervening period. If a Regular Record Date is not a Business Day, the Regular Record Date shall not be affected.

Section 14.05 *Governing Law*. THIS AGREEMENT AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT OR THE NOTES, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 14.06 *No Recourse against Others*. No incorporator, director, officer, employee, stockholder or Affiliate of the Company (other than the Guarantors, as such, to the extent provided in Article 12), or of any Guarantor, solely by reason of this status, shall have any liability for any obligations of the Company or any Guarantor under the Notes or this Agreement or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Holder will be deemed to waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Notes.

Section 14.07 *Successors*. All agreements of the Company, the Guarantors and each Investor and Holder, as applicable, in this Agreement and the Notes shall bind their respective successors.

Section 14.08 *Multiple Originals*. The parties may sign any number of copies of this Agreement. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Agreement. Delivery of an executed counterpart by facsimile or ".pdf" shall be effective as delivery of a manually executed counterpart thereof.

Section 14.09 *Indemnification*. The Company agrees to defend, indemnify, pay and hold harmless, each Indemnified Party from and against any and all Indemnified Liabilities, in all cases, arising, in whole or in part, out of or relating to any claim, notice, suit or proceeding commenced or threatened by any Person (including any Governmental Authority); *provided*, *however*, that the Company shall not have any obligation to any Indemnified Party hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise from the gross negligence or willful misconduct of such Indemnified Party. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this Section 14.09 may be unenforceable in whole or in part because they are violative of any law or public policy, the Company shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by any Indemnified Party. In addition, each Indemnified Party agrees that the Company shall not have any obligation to pay to or contribute on behalf of such Indemnified Party an amount in excess of an amount equal to the aggregate principal amount of the Notes purchased by such Indemnified Party pursuant to this Agreement.

Section 14.10 *Waiver of Consequential and Punitive Damages*. To the extent permitted by applicable law, no Party shall assert, and each Party hereby waives, any claim against each other Party and such Party's Affiliates, directors, employees, attorneys or agents, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, as a result of, or in any way related to, this Agreement or any Note Documents or any agreement or instrument contemplated hereby or

thereby or referred to herein or therein, the transactions contemplated hereby or thereby, the Notes or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each Party hereby waives, releases and agrees not to sue upon any such claim or any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

Section 14.11 *Table of Contents; Headings*. The table of contents and headings of the Articles and Sections of this Agreement have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 14.12 *Severability Clause*. In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

Section 14.13 *Calculations*. Except as otherwise provided herein, the Company (or its agents) will be responsible for making all calculations called for under this Agreement or the Notes. The Company (or its agents) will make all such calculations in good faith, and, absent manifest error, its calculations will be final and binding on Holders. Upon written request of a Holder, the Company (or its agents) will provide a detailed schedule of its calculations.

Section 14.14 *Waiver of Jury Trial*. EACH OF THE COMPANY, THE GUARANTORS, THE INVESTORS AND THE HOLDERS HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SECURITIES OR THE TRANSACTION CONTEMPLATED THEREBY.

Section 14.15 *Consent to Jurisdiction*.

(a) Each of the Company, the Investors and the Holders hereby irrevocably and unconditionally submits, for itself and its property, to the non-exclusive jurisdiction of any New York State court or federal court of the United States sitting in the State and City of New York, County and Borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the Notes, or for recognition or enforcement of any judgment, and each hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such state court sitting in the State and City of New York, County and Borough of Manhattan or, to the extent permitted by law, in such federal court sitting in the State and City of New York, County and Borough of Manhattan.

(b) Each of the Company, the Investors and the Holders hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action proceeding arising out of or relating to this Agreement or the Notes in any New York State or federal court, and each hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 14.16 *Tax Forms*. Each Holder, on or before the date it becomes a party to this Agreement and thereafter upon reasonable request of the Company, shall furnish to the Company, to the extent such Holder is legally eligible to do so, either a completed and signed IRS Form W-9 or IRS Form W-8BEN or W-8BEN-E (or other applicable Form W-8, together with applicable attachments), as may be applicable.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

COHERUS BIOSCIENCES, INC.,
as the Company

By: /s/ Dennis M. Lanfear
Name: Dennis M. Lanfear
Title: President and Chief Executive Officer

INTEKRIN THERAPEUTICS INC.,
as a Guarantor

By: /s/ Dennis M. Lanfear
Name: Dennis M. Lanfear
Title: President and Chief Executive Officer

COHERUS INTERMEDIATE CORP.,
as a Guarantor

By: /s/ Dennis M. Lanfear
Name: Dennis M. Lanfear
Title: President and Chief Executive Officer

HEALTHCARE ROYALTY PARTNERS III, L.P.
as Holder

By: HEALTHCARE ROYALTY GP III, LLC,
its General Partner

By: /s/ Todd C. Davis
Name: Todd C. Davis
Title: Managing Partner

[Signature Page to Note Purchase Agreement]

MX II Associates LLC
as Holder

By: /s/ August J. Troendle
Name: August J. Troendle
Title: Managing Member

[Signature Page to Note Purchase Agreement]

KMG Capital Partners, LLC
as Holder

By: /s/ Mats Wahlström
Name: Mats Wahlström
Title: Executive Chairman

[Signature Page to Note Purchase Agreement]

KKR Biosimilar L.P.
as Holder

By: KKR Biosimilar GP LLC,
its General Partner

By: /s/ Ali J. Satvat
Name: Ali J. Satvat
Title: Vice President

[Signature Page to Note Purchase Agreement]

[FORM OF NOTE]

THE OFFER AND SALE OF NOTES REPRESENTED HEREBY OR ANY SHARES OF COMMON STOCK ISSUABLE UPON CONVERSION THEREOF HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND SUCH NOTES AND SHARES MAY NOT BE OFFERED, SOLD, PLEDGED, HEDGED OR OTHERWISE TRANSFERRED, EXCEPT (X) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND A CURRENT PROSPECTUS, (Y) IN ACCORDANCE WITH RULE 144 UNDER THE SECURITIES ACT OR (Z) PURSUANT TO ANOTHER APPLICABLE EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT. THE NOTES REPRESENTED HEREBY, AND ANY SHARES OF COMMON STOCK ISSUABLE UPON CONVERSION THEREOF, MAY NOT BE OFFERED, SOLD, PLEDGED, HEDGED OR OTHERWISE TRANSFERRED WITHOUT THE HOLDER THERETOFORE PROVIDING THE COMPANY WITH SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS A COMPANY MAY REASONABLY REQUEST TO DETERMINE THAT SUCH OFFER, SALE, PLEDGE, HEDGE OR OTHER TRANSFER COMPLIES WITH THE FOREGOING RESTRICTION.

IN ADDITION, THE NOTES REPRESENTED HEREBY, AND ANY SHARES OF COMMON STOCK ISSUABLE UPON CONVERSION THEREOF, MAY NOT BE OFFERED, SOLD, PLEDGED, HEDGED OR OTHERWISE TRANSFERRED WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMPANY, WHICH CONSENT SHALL, FOR PURPOSES OF THIS SENTENCE, BE DEEMED TO HAVE BEEN GIVEN UPON THE REQUEST OF THE HOLDER.

THE NOTES REPRESENTED HEREBY ARE GOVERNED BY THE PROVISIONS OF A SENIOR CONVERTIBLE NOTE PURCHASE AGREEMENT, DATED AS OF FEBRUARY 29, 2016 (THE "AGREEMENT"), AMONG THE COMPANY, THE GUARANTORS NAMED THEREIN AND THE INVESTORS NAMED THEREIN. BY ACCEPTING ANY NOTE REPRESENTED HEREBY, THE HOLDER THEREOF WILL BE DEEMED TO AGREE TO BE BOUND BY THE TERMS OF THE AGREEMENT.

THE NOTES REPRESENTED HEREBY WERE ISSUED WITH ORIGINAL ISSUE DISCOUNT UNDER SECTIONS 1272, 1273 AND 1275 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. A HOLDER MAY OBTAIN THE ISSUE PRICE, AMOUNT OF ORIGINAL ISSUE DISCOUNT, ISSUE DATE AND YIELD TO MATURITY FOR SUCH NOTES BY SUBMITTING A REQUEST FOR SUCH INFORMATION TO THE COMPANY AT 333 TWIN DOLPHIN DRIVE, SUITE 600 REDWOOD CITY, CA 94065.

8.2% Senior Convertible Notes due 2022

No. [ ] U.S. $[ ]

Coherus BioSciences, Inc., a Delaware corporation (herein called the "**Company**"), which term includes any successor corporation under the Agreement referred to on the reverse hereof, for value received hereby promises to pay to [ ], or registered assigns, the principal sum of [ ] UNITED STATES DOLLARS (U.S. $[ ]) (which amount may from time to time be increased or decreased by adjustments made on the records of the Company in accordance with the below-referred Agreement) on March 31, 2022. The Company will pay Principal Amount of any Note and interest and Repayment Premium thereon as provided in the below-referred Agreement.

Reference is made to the further provisions of this Note set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place. Capitalized terms used but not defined herein shall have such meanings as are ascribed to such terms in the below-referred Agreement. In the case of any conflict between this Note and such Agreement, the provisions of such Agreement shall control.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

COHERUS BIOSCIENCES, INC.

Dated: _____

By: _____
Name:
Title:

[FORM OF REVERSE OF NOTE]

COHERUS BIOSCIENCES, INC.

8.2% Senior Convertible Notes due 2022

This Note is one of a duly authorized issue of Notes of the Company, designated as its 8.2% Senior Convertible Notes due 2022 (the "**Notes**"), initially limited in aggregate principal amount to $100,000,000 all issued or to be issued under and pursuant to a Senior Convertible Note Purchase Agreement dated as of February 29, 2016 (the "**Agreement**") among the Company, the Guarantors named therein and the Investors named therein, to which Agreement and all agreements supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Company and the Holder of the Notes.

Except as provided for in the Agreement, Principal Amount and Repayment Premium on this Note shall be payable, when and if due, only against surrender therefor, while payments of interest on this Note shall be made, in accordance with the Agreement.

Interest. Stated Interest will accrue on this Note at a rate of 8.2% per annum, payable quarterly in arrears on each March 31, June 30, September 30 and December 31 of each year, commencing on [ ]. Special Interest, Additional Interest and Default Interest may accrue on this Note in the manner provided in the Agreement.

Ranking. The Notes constitute a general, senior unsubordinated and unsecured obligation of the Company and are guaranteed by the Guarantors to the extent provided in Article 12 of the Agreement.

Conversion. The Notes are convertible into shares of Common Stock (and, if applicable, cash in lieu of any fractional share of Common Stock) in the manner provided in the Agreement.

Offers to Purchase Notes. The Agreement provides that, subject to certain conditions and limitations, upon a Fundamental Change, the Company shall be required to make an offer to purchase all of the Notes as provided in the Agreement.

Redemption. The Notes will be subject to Redemption as provided in Article 5 of the Agreement.

Acceleration of Maturity. Subject to certain exceptions in the Agreement, if an Event of Default shall occur and be continuing, the Principal Amount, together with the Repayment Premium plus interest through such date on all the Notes, may in certain circumstances become due and payable.

Denominations. The Notes are issuable only in registered form in denominations of $1,000 and any integral multiple of $1,000 in excess thereof, as provided in the Agreement and subject to certain limitations therein set forth.

THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

CONVERSION NOTICE

If you want to convert all or any portion (which must be $1,000 or in integral multiples of $1,000 in excess thereof) this Note, check the box: ☐ and specify the Principal Amount to be so converted: $,000.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

_____
Participant in a Recognized Signature
Guarantee Medallion Program

By: _____
Authorized Signatory

Note: Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Company or the transfer agent for the Company's Common Stock, as applicable, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("**STAMP**") or such other "signature guarantee program" as may be determined by the Company or the transfer agent for the Company's Common Stock in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note repurchased in its entirety by the Company pursuant to Section 4.04 of the Agreement, check the box: ☐

If you want to elect to have only a part of the principal amount of this Note (which must be $1,000 or in integral multiples of $1,000 in excess thereof) repurchased by the Company pursuant to Section 4.04 of the Agreement, state the portion of such amount: $,000.

Dated:

Your Signature: _____

(Sign exactly as name appears on the other side of this Note)

[FORM OF RESTRICTED STOCK LEGEND]

THE OFFER AND SALE OF THE SHARES OF COMMON STOCK REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED, HEDGED OR OTHERWISE TRANSFERRED, EXCEPT (1) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND A CURRENT PROSPECTUS, (2) IN ACCORDANCE WITH RULE 144 UNDER THE SECURITIES ACT, OR (3) PURSUANT TO ANOTHER APPLICABLE EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT.

Form of Closing Date Certificate

Exhibit 99.1

Coherus BioSciences Reports Fourth Quarter and Year End 2015 Financial and Operating Results

Completed Private Convertible Financing of $100 million
Completed Positive Immunogenicity Registration Trial for CHS-1701
Completed Two Positive Phase 3 Registration Trials for CHS-0214
Announced Addition of Two Pipeline Assets

REDWOOD CITY, Calif., February 29, 2016 – Coherus BioSciences, Inc. (Nasdaq: CHRS), a leading pure-play, global biosimilars company with late-stage clinical products, today reported financial results and reviewed corporate events for the quarter and fiscal year ended December 31, 2015.

2015 and Current Highlights

- Financial:
  - Closed on $100 million private placement of convertible notes with 60% premium in February 2016.
  - Received milestone payments totaling $100 million under existing collaboration on CHS-0214 with Baxalta Incorporated (Baxalta).
  - Received $112 million net proceeds from a follow-on public offering of 4,137,931 shares of common stock at $29.00 per share in April 2015.
- Oncology therapeutic franchise:
  - CHS-1701 (pegfilgrastim (Neulasta®) biosimilar)
    - Met primary endpoints in an immunogenicity study in healthy volunteers initiated in 2015 and completed in February 2016.
    - Met pharmacodynamic (PD) endpoint, as well as the maximum concentration (C_{max}) pharmacokinetic (PK) endpoint in a pivotal PK/PD study initiated in March 2015 and completed in October 2015. As a result of first period Neulasta anomalous results, did not meet area-under-the-curve endpoints.
    - Coherus believes the program will be acceptable as is, to support a Marketing Authorization Application (MAA).
    - Initiated follow-on PK/PD study in January 2016, which will be part of the evidence to support market authorization applications in the United States.
  - Announced pipeline addition of CHS-5217 (bevacizumab (Avastin®) biosimilar).
- Immunology (anti-TNF) therapeutic franchise:
  - CHS-0214 (etanercept (Enbrel®) biosimilar)
    - Met primary endpoints in a Phase 3 trial in psoriasis, announced November 2015.
    - Met primary endpoint in a Phase 3 trial in rheumatoid arthritis, announced January 2016.
  - CHS-1420 (adalimumab (HUMIRA®) biosimilar)
    - Initiated a Phase 3 trial in psoriasis in August 2015.

- Filed petitions in the U.S. Patent Office for Inter Partes Review of AbbVie U.S. Patents 8,889,135; 9,017,680 and 9,073,987 relating to 40 mg bi-weekly dosing of adalimumab for rheumatoid arthritis.

- Ophthalmology therapeutic franchise:
  - Announced pipeline addition of CHS-3351 (ranibizumab (Lucentis®) biosimilar).

“In 2015, we brought all three of our lead first wave products closer to registration and finished the year in a strong financial position with over $158 million in cash. This is now complemented with an additional $100 million from the proceeds of senior unsecured convertible notes,” said Denny Lanfear, President and Chief Executive Officer of Coherus. “In addition, we clearly understand the unique market dynamics specific to different biosimilars, and the need for tailored commercial approaches. As such, we have organized our pipeline into four therapeutic area franchises: oncology, immunology, ophthalmology and multiple sclerosis. We intend to retain the U.S. commercial rights for our oncology franchise and to seek partnerships for our other franchises.”

Fourth Quarter and Year-End 2015 Financial Results

Total revenue for the fourth quarter 2015 was $10.2 million, as compared to $6.5 million in the fourth quarter of 2014. The increase over the same period in 2014 was due to increased recognition in Baxalta collaboration revenue as a result of achieving three development milestones totaling $100.0 million in 2015, including two milestones in the fourth quarter of 2015. Total revenue for the fiscal year 2015 was $30.0 million, as compared to $31.1 million in 2014. The lower revenue for the full year 2015 over the same periods in 2014 was due to the full recognition of a $10.0 million substantive milestone payment from Baxalta earned in third quarter of 2014, in addition to the collaboration and license revenue recognized over the estimated period of the collaboration.

Research and development (R&D) expenses for the fourth quarter 2015 were $51.4 million compared to $26.9 million for the same period in 2014. R&D expenses were $213.1 million in 2015 compared to $78.2 million in 2014. Increases in R&D expenses were mainly attributable to a transition to Phase 3 and Biologics License Application (BLA) enabling studies for CHS-0214, CHS-1420 and CHS-1701, as well as manufacturing efforts to support clinical trial supply and product registration activities. Less impactful were additional costs associated with the preclinical development of second wave product pipeline and personnel expenses.

General and administrative (G&A) expenses for the fourth quarter 2015 were $11.0 million, compared to $6.2 million for the same period in 2014. G&A expenses were $36.0 million in 2015 compared to $17.6 million in 2014. Changes in G&A expenses were mainly attributable to employee-related expenses, legal fees to support the intellectual property strategy, and accounting fees and services related to compliance with Section 404 of the Sarbanes-Oxley Act of 2002.

Net loss attributable to Coherus for the fourth quarter 2015 was $52.4 million, or $1.35 per share, compared to $29.1 million, or $1.47 per share, for the same period in 2014. Net loss attributable to Coherus was $223.3 million, or $6.01 per share, in 2015 compared to $87.1 million, or $10.64 per share, in 2014.

Cash and cash equivalents totaled $158.2 million as of December 31, 2015, compared to $150.4 million as of December 31, 2014.

2016 Guidance

- Oncology therapeutic franchise:
  - CHS-1701 (pegfilgrastim biosimilar)
    - Complete a follow-on PK/PD study by the end of the first half of 2016.
    - File a 351(k) BLA in the U.S. directly thereafter.
    - Initiate commercial partnering discussions for certain ex-U.S. territories.
- Immunology (anti-TNF) therapeutic franchise:
  - CHS-0214 (etanercept biosimilar)
    - Complete two Phase 1 bridging studies addressing manufacturing changes.
    - File for MAA in late 2016.
  - CHS-1420 (adalimumab biosimilar)
    - Complete Phase 3 clinical trial in psoriasis enrollment in the first half of 2016.
    - Complete Phase 3 clinical trial in psoriasis in the second half of 2016.
    - File a 351(k) BLA in the U.S. directly thereafter.
  - Initiate partnering discussions for the immunology (anti-TNF) therapeutic franchise.
- File one investigational new drug (IND) application for a second wave biosimilar candidate.

Conference Call Information

When: February 29, 2016, 1:30 p.m. PT
Dial-in: (765) 507-2587 (domestic) or (844) 452-6826 (toll free)
Conference ID: 52921197
Webcast: http://investors.coherus.com
Please join the conference call at least 10 minutes early to register.
The webcast of the conference call will be available for replay through March 14, 2016.

About Coherus BioSciences, Inc.

Coherus is a leading pure-play global biosimilar platform company that develops and commercializes high-quality therapeutics for major regulated markets. Biosimilars are intended for use in place of existing, branded biologics to treat a range of chronic and often life-threatening diseases, with the potential to reduce costs and expand patient access. Composed of a team of proven industry veterans with world-class expertise in process science, analytical characterization, protein production and clinical-regulatory development, Coherus is positioned as a leader in the global biosimilar marketplace. Coherus is advancing three late-stage clinical products towards commercialization, CHS-1701 (pegfilgrastim biosimilar), CHS-0214 (etanercept biosimilar) and CHS-1420 (adalimumab biosimilar), as well as developing a robust pipeline of future products, including CHS-5217 (bevacizumab biosimilar) and CHS-3351 (ranibizumab biosimilar). For additional information, please visit www.coherus.com.

Forward-Looking Statements

Except for the historical information contained herein, the matters set forth in this press release, including statements regarding Coherus' plans, potential opportunities, expectations, projections, goals, objectives, milestones, strategies, product pipeline, clinical studies, product development, release of data and the potential benefits of its products under development are forward-looking statements within the meaning of the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995, including Coherus' expectations regarding its ability to advance its CHS-1701, CHS-0214, CHS-1420, CHS-5217 and CHS-3351 biosimilar drug candidates, initiate and complete bridging studies for CHS-0214, complete its

PK/PD study for CHS-1701, file BLAs for CHS-1701 in the U.S., file an MAA for CHS-0214 in the E.U., file at least one IND on a second wave biosimilar pipeline candidate and enter into collaborations for CHS-1701 commercialization ex-U.S. and for its anti-inflammatory pipeline. Such forward-looking statements involve substantial risks and uncertainties that could cause our clinical development programs, future results, performance or achievements to differ significantly from those expressed or implied by the forward-looking statements. Such risks and uncertainties include, among others, the uncertainties inherent in the clinical drug development process, including the regulatory approval process, the timing of our regulatory filings and other matters that could affect the availability or commercial potential of our biosimilar drug candidates, as well as possible patent litigation. Coherus undertakes no obligation to update or revise any forward-looking statements. For a further description of the risks and uncertainties that could cause actual results to differ from those expressed in these forward-looking statements, as well as risks relating to Coherus' business in general, see Coherus' Annual Report on Form 10-K for the year ended December 31, 2015, filed with the Securities and Exchange Commission on February 29, 2016 and its future periodic reports to be filed with the Securities and Exchange Commission.

Coherus BioSciences, Inc.
Condensed Consolidated Statements of Operations
(in thousands, except share and per share data)

	Three Months Ended December 31,		Twelve Months Ended December 31,	
	2015	2014	2015	2014
	(unaudited)			
Revenue:				
Collaboration and license revenue	$ 10,198	$ 5,313	$ 30,041	$ 28,481
Collaboration and license revenue - related party (1)	—	448	—	1,893
Other revenue	—	732	—	732
Total revenue	10,198	6,493	30,041	31,106
Operating expenses:				
Research and development	51,433	26,867	213,062	78,224
General and administrative	10,972	6,186	36,046	17,564
Total operating expenses	62,405	33,053	249,108	95,788
Loss from operations	(52,207)	(26,560)	(219,067)	(64,682)
Interest expense	—	—	(33)	(3,900)
Other expense, net	(373)	(2,463)	(4,838)	(18,595)
Net loss	(52,580)	(29,023)	(223,938)	(87,177)
Net loss (income) attributable to non-controlling interest	189	(111)	678	44
Net loss attributable to Coherus	$ (52,391)	$ (29,134)	$ (223,260)	$ (87,133)
Net loss per share attributable to Coherus, basic and diluted	$ (1.35)	$ (1.47)	$ (6.01)	$ (10.64)
Weighted-average number of shares used in computing net loss per share attributable to Coherus, basic and diluted	38,935,832	19,841,728	37,122,008	8,186,529

(1) Represent revenue from Daiichi Sankyo Company, a holder of more than 10% of our common stock until the closing of our initial public offering on November 12, 2014.

Coherus BioSciences, Inc.
Condensed Consolidated Balance Sheets
(in thousands)

	December 31, 2015	December 31, 2014
Assets		
Cash and cash equivalents	$ 158,226	$ 150,392
Other assets	54,158	36,829
Total assets	$ 212,384	$ 187,221
Liabilities and Stockholders' Equity (Deficit)		
Deferred revenue	94,959	62,699
Other liabilities	124,354	57,765
Total stockholders' equity (deficit)	(6,929)	66,757
Total liabilities and stockholders' equity (deficit)	$ 212,384	$ 187,221

Exhibit 99.2

Coherus BioSciences Announces Private Placement of $100 Million Senior Convertible Notes

REDWOOD CITY, Calif., February 29, 2016 – Coherus BioSciences, Inc. (Nasdaq: CHRS), a leading pure-play, global biosimilars company with late-stage clinical products, today announced that it has entered into agreements for $100 million of senior convertible notes with an initial conversion price representing a 60% premium to the average last reported sale price per share of Coherus common stock over the preceding 15 trading days. New investor HealthCare Royalty Partners ("HCRP") led the transaction with a $75 million investment, and was joined by existing investor KKR, who contributed $20 million, as well as founding investors, MX II Associates LLC. and KMG Capital Partners, LLC.

"We are honored to have the support of such an extraordinary group of sophisticated health care investors," said Denny Lanfear, President and CEO of Coherus. "HealthCare Royalty Partners and KKR are premier private equity players. This capital, priced at a high conversion premium from these top institutions, validates our long-term value proposition as the pure-play market leader in biosimilars, and enhances our cash position to complete the development of our lead biosimilar assets."

"Coherus is a leader in the burgeoning biosimilar marketplace and HealthCare Royalty Partners is pleased to finance their continued growth," said Todd Davis, co-founder and Chairman of the Portfolio Management Committee, HCRP. "Coherus' world class management team has done an incredible job at developing three late stage biosimilar products and additional pipeline assets that hold the promise of meaningful savings and benefit to end-users. We look forward to their continued success, and are excited at the future prospects for the company."

"With three major product candidates – CHS-1701, CHS-1420, and CHS-0214 – approaching registrational regulatory filings in multi-billion dollar global markets, 2016 represents a transformational year for Coherus," said Ali Satvat, Member of KKR and a Director of Coherus. "The management team has done an exemplary job advancing the product portfolio, and we are pleased to support the continued growth of Coherus strategically and financially."

The convertible notes mature on March 31, 2022 and pay interest quarterly at a rate of 8.2% per year. Coherus may redeem the notes after March 31, 2020 if the last reported sale price per share of Coherus common stock exceeds 160% of the conversion price on 20 or more trading days during the 30 consecutive trading days preceding the date the notes are called for redemption. The notes are convertible into shares of Coherus common stock at an initial conversion rate of 44.7387 shares per $1,000 principal amount of notes, which is equivalent to a conversion price of approximately $22.35 per share. Any payment of the principal amount of the notes in cash will be subject to a 9% payment premium.

J. Wood Capital Advisors LLC served as financial advisor to Coherus in connection with the financing.

The offer and sale of the notes and the shares issuable upon conversion of the notes have not been registered under the Securities Act of 1933, as amended, or state securities laws, and the notes and

shares may not be offered or sold in the United States absent registration under the Securities Act or pursuant to an applicable exemption from those registration requirements. The notes were offered only to accredited investors. Coherus has agreed to file a registration statement with the SEC covering the resale of the shares issuable upon conversion of the notes.

This news release shall not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any state in which such offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of any such state. Any offering of Coherus common stock under the resale registration statement will be made only by means of a prospectus.

About Coherus BioSciences, Inc.

Coherus is a leading pure-play global biosimilar platform company that develops and commercializes high-quality therapeutics for major regulated markets. Biosimilars are intended for use in place of existing, branded biologics to treat a range of chronic and often life-threatening diseases, with the potential to reduce costs and expand patient access. Composed of a team of proven industry veterans with world-class expertise in process science, analytical characterization, protein production and clinical-regulatory development, Coherus is positioned as a leader in the global biosimilar marketplace. Coherus is advancing three late-stage clinical products towards commercialization, CHS-1701 (pegfilgrastim biosimilar), CHS-0214 (etanercept biosimilar) and CHS-1420 (adalimumab biosimilar), as well as developing a robust pipeline of future products, including CHS-5217 (bevacizumab biosimilar) and CHS-3351 (ranibizumab biosimilar). For additional information, please visit www.coherus.com.

About HealthCare Royalty Partners

HealthCare Royalty Partners is a global healthcare investment firm focused on investing primarily in commercial stage healthcare product assets. HCRP has raised over $3 billion in committed capital and is headquartered in Stamford, CT. Over the past decade, HCRP's co-founders have completed more than 60 healthcare investments totaling more than $2.6 billion of capital. For more information, visit www.healthcareroyalty.com.

Forward-Looking Statements

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