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

AMENDMENT NO. 1
to
FORM 20-F

(Mark One)

☐ **REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR 12(g) OF THE SECURITIES EXCHANGE ACT OF 1934**

OR

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2010

OR

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

OR

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

COMMISSION FILE NUMBER: 001-34949

TEKMIRA PHARMACEUTICALS CORPORATION
(Exact name of Registrant as specified in its charter)

British Columbia
(Jurisdiction of incorporation or organization)

100—8900 Glenlyon Parkway
Burnaby, British Columbia, Canada, V5J 5J8
(Address of principal executive offices)

Mark J. Murray
100—8900 Glenlyon Parkway
Burnaby, British Columbia, Canada, V5J 5J8
Telephone: +1 604 419 3200
Facsimile: +1 604 419 3202
(Name, Telephone, Email and/or Facsimile number and Address of Company Contact Person)

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

Title of Each Class	Name of Each Exchange On Which Registered
Common Shares, without par value	**NASDAQ Capital Market**

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

N/A
(Title of Class)

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:

N/A
(Title of Class)

The number of outstanding shares of each of the issuer's classes of capital or common stock as of December 31, 2010 was 10,338,703 common shares.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

If this report is an annual or a transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes ☐ No ☒

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☒

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP ☒ International Financial Reporting Standards as issued by the International Accounting Standards Board ☐ Other ☐

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow. Item 17 ☐ Item 18 ☐

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

EXPLANATORY NOTE

This Amendment No. 1 ("Amendment No. 1") to the Annual Report on Form 20-F of Tekmira Pharmaceuticals Corporation (the "Company") for the fiscal year ended December 31, 2010, originally filed with the Securities and Exchange Commission (the "SEC") on June 3, 2011 (the "Original Report"), is being filed solely for the purpose of amending Exhibits 4.2, 4.3, 4.4, 4.5, 4.6, 4.7 and 4.8 in response to comments received from the Staff of the SEC following a review of the Company's confidential treatment request related to certain information contained in such Exhibits. Exhibits 4.2, 4.3, 4.4, 4.5, 4.6, 4.7 and 4.8 to this Amendment No. 1 supercede and replace the corresponding exhibits to the Original Report.

This Amendment No. 1 consists of a cover page, this explanatory note, a list of exhibits (Item 19 of Part III), a signature page and Exhibits 4.2, 4.3, 4.4, 4.5, 4.6, 4.7 and 4.8.

This Amendment No. 1 speaks as of the initial filing date of the Original Report. Other than as expressly set forth above, no part of the Original Report is being amended. Accordingly, other than as discussed above, this Amendment No. 1 does not purport to amend, update or restate any other information or disclosure included in the Original Report or reflect any events that have occurred after the initial filing date of the Original Report. As a result, the Company's Annual Report on Form 20-F for the fiscal year ended December 31, 2010 continues to speak as of June 3, 2011 or, to the extent applicable, such other date as may be indicated in the Original Report.

PART III

Item 19. EXHIBITS

Exhibit Number	Description
1.1*	Notice of Articles and Articles of the Company
2.1*	Subscription Agreement, between the Company and Alnylam Pharmaceuticals, Inc., dated March 28, 2008
2.2*	Subscription Agreement, between the Company and Roche Finance Ltd., dated March 31, 2008
4.1†*	Amendment No. 1 to the Amended and Restated Agreement, between the Company (formerly Inex Pharmaceuticals Corporation) and Hana Biosciences, Inc., effective as of May 27, 2009
4.2†**	Amended and Restated License Agreement, between Inex Pharmaceuticals Corporation and Hana Biosciences, Inc, dated April 30, 2007
4.3†**	Sublicense Agreement, between Inex Pharmaceuticals Corporation and Alnylam Pharmaceuticals, Inc., dated January 8, 2007
4.4†**	Amended and Restated License and Collaboration Agreement, between the Company and Alnylam Pharmaceuticals, Inc., effective as of May 30, 2008
4.5†**	Amended and Restated Cross-License Agreement, between Alnylam Pharmaceuticals, Inc. and Protiva Biotherapeutics Inc., dated May 30, 2008
4.6†**	License Agreement, between Inex Pharmaceuticals and Aradigm Corporation, dated December 8, 2004
4.7†**	Settlement Agreement, between Sirna Therapeutics, Inc. and Merck & Co., Inc. and Protiva Biotherapeutics Inc. and Protiva Biotherapeutics (USA), Inc., effective as of October 9, 2007
4.8†**	Development, Manufacturing and Supply Agreement, between the Company and Alnylam Pharmaceuticals, Inc., dated January 2, 2009
4.9*	Executive Employment Agreement with Ian Mortimer, dated March 26, 2008
4.10*	Executive Employment Agreement with Ian MacLachlan, dated May 30, 2008
4.11*	Executive Employment Agreement with Mark Murray, dated May 30, 2008
4.12*	Executive Employment Agreement with Peter Lutwyche, dated January 1, 2009
4.13*	Share Option Plan amended through May 12, 2009 (including form stock option agreements)
4.14*	Lease Agreement with Canada Lands Company CLC Limited dated December 15, 1997, as amended
4.15*	Form of Indemnity Agreement
4.16†*	Award Contract with USASMDC/ARSTRAT effective date July 14, 2010
4.17†*	License Agreement between the University of British Columbia and Inex Pharmaceuticals Corporation executed on July 30, 2001

4.18†*	Amendment Agreement between the University of British Columbia and Inex Pharmaceuticals Corporation dated July 11, 2006
4.19†*	Second Amendment Agreement between the University of British Columbia and Inex Pharmaceuticals Corporation dated January 8, 2007
4.20†*	Consent Agreement of the University of British Columbia to Inex/Alnylam Sublicense Agreement dated January 8, 2007
4.21†*	Amendment No. 2 to the Amended and Restated Agreement, between the Company (formerly Inex Pharmaceuticals Corporation) and Hana Biosciences, Inc., effective as of September 20, 2010
8.1*	List of Subsidiaries
12.1*	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934, as amended
12.2*	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934, as amended
13.1*	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350
15.1*	Consent of KPMG LLP

* Previously filed.

** Filed herewith.

† The Company was granted confidential treatment for portions of these exhibits pursuant to Rule 24b-2 under the U.S. Securities Exchange Act of 1934, as amended.

SIGNATURES

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

TEKMIRA PHARMACEUTICALS CORPORATION

/s/ Mark J. Murray

Name: Mark J. Murray
Title: President and Chief Executive Officer

Date: January 31, 2012

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** Filed herewith.
† The Company was granted confidential treatment for portions of these exhibits pursuant to Rule 24b-2 under the U.S. Securities Exchange Act of 1934, as amended.

* Confidential Treatment has been requested for the marked portions of this exhibit pursuant to Rule 24B-2 of the Securities Exchange Act of 1934, as amended.

AMENDED AND RESTATED LICENSE AGREEMENT

BETWEEN

INEX PHARMACEUTICALS CORPORATION

AND

HANA BIOSCIENCES, INC.

AMENDED AND RESTATED LICENSE AGREEMENT

TABLE OF CONTENTS

AMENDED AND RESTATED LICENSE AGREEMENT

THIS AMENDED AND RESTATED LICENSE AGREEMENT (the "**Agreement**") is dated effective April 30, 2007.

BETWEEN:

INEX PHARMACEUTICALS CORPORATION, a company duly incorporated under the laws of British Columbia having an office at #200 – 8900 Glenlyon Parkway, Burnaby, British Columbia, Canada V5J 5J8

("**INEX**")

AND:

HANA BIOSCIENCES, INC., a company duly incorporated under the laws of Delaware having an office at 7000 Shoreline Court, Suite 370, South San Francisco, CA 94080, U.S.A.

("**Hana**")

WHEREAS:

A. On May 6, 2006, INEX (as hereinafter defined) and Hana entered into a License Agreement (as hereinafter defined) to govern the Parties' respective rights and obligations in respect of Hana's use in the Hana Field (as hereinafter defined), of Patents (as hereinafter defined) and Technology (as hereinafter defined).

B. On May 6, 2006, INEX and Hana entered into a Transaction Agreement (as hereinafter defined). Pursuant to which Section 6.7 of the Transaction Agreement, INEX agreed to make commercially reasonable efforts to obtain the consent of Aradigm (as hereinafter defined) to the assignment by INEX to Hana of the BCCA Patents (as hereinafter defined) licensed by INEX to Aradigm for use in the pulmonary delivery of Ciprofloxacin, and Hana agreed to license the BCCA Patents back to INEX for use outside the Hana Field and remain liable to INEX for all milestone, royalty and sublicensing payments which Hana would otherwise have made to INEX in respect of the BCCA Patents had the assignment by INEX to Hana not taken place.

C. Pursuant to Section 6.8 of the Transaction Agreement, INEX agreed to make commercially reasonable efforts to obtain the consent of MD Anderson (as hereinafter defined) to the assignment by INEX to Hana of the MD Anderson License (as hereinafter defined), Sarris Patents (as hereinafter defined), and Thomas Patents (as hereinafter defined), and Hana agreed to license the Sarris Patents and Thomas Patents back to INEX for use outside the Hana Field and remain liable to INEX for all milestone, royalty and sublicensing payments which Hana would otherwise have made to INEX in respect of the Sarris Patents and Thomas Patents had the assignment by INEX to Hana not taken place.

D. The Parties are herewith entering into this Amended and Restated License Agreement to: (i) to effect the termination of the license by INEX to Hana of the MD Anderson Patents, and the termination of all rights, responsibilities and obligations of Hana associated therewith; (ii) to affirm the continuation of the license by INEX to Hana of the Licensed Patents (as hereinafter defined) for use in the Hana Field, and to affirm the continuation of all rights, responsibilities and

obligations of Hana associated therewith; and (iii) to effect the license by Hana to INEX of the MD Anderson Patents for use outside the Hana Field upon the terms and conditions contained herein; all as contemplated by Section 6.8 of the Transaction Agreement.

E. On even date hereof, the Parties are entering into an Assignment and Novation Agreement with MD Anderson to effect the assignment by INEX to Hana of the MD Anderson License and the MD Anderson Patents as contemplated by Section 6.8 of the Transaction Agreement.

NOW THEREFORE, in consideration of the covenants, rights and obligations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Article 1 INTERPRETATION

1.1 Definitions

As used in this Agreement, the following terms, whether used in the singular or plural, shall have the following meanings:

1.1.1 "**Abandoning Party**" shall have the meaning set forth in Section 8.5.1.

1.1.2 "**Adverse Drug Event**" means any noxious, unintended, or untoward medical occurrence in a patient or clinical investigation subject associated with the use of a medicinal or investigational product, whether or not related to the medicinal or investigational product.

1.1.3 "**Affiliate**" means, with respect to any Person, any Person directly or indirectly controlled by, controlling or under common control with such Person. For the purposes of this definition, "control" shall mean direct or indirect beneficial ownership of 50% or greater interest in the voting power of such Person or such other relationship as, in fact constitute actual control.

1.1.4 "**Agreement**" means this Amended and Restated License Agreement and all exhibits attached hereto.

1.1.5 "**Applicable Laws**" means all applicable federal, provincial, state and local laws, ordinances, rules and regulations of any kind whatsoever in the Territory, including, without limitation, pharmaceutical and environmental rules and regulations, including cGMP Requirements, GCP Requirements, GLP Requirements and the General Biological Products Standards of the FDA, and the Federal Food, Drug and Cosmetic Act, as amended, or any successor act thereto ("**FDCA**").

1.1.6 "**Aradigm**" means Aradigm Corporation, a company duly incorporated pursuant to the laws of the State of California, and having its principal place of business at 3929 Point Eden Way, Hayward, CA 94545, U.S.A.

1.1.7 "**Aradigm License**" means the license agreement dated December 8, 2004 between Aradigm and INEX.

1.1.8 "**Assessed Value**" shall have the meaning set forth in Section 3.6.6(b).

1.1.9 "**Assigned Patents**" mean the MD Anderson Patents listed in **Exhibit 1.1.9** attached hereto.

1.1.10 "**Bankruptcy Action**" shall have the meaning set forth in Section 14.3.3.

1.1.11 "**BCCA**" means the British Columbia Cancer Agency.

1.1.12 "**BCCA Agreements**" means the Research Project Agreement between INEX (formerly Lipex Pharmaceuticals, Inc.) and the British Columbia Cancer Agency dated February 25, 1993 and terminated May 6, 2002.

1.1.13 "**BCCA Patents**" means:

(a) the egg sphingomyelin patents assigned by the BCCA to INEX; and

(b) any and all counterparts of the foregoing, including all divisionals, provisionals, non-provisionals, and continuations, and all patents issuing on any of the foregoing and any foreign counterparts thereof, together with all registrations, reissues, re-examinations, supplemental protection certificates, additions, renewals or extensions thereof and any foreign counterparts thereof;

that are subject to the rights of:

(c) the BCCA (including royalty rights) under the terms and conditions of the BCCA Agreements;

(d) INEX (including milestone, Licensing/Sublicensing Revenue and royalty rights) under the terms and conditions of this Agreement; and

(e) Aradigm under the terms and conditions of the Aradigm License.

1.1.14 "**Business Day**" means any day other than a day which is a Saturday, a Sunday or a statutory holiday in British Columbia or California.

1.1.15 "**Calendar Quarter**" means each of the three-month periods ending on March 31, June 30, September 30 or December 31.

1.1.16 "**cGMP Requirements**" means the current Good Manufacturing Practices standards required by the FDA (as set forth in the FDCA), the Therapeutic Products Directorate Organization of Health Canada ("**TPD**"), and the European Medicines Evaluation Agency ("**EMEA**") and any other jurisdiction as mutually agreed between the Parties together with their applicable regulations, policies or guidelines which are in effect for the manufacture and testing of pharmaceutical materials, active ingredients, or excipients for use in Phase I, Phase II, and Phase III clinical trials, as applicable.

1.1.17 "**Clinical Activity**" and "**Clinical Activities**" mean any one or more of the activities associated with drug testing in humans, including trial design and execution, payment of investigators', institutional, and contractors' fees, drug distribution and accountability, analytical testing, data management, statistical analysis, adverse event reporting, and scientific publication, performed in pursuit of the Development and Commercialization of a Product.

1.1.18 "**Clinical Trial Material**" means labeled and packaged Sphingosomal Vincristine, Sphingosomal Vinorelbine and/or Sphingosomal Topotecan, and any component(s) thereof used or to be used, in clinical trials.

1.1.19 "**Closing Payment**" means an aggregate of One Million Five Hundred Thousand Dollars ($1,500,000) in funds held in escrow paid by Hana to INEX pursuant to the terms and conditions of the Transaction Agreement.

1.1.20 "**Closing Shares**" means the number of shares of Common Stock determined by dividing Ten Million Dollars ($10,000,000) by the FMV of the Common Stock as of March 16, 2006, paid by Hana to INEX pursuant to the terms and conditions of the Transaction Agreement.

1.1.21 "**Commercialize**" and "**Commercialization**" mean the activities customarily associated with sales of pharmaceutical products including without limitation, DDMAC Activities, price and reimbursement negotiations, pre-launch and launch activities, marketing, sales, distribution, post-approval Clinical Activities, the development, prosecution, registration and maintenance of trademarks, trade names and domain names, and Pharmacovigilance in each country in the Territory.

1.1.22 "**Commercially Reasonable Efforts**" means those efforts and resources that Hana would use were it developing, promoting and detailing its own pharmaceutical products which are of similar market potential as the Products, taking into account product labeling, market potential, past performance, economic return, the regulatory environment and competitive market conditions in the therapeutic area, all as measured by the facts and circumstances at the time such efforts are due.

1.1.23 "**Common Stock**" means the common stock of Hana, par value $0.001 per share.

1.1.24 "**Confidential Information**" means all information, knowledge or data:

(a) of an intellectual, technical, scientific or industrial nature, patentable or otherwise, in which a Party has a proprietary or ownership interest, including, without limitation, technical data, drawings, photographs, scans, specifications, standards, analytical methods, techniques, manuals, reports, formulas, compilations, processes, information, lists, trade secrets, computer software, programs, devices, equipment, concepts, inventions, designs, and know-how (including Technology);

(b) pertaining to the business and affairs of a Party, including, without limitation, financial information, marketing, manufacturing and commercial strategies, patent positioning, business plans, strategies and developments, including any negative developments; or

(c) provided or disclosed to a Party by Third Parties subject to restrictions on use or disclosure, whether oral or written, furnished by the disclosing Party to the receiving Party or any of its Representatives, whether furnished or prepared before or after the Effective Date of the Definitive Agreements, and includes all analyses, compilations, data, studies, reports or other documents based upon or including any of such information, data or knowledge and, in all cases, all copies and tangible embodiments thereof, in whatever form or medium;

provided that Confidential Information shall not include such information which:

(a) can be demonstrated by the receiving Party by written record to have been known or otherwise available to the receiving Party prior to the disclosure by the disclosing Party;

(b) can be demonstrated by the receiving Party by written record to have been in the public domain at the time of disclosure;

(c) after disclosure, can be demonstrated by the receiving Party by written record to have subsequently become part of the public domain other than as a consequence of a breach of this Confidential Disclosure Agreement by the receiving Party or its Representatives;

(d) after disclosure, can be demonstrated by the receiving Party by written record to have been subsequently provided to the receiving Party by a Third Party, but only to the extent that the receiving Party can demonstrate that such disclosure does not violate any obligations of the Third Party to the disclosing Party; or

(e) the receiving Party can demonstrate by written records results from research and development activity conducted by the receiving Party or any of its Affiliates independently and in advance of disclosure by the other Party thereof.

A specific disclosure shall not be deemed to be within the above exceptions, merely because they are embraced by general disclosures within the above exceptions, and any combination of features shall not be deemed within the above exceptions merely because individual features are within the above exceptions.

1.1.25 "**Damages**" means any losses, liabilities, obligations, damages, penalties, fines, claims, demands, actions, suits, costs and expenses of any nature whatsoever, excluding indirect, special or consequential damages, but including, without limitation, legal fees, charges and disbursements, and the indirect, special or consequential damages of Third Parties for which a Party, INEX Indemnitees or Hana Indemnitees, as the case may be, is responsible.

1.1.26 "**DDMAC Activities**" mean all activities performed in accordance with the requirements of the Division of Drug Marketing, Advertising and Communications, Center for Drug Evaluation and Research of the FDA, and the Office of the Inspector General of the Department of Health and Human Services of the United States.

1.1.27 "**Definitive Agreements**" mean the Asset Purchase Agreement, Elan Assignment and Novation Agreement, License Agreement, Service Agreement, UBC Sublicense Agreement; Transaction Agreement, and Registration Rights Agreement.

1.1.28 "**Designated EU States**" means any one of Germany, the United Kingdom, Italy, France or Spain.

1.1.29 "**Develop**" and "**Development**" means:

(a) all activities set forth in the Development Plan; and

(b) all activities necessary to obtain and maintain Regulatory Approvals in each country in the Territory, including Clinical Activities, Regulatory Activities, Technical Transfer and Manufacturing activities.

1.1.30 "**Development Plan**" means the development plan for seeking Regulatory Approvals for each Product in the Territory during the initial twelve (12) months following the Effective Date of the Definitive Agreements, together with a corresponding budget accounting for the anticipated costs to be expended or incurred by Hana in conducting the Development. The Development Plan and any amendments thereto adopted in accordance with Article 4 will form a part of this Agreement.

1.1.31 "**Discontinued Patent**" shall have the meaning set forth in Section 8.5.3.

1.1.32 "**Dispute**" shall have the meaning set forth in Section 13.1.1.

1.1.33 "**Dollars**" or "**$**" shall mean the lawful money of the United States of America.

1.1.34 "**Effective Date of the Definitive Agreements**" means May 6, 2006.

1.1.35 "**Excess Amount**" shall have the meaning set forth in Section 9.2.6.

1.1.36 "**Fair Market Value**" for the purposes of Sections 1.1.69 and 1.1.56, means the highest price, expressed in dollars, that an asset (whether tangible or intangible) would bring in an open and unrestricted market, between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other.

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

1.1.38 "**FMV**" means the quotient resulting from dividing (A) the sum of the value of all trades for each of the twenty (20) trading days immediately preceding the FMV reference date, by (B) the aggregate volume of all trades of shares of Common Stock during such twenty trading day period, in each case as reported in the principal exchange or stock market on which the Common Stock is then listed.

1.1.39 "**FTE Rate**" means the fully burdened rate established by INEX for the services of a INEX employee or consultant providing IP Services which for the first year from the Effective Date of the Definitive Agreements, is **[*]** based on 1,800 employee hours per year, or pro-rata portion thereof; provided however, that on each anniversary of the Effective Date of the Definitive Agreements, the FTE Rate shall be adjusted by a percentage equal to the net change in the Consumer Price Index (All Items) for the province of British Columbia for the twelve (12) month period ending with December of the calendar year immediately preceding such anniversary date.

1.1.40 "**GCP Requirements**" or "**Good Clinical Practices**" means the then current standards for clinical trials for pharmaceuticals as required by the FDA, the TPD and the equivalent Regulatory Authority elsewhere in the Territory and as applicable, the policies and guidelines of the International Conference on Harmonization in effect for the clinical testing of pharmaceutical materials.

***Confidential Treatment Requested.**

1.1.41 "**GLP Requirements**" or "**Good Laboratory Practices**" means the current Good Laboratory Practices standards required by the FDA, the TPD and the equivalent Regulatory Authority elsewhere in the Territory in effect for the testing of pharmaceutical materials as applied to raw materials and finished products.

1.1.42 "**Hana Field**" means all uses of the Products.

1.1.43 "**Hana Indemnitees**" shall have the meaning set forth in Section 12.2.

1.1.44 "**Hana Intellectual Property**" means:

(a) all Intellectual Property Rights patents and patent applications (whether complete or incomplete or whether filed or unfiled), including registrations, in any jurisdiction world-wide, as well as any patents and patent applications to which Hana has accepted an assignment or license during the term of this Agreement; and

(b) all Confidential Information owned or controlled by Hana at any time during the Term of this Agreement.

1.1.45 "**IND**" means an Investigational New Drug application in accordance with the rules and regulations of the FDA.

1.1.46 "**Indemnitee**" shall have the meaning set forth in Section 12.3.

1.1.47 "**Indemnitor**" shall have the meaning set forth in Section 12.3.

1.1.48 "**INEX Indemnitees**" shall have the meaning set forth in Section 12.1.

1.1.49 "**Intellectual Property Rights**" means all intellectual property rights subject to protection by intellectual property laws in any country of the world, arising under statutory or common law, contract, or otherwise, and whether or not perfected, including without limitation, all (a) patents, reissues of and re-examined patents, and patent applications, whenever filed and wherever issued, including without limitation, continuations, continuations-in-part, substitutes and divisions of such applications and all priority rights resulting from such applications; (b) rights associated with works of authorship including without limitation copyrights, moral rights, copyright applications, copyright registrations, synchronization rights, mask work rights, mask work applications, mask work registrations; (c) rights associated with trademarks, service marks, trade names, logos, trade dress, goodwill and the applications for registration and registrations thereof; (d) rights relating to the protection of trade secrets and confidential information (e) rights analogous to those set forth in this Section and any and all other proprietary rights relating to intangible property; and (f) divisions, continuations, renewals, reissues and extensions of the foregoing (as and to the extent applicable) now existing, hereafter filed, issued or acquired.

1.1.50 "**IP Committee**" shall have the meaning set forth in Section 8.1.

1.1.51 "**IP Services**" means such services as Hana deems reasonably necessary, desirable or helpful to evidence, maintain, protect or enforce Hana's rights as set forth under the Services Agreement, and as further defined in Section 8.6.2.

1.1.52 "**License**" means an agreement between Hana and its Affiliate or between Hana and a Third Party, to whom Hana has granted a license of the rights granted by INEX to Hana in respect of one or more of the following:

(a) the Assigned Patents; and

(b) that portion of the Technology that relates to the Assigned Patents.

1.1.53 "**License Agreement**" means the License Agreement dated May 6, 2006 between INEX and Hana.

1.1.54 "**Licensed Patents**" means all right, title and interest in and to the inventions described in:

(a) with the exception of the Assigned Patents, the patents and patent applications existing on the Effective Date of the Definitive Agreements that were originally assigned to INEX and are listed in **Exhibit 1.1.54** attached hereto; and

(b) any and all patents and patent applications assigned or licensed by INEX to Hana after the effective date of this Agreement and during the Term of this Agreement that are necessary and useful in the Development or Commercialization of the Products, subject to the terms and limitations of any agreement related to such patents and applications; and

(c) any and all counterparts of the foregoing, including all divisionals, provisionals, non-provisionals, and continuations, and all patents issuing on any of the foregoing and any foreign counterparts thereof, together with all registrations, reissues, re-examinations, supplemental protection certificates, additions, renewals or extensions thereof and any foreign counterparts thereof.

1.1.55 "**Licensee**" means an Affiliate or Third Party to whom Hana has granted a License. Without limiting the generality of the foregoing, a Licensee shall be deemed to include an Affiliate or Third Party who is granted a License hereunder by Hana pursuant to the terms of the outcome or settlement of any infringement or threatened infringement or threatened infringement action. Without limiting the generality of the foregoing, a Licensee shall be deemed to include any Affiliate or Third Party who is granted a License hereunder by Hana pursuant to the terms of the outcome or settlement of any infringement or threatened infringement action.

1.1.56 "**Licensing/Sublicensing Revenue**" means all transaction closing payments, milestone payments, license fees and any other pre-Commercialization payments (excluding royalties, sales revenue, sales commissions and any monies and proceeds derived from the sale of licensed or sublicensed Product) payable to, collected or received by Hana or its Affiliates pursuant to each License or Sublicense entered into in respect of:

(a) the Technology;

(b) the Licensed Patents; and/or

(c) the Assigned Patents.

Except as otherwise expressly provided below, "Licensing/Sublicensing Revenue" shall not include:

(d) loans to Hana or its Affiliates by a Licensee or Sublicensee relating to the Patents and Technology, except to the extent that the interest charged for such loan is less than Fair Market Value (in which case only such difference between the interest rate charged to Hana and the interest rate at Fair Market Value shall constitute Licensing/Sublicensing Revenue) or to the extent that the principal of a loan is forgiven (in which case only such forgiven amount shall constitute Licensing/Sublicensing Revenue); or

(e) equity investments in Hana by a Licensee or Sublicensee, or equity of the Licensee or Sublicensee relating to the Patents and Technology, except to the extent that such investment are made at greater than Fair Market Value (in which case only the excess premium shall constitute Licensing/Sublicensing Revenue). For the purposes of this Section, if the shares of either Hana or its Licensee or Sublicensee are not listed on any stock exchange, the Fair Market Value shall be based on the price at which shares of either Hana or its Licensee or Sublicensee, as the case may be, have been issued to investors (who are not industry-related strategic investors or collaborative research partners) in the then most recent bona fide arm's length private placement financing completed within the preceding twelve (12) months having gross proceeds of at least Ten Million Dollars ($10,000,000). If no such private placement financing has been completed, the Parties shall appoint a mutually acceptable Person as an independent evaluator, and if the Parties cannot agree on an evaluator, the Fair Market Value shall be determined as provided in Article 13; or

(f) An exchange of rights, assets, liabilities or other interest of any kind, except to the extent that the economic benefit conferred upon Hana or its Affiliates by reason of such exchange exceeds the Fair Market Value of the consideration which would have been paid by Hana or its Affiliates for such rights, assets, liabilities or interests, as determined by: (i) the mutual agreement of the Parties following the application of U.S. GAAP, or failing mutual agreement; (ii) the binding decision of a mutually appointed independent Third Party banker or valuator familiar with the pharmaceutical industry.

For the avoidance of doubt, and without limiting the generality of the foregoing, "Licensing/Sublicensing Revenue" shall include any Development funding in excess of Hana's true Development costs, whether measured: (i) as an FTE rate in excess of Hana's actual FTE rate; (ii) as project funding in excess of Hana's actual project cost; (iii) as a premium on any pass-through costs incurred by Hana; or (iv) as a premium or rate charged in excess of any of Hana's actual costs incurred in Development.

1.1.57 "**Litigating Party**" shall have the meaning set forth in Section 9.2.5.

1.1.58 "**Major Markets**" means the countries of the United States of America, Germany, the United Kingdom, Italy, France, Spain.

1.1.59 "**Manufacture**", "**Manufactured**" and "**Manufacturing**" means all or a portion of the activities of Hana, INEX, its Affiliates or their respective Third Party contractors associated with the manufacturing, filling, sampling, testing, handling, labeling, packaging and storage of Material and all work-in-progress.

1.1.60 "**Marqibo**" is Hana's trade name for Sphingosomal Vincristine.

1.1.61 "**Material**" means all compounds, materials, substances, components or consumables sourced or Manufactured by INEX, Hana or any of their respective Third Party contractors to produce Clinical Trial Material (including Clinical Trial Material), and Product for commercial sale, but excluding machinery and equipment.

1.1.62 "**Maximum Issuance Amount**" shall have the meaning set forth in Section 3.4.

1.1.63 "**MD Anderson**" means the University of Texas MD Anderson Cancer Center.

1.1.64 "**MD Anderson Assignment and Novation Agreement**" means the Assignment and Novation Agreement between MD Anderson, INEX and Hana to effect the assignment by INEX to Hana of the MD Anderson License.

1.1.65 "**MD Anderson License**" means the Patent and Technology License Agreement made as of February 14, 2000 between the Board of Regents of the University of Texas System on behalf of the University of Texas MD Anderson Cancer Center and INEX, amended as of August 15, 2000.

1.1.66 "**MD Anderson Patents**" means the Sarris Patents and Thomas Patents.

1.1.67 "**Method Transfer**" means, in respect of the Services, the transfer by INEX and/or INEX's Third Party contractors to Hana, Hana's Third Party contractors and/or INEX's Third Party contractors, of the methods for the testing of Material pursuant to Method Transfer protocols mutually agreed between the Parties, and shall include, without limitation, performance of Method Transfer qualification.

1.1.68 "**NDA**" means a New Drug Application in accordance with the rules and regulations of the FDA.

1.1.69 "**Net Sales**" means the aggregate United States dollar equivalent of gross revenues invoiced by Hana and its Affiliates and Licensees and Sublicensees from or on account of the sale of Product to Third Parties, in any given calendar year, less deductions actually allowed or specifically allocated to Product and actually incurred by Hana or its Affiliates or Licensees or Sublicensees using US GAAP and reasonable practices with respect to sales of all Product, consistently applied, for the following:

(a) credits or allowances, if any, actually granted on account of recalls, rejection or return of Product;

(b) insurance, freight or other transportation costs incurred in shipping Product to such Third Parties; and

(c) excise taxes, sales taxes, value added taxes, consumption taxes, customs and other duties or other taxes or other governmental charges imposed upon and paid or allowed with respect to the production, importation, use or sale of Product (excluding income or franchise taxes of any kind);

(collectively, the "**Permitted Deductions**"). The foregoing definition is subject to the following:

(d) no deductions shall be made for any item of cost incurred by Hana, its Affiliates or Licensees or Sublicensees in preparing, Manufacturing, shipping or selling Product except as permitted pursuant to Sections 1.1.69(a), 1.1.69(b) and 1.1.69(c) inclusive;

(e) Net Sales shall not include transfer between any of Hana and any of its Affiliates or Licensees or Sublicensees for resale, but Net Sales shall include the subsequent final sales to Third Parties by such Affiliates or Licensees or Sublicensees;

(f) Fair Market Value shall be assigned to any and all non-cash consideration such as but not limited to any credit, barter, benefit, advantage or concession received by Hana or its Affiliates or Licensees or Sublicensees in payment for sale of Product;

(g) as used in this definition, a "sale" shall have occurred when Product are billed out or invoiced;

(h) notwithstanding anything herein to the contrary, the following shall not be considered a sale of Product under this Agreement:

(i) the transfer of a Product to a Third Party without consideration to Hana in connection with the development or testing of a Product; or

(ii) the transfer of a Product to a Third Party without consideration in connection with the marketing or promotion of the Product (e.g., samples).

1.1.70 "**Non-Abandoning Party**" shall have the meaning set forth in Section 8.5.1.

1.1.71 "**Non-Competition Terms**" means the terms and conditions contained in Article 7 of the Transaction Agreement between the Parties dated May 6, 2006.

1.1.72 "**Non-litigating Party**" shall have the meaning set forth in Section 9.2.5.

1.1.73 "**Notice of Abandonment**" shall have the meaning set forth in Section 8.5.1.

1.1.74 "**Party**" means INEX or Hana and "**Parties**" means INEX and Hana.

1.1.75 "**Patents**" means the Licensed Patents and the Assigned Patents.

1.1.76 "**Person**" means and includes any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, government body, and any other form of entity or organization.

1.1.77 "**Pharmacovigilance**" means all the activities associated with maintaining an effective drug safety monitoring system and adverse events reporting system in compliance with the requirements of Regulatory Authorities.

1.1.78 "**Prime Rate**" means the prime or equivalent rate quoted by the Bank of Canada from time to time.

1.1.79 "**Product**" means any one or more of Sphingosomal Vincristine, Sphingosomal Vinorelbine, and Sphingosomal Topotecan.

1.1.80 "**Publishing Party**" shall have the meaning set forth in Section 10.4.1.

1.1.81 "**QA**" means Quality Assurance, being that part of each management system, within Hana and INEX separately, having responsibility for assuring the quality of Material and Manufacturing in respect of compliance with Regulatory Requirements.

1.1.82 "**QC**" means Quality Control, being that part of each management system, within Hana and INEX separately, having responsibility for quality control testing of Material in respect of compliance with Regulatory Requirements.

1.1.83 "**Registrational Clinical Trial**" means any one of a Phase III clinical trial or pivotal Phase II clinical trial conducted in furtherance of Regulatory Approvals.

1.1.84 "**Regulatory Activity**" and "**Regulatory Activities**" mean any one or more of the regulatory activities to be performed by Hana, its Licensees, Sublicensees, or their respective Representatives in pursuit of the Development of each Product, including writing, translation, compilation, notification, submission, filing, defense, maintenance and renewal of Regulatory Approvals and payment of fees associated therewith, and meeting with Regulatory Authorities.

1.1.85 "**Regulatory Approvals**" means all necessary and appropriate regulatory approvals which must be obtained before placing each Product on the market in any country in the Territory in which such approval is required, including without limitation, INDs, NDAs, and any other comparable terms as applicable with regard to any such approvals in any other country in the Territory.

1.1.86 "**Regulatory Authorities**" means the FDA and any other like governmental authorities, whether federal, provincial, state or municipal, regulating the manufacture, importation, distribution, marketing, clinical testing and/or sale of therapeutic substances in the Territory.

1.1.87 "**Regulatory Requirements**" means Applicable Laws and all rules, regulations and guidances in respect of QC and QA procedures and processes, manufacturing and production batch records (including the master production record), packaging, handling, storage, delivery and retention of raw material and finished product samples and associated support data, and all licenses, certificates, authorizations or requirements from Regulatory Authorities in the Territory, including but not limited to cGMP Requirements in respect of the Manufacture of Material.

1.1.88 "**Regulatory Submission**" means any submission or filing made in furtherance of obtaining and maintaining any Regulatory Approvals.

1.1.89 "**Representatives**" means, in respect of a Person, that Person's Affiliates and their respective directors, officers, employees, consultants, subcontractors, licensees or sublicensees (including Licensees and Sublicensees) as the case may be, agents, representatives and other persons acting under their authority.

1.1.90 "**Royalty-free License**" means a license granted by Hana to INEX for any and all uses of the MD Anderson Patents outside the Hana Field in respect of which:

(a) subject to Section 1.1.90(b), a fully paid up, royalty-free license; and

(b) INEX unconditionally, absolutely and irrevocably agrees with Hana to continue to remain liable for royalty payments to MD Anderson under the MD Anderson License in respect of INEX's use of the MD Anderson Patents outside the Hana Field.

1.1.91 "**Sarris Patents**" means:

(a) the Sarris patents and patent applications jointly owned by MD Anderson and INEX, as set forth in **Exhibit 1.1.91**; and

(b) any and all counterparts of the foregoing, including all divisionals, provisionals, non-provisionals, and continuations, and all patents issuing on any of the foregoing and any foreign counterparts thereof, together with all registrations, reissues, re-examinations, supplemental protection certificates, additions, renewals or extensions thereof and any foreign counterparts thereof;

that are subject to the rights of

(c) MD Anderson (including annual fees and royalty rights to MD Anderson) under the terms and conditions of the MD Anderson License; and

(d) INEX (including milestone, Licensing/Sublicensing Revenue and royalty rights) under the terms and conditions of this Agreement.

1.1.92 "**Service Agreement**" means the Service Agreement entered into between INEX and Hana dated May 3, 2006 and effective as of April 3, 2006.

1.1.93 "**Sphingosomal Topotecan**" means a liposome that includes sphingomyelin and cholesterol and contains encapsulated topotecan, wherein the sphingomyelin comprises less than 20% dihydrosphingomyelin.

1.1.94 "**Sphingosomal Topotecan R&D Expenses**" shall have the meaning set forth in Section 3.3.4.

1.1.95 "**Sphingosomal Vincristine**" means a liposome that includes sphingomyelin and cholesterol and contains encapsulated vincristine, wherein the sphingomyelin comprises less than 20% dihydrosphingomyelin.

1.1.96 "**Sphingosomal Vincristine NDA**" shall have the meaning set forth in Section 3.1.1.

1.1.97 "**Sphingosomal Vincristine R&D Expenses**" shall have the meaning set forth in Section 3.1.4

1.1.98 "**Sphingosomal Vinorelbine**" means a liposome that includes sphingomyelin and cholesterol and contains encapsulated vinorelbine, wherein the sphingomyelin comprises less than 20% dihydrosphingomyelin.

1.1.99 "**Sphingosomal Vinorelbine R&D Expenses**" shall have the meaning set forth in Section 3.2.4.

1.1.100 "**Sublicense**" means an agreement between:

(a) a Licensee and a Person to whom such Licensee has granted a sublicense of the rights granted under the License; and

(b) an agreement between Hana and its Affiliate or between Hana and a Third Party, to whom Hana has granted a sublicense of the rights granted by INEX to Hana in respect of one or more of the following:

(i) the Licensed Patents; and

(ii) that portion of the Technology that relates to the Licensed Patents.

1.1.101 "**Sublicensee**" means a Person to whom a Licensee has granted a Sublicense and a Person to whom Hana has granted a Sublicense. Without limiting the generality of the foregoing, a Sublicensee shall be deemed to include any Person who is granted a Sublicense hereunder pursuant to the terms of the outcome or settlement of any infringement or threatened infringement or threatened infringement action.

1.1.102 "**Technical Transfer**" means the transfer by INEX and/or INEX's Third Party contractors to Hana, Hana's Third Party contractors and/or INEX's Third Party contractors of those aspects of the Technology necessary and useful for the Manufacture of Material, and includes Method Transfer.

1.1.103 "**Technology**" includes:

(a) all technical information and know-how relating to the technology claimed in the Patents in the Hana Field, including without limitation all such information as is described in certain of the laboratory notebooks enumerated in **Exhibit 1.1.103** attached hereto; and

(b) all Confidential Information possessed by INEX on the Effective Date of the Definitive Agreements pertaining to the Products in the Hana Field in data, drawings, formulae, know-how, unpatented inventions, manufacturing information, specifications, product design histories, technical dossiers, regulatory records, quality system documentation, whether protectable or not as trade secrets or otherwise including, without limitation, standard operating procedures, technical reports, synthetic protocols, manufacturing protocols, animal protocols, invention disclosures, manufacturing records, process development data, formulation records, biological, chemical, pharmacological, toxicological assay results, controls, clinical testing data, IND data and histology slides.

1.1.104 "**Term**" shall have the meaning set forth in Section 14.1.

1.1.105 "**Territory**" means all of the countries and territories of the world.

1.1.106 "**Third Party(ies)**" means any Person(s) other than INEX or Hana or any of their respective Affiliates.

1.1.107 "**Thomas Patents**" means

(a) the Thomas patent applications owned by INEX as set forth in **Exhibit 1.1.9** attached hereto; and

(b) any and all counterparts of the foregoing, including all divisionals, provisionals, non-provisionals, and continuations, and all patents issuing on any of the foregoing and any foreign counterparts thereof, together with all registrations, reissues, re-examinations, supplemental protection certificates, additions, renewals or extensions thereof and any foreign counterparts thereof;

subject to the rights of:

(c) MD Anderson (including annual fees and royalty rights) under the terms and conditions of the MD Anderson License; and

(d) INEX (including milestone, Licensing/Sublicensing Revenue and royalty rights) under the terms and conditions of this Agreement.

1.1.108 "**Transaction Agreement**" means the Transaction Agreement dated May 6, 2006 between Hana and INEX.

1.1.109 "**US GAAP**" means generally accepted accounting principles applied in the United States of America.

1.1.110 "**Valid Claim**" means either:

(a) a claim of an issued and unexpired patent which has not been held unenforceable, unpatentable or invalid by a court or other governmental agency of competent jurisdiction, and which has not been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise; or

(b) a claim in a patent application, provided that if such pending claim has not issued as a claim of an issued patent within seven (7) years after the filing date of such patent application, such pending claim shall not be a Valid Claim for purposes of this Agreement.

In the event that a claim of an issued patent is held by a court or other governmental agency of competent jurisdiction to be unenforceable, unpatentable or invalid, and such holding is reversed on appeal by a higher court or agency of competent jurisdiction, such claim shall be reinstated as a Valid Claim hereunder, effective as of the date of such reinstatement.

1.2 Other Definitions

Any words defined elsewhere in this Agreement shall have the particular meaning assigned to the words thereto.

Article 2 Patent and Technology

2.1 Amendment of License Agreement

2.1.1 Subject to the terms and conditions of this Agreement, the Parties hereby agree:

(a) to terminate:

(i) the exclusive license by INEX to Hana under the MD Anderson Patents, subject to the terms and conditions set forth in the MD Anderson License, to make, have made, use, sell, offer for sale, import, and have imported Products in the Hana Field within the Territory; and

(ii) the exclusive license by Hana to INEX under the Hana Intellectual Property, subject to the terms and conditions of the License Agreement, to make, have made, use, sell, offer for sale, import, and have imported products outside the Hana Field; and

(b) to affirm INEX's grant to Hana, and Hana's acceptance, of:

(i) an exclusive license under the Licensed Patents to make, have made, use, sell, offer for sale, import, and have imported Products in the Hana Field within the Territory; and

(ii) an exclusive license to the Technology to make, have made, use, sell, offer for sale, import, and have imported Products in the Hana Field within the Territory; and

(c) to the irrevocable and absolute grant, sale, assignment and conveyance by INEX to Hana, and Hana's acceptance of:

(i) INEX's entire right, title and interest in and to the Thomas Patents subject to the terms and conditions set forth in the MD Anderson License; and

(ii) INEX's entire right, title and interest in and to INEX's joint ownership of the Sarris Patents subject to the terms and conditions set forth in the MD Anderson License;

subject to the provisions of Sections 8.5 and 14.3.

2.1.2 It is understood and agreed that the foregoing exclusive licenses in Section 2.2.1(b) grant to Hana the rights enumerated to the exclusion of all other parties, including INEX and its Affiliates.

2.1.3 It is also understood that INEX retains exclusive rights under the Licensed Patents and Technology outside the Hana Field.

2.2 License Grant to INEX

2.2.1 Subject to the terms and conditions of this Agreement, Hana hereby grants to INEX and INEX hereby accepts an, irrevocable world-wide, exclusive, Royalty-Free License under the MD Anderson Patents to make, have made, use, sell, offer for sale, import, and have imported products outside the Hana Field subject only to the provisions of Sections 8.5 (relating to abandonment, withdrawal or discontinuance of patent protection) and 14.3 (relating to termination on bankruptcy).

2.2.2 In respect of the license granted by Hana to INEX under Section 2.2.1, the Parties understand and agree that:

(a) except as otherwise provided in the MD Anderson License, the foregoing exclusive licenses grant to INEX the rights enumerated to the exclusion of all other parties, including Hana and its Affiliates; and

(b) Hana retains exclusive rights under the Assigned Patents in the Hana Field.

2.2.3 Hana hereby grants to INEX a non-exclusive license under the Patents and Technology to make, have made, use, import and have imported Products solely for non-commercial research, scholarly publication, education, or other non-commercial purposes.

2.2.4 Hana hereby grants to INEX a non-exclusive license under the Patents and Technology to carry out INEX's activities under the Development Plan and Services Agreement.

2.2.5 Hana hereby grants to INEX a worldwide, royalty-free, non-exclusive license under the Hana Intellectual Property to make, have made, use, sell, offer to sell, import, and have imported liposomes and liposomes having an active agent encapsulated, intercalated or entrapped therein outside the Hana Field, with the proviso that this grant does not extend to:

(a) any Intellectual Property Rights licensed by Hana prior to the Effective Date of the Definitive Agreements, except to the extent that such license permits Hana to grant such rights to INEX; or

(b) any Hana Intellectual Property directed to the active agent itself.

2.3 Compliance with Third Party Agreements

2.3.1 Subject to INEX's performance of its obligations under this Agreement, and in consideration for INEX's sublicense of the BCCA Patents, Hana unconditionally, absolutely and irrevocably covenants and agrees with INEX as primary obligor, to adopt as Hana's own obligations every obligation of INEX contained or set forth in the BCCA Agreements.

2.3.2 Subject to Hana's performance of its obligations under this Agreement, INEX unconditionally, absolutely and irrevocably covenants and agrees with Hana to:

(a) adopt as INEX's own obligations, the royalty obligations set forth in the MD Anderson License to the extent such obligations arise from INEX's, its licensees' or sublicensees' use of the MD Anderson Patents outside the Hana Field; and

(b) to continue to comply with INEX's royalty obligations set forth in the BCCA Agreements to the extent such obligations arise from INEX's, its licensees' or sublicensees' use of the BCCA Patents outside the Hana Field.

2.4 Licensing and Sublicensing

2.4.1 With respect to the licenses and assignments granted to Hana under Section 2.1, subject to the terms and conditions set out in the BCCA Agreements and the MD Anderson License and Hana's assumption of any and all license fees, annual fees, milestone payments and royalty obligations set forth in this Agreement, Hana shall have the right to grant Licenses and Sublicenses to its Affiliates and to Third Parties.

2.4.2 All Licenses and Sublicenses granted under this Section 2.4 shall be subject to the following:

(a) Hana will cause each Affiliate so licensed or sublicensed to perform the terms of this Agreement as if such Affiliate were Hana hereunder;

(b) each Affiliate so licensed or sublicensed shall unconditionally, absolutely and irrevocably covenant and agree with INEX as primary obligor, to adopt as its own obligations every obligation of Hana contained or set forth in this Agreement to the extent pertinent to the scope of such License or Sublicense;

(c) Hana unconditionally guarantees the performance of each Affiliate hereunder as if they were signatories to this Agreement to the extent the performance or lack of performance is a breach of this Agreement;

(d) the obligations and liabilities of each Affiliate and Hana under this Agreement shall be joint and several and INEX shall not be obliged to seek recourse against an Affiliate before enforcing its rights against Hana. For greater certainty it is hereby confirmed that any default or breach by an Affiliate of any term of this Agreement will also constitute a default by Hana under this Agreement, and INEX shall be entitled to exercise its rights hereunder, in addition to any other rights and remedies to which INEX may be entitled;

(e) each License and Sublicense shall contain covenants by the Third Party Licensee and Sublicensee, as the case may be, for the benefit of INEX to observe and perform similar terms and conditions to those in this Agreement;

(f) all Licenses and Sublicenses granted by Hana shall be further sublicensable or assignable without the prior written consent of INEX; provided however, that Hana shall not license or sublicense any rights granted herein to any Person that in whole or in part, either alone or in partnership, in collaboration or in conjunction with any Person other than INEX, whether as principal, agent, employee, director, officer, shareholder, licensor or in any capacity or manner whatsoever, whether directly or indirectly manufactures liposomal products without first either: (i) obtaining INEX's written consent; or (ii) including in such License or Sublicense, as the case may be, a provision requiring the Licensee or Sublicense, as the case may be, to agree that it will not use the Technology for any purpose other than the Products;

(g) in the event that Hana becomes aware of a material breach of any such License or Sublicense by a Third Party Licensee or Sublicensee, Hana shall promptly notify INEX of the particulars of same and take all reasonable steps to enforce the terms of such License or Sublicense, as the case may be;

(h) within ten (10) Business Days after execution of each License or Sublicense, as the case may be, Hana shall provide INEX with a copy thereof, provided, however, that only if Hana is bound by the terms of an agreement which predates this Agreement and prohibits Hana from disclosing the financial terms of each License or Sublicense, then Hana shall be permitted to redact the financial terms thereof. The terms of each Sublicense Agreement shall be deemed to constitute "Confidential Information" of Hana for all purposes of this Agreement, and INEX shall not disclose the information contained in such Sublicense Agreement to any Third Party except as authorized pursuant to Article 10 of this Agreement;

(i) all Licenses and Sublicenses shall terminate upon the termination of Hana's rights granted herein unless events of default are cured by Hana or its Licensee or Sublicensee, as the case may be, within the period for the cure of default after notification by INEX as provided by the terms of this Agreement;

(j) any Licensee who wishes to grant Sublicense or any Sublicensee who wishes to grant a further sub-Sublicense shall comply with the terms of this Section as if the further Sublicense or sub-Sublicense, as the case may be, were a License or Sublicense hereunder, including providing to INEX and Hana the information described in this Section, and obtaining the consent referred to in this Section, prior to any execution of any such Sublicense or sub-Sublicense;

(k) all Licenses and Sublicenses shall include an obligation for each Licensee and Sublicensee to account for and report its sales of Product on the same basis as if such sales were sales of Hana, and INEX shall receive compensation in the same amounts as if the sales of Product by the Licensee or Sublicensee, as the case may be, were sales of Hana; and

(l) Hana shall remain responsible to INEX for the compliance of each Licensee and Sublicensee with the financial and other obligations due under this Agreement.

2.4.3 With respect to the licenses granted to INEX under Section 2.2, INEX shall have the right to grant licenses and sublicenses to its Affiliates and to Third Parties. All licenses and sublicenses will be consistent with the terms of this Agreement, shall not relieve Hana or INEX of their obligations hereunder, and shall incorporate terms and conditions for each of INEX's and Hana's benefit comparable to those set forth in Section 2.4.2 applicable to Licenses and Sublicenses granted by Hana.

2.5 Payment of Taxes

Hana shall be responsible for the payment of any federal, provincial, state, local, or withholding taxes which may apply to the transactions contemplated by this Agreement. Under no circumstances will Hana be responsible for any franchise-related taxes or taxes based on INEX's gross or net income.

Article 3 LICENSE FEES, MILESTONES AND ROYALTIES

In consideration of the assignments and licenses granted to Hana under this Agreement and the disclosure to Hana of INEX's Confidential Information, and subject to the provisions of this Agreement, Hana shall pay to INEX milestone payments, license fees and royalties as provided in this Article 3.

The payments provided under this Article 3 are in addition to the portion of the Closing Payment and Closing Shares attributable to each of Sphingosomal Vincristine, Sphingosomal Vinorelbine, and Sphingosomal Topotecan previously paid to INEX by Hana pursuant to the Asset Purchase Agreement.

3.1 Sphingosomal Vincristine.

3.1.1 Milestone Payments:

Hana shall pay to INEX milestones payments in respect of Sphingosomal Vincristine as follows:

(a) **[*]** within ten (10) days following the FDA's acceptance for review of an NDA submission by Hana relating to Sphingosomal Vincristine (the "**Sphingosomal Vincristine NDA**"), which payment shall be satisfied by Hana issuing to INEX a number of additional shares of Common Stock determined by dividing **[*]** by the FMV as of the Sphingosomal Vincristine NDA filing date; provided however, if a Regulatory Submission equivalent to an NDA is accepted in any of the Designated EU States before the Sphingosomal Vincristine NDA is accepted, then **[*]** the milestone payment due under this Section 3.1.1(a) will be paid by Hana to INEX immediately upon the acceptance of that equivalent filing in any of the Designated EU States, and the remaining balance will be paid by Hana to INEX immediately upon the acceptance of the Sphingosomal Vincristine NDA by the FDA; and

(b) **[*]** within ten (10) days following Hana's receipt of the approval by the FDA of the Sphingosomal Vincristine NDA, which payment shall be made by Hana issuing to INEX a number of additional shares of Common Stock determined by dividing **[*]** by the FMV as of the date of such approval; provided however, if a Regulatory Submission equivalent to an NDA is approved in any of the Designated EU States before the Sphingosomal Vincristine NDA is approved by the FDA, **[*]** the milestone payment due under this Section 3.1.1(b) will be paid by Hana to INEX immediately upon the approval of that equivalent filing in any of the Designated EU States, and the remaining balance will be paid by Hana to INEX immediately upon the approval of the Sphingosomal Vincristine NDA by the FDA.

(c) For the avoidance of doubt, each of the milestone payments described in subparagraphs (a) and (b) of this Section 3.1.1 above represent one-time payments to INEX, and shall be due only upon the first occurrence of the events described in each such subparagraph. For example, the milestone payment described in subparagraph (a) above will be due only once, following the FDA's acceptance for review of the Sphingosomal Vincristine NDA. No additional milestone payments to INEX shall be due from Hana pursuant to subparagraph (a) in connection with any subsequent NDA submission by Hana relating to Sphingosomal Vincristine.

***Confidential Treatment Requested.**

3.1.2 Royalties

Hana shall pay royalties to INEX based on cumulative Net Sales of Sphingosomal Vincristine as follows:

(a) With respect to Net Sales of Sphingosomal Vincristine in the United States, a royalty equal to the sum of: (i) **[*]** of Net Sales in consideration of Patents if the Product sold is embraced within any Valid Claim under the Patents in the United States; (ii) **[*]** of Net Sales in consideration of, and during any period of Product exclusivity provided by the laws of the United States of America, including but not limited to marketing exclusivity in the form of data exclusivity, pediatric exclusivity, and orphan drug designation exclusivity; and (iii) **[*]** of Net Sales in consideration of Technology; provided, however, that the total royalty paid shall be limited to **[*]** of cumulative Net Sales up to **[*]**, and limited to **[*]** of cumulative Net Sales exceeding **[*]**; and

(b) With respect to Net Sales of Sphingosomal Vincristine in each country of the Territory other than the United States, a royalty of **[*]** of Net Sales in consideration of Patents and Technology; provided, however, that the total royalty paid shall be limited to **[*]** of cumulative Net Sales up to **[*]**, and increased to **[*]** of cumulative Net Sales in excess of **[*]**.

3.1.3 Generic Competition

If, during a given calendar year, there is sale of a generic Sphingosomal Vincristine or sale of an approved equivalent to Sphingosomal Vincristine (collectively, "**Approved Sphingosomal Vincristine Equivalents**") in any country in the Territory, then, for such country, the total amount of royalties payable to INEX for the Net Sales of Sphingosomal Vincristine in such country during such calendar year will be reduced to **[*]** of the royalties payable to INEX pursuant to Section 3.1.2 for such calendar year, in such country.

3.1.4 Deductions:

Notwithstanding the schedule of royalty payments set forth in Section 3.1.2, Hana shall be entitled to deduct from such Sphingosomal Vincristine royalty obligations owed by Hana to INEX, an amount equal to **[*]** of the research and development expenses Hana incurs in connection with the Development of Sphingosomal Vincristine (the "**Sphingosomal Vincristine R&D Expenses**"); provided however, that such deduction shall not exceed the lesser of:

(a) **[*]**; or

(b) **[*]** per patient treated in a Registrational Clinical Trial;

provided further, however, that such deduction for Sphingosomal Vincristine R&D Expenses shall not exceed **[*]** of the royalty amount otherwise payable by Hana to INEX for Sphingosomal Vincristine in each calendar year, provided that Hana shall be entitled to carry over into succeeding years any amount of Sphingosomal Vincristine R&D Expenses that were ineligible for deduction as a result of such limitation. All Sphingosomal Vincristine R&D Expenses shall be subject to audits by INEX using reasonable and customary audit procedures in order to verify the amounts thereof.

***Confidential Treatment Requested.**

3.2 Sphingosomal Vinorelbine

3.2.1 Milestone Payments:

Hana shall pay to INEX milestones payments in respect of Sphingosomal Vinorelbine as follows:

(a) One Million Dollars ($1,000,000) upon on the date the first patient is enrolled in any clinical trial of Sphingosomal Vinorelbine conducted pursuant to an IND sponsored by Hana, of which INEX acknowledges Five Hundred Thousand Dollars ($500,000) has been paid by wire transfer to INEX of immediately available funds and the remaining Five Hundred Thousand Dollars ($500,000) has been paid by Hana issuing to INEX a number of additional shares of Common Stock determined by dividing Five Hundred Thousand Dollars ($500,000) by the FMV as of the date of such first patient enrollment;

(b) **[*]** upon the date the first patient is enrolled in a Phase II clinical trial of Sphingosomal Vinorelbine conducted pursuant to an IND sponsored by Hana, which payment shall be made by Hana issuing to INEX a number of additional shares of Common Stock determined by dividing **[*]** by the FMV as of the date of such first patient enrollment; and

(c) **[*]** upon the approval by the FDA of an NDA relating to Sphingosomal Vinorelbine, which payment shall be made by Hana issuing to INEX a number of additional shares of Common Stock determined by dividing **[*]** by the FMV as of the date of such FDA approval; provided however, if a Regulatory Submission equivalent to an NDA is approved in any of the Designated EU States before an NDA relating to Sphingosomal Vinorelbine is approved by the FDA, **[*]** the milestone due under this Section 3.2.1(c) will be paid by Hana to INEX immediately upon approval of that equivalent filing and the remaining balance will be paid by Hana to INEX immediately upon the approval of an NDA relating to Sphingosomal Vinorelbine by the FDA.

(d) For the avoidance of doubt, each of the milestone payments described in subparagraphs (a), (b) and (c) of this Section 3.2.1 above represent one-time payments to INEX, and shall be due only upon the first occurrence of the events described in each such subparagraph. For example, the milestone payment described in subparagraph (a) above will be due only once, upon the date the first patient is enrolled in a clinical trial of Sphingosomal Vinorelbine conducted pursuant to an IND sponsored by Hana. No additional milestone payments to INEX shall be due from Hana pursuant to subparagraph (a) in connection with any subsequent clinical trials sponsored by Hana.

3.2.2 Royalties

Hana shall pay to INEX royalty payments based on cumulative Net Sales of Sphingosomal Vinorelbine as follows:

(a) With respect to Net Sales of Liposomal Vinorelbine in the United States, a royalty equal to the sum of: (i) **[*]** of Net Sales in consideration of Patents if the Product sold is embraced within any Valid Claim under the Patents in the United States; (ii) **[*]** of Net Sales in consideration of, and during any period of Product

exclusivity provided by the laws of the United States of America, including but not limited to marketing exclusivity in the form of data exclusivity, pediatric exclusivity, and orphan drug designation exclusivity; and (iii) **[*]** of Net Sales in consideration of Technology; provided, however, that the total royalty paid shall be limited to **[*]** of cumulative Net Sales up to **[*]**, and limited to **[*]** of cumulative Net Sales in excess of **[*]**; and

(b) With respect to Net Sales of Sphingosomal Vinorelbine in each country of the Territory other than the United States, a royalty of **[*]** of Net Sales in consideration of Patents and Technology; provided, however, that the total royalty paid shall be limited to **[*]** of cumulative Net Sales up to **[*]**, and increased to **[*]** of cumulative Net Sales in excess of **[*]**.

3.2.3 Generic Competition

(a) If, during a given calendar year, there is sale of a generic Sphingosomal Vinorelbine or sale of an approved equivalent to Sphingosomal Vinorelbine (collectively, "**Approved Sphingosomal Vinorelbine Equivalents**") in any country in the Territory, then, for such country, the total amount of royalties payable to INEX for the Net Sales of Sphingosomal Vinorelbine in such country during such calendar year will be reduced to **[*]** of the royalties payable to INEX pursuant to Section 3.2.2 for such calendar year, in such country.

3.2.4 Deductions:

Notwithstanding the schedule of royalty payments set forth in Section 3.2.2, Hana shall be entitled to deduct from such Sphingosomal Vinorelbine royalty obligations owed by Hana to INEX, an amount equal to **[*]** of the research and development expenses Hana incurs in connection with the Development of Sphingosomal Vinorelbine (the "**Sphingosomal Vinorelbine R&D Expenses**"); provided however, that such deduction shall not exceed the lesser of:

(a) **[*]**; or

(b) **[*]** per patient treated in a Registrational Clinical Trial;

provided further, however, that such deduction for Sphingosomal Vinorelbine R&D Expenses shall not exceed **[*]** of the royalty amount otherwise payable by Hana to INEX for Sphingosomal Vinorelbine in each calendar year, provided that Hana shall be entitled to carry over into succeeding years any amount of Sphingosomal Vinorelbine R&D Expenses that were ineligible for deduction as a result of such limitation. All Sphingosomal Vinorelbine R&D Expenses shall be subject to audits by INEX using reasonable and customary audit procedures in order to verify the amounts thereof.

3.3 Sphingosomal Topotecan

3.3.1 Milestone Payments:

Hana shall pay to INEX, milestones payments in respect of Sphingosomal Topotecan as follows:

(a) **[*]** upon the date the first patient is enrolled in any clinical trial of Sphingosomal Topotecan conducted pursuant to an IND sponsored by Hana, which payment shall be made by Hana issuing to INEX a number of additional shares of Common Stock determined by dividing **[*]** by the FMV as of the date of such first patient enrollment;

(b) **[*]** upon the date the first patient is enrolled in a Phase II clinical trial of Sphingosomal Topotecan conducted pursuant to an IND sponsored by Hana, which payment shall be made by Hana issuing to INEX a number of additional shares of Common Stock determined by dividing **[*]** by the FMV as of the date of such first patient enrollment; and

(c) **[*]** upon the approval by the FDA of an NDA relating to Sphingosomal Topotecan, which payment shall be made by Hana issuing to INEX a number of additional shares of Common Stock determined by dividing **[*]** by the FMV as the date of such FDA approval; provided however, if a Regulatory Submission equivalent to an NDA is approved in any of the Designated EU States before an NDA relating to Sphingosomal Topotecan is approved by the FDA, **[*]** the milestone due under this Section 3.3.1(c) will be paid by Hana to INEX immediately upon approval of that equivalent filing and the remaining balance will be paid by Hana to INEX immediately upon the approval of an NDA relating to Sphingosomal Topotecan by the FDA.

(d) For the avoidance of doubt, each of the milestone payments described in subparagraphs (a), (b) and (c) of this Section 3.3.1 above represent one-time payments to INEX, and shall be due only upon the first occurrence of the events described in each such subparagraph. For example, the milestone payment described in subparagraph (a) above will be due only once, upon the date the first patient is enrolled in a clinical trial of Sphingosomal Topotecan conducted pursuant to an IND sponsored by Hana. No additional milestone payments to INEX shall be due from Hana pursuant to subparagraph (a) in connection with any subsequent clinical trials sponsored by Hana.

3.3.2 Royalties

Hana shall pay to INEX royalty payments based on cumulative Net Sales of Sphingosomal Topotecan as follows:

(a) With respect to Net Sales of Sphingosomal Topotecan in the United States, a royalty equal to the sum of: (i) **[*]** of Net Sales in consideration of Patents if the Product sold is embraced within any Valid Claim under the Patents in the United States; (ii) **[*]** of Net Sales in consideration of, and during any period of Product exclusivity provided by the laws of the United States of America, including but not limited to marketing exclusivity in the form of data exclusivity, pediatric exclusivity, and orphan drug designation exclusivity; and (iii) **[*]** of Net Sales in consideration of Technology; provided, however, that the total royalty paid shall be limited to **[*]** of cumulative Net Sales up to **[*]**, and limited to **[*]** of cumulative Net Sales in excess of **[*]**; and

(b) With respect to Net Sales of Sphingosomal Topotecan in each country of the Territory other than the United States, a royalty of **[*]** of Net Sales in

consideration of Patents and Technology; provided, however, that the total royalty paid shall be limited to **[*]** of cumulative Net Sales up to **[*]**, and increased to **[*]** of cumulative Net Sales in excess of **[*]**.

3.3.3 Generic Competition

(a) If, during a given calendar year, there is sale of a generic Sphingosomal Topotecan or sale of an approved equivalent to Sphingosomal Topotecan (collectively, "**Approved Sphingosomal Topotecan Equivalents**") in any country in the Territory, then, for such country, the total amount of royalties payable to INEX for the Net Sales of Sphingosomal Topotecan in such country during such calendar year will be reduced by **[*]** of the royalties payable to INEX pursuant to Section 3.3.2 for such calendar year, in such country.

3.3.4 Deductions:

Notwithstanding the schedule of royalty payments set forth in Section 3.3.2, Hana shall be entitled to deduct from such Sphingosomal Topotecan royalty obligations owed by Hana to INEX, an amount equal to **[*]** of the research and development expenses Hana incurs in connection with the Development of Sphingosomal Topotecan (the "**Sphingosomal Topotecan R&D Expenses**"); provided however, that such deduction shall not exceed the lesser of:

(a) **[*]**; or

(b) **[*]** per patient treated in a Registrational Clinical Trial;

provided further, however, that such deduction for Sphingosomal Topotecan R&D Expenses shall not exceed **[*]** of the royalty amount otherwise payable by Hana to INEX for Sphingosomal Topotecan in each calendar year, provided that Hana shall be entitled to carry over into succeeding years any amount of Sphingosomal Topotecan R&D Expenses that were ineligible for deduction as a result of such limitation. All Sphingosomal Topotecan R&D Expenses shall be subject to audits by INEX using reasonable and customary audit procedures in order to verify the amounts thereof.

3.4 Limitation on Payment Using Common Stock

Notwithstanding anything to the contrary contained in Sections 3.1, 3.2 and 3.3, at Hana's sole option, any milestone or other payment payable by Hana to INEX hereunder by the issuance of shares of Common Stock to INEX may also be made by payment of cash to INEX. The maximum number of shares of Common Stock that Hana may issue to INEX in satisfaction of its obligations hereunder shall not exceed 19.99% of the total number of shares of Common Stock outstanding on the Effective Date of the Definitive Agreements (the "**Maximum Issuance Amount**"). In the event Hana issues to INEX an aggregate number of shares of Common Stock that equals the Maximum Issuance Amount, all amounts payable by Hana thereafter to INEX shall be made in cash.

3.5 Assumption of Milestone and Royalty Obligations

3.5.1 As a condition of the grant of:

(a) licence by INEX to Hana of the Licensed Patents and Technology; and

(b) assignment by INEX to Hana of the Assigned Patents,

Hana shall assume all payment obligations of INEX to BCCA and to MD Anderson, in respect of all license fees, annual fees, milestone payments, royalty payments and any other like payments, including all interest and taxes attributable thereto, arising from Hana or its Licensees' or Sublicensees' use of the Patents within the Hana Field under the BCCA Agreements and the MD Anderson License.

3.5.2 For avoidance of doubt, the obligations of Hana under Section 3.5.1 are in addition to and not in substitution of any other obligations set forth in this Article 3.

3.6 Remuneration Respecting Sublicensees

3.6.1 In the event Hana licenses or sublicenses its rights under Sphingosomal Vincristine before the FDA approves the Sphingosomal Vincristine NDA or a Designated EU State approves a Regulatory Submission that is equivalent to an NDA, INEX shall be entitled to receive **[*]** of any Licensing/Sublicensing Revenue payable to Hana by such Licensee or Sublicensee. In the event Hana licenses or sublicenses its rights to Sphingosomal Vincristine after the FDA approves the Sphingosomal Vincristine NDA or a Designated EU State approves a Regulatory Submission that is equivalent to an NDA, INEX shall be entitled to receive **[*]** of any Licensing/Sublicensing Revenue payable to Hana by such Licensee or Sublicensee.

3.6.2 In the event Hana licenses or sublicenses its rights under Sphingosomal Vinorelbine, INEX shall be entitled to share the Licensing/Sublicensing Revenue payable to Hana, if any, as follows:

(a) INEX's share of such Licensing/Sublicensing Revenue shall be **[*]** of any Licensing/Sublicensing Revenue payable to Hana by such Licensee or Sublicensee during the period commencing on the Effective Date of the Definitive Agreements and ending on the date immediately preceding the date the first patient is enrolled in a Phase II clinical trial of Sphingosomal Vinorelbine;

(b) INEX's share of such Licensing/Sublicensing Revenue shall be reduced to **[*]** of any Licensing/Sublicensing Revenue payable to Hana by such Licensee or Sublicensee on or after the date the first patient is enrolled in a Phase II clinical trial of Sphingosomal Vinorelbine and ending on the date immediately preceding the earlier to occur of:

(i) the date the first patient is enrolled in a Phase III clinical trial of Sphingosomal Vinorelbine; or

(ii) the acceptance of the NDA or its equivalent Regulatory Submission for Sphingosomal Vinorelbine; and

(c) INEX's share of such Licensing/Sublicensing Revenue shall be reduced to **[*]** of any Licensing/Sublicensing Revenue payable to Hana by such Licensee or Sublicensee on or after the earlier to occur of:

(i) the date the first patient is enrolled in a Phase III clinical trial of Sphingosomal Vinorelbine; or

(ii) the acceptance of the NDA or its equivalent Regulatory Submission for Sphingosomal Vinorelbine.

3.6.3 In the event Hana licenses or sublicenses its rights under Sphingosomal Topotecan, INEX shall be entitled to share the Licensing/Sublicensing Revenue payable to Hana, if any, as follows:

(a) INEX's share of such Licensing/Sublicensing Revenue shall be **[*]** of any Licensing/Sublicensing Revenue payable to Hana by such Licensee or Sublicensee during the period commencing on the Effective Date of the Definitive Agreements and ending on the date immediately preceding the date the first patient is enrolled in a Phase II clinical trial of Sphingosomal Topotecan;

(b) INEX's share of such Licensing/Sublicensing Revenue shall be reduced to **[*]** of any Licensing/Sublicensing Revenue payable to Hana by such Licensee or Sublicensee on or after the date the first patient is enrolled in a Phase II clinical trial of Sphingosomal Topotecan and ending on the date immediately preceding the earlier to occur of:

(i) the date the first patient is enrolled in a Phase III clinical trial of Sphingosomal Topotecan, or

(ii) the acceptance of the NDA or its equivalent Regulatory Submission for Sphingosomal Topotecan.

3.6.4 Notwithstanding anything to the contrary contained in this Section 3.6, Hana shall have no obligation to pay to INEX its respective share of any such Licensing/Sublicensing Revenue unless and until Hana actually receives such Licensing/Sublicensing Revenue from its Licensee or Sublicensee.

3.6.5 Where any Licensing/Sublicensing Revenue payable to, collected or received by Hana or its Affiliates is in Dollars, Hana shall pay to INEX, INEX's share of such Licensing/Sublicensing Revenue within ten (10) days of Hana or its Affiliate's receipt of same. Where any Licensing/Sublicensing Revenue payable to, collected or received by Hana or its Affiliates is derived from a country other than the United States of America, INEX's portion of such Licensing/Sublicensing Revenue shall be converted to the equivalent in Dollars on the same date that Hana converts such Licensing/Sublicensing Revenue to Dollars, in which case the amount of Dollars pursuant to an actual conversion shall be included in the Licensing/Sublicensing Revenue and Hana shall pay to INEX, INEX's share of such Licensing/Sublicensing Revenue within ten (10) days of such conversion. If at any time the Parties agree that it is not practical or possible for Hana to forthwith convert Licensing/Sublicensing Revenue paid in foreign currency to Dollars, or if legal restrictions prevent the conversion of part or all of the Licensing/Sublicensing Revenue to Dollars, Hana shall have the right and option, upon consultation with INEX, to deposit INEX's share of such Licensing/Sublicensing Revenue in local currency, in an account in INEX's sole name in a bank or depository in the country where such Licensing/Sublicensing Revenue is generated. Hana shall make such deposit within ten (10) days of Hana or its Affiliate's receipt of said foreign currency. The last date of

signature of any duly executed License or Sublicense between Hana and a Licensee or Sublicensee shall be deemed to be the date upon which Licensing/Sublicensing Revenue is received by Hana for the purposes of determining the percentage of Licensing/Sublicensing Revenue payable to INEX pursuant to Sections 3.6.1, 3.6.2 and 3.6.3. Hana shall make Commercially Reasonable Efforts to inform INEX in a timely manner of material legislative and economic changes in such country in which such deposit was made so as to enable INEX to more readily access, convert and/or transfer from such country, INEX's share of Licensing/Sublicensing Revenue deposited in such country by Hana.

3.6.6 Notwithstanding Section 3.6.5, if any Licensing/Sublicensing Revenue other than cash is payable to, collected or received by Hana or its Affiliates, Hana may elect to pay to INEX, INEX's share of Licensing/Sublicensing Revenue by way of cash, common stock of Hana, common stock of another corporation acceptable to INEX, or any combination thereof. If Hana elects to pay INEX using the Common Stock of Hana or the common stock of another corporation acceptable to INEX, the following shall apply:

(a) the last date of signature of any duly executed License or Sublicense between Hana and a Licensee or Sublicensee, as the case may be, shall be deemed to be the date upon which Licensing/Sublicensing Revenue is received by Hana for the purposes of determining the percentage of Licensing/Sublicensing Revenue payable to INEX pursuant to Sections 3.6.1, 3.6.2 and 3.6.3;

(b) the value of the economic benefit of the Licensing/Sublicensing Revenue established by a Third Party banker or valuator, measured in Dollars and applied to the percentage entitlement of INEX determined pursuant to Section 3.6.6(a), shall be the assessed value (the "**Assessed Value**") to be used in determining the number of shares of Common Stock of Hana or common stock of another corporation acceptable to INEX payable to INEX pursuant to Section 3.6.6(c); and

(c) Hana will pay INEX using Common Stock of Hana or common stock of another corporation acceptable to INEX as follows:

(i) the Parties will mutually agree on the par value per share of common stock of Hana or of another corporation acceptable to INEX; and

(ii) Hana will issue or assign to INEX as applicable, a number of shares of Common Stock of Hana or common stock of another corporation acceptable to INEX by dividing the Assessed Value by the FMV as of the date upon which Licensing/Sublicensing Revenue was deemed to have been received by Hana pursuant to Section 3.6.6(a).

3.6.7 If Hana elects to pay Licensing/Sublicensing Revenue using a combination of cash and stock as described in this Section, the Assessed Value used to calculate the stock payable shall be reduced by the value of Dollars actually paid to INEX in accordance with Section 3.6.5.

(a) Hana's payment of Licensing/Sublicensing Revenue in the form of stock pursuant to his Section shall be made within ten (10) days of Hana's receipt of same.

3.6.8 Hana's payment of Licensing/Sublicensing Revenue under this Section 3.6 shall be accompanied by an accounting setting out all Licensing/Sublicensing Revenue payable to, collected or received by Hana or its Affiliates, segmented according to Product, Licensee and Sublicensee identified by name, and the last date on which each License and Sublicense was executed.

3.7 Third Party Payments

3.7.1 If, during the term of this Agreement:

(a) Hana and INEX mutually agree that it is necessary to seek a license from any Third Party in the Territory in order to avoid infringement during the exercise of the rights herein granted; or

(b) if as a result of any complaint alleging infringement or violation of any patent or other Intellectual Property Rights is made against Hana, its Affiliate or its Licensee or Sublicensee with respect of the Manufacture, use or sale of a Product in the Hana Field, where such Manufacture, use or sale is encompassed by one or more Patents or Technology, and a settlement, consent judgment or award of Damages determined by a court of competent jurisdiction requires Hana to make payment of Damages to a Third Party in satisfaction of such complaint; or

(c) if an independent, mutually acceptable Third Party patent attorney determines that such a license is required (in accordance with the procedure outlined in this Section 3.7.1);

Hana shall pay all royalties, Damages or other amounts to the Third Party (the "**Offset Amount**"), and subject to Section 3.7.2, Hana's sole remedy from INEX for such payment shall be to offset or credit **[*]** of the Offset Amount against future payments otherwise due INEX as royalties hereunder. Royalties due INEX shall not, however, be reduced by more than **[*]** of the applicable royalties set forth in Sections 3.1.2, 3.2.2 and 3.3.2 during any given calendar year. Any uncredited portion of the permitted Offset Amount will be carried forward until the full permitted Offset Amount has been satisfied. The Offset Amount shall not include any punitive award payable to the Third Party (the "**Punitive Amount**"), and thus any Punitive Amount is not to be offset or credited against future royalty payments due INEX. In the event that the Parties are unable to agree on whether any such license is needed or on the terms of such license, the Parties shall submit such dispute to an independent, mutually acceptable Third Party patent attorney for a final and binding determination of such Dispute, and the Parties shall equally share the cost of engaging such patent attorney.

3.7.2 Notwithstanding the provisions of Section 3.7.1, if the license from the Third Party or the royalty or other amount payable to such Third Party gives rise to an indemnification obligation under one or more of the Definitive Agreements in favor of Hana on the part of INEX, then such royalty or other amount shall be paid by INEX as Damages in accordance therewith; provided, however, that Hana agrees to use all reasonable efforts to avoid a finding of willful infringement of such Third Party's rights.

3.8 Compulsory Licenses

In the event that a government agency in any country of the Territory grants or compels INEX, Hana, or either of their respective Affiliates or licensees or sublicensees (including Licensees and Sublicensees) to grant a right to commercialize Product to any Third Party, Hana may, at its sole option, either:

3.8.1 avail itself of the royalty reduction set out in Sections 3.1.3, 3.2.3, or 3.3.3, if applicable; or

3.8.2 have the benefit in such country of the same terms granted to such Third Party to the extent that such terms taken as a whole are more favorable than those of this Agreement.

3.9 Reports and Payment

Hana shall deliver to INEX within thirty (30) days after the end of each Calendar Quarter a written report showing its computation of royalties due under this Agreement upon Net Sales by Hana and its Affiliates and its Licensees and Sublicensees during such Calendar Quarter, and setting out:

3.9.1 all Net Sales segmented in each such report according to sales by Hana, each Affiliate and each Licensee and Sublicensee, as well as on a country-by-country basis, and month-by-month basis;

3.9.2 deductions from gross revenues by the categories for same set out in the definition of Net Sales; and

3.9.3 the rates of exchange used to convert such royalties to Dollars from the currency in which such sales were made. For the purposes hereof, such conversion calculations are to be made on a monthly basis and the rates of exchange to be used for converting royalties hereunder to Dollars shall be those in effect for the purchase of Dollars as certified by the noon buying rate of the Federal Reserve Bank of New York on the first Business Day of the quarter with respect to which the payment is due.

Hana, simultaneously with the delivery of each such report, shall tender payment in Dollars of all royalties shown to be due thereon.

3.10 Withholding Taxes

Any tax which Hana is required to pay or withhold with respect of license fees, royalty payments and milestone payments to be made to INEX hereunder shall be deducted from the amount otherwise due provided that, in regard to any such deduction, Hana shall give INEX such assistance, which shall include the provision of such documentation as may be required by the US Internal Revenue Service and other revenue services, as may reasonably be necessary to enable INEX to evidence such payment, claim exemption therefrom or obtain a repayment thereof or a reduction thereof and shall upon request provide such additional documentation from time to time as is needed to confirm the payment of tax. The Parties agree that:

3.10.1 Hana shall be deemed to be the sole payer of payments owed to INEX under this Agreement and shall not have the right to substitute any domestic or foreign Affiliate for that purpose, and

3.10.2 in the event that Hana takes any action, including, without limitation, the assignment of this Agreement, any licensing or sublicensing permitted hereby, any change of jurisdiction of residence or any reorganization or change in its business or structure so that, after such action, the withholding tax on the payments under this Agreement would be substantially more than those in effect on the Effective Date of the Definitive Agreements, Hana shall either:

(a) with the co-operation of INEX, arrange its affairs so that the withholding tax consequences to INEX are not materially worse than those in effect prior to such action; or

(b) gross up the payments otherwise owed to INEX so that INEX receives net of withholding taxes the amount INEX would have received but for such action.

3.11 Foreign Payments

Where payments are due INEX hereunder for sales of a Product in a country in the Territory where, by reason of currency regulations or taxes of any kind, it is impossible or illegal for Hana or any Affiliates or Licensees or Sublicensees, as the case may be, to transfer such payments to INEX, such payments shall be deposited in whatever currency is allowable by the Person not able to make the transfer for the benefit or credit of INEX in an accredited bank in that country in the Territory that is reasonably acceptable to INEX.

3.12 Method of Payment

Hana shall make all payments due under this Agreement in Dollars by wire transfer of funds via the Federal Reserve Wire Transfer System to INEX's account as designated in writing by INEX to Hana.

3.13 Late Payments

Any payment by Hana or INEX that is not paid on or before the date such payment is due under this Agreement shall bear interest at a rate equal to the lesser of:

3.13.1 the Prime Rate(s) during the period of late payment plus **[*]** interest compounded monthly, or

3.13.2 the maximum rate permitted by law;

calculated based on the number of days that payment is delinquent until full payment has been made.

3.14 Records

Hana shall keep, and shall require all Affiliates, Licensee and Sublicensees to keep, full, true and accurate books of accounts and other records containing all information and data which may be necessary to ascertain and verify the royalties payable hereunder for a period of three (3) years after the date such royalties became payable.

3.15 Audits

During the Term, after the first commercial sale of Product and for a period of one (1) year following termination of this Agreement, INEX shall have the right from time to time (not to exceed once during

***Confidential Treatment Requested.**

each calendar year) to have either its internal financial audit personnel or an independent firm of accountants (i.e., a certified public accountant or like Person reasonably acceptable to Hana) inspect such books, records and supporting data of Hana, provided such audit shall not cover such records for more than the preceding five years. Such independent firm of accountants shall perform these audits at INEX's expense upon reasonable prior notice and during Hana's regular business hours, and shall agree as a condition to such audit to maintain the confidentiality of all information of Hana disclosed or observed in connection with such audit and to disclose to INEX only whether Hana has complied with its obligations under this Agreement with respect to the accuracy of the royalty statements, payments and Permitted Deductions. If the result of such audit demonstrates an underpayment by Hana to INEX of **[*]** or more, Hana shall pay for the reasonable costs of such audit, and shall immediately pay to INEX the underpayment together with interest thereon at the Royal Bank of Canada prime lending rate prevailing at the time, plus **[*]**.

Article 4 DEVELOPMENT OBLIGATIONS

4.1 Development Plans

4.1.1 The Parties acknowledge having executed a detailed Development Plan for the Development of each Product, which describes the specific Clinical Activities, Regulatory Activities, Technical Transfer activities, and Manufacturing activities to be performed in the Territory for a twelve (12) month period following the Effective Date of the Definitive Agreements.

4.1.2 The Development Plan will be reviewed from time to time as the Parties reasonably determine to be necessary or useful.

4.1.3 The Development Plan shall be incorporated herein by reference and all Development undertaken thereunder shall be conducted by Hana in compliance with Regulatory Requirements.

4.2 Development Efforts

4.2.1 Hana shall use Commercially Reasonable Efforts to Develop each Product in the Territory (including carrying out its responsibilities under the Development Plan) to:

(a) conduct or cause to be conducted the necessary and appropriate clinical trials as necessary to obtain and maintain Regulatory Approvals for each Product; and

(b) prepare, file and prosecute or cause to be prepared, filed and prosecuted the Regulatory Submission for each Product.

4.2.2 Hana will provide INEX with written reports to keep INEX fully informed of the progress of the Development of each Product as follows:

(a) at the close of each Calendar Quarter during the first twenty-four (24) months following the Effective Date of the Definitive Agreements; and

(b) on or before June 31 and December 31 of each and every calendar year thereafter.

4.3 Transition Committees

The Parties will establish working committees to actively manage the transition by INEX to Hana of the responsibilities for Development of each Product during the initial twelve (12) months following the Effective Date of the Definitive Agreements. Such working committees will conduct periodic planning and review meetings as well as ad hoc meetings as necessary. The primary method of meeting will be teleconference. Responsibilities of the working committees may include overseeing the planning and monitoring of the clinical and regulatory Development process and Technical Transfer process. All such meetings of the working committees shall be conducted at Hana's sole cost and expense.

4.4 Subcontractors

Hana may subcontract to any of its Representatives any of its obligations in respect of the Development with the consent of INEX, such consent not to be unreasonably withheld or delayed; provided however, that Hana shall be responsible for the performance of its Representatives and shall remain fully responsible and obligated to INEX for all activities undertaken by its Representatives.

Article 5 COMMERCIALIZATION OBLIGATIONS

5.1 Regulatory Compliance

All Commercialization activities in respect of each Product shall be conducted by Hana in compliance with Regulatory Requirements.

5.2 Marqibo Trade-mark

5.2.1 The Parties acknowledge that INEX has taken all necessary, and has caused its wholly owned Affiliate to take all steps necessary to assign to Hana all applications for trade-mark and all registered trade-marks for Marqibo in all jurisdictions within the Territory.

5.2.2 Except as provided herein, Hana at its sole cost and expense, shall be responsible for the selection, registration and maintenance of all other trademarks which it employs in connection with each Product in the Territory and shall own and control such trademarks during the term of this Agreement and following its termination or expiration.

5.3 Labeling and Patent Marking

The Product shall be packaged by Hana and labeled in a manner consistent with the requirements of the Regulatory Authorities in the country in which it will be sold, and where legally permissible, shall identify any applicable Patents consistent with any patent marking requirements.

5.4 Commercialization Efforts

In each country in the Territory in which a Product has received Regulatory Approval, Hana, directly or through its permitted Representatives, shall use Commercially Reasonable Efforts to Commercialize the Product.

5.5 Consequence of No Sales

5.5.1 In addition to the terms of Section 5.4, Hana shall be deemed to have breached its obligation to use Commercially Reasonable Efforts in conducting marketing of a Product

in any country in the Major Markets if, for a continuous period of one hundred and eighty (180) days at any time following launch of commercial sales of the Product in any such country in the Major Markets, no sales of the Product are made in the ordinary course of business in such country by Hana, an Affiliate, a Licensee or a Sublicensee, unless:

(a) The Parties mutually agree it is to their mutual benefit to delay commercial sales of Product in such country; or

(b) Hana is prevented, restricted, interfered with or delayed in making such sales by reason of a cause beyond Hana's reasonable control and can demonstrate same to INEX;

in which event such period shall be extended by (i) the period of delay mutually agreed upon or (ii) by the period of Hana's inability, provided that Hana uses its Commercially Reasonable Efforts to avoid or remove the cause of such inability.

5.5.2 If Hana breaches its obligation set forth in Section 5.5.1:

(a) INEX shall be entitled to terminate all rights granted to Hana in the Definitive Agreements in respect of each such Product in such country in the Major Markets by written notice to Hana in the event that Hana is in default of its obligations under Section 5.5.1 and fails to remedy such default within sixty (60) days after notice thereof by INEX;

(b) All Licenses and Sublicenses granted by Hana in respect of such Product in such country in the Major Markets shall forthwith terminate upon the effective date of termination in Section 5.5.2(a); and

(c) Hana shall continue to be bound by and shall comply with Sections 14.6, 14.8, and any other Sections which are intended to survive any termination of rights under this Agreement.

5.6 Reports

Hana shall report to INEX on the status and progress of Hana's efforts under this Section 5.6 as follows:

5.6.1 Hana shall deliver to INEX within thirty (30) days after the end of each Calendar Quarter reports setting forth in general terms, reasonably sufficient for evaluation of the diligence obligations contained herein, the efforts Hana has made to Commercialize the Product during the year, including any significant adverse developments, and any plans for or occurrences of any commercial sales of the Product in any jurisdiction and a summary of the efforts it intends to make in the upcoming year(s) on these matters. Hana shall consider any INEX input and comments related to Hana's plan for the upcoming year(s), provided that it is understood that Hana shall have final decision making responsibility for such plans.

5.6.2 To the extent that such could not be appropriately communicated to INEX in accordance with Section 5.6.1, Hana shall keep INEX informed in a timely manner of significant developments in Hana's (and its Affiliates', Licensees' and Sublicensees', as the case may be) progress of its efforts to Commercialize the Product, including without limitation, any significant adverse developments, and any plans for or occurrences of any commercial sales of the Product in any jurisdiction.

Article 6 PRODUCT SAFETY AND REGULATORY COMPLIANCE

6.1 Regulatory Responsibilities

6.1.1 Hana shall use its Commercially Reasonable Efforts to ensure that none of its Representatives who participate in any Development activities:

(a) is or has been suspended, debarred or disqualified by the FDA;

(b) has been convicted of any offence that would form the basis for any suspension, disqualification or debarment; or

(c) is or has been subject to any proceedings for the suspension, disqualification or debarment.

6.1.2 Upon the re-activation and/or transfer by INEX to Hana of the NDA or IND, as the case may be, in respect of each Product, Hana shall be responsible for using Commercially Reasonable Efforts to maintain and fulfill all Regulatory Requirements with respect to such Product that are imposed upon Hana as the holder of Regulatory Submissions and Regulatory Approvals.

6.1.3 Hana and/or its Representatives' Manufacturing, shipping and distribution of Material for clinical and commercial use shall be done in accordance with applicable specifications and Regulatory Requirements. Hana shall maintain and shall require its Representatives who receive, handle, store, ship or distribute Product to maintain a record retention policy consistent with cGMP and Regulatory Requirements, and to maintain records with sufficient detail to facilitate traceability in the event of recalls or voluntary withdrawals of Product.

6.1.4 In respect of each Product, Hana will use Commercially Reasonable Efforts to make such changes as reasonably necessary to the master production record, specifications, procedures, processes, Materials, facilities, equipment or any matter utilized by Hana under this Agreement or contained or reference in documents submitted to Regulatory Authorities to meet new Regulatory Requirements and guidelines in the Territory.

6.2 Pharmacovigilance

6.2.1 Upon the transfer, by INEX to Hana of the INDs for Sphingosomal Vinorelbine and Sphingosomal Topotecan, and the NDA for Sphingosomal Vincristine, Hana shall be responsible for, in respect of each such Product, performing Pharmacovigilance in respect of all pre-Regulatory Approval Clinical Activities and all post-Regulatory Approval Product safety monitoring in accordance with Regulatory Requirements, in addition to all other Regulatory Activities for which Hana is responsible.

6.2.2 For as long as Material sourced, Manufactured or quality released by INEX remains available for use in approved clinical trials, Hana shall:

(a) inform INEX within five (5) Business Days of any complaint received or regulatory action taken in respect of such Material and shall seek INEX's opinion before passing judgment on the quality of such Material to any Third Party; and

(b) provide INEX with a copy(ies) of all documentation provided to and received from Regulatory Authorities in respect of such complaint or Adverse Drug Event, within one (1) Business Day of sending or receiving same.

6.3 Recalls and Product Withdrawals

6.3.1 If either Party is required or requested by any Regulatory Authority to recall or withdraw any Clinical Trial Material for any reason, or should either Party decide voluntarily to withdraw any Clinical Trial Material:

(a) the Party in whose name the applicable IND file is registered will be responsible for coordinating such recall or product withdrawal;

(b) Hana shall pay the costs and expenses of such recall or product withdrawal, subject to recovery of some or all of same in accordance with the terms of Section 6.3.2;

(c) Unless INEX is liable for such costs and expenses in accordance with the terms of Section 6.3.2, Hana will remain responsible to INEX for payment of all services in respect of the Manufacture and supply of Material; and

(d) Both Parties will cooperate fully with one another in connection with any such recall or product withdrawal.

6.3.2 If a recall or product withdrawal is due to INEX's negligence, willful misconduct or breach of this Agreement or of the Service Agreement, INEX will reimburse Hana for all of Hana's reasonable costs and expenses actually incurred by Hana in connection with the recall or product withdrawal, including any Service fees and expenses associated with the supply of the Product recalled or withdrawn, costs of retrieving Product already delivered to customers, costs and expenses Hana is required to pay for notification, shipping and handling charges, destruction or return of the defective Product or otherwise and such other reasonable costs as may be reasonably related to the recall or product withdrawal.

6.3.3 If the Parties are unable to agree on whether or not a recall or product withdrawal is due to INEX's negligence, willful misconduct or breach of this Agreement, either Party may refer the matter for resolution pursuant to Article 13.

6.3.4 Notwithstanding any expiration or early termination of this Agreement, the provisions of Sections 6.2 and 6.3 shall continue to apply for as long as any Product containing Material that was sourced, Manufactured or quality released by INEX remains available for use in approved clinical trials.

Article 7 INTELLECTUAL PROPERTY RIGHTS

7.1 Injunctive Relief

Each Party acknowledges the competitive and technical value and the sensitive and confidential nature of the Confidential Information, and agrees that monetary Damages alone will be inadequate to protect the other Party's interests against any actual or threatened material breach of Article 10 of this Agreement. Accordingly, each Party consents to the granting of specific performance and injunctive or other equitable or other relief to the other Party in respect of any actual or threatened breach of Article 10 of this Agreement, without proof of actual Damages. These specific remedies are in addition to any other remedy to which the Parties may be entitled at law or in equity.

7.2 INEX Title

The Parties hereby acknowledge and agree that to the best of the knowledge of INEX, INEX owns any and all right, title and interest in and to the Patents and Technology subject only to:

7.2.1 the assignments granted to Hana under this Agreement;

7.2.2 the license granted to Hana under this Agreement;

7.2.3 the rights of the BCCA (including royalty obligations) under the BCCA Agreements, in respect of the BCCA Patents; and

7.2.4 the rights of MD Anderson (including annual fee and royalty obligations) under the MD Anderson License in respect of the MD Anderson Patents.

7.3 Ownership of Pre-existing Intellectual Property Rights

The Parties hereby acknowledge and agree that, except as otherwise provided in, and subject to the terms and conditions of the Definitive Agreements and this Agreement, any Intellectual Property Rights owned by either Party and by MD Anderson prior to the Effective Date of the Definitive Agreement shall remain owned by such Party and by MD Anderson.

7.4 Ownership of Future Intellectual Property Rights

7.4.1 Subject to the Non-Competition Terms and any Notice of Abandonment that INEX or Hana may issue in respect of any Intellectual Property Rights related to the Products, all right, title and interest in and to any and all Intellectual Property Rights that arise after the effective date of this Agreement and are related to the Products shall be owned as follows:

(a) MD Anderson and Hana shall be the joint owners of any patents and patent applications filed after the effective date of this Agreement that claim priority to the Sarris Patents;

(b) Hana shall be the exclusive owner of any patents and patent applications filed after the effective date of this Agreement that claim priority to the Thomas Patents; and

(c) INEX shall be the exclusive owner of any patents and patent applications filed after the Effective Date of the Definitive Agreements that claim priority to the Licensed Patents.

regardless of which Person(s) created or invented the same.

(d) All Intellectual Property Rights of INEX existing before the effective date of this Agreement and all Intellectual Property Rights developed by employees or agents of INEX or its Affiliate solely or joint with a Third Party after the effective date of this Agreement shall be and will remain the exclusive property of INEX, and subject to the grants of Sections 2.1 and 2.2. Notwithstanding any provisions to the contrary, this Agreement does not grant to Hana any right, title, or interest in or to any part or whole of the DHSM Patents referenced in Section 6.10 of the Transaction Agreement, for which an option to license has been granted to Hana;

(e) Subject to Section 2.2, 7.4.1(a), 7.4.1(b), 7.4.1(c) and 7.4.1(d), all Intellectual Property Rights conceived and reduced to practice solely by employees or agents of Hana or its Affiliate relating to the Products shall be and remain the exclusive property of Hana and subject to the license grant of Section 2.2;

(f) Subject to Sections 7.4.1(a), 7.4.1(b), 7.4.1(c) and 7.4.1(d), any Intellectual Property Rights developed jointly by one or more employees or agents of each of INEX and Hana or their Affiliates relating to the Products shall be owned exclusively by Hana, and subject to the license grant of Section 2.2; and

(g) Each Party shall ensure that its Representatives who perform any portion of its obligations under this Agreement have entered into written agreements with such Party whereby such Representatives assign to such Party all ownership rights in any Intellectual Property Rights made or developed by such Representatives in the course of such work for such Party.

7.4.2 Each Party further agrees to execute, acknowledge and deliver to the requesting Party such other instruments of conveyance and transfer and will take such other actions and execute, acknowledge and deliver such other documents, certifications and further assurances as the requesting Party may reasonably require in order to: (i) vest more effectively in the requesting Party any rights transferred hereby, including but not limited to, obtaining registration or regulatory approval of any assets acquired or rights granted hereunder or derivative works thereof; or (ii) better enable the requesting Party to exercise the rights acquired by such Party hereunder. Each of the Parties hereto will cooperate with the other and execute and deliver to the other Party such other instruments and documents and take such other actions as may be reasonably requested from time to time by any other Party as necessary to carry out, evidence and confirm the intended purposes of this Agreement.

7.4.3 Hana agrees that in negotiating any joint venture, collaborative research, development, Commercialization or other agreement(s) it may have with any Person other than INEX under which any Intellectual Property Rights related to the Products may arise after the effective date of this Agreement, Hana shall include in such agreements, provisions that provide for the assignment or license, as the case may be, of such Intellectual Property Rights by such Person(s) and their Representatives to INEX in accordance with Sections 7.4.1(a), 7.4.1(b), 7.4.1(c) and 7.4.1(d).

7.5 BCCA Patents

7.5.1 The Parties acknowledge that INEX has made Commercially Reasonable Efforts to obtain Aradigm's consent to the assignment by INEX to Hana of the BCCA Patents and has discharged its obligation under Section 6.7(a) of the Transaction Agreement. If Aradigm indicates its willingness to consent to such assignment and if Aradigm and the Parties are able to agree upon the terms and conditions for such assignment, the Parties will amend this Agreement and enter into such other legal documents reasonably necessary to support the assignment of BCCA Patents to Hana.

7.5.2 Notwithstanding any expiration or termination of the Service Agreement dated April 3, 2007 between the Parties and notwithstanding that the assignment of BCCA Patents do not constitute IP Services as defined herein, Hana shall reimburse INEX's out of pocket expenses, at cost, and INEX's internal costs at the FTE Rate, for all activities agreed between Hana and INEX to facilitate the assignment of the BCCA Patents to Hana.

Article 8 PATENT PROSECUTION AND MAINTENANCE

8.1 IP Committee

The Parties will establish an IP committee (the "**IP Committee**") comprised of an equal number of Representatives of each Party to coordinate patent prosecution and maintenance of the Patents. The IP Committee will conduct planning meetings as frequently as the Parties deem necessary. The primary method of meeting will be teleconference. The cost of conducting IP Committee meetings shall be allocated between the Parties pro-rata based on the combined average of each Party's percentages of responsibilities set forth in each of the patent schedules attached to the Definitive Agreements.

8.2 Responsibility for Patent Prosecution and Maintenance

8.2.1 In respect of all patents and patent applications that are listed in **Exhibits 1.1.9 and 1.1.54**, Hana shall be responsible for:

(a) the continued prosecution of any such pending patent applications to the issuance of the resulting patents;

(b) the maintenance of all such issued Patents; and

(c) the filing of additional patent applications for such Patents in any jurisdiction world-wide, including, without limitation, any continuations, continuations-in-part, divisionals, patents of addition, reissues, re-examinations and extensions of or substitutes therefore, which additional patent applications (and resulting patents) shall be automatically included in the Patents, and the provision of this Article 8 shall apply thereto.

All reasonable costs and expenses arising from Hana's patent prosecution and maintenance shall be allocated between the Parties pro-rata based on the percentages set forth in **Exhibits 1.1.9 and 1.1.54**.

8.2.2 Notwithstanding the allocation of patent prosecution and maintenance costs set forth in this Section 8.2, if Hana requests IP Services from INEX in respect of any activities which would otherwise have been performed by Hana pursuant to Section 8.2.1, INEX shall be entitled to payment of IP Services in accordance with the provisions of Section 8.6 and the Service Agreement.

8.2.3 Hana shall be responsible for the prosecution of the pending patent applications included in the Patents in accordance with the responsibilities set forth in Section 8.2.1 and cost allocations set forth in **Exhibits 1.1.9 and 1.1.54**. The cost allocations set out in **Exhibits 1.1.9 and 1.1.54** shall be subject to review and amendment by mutual agreement of the Parties on an annual basis on or before December 31 of each year during the Term. In the event that the parties cannot reach agreement on or before December 31, the matter will be resolved by arbitration in accordance with Article 13.

8.2.4 Hana shall diligently pursue the prosecution of all patent applications in accordance with the responsibilities set forth in Section 8.2.1 and cost allocations set forth in **Exhibits 1.1.9 and 1.1.54** to issuance of the resulting patents and shall not abandon, withdraw or discontinue prosecution of any pending patent applications included in the Patents without first consulting with and obtaining the prior written consent of INEX, which consent shall not be withheld if the Parties agree that the issuance of a patent from such application is unlikely.

8.2.5 At the request of INEX, Hana shall diligently pursue and prosecute additional patent filings relating to the Patents and Technology in any jurisdiction worldwide in accordance with the responsibilities set forth in Section 8.2.1 and cost allocations set forth in **Exhibits 1.1.9 and 1.1.54**.

8.2.6 Either Party may request the other Party to file new patent applications, divisionals, provisionals, non-provisionals, continuations and continuations-in-part to ensure that Valid Claims on Patents remain pending. If the Party having primary responsibility for patent prosecution and maintenance decides not to meet such request, the requesting Party shall be entitled to, at the requesting Party's election:

(a) refer the matter to arbitration pursuant to Article 13; or

(b) perform such filings and take such actions as it deems necessary and at its sole cost.

If the requesting Party elects not to refer the matter to arbitration, the other Party shall, at the sole cost of the requesting Party:

(c) cooperate with the requesting Party to perform such filings and take such actions as may be required by the requesting Party if the requesting Party does not have standing to perform such filings and take such actions; or

(d) grant the requesting Party a power-of-attorney to perform such filings and take such actions as may be required by the requesting Party;

to ensure that Valid Claims to Patents remain pending.

8.3 Consultation and Reporting

8.3.1 On a timely basis, Hana will consult with or instruct its patent agent(s) and/or patent counsel(s) to consult with INEX, and INEX will consult with or instruct its patent

agent(s) and/or patent counsel(s) to consult with Hana, regarding the claims and any proposed amendments thereto of:

(a) any Patents pending and issued; and

(b) any additional patent applications to be included in the Patents;

to ensure that the scope of patent coverage is adequate for the uses of the Patents contemplated by each of Hana and INEX.

8.3.2 On a timely basis, Hana shall provide INEX with copies of the material correspondence and documents which Hana sends or receives in connection with the application, prosecution and maintenance of Patents.

8.3.3 Provided a Party has provided timely notice and copies of material correspondence to the other Party of any matter requiring any action relating to any application, prosecution or maintenance of the Patents, the Party providing timely notice shall not be found to be in breach of its obligations under this Article 8 if the other Party, its patent agent(s) and/or patent counsel(s) fail to consult with or provide written instructions to the Party providing timely notice, at least five (5) Business Days prior to any deadline including an extendible deadline, in respect of any action required for the application, prosecution or maintenance of the Patents.

8.4 Reports

On a quarterly basis, on or before the last day of each Calendar Quarter during the Term, each Party shall advise the other Party in writing of the material actions which each Party has undertaken concerning the application, prosecution and maintenance of the Patents.

8.5 Abandonment, Withdrawal or Discontinuance

8.5.1 Notwithstanding each Party's obligation under Section 8.2, should either Party decide to:

(a) discontinue pursuing one or more patent applications, patent protection or patent maintenance for one or more patents in relation to the Patents or any continuation, continuation-in-part, divisional, reissue, re-examination or extension thereof for any reason;

(b) not pursue patent protection in relation to the Patents in any specific jurisdiction for any reason; or

(c) discontinue or not pursue patent protection in relation to any further process, use or Product arising out of the Patents in any jurisdiction for any reason;

then such Party (the "**Abandoning Party**") shall provide the other Party (the "**Non-Abandoning Party**") with prior written notice of its decision to discontinue or not to pursue one or more patent applications, patent protection, or patent maintenance, in relation to the Patents (the "**Notice of Abandonment**"), and to provide sufficient detail to the other Party in sufficient time, such time not to be less than thirty (30) Business Days, to enable the other Party to file a patent application or continue pursuing an existing patent application in accordance with Section 8.5.5 or 8.5.7.

8.5.2 The Notice of Abandonment to be given by the Abandoning Party pursuant to Section 8.5.1 shall clearly identify the patent applications, patent protection, and/or patent maintenance for the Patents to be abandoned.

8.5.3 Each of the Parties agrees that notwithstanding any provision to the contrary in this Agreement, effective upon the date of the Non-Abandoning Party's receipt of the Notice of Abandonment, the Abandoning Party shall lose all rights under:

(a) the patent(s) and patent application(s) to which such Party's Notice of Abandonment applies; and

(b) any continuation, continuation-in-part, divisional, reissue, re-examination, or extension of or to the foregoing;

(any one of the above being the "**Discontinued Patent**").

8.5.4 If Hana gives Notice of Abandonment to INEX pursuant to Sections 8.5.1 and 8.5.2 in respect of:

(a) one or more of the Licensed Patents, this license shall be terminated with respect solely to such Discontinued Patent(s), and Hana shall forfeit the right to any and all uses of the Discontinued Patent(s) and Technology claimed in such Discontinued Patent(s). **Exhibits 1.1.54** and **1.1.103** will be deemed to be amended to exclude such Discontinued Patent and Technology claimed in such Discontinued Patent from the grant of license contained herein

(b) one or more of the Assigned Patents and INEX elects to continue to pursue any patent applications, patent protection and/or patent maintenance in relation to such Discontinued Patent in accordance with Section 8.5.5, Hana shall forfeit the right to any and all uses of such Discontinued Patent(s) and of the inventions and Technology claimed in such Discontinued Patent(s), and assign such Discontinued Patent(s) to INEX.

8.5.5 If Hana has given Notice of Abandonment to INEX pursuant to Sections 8.5.1 and 8.5.2, and INEX wishes to continue to pursue any patent applications, patent protection and/or patent maintenance in relation to Hana's Discontinued Patent:

(a) within ten (10) Business Days of INEX's receipt of Hana's Notice of Abandonment, INEX shall provide Hana with written notice of INEX's intention to pursue any patent applications, patent protection and/or patent maintenance in relation to Hana's Discontinued Patent;

(b) Hana shall relinquish patent prosecution and maintenance of Hana's Discontinued Patent and INEX shall assume patent prosecution and maintenance of same, at INEX's sole cost and expense; and

(c) notwithstanding the Non-Competition Terms, INEX shall have the exclusive right to use Hana's Discontinued Patent and inventions claimed in Hana's Discontinued Patent, in the Hana Field.

8.5.6 If INEX gives Notice of Abandonment to Hana pursuant to Sections 8.5.1 and 8.5.2 in respect of:

(a) one or more of the Licensed Patents, and Hana elects to continue to pursue any patent applications, patent protection and/or patent maintenance in relation to such Discontinued Patent in accordance with Section 8.5.7, INEX shall forfeit the right to any and all uses of the Discontinued Patent(s) and inventions claimed in any Discontinued Patent(s), and shall assign such Discontinued Patent(s) to Hana.

(b) one or more of the Assigned Patents, Hana's grant of a license to INEX shall be terminated with respect solely to the Discontinued Patent(s), and INEX shall forfeit the right to any and all uses of the Discontinued Patent(s) and Technology claimed in such Discontinued Patent(s). **Exhibits 1.1.9** and **1.1.103** will be deemed to be amended to exclude such Discontinued Patent(s) and Technology claimed in such Discontinued Patent(s) from the grant of the license to INEX contained herein.

8.5.7 If INEX has given Notice of Abandonment to Hana pursuant to Sections 8.5.1 and 8.5.2 and Hana wishes to continue to pursue any patent applications, patent protection and/or patent maintenance in relation to INEX's Discontinued Patent:

(a) within ten (10) Business Days of Hana's receipt of INEX's Notice of Abandonment, Hana shall provide INEX with written notice of Hana's intention to pursue any patent applications, patent protection and/or patent maintenance in relation to INEX's Discontinued Patent, at Hana's sole cost and expense; and

(b) notwithstanding the Non-Competition Terms, Hana shall have the exclusive right to use INEX's Discontinued Patent and the inventions claimed in INEX's Discontinued Patent, outside the Hana Field.

8.5.8 Either Party may request the other Party to perform such other Party's responsibilities set forth in Sections 8.2.1 or 8.2.2, as the case may be, in respect of a particular patent or patent application. If the Party bearing such responsibility is unwilling or unable to perform its responsibility in a timely manner, the Party requesting performance in respect of such patent or patent application may, with three (3) days prior written notice, perform the particular activity(ies) requested in respect of such patent or patent application. The Party unwilling or unable to perform its responsibility shall pay all reasonable costs and out-of-pocket expenses actually incurred by the requesting Party to perform the particular activity(ies) requested, within thirty (30) days of the non-performing Party's receipt of the performing Party's invoice for such costs and out-of-pocket expenses. For the purposes of this Section 8.5.8, reasonable costs shall be calculated using the FTE Rate set forth in the Service Agreement, regardless of the Party performing the activity(ies), and notwithstanding any termination of the Service Agreement.

8.6 Costs of Patent Application, Prosecution and Maintenance

8.6.1 Commencing from the date that an Abandoning Party has lost all entitlement to a Discontinued Patent, such Abandoning Party shall not be required to share in any costs (and services fees if INEX is the Abandoning Party) associated with the application, prosecution, and/or maintenance of any Patents in the Discontinued License Patent.

8.6.2 Subject to Section 8.6.1, and notwithstanding any termination of the Service Agreement, for as long as INEX continues to perform at Hana's request, the activities required for intellectual property portfolio management and all associated activities including, without limitation, patent application, filing, prosecution and maintenance, and payment of all government and legal fees required to apply for, prosecute and maintain the Patents described in Section 8.2.1 (the "**IP Services**"), Hana, its successors, assigns or any Person(s) who acquires any interest in any of the Patents and Technology will jointly and severally be responsible for paying INEX:

(a) **[*]** of all reasonable out-of-pocket costs, including, without limitation, filing fees, fees for external counsel(s), patent agent(s), contractors, travel, and lodging expenses incurred by INEX to provide IP Services; and

(b) **[*]** of the personnel costs incurred by INEX, calculated at INEX's FTE Rate, pro rated to reflect the actual time employees, contractors or consultants of INEX spend providing IP Services; provided however, that on each anniversary of the Effective Date of the Definitive Agreements, the FTE Rate shall be adjusted by a percentage equal to the percentage change in the Consumer Price Index (All Items) for the province of British Columbia for the twelve (12) month period ending with December of the calendar year immediately preceding such anniversary date; and

(c) **[*]** of all out-of-pocket costs and **[*]** of all personnel costs incurred by INEX to provide IP Services in respect of any Discontinued Patent which Hana has elected to continue pursuing patent protection, pursuant to Section 8.5.5.

8.6.3 INEX will invoice Hana monthly for all costs set forth in Section 8.6.2, plus all applicable taxes thereon, on or before the 30th day after the end of the month in which the IP Services were rendered and/or expenses incurred; provided however, that any out-of-pocket costs incurred which are not captured in any invoice may be captured in subsequent invoices. Hana will pay all amounts due and payable hereunder in full in Dollars to INEX within thirty (30) days of the date of each such invoice, by cheque or wire transfer to the account specified by INEX.

8.6.4 Notwithstanding Section 8.6.3, during the Term, INEX shall not combine Hana's payment obligations for IP Services under the Service Agreement together with Hana's payment obligations under this Section 8.6 to recover from Hana, its successors, assigns or any Person(s) who acquires any interest in any of the Patents and Technology, more than the total monthly costs set forth in Section 8.6.2 in any given month.

8.6.5 Hana shall be responsible for prosecuting and maintaining the MD Anderson Patents and for payment of all costs associated therewith. If INEX exercises its rights under Section 2.2.1 to either the Sarris Patents and/or the Thomas Patents, INEX shall be responsible for ten percent (10%) of the cost of Hana's prosecution and maintenance of the Sarris Patents and/or the Thomas Patents, as applicable.

***Confidential Treatment Requested.**

8.7 Late Payments

Any payment due under Section 8.6 that is not paid on or before the date such payment is due shall bear interest at a rate equal to the lesser of:

8.7.1 the Prime Rate(s) during the period of late payment plus **[*]** interest compounded monthly; or

8.7.2 the maximum rate permitted by law;

calculated based on the number of days that payment is delinquent until full payment has been made.

8.8 Co-operation

Each Party agrees to obtain the co-operation of its Representatives in the assignment of any Intellectual Property Rights addressed by this Agreement, as well as in the preparation, filing, and prosecution of any patent application or registrations which may arise under this Agreement. Such co-operation shall include:

8.8.1 making available to the other Party or such other Party's Representatives whom the other Party in its reasonable judgment deems necessary in order to assist it in obtaining patent protection of the Patents; and

8.8.2 executing and causing its Representatives to execute all legal documents reasonably necessary to support the assignment, filing, prosecution and maintenance of said Patents.

Article 9 INFRINGEMENT PROCEEDINGS

9.1 Limits

Except as expressly set out in this Agreement, nothing in this Agreement shall be construed as:

9.1.1 an obligation by Hana or INEX to bring or prosecute or defend actions or suits against Third Parties for infringement of patents, copyrights, trade-marks, industrial designs or other intellectual property or contractual rights; or

9.1.2 the conferring by Hana or INEX of the right to use in advertising or publicity the name of Hana or INEX or their respective trademarks.

9.2 Conduct of Infringement Proceedings

Notwithstanding Section 9.1, in the event of:

9.2.1 an alleged infringement by a Third Party of the Patents or Technology or of any right with respect to the Patents or Technology by the manufacture, sale, services or use of products derived from the Patents or Technology in the Hana Field; or

9.2.2 any complaint by Hana alleging any infringement by a Third Party with respect to the Patents or Technology or to any right with respect to the Patents or Technology by the manufacture, sale, service or use of products derived from the Patents or Technology in the Hana Field;

the following shall apply:

9.2.3 Hana shall have the first right, in its sole discretion, and at its sole expense, to prosecute or defend such litigation;

***Confidential Treatment Requested.**

9.2.4 if Hana does not take steps to prosecute or defend such litigation within thirty (30) days after receipt of notice thereof, INEX may take such legally permissible action as it deems necessary or appropriate to prosecute such litigation or defend such litigation at its own expense, but shall not be obligated to do so;

9.2.5 the Party prosecuting or defending such litigation (in this Article, the "**Litigating Party**") shall have the right to control such litigation and shall bear all legal expenses (including court costs and legal fees), including settlement thereof provided however that no settlement or consent judgment or other voluntary final disposition of any suit defended or action brought by a Party pursuant to this Section 9.2 may be entered into without the consent of the other Party if such settlement would require the other Party to be subject to an injunction or to make a monetary payment or would restrict the claims in or admit any invalidity of any Patents or significantly adversely affect the rights of the other Party to this Agreement (the "**Non-litigating Party**"). By way of example and not by way of limitation, there shall be no right of the Litigating Party to stipulate or admit to the invalidity or unenforceability of any Patents. Before any action is taken by the Litigating Party which could abridge the rights of the Non-litigating Party hereunder, the Parties agree to, in good faith, consult with a goal of adopting a mutually satisfactory position;

9.2.6 the Non-litigating Party agrees to co-operate reasonably in any such litigation to the extent of executing all necessary documents, supplying essential documentary evidence and making essential witnesses then in its employment available and to vest in the Litigating Party the right to institute any such suits, so long as all the direct or indirect costs and expenses of bringing and conducting any such litigation or settlement shall be borne by the Litigating Party, provided that INEX and Hana shall recover their respective actual out-of-pocket expenses, or equitable proportions thereof, associated with any litigation or settlement thereof from any recovery made by any Party. Any excess amount remaining after satisfaction of the Parties' recovery of their respective actual out-of-pocket expenses, or equitable proportions thereof, associated with any litigation or settlement thereof from any recovery made by any Party (the "**Excess Amount**") shall be shared between Hana and INEX on the same basis as set forth in Sections 3.1, 3.2 and 3.3 with respect to Royalties from Net Sales of Product in the applicable jurisdiction; provided however, that any Excess Amount in the form of punitive Damages shall be shared between Hana and INEX in proportion to each Party's contribution to litigation expenses. In the event a settlement or consent judgement does not distinguish between the forms of Damages payable by the Third Party, and Hana and INEX cannot agree on what portion, if any, of the Excess Amount constitutes punitive Damages, the Parties will refer the matter to arbitration in accordance with Article 13;

9.2.7 the Litigating Party shall keep the Non-litigating Party fully informed of the actions and positions taken or proposed to be taken by the Litigating Party on behalf of itself or a licensee or sublicense (including Licensee or Sublicensee) and actions and positions taken by all other parties to such litigation; and

9.2.8 in the event that INEX prosecutes or defends such litigation, Hana may elect to participate formally in the litigation to the extent that the court may permit, but any additional expenses generated by such formal participation shall be paid by Hana (subject to the possibility of recovery of some or all of such additional expenses as described in Section 9.2.6 or from such other parties to the litigation).

9.3 Breach of Confidence Proceedings

In the event of an alleged breach of confidentiality respecting Confidential Information or any Third Party use of Confidential Information, Hana and INEX agree that they shall reasonably cooperate to enjoin such Third Party's use of such Confidential Information, and take such other action as a Party with regard to its own Confidential Information may deem appropriate, at law or in equity.

9.4 Defense of Infringement Proceedings

9.4.1 If any complaint alleging infringement or violation of any patent or other proprietary rights is made against Hana, its Affiliate, Licensee or Sublicensee with respect to the Manufacture, use or sale of a Product, the following shall apply:

(a) Hana shall promptly notify INEX in writing upon receipt of any such complaint setting out full details thereof and shall keep INEX fully informed of the actions and positions taken by the complainant and taken or proposed to be taken by Hana (on behalf of itself, a Licensee or a Sublicensee);

(b) if such complaint gives rise to an indemnification obligation under any of the Definitive Agreements in favor of Hana (or its Affiliate or Licensee or Sublicensee) on the part of INEX, then INEX shall defend such suit and all costs and expenses incurred by Hana (or any Affiliate or Licensee or Sublicensee) in investigating, resisting, litigating and settling such a complaint, including the payment of any award of Damages and/or costs to any Third Party, shall be paid by INEX;

(c) if such complaint does not give rise to an indemnification obligation under the Definitive Agreements in favor of Hana on the part of INEX, then Hana shall have the right but not the obligation to defend such suit and all costs and expenses incurred by Hana (or any Affiliate or Licensee or Sublicensee) in investigating, resisting, litigating and settling such a complaint, including the payment of any award of Damages and/or costs to any Third Party, shall be paid by Hana (or any Affiliate or Licensee or Sublicensee, as the case may be); and

(d) in any event, INEX and Hana shall assist one another and cooperate in any such litigation at each Party's own expense.

9.4.2 If any complaint alleging infringement or violation of any patent or other proprietary rights is made against INEX, its Affiliate, licensee or sublicensee with respect to the Manufacture, use or sale of a Product, the following procedure shall apply:

(a) INEX shall promptly notify Hana in writing upon receipt of any such complaint setting out full details thereof and shall keep Hana fully informed of the actions and positions taken by the complainant and taken or proposed to be taken by INEX;

(b) if such a complaint gives rise to an indemnification obligation under the Definitive Agreements in favor of INEX on the part of Hana, then Hana shall defend such suit and all costs and expenses incurred by INEX (or its Affiliate) in investigating, resisting, litigating and settling such a complaint, including the payment of any award of Damages and/or costs to any Third Party, shall be paid by Hana;

(c) if such complaint does not give rise to an indemnification obligation under the Definitive Agreements in favor of INEX on the part of Hana, then INEX shall have the right but not the obligation to defend such suit and all costs and expenses incurred by INEX (or its Affiliate) in investigating, resisting, litigating and settling such a compliant, including the payment of any award of Damages and/or costs to any Third Party, shall be paid by INEX;

(d) in any event, INEX and Hana shall assist one another and cooperate in any such litigation at each Party's own expense.

9.4.3 With regard to costs and expenses incurred by Hana (or any Licensee or Sublicensee) under Sections 9.4.1(c) or 9.4.2(b) in investigating, resisting, litigating and settling such a complaint, including the payment of any award of Damages and/or costs to any Third Party (the "**Offset Amount**"), but not including any punitive award (the "**Punitive Amount**"), Hana (or any Licensee or Sublicensee) shall be entitled to offset or credit **[*]** of the Offset Amount against future payments otherwise due INEX as set forth in Section 3.7.1. With regard to any Punitive Amount (eg. willful infringement), the same is not included in the Offset Amount and is not to be offset or credited against future payments due INEX.

9.4.4 In the event a complaint is made under either of Sections 9.4.1 or 9.4.2, no settlement or consent judgment or other voluntary final disposition may be entered into without the consent of the other Party if such settlement would require the other Party to be subject to an injunction or to make a monetary payment or would restrict the claims in or admit any invalidity of any Patents or significantly adversely affect the rights of the other Party.

9.5 Co-operation with Other Licensees

Hana acknowledges that INEX may grant rights to its other sublicensees in respect of fields outside of the Hana Field similar to those granted to Hana under Sections 9.2, 9.3, 9.4 and this Section 9.5. If INEX grants such rights to its other sublicensees, in the event of any litigation in respect of:

9.5.1 fields outside of the Hana Field that may reasonably affect Hana's use of the Patents or Technology in the Hana Field or the Manufacture, use or sale of Product by Hana; or

9.5.2 the Hana Field that may reasonably affect INEX or one or more of INEX's sublicensee's use of the Patents or Technology outside the Hana Field or the manufacture, use or sale of products outside the Hana Field by INEX or one or more other such sublicensee(s);

then INEX, Hana and such other sublicensees will use good faith efforts to determine jointly the course of action, if any, necessary or appropriate to prosecute or defend the litigation. INEX will use reasonable efforts to include in its sublicense agreements, provisions that allow the participation of Hana as contemplated herein.

Article 10 CONFIDENTIAL INFORMATION AND PUBLICATION

10.1 Treatment of Confidential Information

Each Party agrees:

10.1.1 to keep and use in strict confidence all Confidential Information of the other Party that each Party acquires, sees, or is informed of, as a direct or indirect consequence of this Agreement and to not, without the prior written consent of the other Party, disclose any such Confidential Information or recollections thereof to any Person other than its Representatives who are under an obligation of confidentiality on terms substantially similar to those set out in this Agreement, who have been informed of the confidential nature of the Confidential Information and who require such information in connection with the performance of this Agreement;

10.1.2 that all copies, duplicates, reproductions, translations or adaptations of any Confidential Information of the other Party made hereunder shall be clearly labeled as confidential; and

10.1.3 to take all reasonable steps to prevent material in its possession that contains or refers to Confidential Information of the other Party from being discovered, used or copied by Third Parties and that it shall use reasonable steps to protect and safeguard all Confidential Information of the other Party in its possession from all loss, theft or destruction.

10.2 Permitted Disclosures

Notwithstanding anything to the contrary contained in this Agreement, each Party will be permitted to disclose Confidential Information received from the other Party:

10.2.1 where in the reasonable and unqualified opinion of the receiving Party's legal counsel, disclosure is required to be made under:

(a) the securities laws of any relevant jurisdiction, including the receiving Party's jurisdiction of incorporation or a jurisdiction in which the receiving Party's securities are traded on a stock exchange; or

(b) such disclosure is required to be made by the receiving Party or its Representatives under the terms of a valid and effective subpoena or order issued by a court of competent jurisdiction or by an administrative body or government authority;

provided that:

(c) the receiving Party shall immediately notify the disclosing Party prior to any such disclosure and the disclosing Party shall have been given the opportunity where possible to oppose such disclosure by the receiving Party by seeking a protective order or other appropriate remedy, or to waive compliance with the provisions of this Agreement;

(d) the receiving Party or its Representatives, as the case may be, shall disclose only that portion of the information legally required to be disclosed, and

(e) the receiving Party or its Representatives, as the case may be, will exercise all reasonable efforts to maintain the confidential treatment of the information; and

10.2.2 to Third Party contractors or collaborators to facilitate or carry out the Parties' performance of their respective activities under this Agreement, provided that such Third Parties enter into an agreement with such Party which contains confidentiality provisions substantially the same as those set forth herein.

10.3 Liability for Representatives

Each Party will maintain a list of all Representatives to whom it has disclosed Confidential Information and will be responsible for the failure by any of its Representatives to maintain the confidence of any Confidential Information of the other Party in accordance with the terms of this Article.

10.4 Publications Generally

The following restrictions shall apply with respect to the disclosure in conferences, scientific journals or publications by any Party or Representative of any Party relating to the inventions contained in the Patents and the Technology or to the activities or results of the Development by Hana of any Product:

10.4.1 at least thirty (30) days before any proposed submission is submitted and any proposed publication is published by a Party (the "**Publishing Party**"), such Publishing Party shall provide the other Party with an advance copy of any such proposed submission or proposed publication, as the case may be, before any other disclosure of same and such other Party shall have a reasonable opportunity to recommend any changes it reasonably believes are necessary to preserve Intellectual Property Rights or Confidential Information belonging in whole or in part to INEX or Hana, and the incorporation of such recommended changes shall not be unreasonably refused; and

10.4.2 if such other Party informs the Publishing Party, within thirty (30) days after receipt of an advance copy of a proposed publication, that such publication in its reasonable judgment could be expected to have a material adverse effect on any Intellectual Property Rights or Confidential Information belonging in whole or in part to INEX or Hana, the Publishing Party shall delay or prevent such publication as proposed. In the case of inventions, the delay shall be sufficiently long to permit the timely preparation and filing of a patent application(s) or application(s) for a certificate of invention on the information involved but not more than ninety (90) days.

10.5 No Limitation on Regulatory Compliance

Nothing in this Agreement shall be construed as preventing or in any way inhibiting Hana from complying with statutory and regulatory requirements governing the Development, Manufacture, use and sale or other distribution of Product in the Territory in any manner which it reasonably deems appropriate, including, for example, by disclosing to Regulatory Authorities Confidential Information or other information received from INEX.

10.6 Return of Confidential Information

Except as required to comply with Regulatory Requirements, within thirty (30) days of receipt of a written request from the disclosing Party, the receiving Party will return to the disclosing Party or destroy, at the disclosing Party's sole discretion, all Confidential Information of the disclosing Party, including all such information that is electronically stored by the receiving Party, all reproductions thereof and all samples of materials in the form provided by the disclosing Party to the receiving Party, in the receiving Party's possession or control and confirm such destruction or delivery to the disclosing Party in writing, as applicable.

Article 11 REPRESENTATIONS AND WARRANTIES

11.1 Hana Representations and Warranties

Hana hereby represents and warrants to INEX that, as of the effective date of this Agreement:

11.1.1 Hana is a corporation duly organised, existing, and in good standing under the laws of Delaware and has the power, authority, and capacity to enter into this Agreement and to carry out the transactions contemplated by this Agreement, all of which have been duly and validly authorised by all requisite corporate proceedings;

11.1.2 the execution, delivery and performance by Hana of this Agreement do not contravene or constitute a default under any provision of applicable law or its articles or by-laws (or equivalent documents) or of any judgment, injunction, order, decree or other instrument binding upon Hana;

11.1.3 all licenses, consents, authorizations and approvals, if any, required for the execution, delivery and performance by Hana of this Agreement have been obtained and are in full force and effect and all conditions thereof have been complied with, and no other action by or with respect to, or filing with, any governmental authority or any other Person is required in connection with the execution, delivery and performance by Hana of this Agreement;

11.1.4 this Agreement constitutes a valid and binding agreement of Hana, enforceable against Hana in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency; moratorium or creditors' rights generally;

11.1.5 the execution, delivery and performance by Hana of this Agreement do not and will not conflict with or result in a material breach of any of the terms and provisions of any Third Party agreement of Hana entered into as of the effective date of this Agreement;

11.1.6 Hana is not aware of any impediment, including without limitation any Third Party agreement of Hana, which would prevent Hana from performing its obligations under this Agreement;

11.1.7 Hana will not enter into any Third Party agreement after the effective date of this Agreement which, in any way, will prevent Hana from performing all of the obligations hereunder;

11.1.8 the authorized capital of Hana consists of 100,000,000 shares of Common Stock, of which 29,295,117 shares are issued and outstanding as of March 30, 2007, and

10,000,000 shares of preferred stock, par value $0.001 per share, none of which is issued and outstanding. All of such issued and outstanding shares of Common Stock have been validly issued and are outstanding as fully paid and non-assessable;

11.1.9 the issuance of the Common Stock has been duly authorized by all necessary action on the part of Hana and no further action is required by Hana or its board of directors or shareholders to complete the issuance of the Common Stock;

11.1.10 the Common Stock, when issued, will be duly and validly issued, fully paid and non-assessable and will be free and clear of all liens, charges, encumbrances and any rights of others. Hana has reserved from its duly authorized capital stock a number of shares sufficient to meet its obligations to issue the Common Stock hereunder;

11.1.11 no consent, approval, authorization or other order of any governmental authority is required to be obtained by Hana in connection with the authorization and issuance of Common Stock, except for such registrations, filings or notices as have been made or as may be required to be made pursuant to U.S. or Canadian securities laws;

11.1.12 subject to: (i) INEX's representation and warranty set forth in Section 11.2.8; and (ii) the completion of the assignment of the MD Anderson Patents by INEX to Hana, and to the best of the knowledge of Hana without independent investigation or inquiry of any kind, Hana holds the entire right title and interest in and to the Assigned Patents, free and clear of all encumbrances and Hana has the right and power to grant on an exclusive and non-exclusive basis, as the case may be, the licences granted to INEX under this Agreement without consent of any Third Party that may claim any such interest through Hana, including, without limitation, any secured creditor of Hana

11.1.13 subject to INEX's representation and warranty set forth in Section 11.2.9; and subject to the completion of the assignment of the MD Anderson Patents by INEX to Hana, to the best of the knowledge of Hana without independent investigation or inquiry of any kind, all the Assigned Patents are validly subsisting and all maintenance fees and similar annuity payments have been made in each of the jurisdictions requiring such payments; and

11.1.14 Subject to INEX's representation and warranty set forth in Section 11.2.12, and without independent investigation or inquiry of any kind, except for the Intellectual Property Rights described in this Agreement, Hana neither owns nor controls any Intellectual Property Rights that would be required by INEX in order to make, have made, use, sell, offer for sale, import, and have imported Products outside the Hana Field in the Territory.

11.2 INEX Representations and Warranties

INEX warrants and represents to Hana that, as of the effective date of this Agreement:

11.2.1 INEX is a corporation duly organised, existing, and in good standing under the laws of British Columbia and has the power, authority, and capacity to enter into this Agreement and to carry out the transactions contemplated by this Agreement, all of which have been duly and validly authorised by all requisite corporate proceedings;

11.2.2 the execution, delivery and performance by INEX of this Agreement do not contravene or constitute a default under any provision of applicable law or its articles or by-laws (or equivalent documents) or of any judgment, injunction, order, decree or other instrument binding upon INEX;

11.2.3 all licenses, consents, authorizations and approvals, if any, required for the execution, delivery and performance by INEX of this Agreement have been obtained and are in full force and effect and all conditions thereof have been complied with, and no other action by or with respect to, or filing with, any governmental authority or any other Person is required in connection with the execution, delivery and performance by INEX of this Agreement;

11.2.4 this Agreement constitutes a valid and binding agreement of INEX, enforceable against INEX in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or creditors' rights generally;

11.2.5 the execution, delivery and performance by INEX of this Agreement do not and will not conflict with or result in a material breach of any of the terms and provisions of any Third Party agreement of INEX entered into as of the effective date of this Agreement;

11.2.6 INEX is not aware of any impediment, including without limitation any Third Party agreement, which would prevent INEX from performing its obligations under this Agreement;

11.2.7 INEX will not enter into any Third Party agreement after the effective date of this Agreement which, in any way, will limit its ability to perform all of the obligations hereunder;

11.2.8 to the best of the knowledge of INEX, INEX holds the entire right title and interest in and to the Patents and Technology, free and clear of all encumbrances and INEX has the right and power to grant:

(a) on an exclusive basis, the licences granted to Hana under this Agreement without consent of any Third Party that may claim any such interest through INEX, including, without limitation, any secured creditor of INEX; and

(b) the assignments granted to Hana under this Agreement, and INEX has obtained the consent of all Third Parties from whom consent to such assignments is required;

11.2.9 to the best of the knowledge of INEX, all the Patents are validly subsisting and all maintenance fees and similar annuity payments have been made in each of the jurisdictions requiring such payments;

11.2.10 to the best of the knowledge of INEX, all statements contained in any applications for the registration of the Patents were true and correct as of the date of such applications;

11.2.11 except for the Intellectual Property Rights described in this Agreement, INEX neither owns nor controls any Intellectual Property Rights that would be required by Hana in order to make, have made, use, sell, offer for sale, import, and have imported Products in the Hana Field in the Territory; and

11.2.12 to the actual knowledge of INEX, without independent investigation or inquiry, the rights to the Patents and Technology granted by INEX pursuant to this Agreement, are all of the Intellectual Property Rights necessary for Hana to make, have made, use, sell, offer for sale, import, and have imported Products in the Hana Field within the Territory, without any infringement of or conflict with the Intellectual Property Rights of Third Parties.

11.3 DISCLAIMER

EXCEPT FOR THE EXPRESS WARRANTIES AND REPRESENTATIONS CONTAINED IN THIS AGREEMENT, NEITHER INEX NOR HANA MAKES, AND EACH HEREBY EXPRESSLY DISCLAIMS, ANY WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, WHETHER IN FACT OR IN LAW, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON- INFRINGEMENT.

Article 12 INDEMNIFICATION AND LIABILITY LIMITATIONS

12.1 Indemnification by Hana

Hana hereby agrees that it shall be responsible for, indemnify, hold harmless and, defend INEX, its Representatives and their respective heirs, successors and assigns (collectively, the "**INEX Indemnitees**"), from and against any and all Damages suffered or incurred by any INEX Indemnitee arising out of, relating to, resulting from or in connection with any Third Party claims arising out of or relating to:

12.1.1 the breach of any representation or warranty made by Hana herein;

12.1.2 the default by Hana in the performance or observance of any of its obligations to be performed or observed hereunder;

12.1.3 the breach by Hana of any Regulatory Requirements, regulations and guidelines in connection with any Product;

12.1.4 any complaint alleging infringement or violation of any patent or other proprietary rights is made against INEX or its Affiliates with respect to Hana's Manufacture, use or sale of a Product; and

12.1.5 any injury or death to any Person or damage to any property caused by any Product provided by Hana or a Licensee or Sublicensee, whether claimed by reason of breach of warranty, negligence, product defect or otherwise, and regardless of the form in which any such claim is made.

The foregoing shall not apply to the extent that such Damages are due to:

12.1.6 the breach of any representation or warranty made by INEX herein;

12.1.7 the default by INEX in the performance or observance of any of its obligations to be performed or observed hereunder; and

12.1.8 the breach by INEX of any Regulatory Requirements, regulations and guidelines in connection with any Patents and Technology.

12.2 Indemnification by INEX

INEX hereby agrees that it shall be responsible for, indemnify, hold harmless and defend Hana, its Representatives, and their respective heirs, successors and assigns (collectively, the "**Hana Indemnitees**"), from and against any and all Damages suffered or incurred by any Hana Indemnitee arising out of, relating to, resulting from or in connection with any Third Party claims arising out of or relating to:

12.2.1 the breach of any representation or warranty made by INEX herein;

12.2.2 the default by INEX in the performance or observance of any of its obligations to be performed or observed hereunder; and

12.2.3 the breach by INEX of any Regulatory Requirements, regulations and guidelines in connection with any Patents and Technology;

The foregoing shall not apply to the extent that such Damages are due to:

12.2.4 the breach of any representation or warranty made by Hana herein;

12.2.5 the default by Hana in the performance or observance of any of its obligations to be performed or observed hereunder;

12.2.6 the breach by Hana of any Regulatory Requirements, regulations and guidelines in connection with any Product; and

12.2.7 any injury or death to any person or damage to any property caused by any Product provided by Hana or its Licensee or Sublicensees, whether claimed by reason of breach of warranty, negligence, product defect or otherwise, and regardless of the form in which any such claim is made.

12.3 Notice of Claims

In the event that a claim is made pursuant to Section 12.1 or 12.2 against any Person who seeks indemnification hereunder (the "**Indemnitee**"), the Indemnitee shall give the indemnifying Party (the "**Indemnitor**") prompt notice of any claim or lawsuit or other action for which it seeks to be indemnified under this Agreement and agrees that the Indemnitor shall not have any obligation under Section 12.1 or 12.2 as applicable, unless:

12.3.1 the Indemnitor is granted, subject to the provisions of this Section 12.3 and the relevant provisions of Article 9, full authority and control over the defense, including settlement, against such claim or law suit or other action, and

12.3.2 the Indemnitee cooperates fully with the Indemnitor and its agents in defense of the claims or law suit or other action.

The Indemnitee shall have the right to participate in the defense of any such claim, complaint, suit, proceeding or cause of action referred to in this Section utilizing attorneys of its choice, at its own expense, provided however, that the Indemnitor shall, subject to the provisions of this Section 12.3 and the relevant provisions of Article 9, have full authority and control to handle any such claim, complaint, suit proceeding, or cause of action, including any settlement or other disposition thereof, for which the

Indemnitee seeks indemnification under this Section, provided however, subject to the following sentence, that no settlement or consent judgment or other voluntary final disposition may be entered into without the consent of the Indemnitee if such settlement would require the Indemnitee to be subject to an injunction or to make a monetary payment or would restrict the claims in or admit any invalidity of any Patents or significantly adversely affect the rights of the Indemnitee.

12.4 Consequential Losses

EXCEPT FOR EACH PARTY'S LIABILITY TO THE OTHER PARTY FOR INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS OR BREACH OF THE OBLIGATIONS RESPECTING CONFIDENTIAL INFORMATION, NO PARTY WILL BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY NATURE ARISING FROM SUCH PARTY'S ACTIVITIES UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT THIS LIMITATION SHALL NOT LIMIT THE INDEMNIFICATION OBLIGATION OF SUCH PARTY UNDER SECTIONS 12.1 OR 12.2 FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES RECOVERED BY A THIRD PARTY.

12.5 Actions Between the Parties

For the avoidance of doubt, in connection with actions brought by one Party hereto against the other (whether for breach of any provisions hereof, any representation or warranty made herein or otherwise), each Party expressly reserves all of its rights and remedies under applicable law, including, without limitation, the right to sue for breach of contract.

12.6 Insurance

12.6.1 Prior to or immediately upon the start of any human clinical trials or other product testing involving human subjects by Hana or its Licensee or Sublicensee ("**Human Clinical Trials**") and for a period of five (5) years after the expiration of this Agreement or the earlier termination thereof, Hana shall obtain and/or maintain, respectively, at its sole cost and expense, public liability and product liability insurance in not less than the following amounts, with a reputable and financially secure insurance carrier:

(a) Each Occurrence: $5,000,000 Dollars

(b) General Aggregate: $5,000,000 Dollars

Such product liability insurance shall insure against all liability, including personal injury, physical injury, or property damage arising out of the Manufacture, sale, distribution, or marketing in the Territory, by Hana or its Licensee or Sublicensee, of Product. Hana shall provide written proof of the existence of such insurance to INEX upon request.

12.6.2 At all times during the Term of this Agreement and for a period of five (5) years after the expiration of this Agreement or the earlier termination thereof, INEX shall obtain and/or maintain, respectively, at its sole cost and expense, comprehensive or commercial form general liability coverage, including contractual liability, and public liability insurance in not less than the following amounts, with a reputable and financially secure insurance carrier:

(a) Each Occurrence: $4,000,0000 (Canadian dollars)

(b) General Aggregate: $4,0000,000 (Canadian dollars)

INEX shall, at Hana's request, provide Hana with certificates of insurance and copies of the policies of insurance reflecting the coverage and amounts set forth in this Section 12.6.2. Each certificate of insurance shall contain a provision that the coverage afforded under the policy(ies) will not be canceled without thirty (30) days prior written notice (hand delivered or certified mail, return receipt requested) to Hana.

12.6.3 Each Party shall require that such Party's Representatives and Hana's Licensee and Sublicensee under this Agreement shall either:

(a) demonstrate to the other Party's reasonable satisfaction that such Representative or Hana's Licensee or Sublicensee has a program of self insurance no less adequate than that which a reasonable and prudent businessperson carrying on a similar line of business would require; or

(b) sixty (60) days prior to the earlier of the start of Human Clinical Trials or the first sale of any such Product by Hana's Licensee or Sublicensee, procure and maintain public liability and product liability insurance in reasonable amounts, with a reputable and financially secure insurance carrier.

12.6.4 Notwithstanding anything to the contrary contained in this Section 12.6, before the first date of commercial sale of any Product in the U.S., Hana and its Affiliate and Licensee and Sublicensee of each such Product will maintain in full force and effect, with reputable insurers or pursuant to a self-insurance program, product liability insurance to a minimum value of Five Million Dollars ($5,000,000) per each occurrence and in the aggregate.

Article 13 DISPUTE RESOLUTION

13.1 Negotiation and Arbitration

In the event of any dispute arising between the Parties concerning this Agreement, its enforceability, or its interpretation, the following procedure shall apply:

13.1.1 Prior to engaging in any formal dispute resolution with respect to any dispute, controversy or claim arising out of or in relation to this Agreement or the breach, termination or invalidity of this Agreement (each, a "**Dispute**"), the Chief Executive Officers of the Parties shall attempt to resolve the Dispute for a period not less than thirty (30) days.

13.1.2 Except for any Dispute with respect to Intellectual Property Rights, which may, at the option of the other Party, be dealt with by commencing an action in a court of competent jurisdiction, any Dispute that cannot be settled amicably by agreement of the Parties pursuant to Section 13.1.1 may, on mutual agreement of the Parties, be finally settled by a single arbitrator appointed pursuant to the rules of The Center for Public Resource's Institute for Dispute Resolution.

13.1.3 The place of arbitration shall be Seattle, Washington and the language to be used in the arbitration proceedings shall be English.

13.1.4 The award rendered in any arbitration shall be final and binding upon both Parties. The judgment rendered by the arbitrator(s) shall include costs of arbitration, reasonable legal fees and reasonable costs for any expert and other witnesses.

13.1.5 Nothing in this Agreement shall be deemed as preventing either Party from seeking specific performance, injunctive relief (or any other equitable relief), in respect of any actual or threatened breach of this Agreement, without proof of actual damages, from any court having jurisdiction over the Parties and the subject matter of the Dispute as necessary to protect either Party's name, Confidential Information or Intellectual property.

13.1.6 Notwithstanding the provisions of Subsections 13.1.2 through 13.1.5 inclusive, either Party shall be free to submit any Dispute relating to Intellectual Property Rights to any court having jurisdiction over the Parties and the subject matter of the Dispute and to seek such relief and remedies as are available in that court.

13.1.7 Each Party is required to continue to perform its obligations under this Agreement pending final resolution of any Dispute.

Article 14 TERM & TERMINATION

14.1 Term

14.1.1 The license grant by INEX to Hana in this Agreement shall become effective on the effective date of this Agreement and, unless earlier terminated in accordance with this Article 14, shall expire, on a country-by-country basis, in respect of each Product upon the later of:

(a) expiration of the last to expire of the Patents containing Valid Claims covering such Product in such country in the Territory;

(b) expiration of the last to expire period of product exclusivity covering such Product that is provided by the laws of such country in the Territory; and

(c) on the date that all Technology cease to be Confidential Information under the circumstances set out in Section 1.1.24.

(the "**Term**" of this Agreement).

14.2 Termination for Invalidity Challenge

If Hana or one of its Affiliates intends to assert or actually asserts in any court or other governmental agency of competent jurisdiction (but excluding any Dispute governed by Article 13 herein) that a Patent is invalid, unenforceable, or that no issued Valid Claim embodied in such patent excludes a Third Party from making, having made, using, selling, offering for sale, importing or having imported a Product in such jurisdiction:

14.2.1 Hana will not less than sixty (60) days prior to making any such assertion, provide to INEX a complete written disclosure of each and every basis then known to Hana or its Affiliate for such assertion and, with such disclosure, will provide INEX with a copy of any document or publication upon which Hana or its Affiliate intends to rely in support of such assertion; and.

14.2.2 INEX shall be entitled, upon not less than thirty (30) days prior written notice to Hana, to terminate the license granted to Hana under Article 2 or require an assignment by Hana to INEX of such Assigned Patent (as the case may be) for such Product(s) covered by the patent under challenge in the applicable jurisdiction; provided however, that INEX shall not terminate such license or require assignment of such Assigned Patent (as the case may be) if within thirty (30) days of Hana's receipt of INEX's notification hereunder, Hana has:

(a) confirmed by written notice to INEX that Hana no longer intends to challenge the validity or enforceability of any Patent; or

(b) provided to INEX, documentation to confirm Hana's withdrawal of its filing, submission or other process commenced in any court or other governmental agency of competent jurisdiction to challenge the validity or enforceability of any Patent.

14.3 Termination on Bankruptcy

14.3.1 This Agreement may be terminated by INEX by providing written notice to Hana upon:

(a) the bankruptcy, liquidation or dissolution of Hana;

(b) the filing of any voluntary petition for bankruptcy, dissolution, liquidation or winding-up of the affairs of Hana; or

(c) the filing of any involuntary petition for bankruptcy, dissolution, liquidation or winding-up of the affairs of Hana which is not dismissed within one hundred twenty (120) days after the date on which it is filed or commenced.

14.3.2 This Agreement may be terminated by Hana by providing written notice to INEX upon:

(a) the bankruptcy, liquidation or dissolution of INEX;

(b) the filing of any voluntary petition for bankruptcy, dissolution, liquidation or winding-up of the affairs of INEX; or

(c) the filing of any involuntary petition for bankruptcy, dissolution, liquidation or winding-up of the affairs of INEX which is not dismissed within one hundred twenty (120) days after the date on which it is filed or commenced. Notwithstanding the bankruptcy of INEX, or the impairment of performance by INEX of its obligations under this Agreement as a result of bankruptcy of INEX, to the extent that INEX retains the rights necessary to grant the licenses granted in this Agreement, Hana shall be entitled to retain the licenses granted herein, subject to INEX's rights to terminate this Agreement as provided in this Agreement.

14.3.3 In the event INEX shall: (1) make an assignment for the benefit of creditors, or petition or apply to any tribunal for the appointment of a custodian, receiver, or trustee for all or a

substantial part of its assets; (2) commence any proceeding under any bankruptcy, dissolution, or liquidation law or statute of any jurisdiction whether now or hereafter in effect; (3) have had any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or an adjudication or appointment is made, and which remains undismissed for a period of one hundred twenty (120) calendar days or more; (4) take any corporate action indicating its consent to, approval of, or acquiescence in any such petition, application, proceeding, or order for relief or the appointment of a custodian receiver, or trustee for all or substantial part of its assets; or (5) permit any such custodianship, receivership, or trusteeship to continue undischarged for a period of one hundred twenty (120) calendar days or more (each, a "**Bankruptcy Action**"), and the occurrence of any of the foregoing causes the applicable Party or any Third Party, including, without limitation, a trustee in bankruptcy, to be empowered under state or federal law to reject this Agreement or any Agreement supplementary hereto, then Hana shall have the following rights:

(a) in the event of a rejection of this Agreement or any agreement supplementary hereto, Hana shall be permitted to receive and use any Technology and Confidential Information for the purpose of enabling it to mitigate damages caused to Hana because of the rejection of this Agreement;

(b) in the event of a rejection of this Agreement or any Agreement supplementary hereto, Hana may elect to retain its rights under this Agreement or any agreement supplementary hereto as provided in Section 365(n) of the United States Bankruptcy Code or comparable provision of the laws of any other country in the Territory. Upon Hana's written request to INEX or the bankruptcy trustee or receiver, INEX or such bankruptcy trustee or receiver shall not interfere with the rights of Hana as provided in this Agreement or in any agreement supplementary thereto;

(c) in the event of a rejection of this Agreement or any Agreement supplementary hereto, Hana may elect to retain its rights under this Agreement or any agreement supplementary hereto as provided in Section 365(n) of the United States Bankruptcy Code or comparable provision of the laws of any other country in the Territory without prejudice to any of its rights of setoff and/or recoupment with respect to this Agreement under the Bankruptcy code or applicable non-bankruptcy law; or

(d) in the event of a rejection of this Agreement or any Agreement supplementary hereto, Hana may retain its rights under this Agreement or any agreement supplementary hereto as provided in Section 465(n) of the United States Bankruptcy Code or comparable provision of the laws of any other country in the Territory without prejudice to any of its rights under Section 503(b) of the Bankruptcy Code or comparable provision of the laws of any other country in the Territory.

Notwithstanding anything to the contrary in this Section 14.3.3:

(e) INEX will provide Hana with thirty (30) days prior written notice of INEX's regulatory filings in respect of any reorganization or arrangement proposed by INEX;

(f) any reorganization or arrangement involving INEX, its affiliates and/or its wholly owned subsidiaries which does not prejudice the rights of Hana shall not constitute a Bankruptcy Action for the purposes of this Section 14.3.3 and shall not give rise to the remedies set forth in this Section 14.3.3; and

(g) if Hana asserts any rights under Section 14.3.3(a), 14.3.3(b), 14.3.3(c) or 14.3.3(d), Hana shall continue to be bound by all liabilities and obligations imposed upon Hana, its Affiliates, Licensees and Sublicensees, any remedies available to INEX under this Agreement.

14.4 Termination for Material Breach

14.4.1 Except as otherwise provided in this Agreement, either Party shall be entitled to terminate this Agreement by written notice to the other Party in the event that the other Party is in material breach of its obligations hereunder and fails to remedy any such breach within ninety (90) days after notice thereof by the Party alleging breach. Any such notice shall:

(a) specifically state that the Party not in default intends to terminate this Agreement in the event that the other Party fails to remedy the breach; and

(b) expressly set forth the actions required of the other Party to remedy the breach.

If such breach is not corrected, the Party not in breach shall have the right to terminate the license hereunder in respect of such Product or such country as to which a breach remains unremedied] (to the extent such license is revocable or otherwise subject to termination as provided herein) by giving written notice to the other Party provided the notice of termination is given within six (6) months of one Party's discovery of the other Party's default and prior to correction of the default.

Either Party shall be entitled to terminate the licenses granted hereunder (to the extent such license is revocable or otherwise subject to termination as provided herein) by written notice to the other Party in the event that the other Party is in material default of the Non-Competition provisions of the Asset Purchase Agreement, and fails to remedy any such default within ninety (90) days after notice thereof.

14.4.2 If a Dispute arises as to whether either Party is in material breach of its obligations hereunder, or as to whether such Party has cured any such breach, either Party may invoke the dispute resolution procedure described in Article 13 to resolve such Dispute.

14.5 No Limitation on Remedies

Upon any termination of this Agreement pursuant to this Article 14, neither Party shall be relieved of any obligations incurred prior to such termination. Termination of the Agreement in accordance with the provisions hereof shall not limit remedies that may be otherwise available in law or equity.

14.6 Consequences of Termination

14.6.1 Notwithstanding anything to the contrary herein, if INEX terminates this Agreement pursuant to this Article 14, within thirty (30) days following the effective date of such termination, Hana shall assign to INEX:

(a) Hana's entire right, title and interest in and to the Thomas Patents subject to the terms and conditions set forth in the MD Anderson License; and;

(b) Hana's entire right, title and interest in and to Hana's joint ownership of the Sarris Patents subject to the terms and conditions set forth in the MD Anderson License.

14.6.2 Upon any termination by INEX of the licenses granted by INEX or of this Agreement:

(a) Hana shall not be relieved of any obligations incurred prior to such termination;

(b) each Party shall promptly return to the other Party all written Confidential Information, and all copies thereof (except for one archival copy to be retained solely for the purpose of confirming which information to hold in confidence hereunder); and

(c) all Licenses and Sublicenses granted hereunder shall forthwith terminate.

14.6.3 The termination by INEX of the licenses granted by INEX or of this Agreement will be without prejudice to:

(a) INEX's right to receive all payments accrued from Hana pursuant to Section 8.6 as of the effective date of such termination including, without limitation, payment for all out-of-pocket costs and personnel costs which INEX has properly and reasonably incurred in providing IP Services and in following instructions received from Hana up to the date of such termination. For greater certainty, such costs shall include INEX's reasonable and necessary non-cancelable obligations to Third Parties actually incurred by INEX in the performance if its obligations under this Agreement prior to the date of notice of termination, but arising after the date of notice of termination; and

(b) any other legal, equitable or administrative remedies as to which either Party may then or thereafter become entitled.

14.7 Disposition of Product

Upon any termination of this Agreement pursuant to Sections 14.3 and 14.4, Hana shall within thirty (30) days after the effective date of such termination notify INEX in writing of the amount of each Product which Hana, its Affiliates, Licensees and Sublicensees then have completed on hand, the sale of which would, but for the termination, be subject to royalty. At INEX's sole election, evidence by written consent, INEX may grant Hana, its Affiliates, and their respective Licensees and/or Sublicensees written permission during the one (1) year following such termination to sell that amount of Product, provided that Hana shall pay the aggregate royalty thereon at the conclusion of the earlier of the last such sale or such one (1) year period. Except as provided under this Section 14.7, all sublicenses granted by Hana shall forthwith terminate upon the termination of this Agreement.

14.8 Delivery of Data and Materials and License

Upon termination of the license granted by INEX to Hana in respect of a particular Product in a particular country(ies) under Section 14.4 by INEX for Hana's uncured material default, or Section 14.3.1 for invalidity challenge, or Section 5.5 for lack of sales:

14.8.1 Provided that INEX shall be responsible for any reasonable associated out-of-pocket costs associated with the following activities, Hana shall deliver to INEX a copy of all data (including animal and human) and such other information, Materials, materials (including biological materials) and documents in Hana's possession or control arising from the Development of Product under this Agreement that INEX may reasonably require in order to obtain and/or maintain Regulatory Approvals for such Product in the applicable country(ies). INEX may, directly or through a licensee, exploit such data, other information, Materials, materials (including biological materials) and documents to develop, make, have made, import, use, offer for sale and sell Product in such countries.

14.8.2 Hana shall also, within thirty (30) days after the effective date of such termination, use all reasonable endeavors to take all steps and execute all documents reasonably necessary to assign and/or transfer or permit reference to (to the extent legally permissible in the relevant country) all Regulatory Submissions and Regulatory Approvals arising from the Development of Product under this Agreement in Hana's name or in the name of Hana's Representatives to INEX or its designee, provided that INEX shall be responsible for any reasonable associated out-of-pocket costs of transfer.

14.8.3 In the event that no such assignment and/or transfer and/or reference pursuant to Section 14.8.2 may legally be made, then Hana shall forthwith surrender to INEX or its designee such Regulatory Submissions and Regulatory Approvals for cancellation.

14.8.4 Upon INEX's request, Hana shall within thirty (30) days after the effective date of such termination, deliver to INEX or its designee any and all documents relating to applications, correspondences with Regulatory Authorities, Regulatory Submissions, Regulatory Approvals, and post-Regulatory Approval Pharmacovigilance in its possession or control arising from the Development of Product that are reasonably required for Commercialization of Product in such country(ies), provided that INEX shall be responsible for any reasonable associated out-of-pocket costs of transfer.

Except to the extent set out in the last sentence of Section 14.8.1, Hana's transfer to INEX of any data, other information, Materials, materials (including biological materials) or documents shall not grant INEX any license or right (whether express, implied or by estoppel) in any Intellectual Property Rights owned or controlled by Hana.

Article 15 GENERAL PROVISIONS

15.1 Amendments

No amendment, modification, supplement, termination or waiver of any provision of this Agreement will be effective unless in writing signed by the Parties and then only in the specific instance and for the specific purpose given.

15.2 Assignment

Neither Party may assign this Agreement in whole or in part without the prior written consent of the other Party, provided that either Party may assign this Agreement to an Affiliate or a successor in interest on written notice to the other Party. Any permitted assignee shall assume all obligations of its assignor under this Agreement. No assignment shall relieve any Party of responsibility for the performance of any accrued obligation that such Party then has under this Agreement.

15.3 Counterparts; Facsimile

This Agreement may be executed in any number of counterparts (either originally or by facsimile), each of which shall be deemed to be an original, and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of the agreement to produce or account for more than one such counterpart.

15.4 Entire Agreement

This Agreement (including Exhibits) constitutes the entire agreement between the Parties concerning the subject matter hereof, and supersedes all written or oral prior agreements or understandings with respect thereto.

15.5 Enurement

This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns.

15.6 Exhibits

The Exhibit attached hereto shall be deemed to form an integral part of this Agreement.

15.7 Force Majeure

In the event that either Party is prevented from performing or is unable to perform any of its obligations under this Agreement due to any act of God; fire; casualty; flood; war; strike; lockout; failure of public utilities; injunction or any act, exercise, assertion or requirement of governmental authority; epidemic; destruction of production facilities; riots; insurrection; inability to procure or use materials, labor, equipment, transportation or energy; or any other cause beyond the reasonable control of the Party invoking this Section 15.7 if such Party shall have used its reasonable efforts to avoid such occurrence, such Party shall give notice to the other Party in writing promptly, and thereupon the affected Party's performance shall be excused and the time for performance shall be extended for the period of delay or inability to perform due to such occurrence.

15.8 Further Assurances

Each Party shall co-operate with the other, and execute and deliver, or cause to be executed and delivered, all such other documents and instruments and take all such other actions as such Party may be reasonably requested by the other Party to take from time to time, consistent with the terms of this Agreement in order to implement the provisions and purposes of this Agreement.

15.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington and the laws of the United States of America applicable therein.

15.10 Headings

The headings in this Agreement are solely for convenience of reference and shall not be used for purposes of interpreting or construing the provisions hereof.

15.11 Independent Legal Advice

Both Parties sought external legal counsel representation in the preparation of this Agreement, and neither Party shall be construed to be the drafter hereof.

15.12 International Sale of Goods Act

The Parties acknowledge and agree that the International Sale of Goods Act and the United Nations Convention on Contracts for the International Sale of Goods have no application to this Agreement.

15.13 Jurisdiction

Subject to Article 13, the Parties agree that the courts of the State of Washington will have exclusive jurisdiction to determine all disputes and claims arising between the Parties.

15.14 Non-Use of Names

Neither Party shall use the name of the other Party, nor any adaptation thereof, in any advertising, promotional or sales literature without prior written consent obtained from such other Party in each case (which consent shall not be unreasonably withheld or delayed).

15.15 Notices

Notices provided under this Agreement to be given or served by either Party on the other will be given in writing and served personally, by prepaid registered mail return receipt requested, by a reputable courier company or by means of facsimile, to the following respective addresses or to such other addresses as the Parties may hereafter advise each other in writing. Each such notice shall be deemed delivered (i) on the date delivered if by personal delivery, (ii) on the date telecommunicated if by facsimile, and (iii) on the date upon which the return receipt is signed or delivery is refused, as the case may be, if mailed:

If to Hana:

Hana BioSciences, Inc.
7000 Shoreline Court, Suite 370,
South San Francisco, CA 94080
U.S.A

Attention: President and/or C.E.O.

Tel:
Fax:

If to INEX:

Inex Pharmaceuticals Corporation
#200 – 8900 Glenlyon Parkway
Burnaby, B.C.
Canada V5J 5J8

Attention: President and/or C.E.O.

Tel: (604) 419-3200
Fax: (604) 419-3201

Any Party may, at any time, give notice of any change of address to the other and the address specified therein shall be such Party's address for the purpose of receiving notices.

15.16 No Implied Rights

Nothing in this Agreement will be deemed or implied to be the grant by one Party to the other of any right, title or interest in any product (including Product), Confidential Information, trade mark, trade dress or any other intellectual property or any other proprietary right of the other, except as is expressly provided for herein

15.17 No Solicitation or Hiring of Employees

The Parties agree that, during the Term and for a period of twelve (12) months thereafter, it will not directly or indirectly induce any employee of the other Party to terminate their employment with the other Party without the prior written consent of the other Party. This Section shall not prevent or prohibit any employee from one Party directly contacting the other Party for employment or employment opportunities or from responding to published employment advertisements, and under these limited circumstances, this restriction shall not prevent either Party from interviewing and/or hiring such an employee.

15.18 No Third-Party Rights

No provision of this Agreement will be deemed or construed in any way to result in the creation of any rights or obligation in any Person not a party to this Agreement.

15.19 No Waiver

No condoning, excusing or overlooking by any Party of any default or breach by the other Party in respect of any terms of this Agreement shall operate as a waiver of such Party's rights under this Agreement in respect of any continuing or subsequent default or breach, and no waiver shall be inferred from or implied by anything done or omitted by such Party, save only an express waiver in writing.

15.20 Publicity

Except as required by law, stock exchange or regulatory authority:

15.20.1 neither Party, nor any of its Affiliates, shall originate any publicity, news release or other public announcement, written or oral, relating to this Agreement or the existence of an arrangement between the Parties, without the prior written approval of the other Party and agreement upon the nature and text of such announcement or disclosure, which approval shall not be unreasonably withheld or delayed; and

15.20.2 the Party desiring to make any such public announcement or other disclosure shall inform the other Party of the proposed announcement or disclosure in reasonably sufficient time prior to public release, and shall provide the other Party with a written copy thereof, in order to allow such other Party to comment upon such announcement or disclosure.

15.21 Relationship of Parties

It is not the intent of the Parties hereto to form any partnership or joint venture. Each Party shall, in relation to its obligations hereunder, be deemed to be and shall be an independent contractor, and nothing in this Agreement shall be construed to give such Party the power or authority to act as agent for the other Party for any purpose, or to bind or commit the other Party in any way whatsoever.

15.22 Rights and Remedies

The rights and remedies available under this Agreement shall be cumulative and not alternative and shall be in addition to and not a limitation of any rights and remedies otherwise available to the Parties at law or in equity. No exercise of a specific right or remedy by any Party precludes it from or prejudices it in exercising another right or pursuing another remedy or maintaining an action to which it may otherwise be entitled either at law or in equity.

15.23 Severability

If any one or more of the provisions contained in this Agreement is found by any court or arbitrator for any reason, to be invalid, illegal or unenforceable in any respect in any jurisdiction:

15.23.1 such provision shall be severable from the remainder of the Agreement in the jurisdiction in which such provision was found to be invalid, illegal or unenforceable;

15.23.2 the validity, legality and enforceability of such provision will not in any way be affected or impaired thereby in any other jurisdiction and the validity, legality and enforceability of the remaining provisions contained herein will not in any way be affected or impaired thereby, unless in either case as a result of such determination this Agreement would fail in its essential purpose; and

15.23.3 the Parties will use their best efforts to substitute for any provision that is invalid, illegal or unenforceable in any jurisdiction a valid, legal and enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of such invalid, illegal or unenforceable provision and of this Agreement.

15.24 Survival

Notwithstanding any termination of this Agreement, the provisions of Article 1, Sections 2.4.2(c), 2.4.2(d), 2.5, Article 3, Sections 5.5.2(c), 6.2, 6.3, 7.1, 7.3, 7.4.1, 7.4.2, 8.3.3, 8.5.3, 8.5.4, 8.5.6, 8.6.2, 8.6.3, 8.7, 8.8, Article 9, Article 10, Article 11, Article 12, Article 13, Article 14, Article 15, as well as under any other provisions which by their nature are intended to survive any such termination, will survive the termination of this Agreement.

15.25 Wording

Wherever the singular or masculine form is used in this Agreement, it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa, as the context or the Parties require.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as a sealed instrument in their names by their properly and duly authorized officers or representatives.

HANA BIOSCIENCES, INC.

by its authorized signatory:

/s/ Mark J. Ahn

Mark J. Ahn
President and Chief Executive Officer

INEX PHARMACEUTICALS CORPORATION

by its authorized signatory:

/s/ Timothy Ruane

Timothy Ruane
President and Chief Executive Officer

Exhibit 1.1.9 to Amended and Restated License Agreement

The following pages comprise the Assigned Patents:

Inex File Number	Title	Serial/Patent Numbers	Inventors	Origin	Ownership of Prosecution	Hana Cost Allocation
[*]	[*]	[*]	[*]	[*]	[*]	[*]

***Confidential Treatment Requested.**

Exhibit 1.1.54 to Amended and Restated License Agreement

The following pages comprise the Licensed Patents:

Inex File Number	Title	Serial/Patent Numbers	Inventors	Origin	Ownership of Prosecution	Hana Cost Allocation
[*]	[*]	[*]	[*]	[*]	[*]	[*]

***Confidential Treatment Requested.**

Exhibit 1.1.103 to Amended and Restated License Agreement

The following is included in Technology:

LABORATORY NOTEBOOKS

Inex Lab Book #	Issued to	Date	Location
[*]	[*]	[*]	[*]

***Confidential Treatment Requested.**

EXHIBIT 4.3

* Confidential Treatment has been requested for the marked portions of this exhibit pursuant to Rule 24B-2 of the Securities Exchange Act of 1934, as amended.

Execution Copy

SUBLICENSE AGREEMENT

THIS AGREEMENT is dated effective January 8, 2007,

AMONG:

ALNYLAM PHARMACEUTICALS, INC., a corporation duly incorporated under the laws of the State of Delaware and having an office at 300 Third Street, 3rd Floor, Cambridge, MA 02142

("***Alnylam***")

AND:

INEX PHARMACEUTICALS CORPORATION, a corporation duly incorporated under the laws of the Province of British Columbia and having an office at 100 - 8900 Glenlyon Parkway , in the City of Burnaby, in the Province of British Columbia, V5J 5J8

(the "***Inex***")

WHEREAS:

A. Inex is the exclusive licensee of certain Patents (as defined below) owned by the University of British Columbia (the "**University**") under a License Agreement dated effective July 1, 1998, as amended (as so amended, the "**University License Agreement**").

B. Inex and Alnylam have entered into a License and Collaboration Agreement of even date with this Agreement (the "**LCA**") and have entered into a Consent Agreement with the University of even date with this Agreement (the "**Consent Agreement**");

C. Under Section 6.4 of the LCA, the parties are to enter into a separate agreement pursuant to which Inex is to sublicense certain of its rights under the University License Agreement to Alnylam; and

D. This Agreement is such separate agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and of the mutual covenants herein set forth, the parties hereto have covenanted and agreed as follows:

1.0 DEFINITIONS:

1.1 In this Agreement, unless a contrary intention appears, the following words and phrases shall mean:

(a) "**1999 CRA**": the Collaborative Research Agreement between Inex and the University dated effective January 1, 1999 and successor agreements thereto.

(b) "**2007 CRA**": the Collaborative Research Agreement between Inex and the University dated effective January 1, 2007 and successor agreements thereto

(c) "**Affiliate**" or "**Affiliated Company**" or "**Affiliated Companies**": with respect to any specified person, any other person that directly controls, is controlled by, or is under common control with, such specified person. For the purposes of this Article 1.1(b), "**control**" shall mean:

(i) in the case of corporate entities, the direct or indirect ownership of at least 50% of the stock or participating shares entitled to vote in the general meeting of shareholders, and

(ii) in the case of a partnership or other legal entity, ownership of at least 50% interest in the income or at least a 50% interest in the power to direct the management or policies of such entity.

For the purposes of this Agreement, the parties agree that Protiva Biotherapeutics Inc. shall not be an Affiliate of Inex.

(d) "**Alnylam Field**": means the use of Products for the treatment, prophylaxis and diagnosis of diseases in humans.

(e) "**Confidential Information**" means any and all information and data, and all scientific, pre-clinical, clinical, regulatory, manufacturing, marketing, financial and commercial information or data, whether communicated in writing or orally or by any other method, which is provided by one party to the other party in connection with this Agreement.

(f) "**Date of Commencement**": July 1, 1998.

(g) "**Discloser**" means a party to this Agreement providing its Confidential Information to the other party as Recipient.

(h) "**miRNA Product**" means a product containing, comprised of or based on native or chemically modified RNA oligomers designed to either modulate a micro RNA transcript and/or provide the function of a micro RNA transcript.

(i) "**Patent(s)**": all Valid Claims of the following intellectual property:

(i) the Canadian, United States and foreign patents and/or patent applications listed in Schedule "A";

(ii) Canadian, United States and foreign patents issued from the applications listed in Schedule "A" and from any and all divisionals and continuations of these applications;

(iii) claims of Canadian, United States and foreign continuation-in-part applications and of the resulting patents, which are directed to subject matter specifically described in the Canadian, United States, and foreign applications listed in Schedule "A"

(iv) claims of all foreign patent applications, and of the resulting patents, which are directed to subject matter specifically described in the Canadian and United States patents and/or patent applications described in (i), (ii) or (iii) above; and

(v) any reissues of United States, Canadian or foreign patents described in (i), (ii), (iii) or (iv) above.

(j) "**Product(s)**": any RNAi Product or miRNA Product that, the manufacture, use or sale of which would, but for the license granted herein, infringe a Valid Claim of one or more of the Patent(s).

(k) "**Recipient**": means a party to this Agreement receiving Confidential Information of the other party as Discloser.

(l) "**Related Parties**": means Alnylam's Affiliates and its and their sublicensees.

(m) "**RNAi Product**" means a product containing, comprised of or based on small interfering RNAs or small interfering RNA derivatives or other moieties effective in gene function modulation and designed to modulate the function of particular genes or gene products by causing degradation of a target mRNA to which such small interfering RNAs or small interfering RNA derivatives are complementary, and that is not an miRNA Product.

(n) "**Technology**": the Patent(s) and any and all knowledge, know-how and/or technique or techniques invented, developed and/or acquired, being invented, developed and/or acquired by the University solely or jointly with Inex relating to the Patent(s) as listed in Schedule "***A***" hereto, as amended from time to time, including, without limitation, all research, data, specifications, instructions, manuals, papers or other materials of any nature whatsoever, whether written or otherwise, relating to same.

(o) "**UBC Trade-marks**": any mark, trade-mark, service mark, logo, insignia, seal, design, symbol, or device used by the University in any manner whatsoever.

(p) "**Valid Claim**": shall mean either:

(i) a claim of an issued and unexpired patent included within the Technology, which has not been held unenforceable, unpatentable or invalid by a court or other governmental agency of competent jurisdiction, and which has not been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, or

(ii) a claim in a hypothetical issued patent corresponding to a pending claim in a patent application within the Technology, provided that if such pending claim has not issued as a claim of an issued patent within the Technology within six years after the filing date of such patent application, such pending claim shall not be a Valid Claim for purposes of this Agreement. In the event that a claim of an issued patent within the Technology is held by a court or other governmental agency of competent jurisdiction to be unenforceable, unpatentable or invalid, and such holding is reversed on appeal by a higher court or agency of competition jurisdiction, such claim shall be reinstated as a Valid Claim hereunder.

2.0 PROPERTY RIGHTS IN AND TO THE TECHNOLOGY:

2.1 The parties hereto hereby acknowledge and agree that the University owns any and all right, title and interest in and to the Technology.

2.2 Alnylam shall, at the request of Inex, enter into such further agreements and execute any and all documents as may be required to ensure that ownership of the Technology remains with the University.

2.3 On the last working day of June of each and every year during which this Agreement remains in full force and effect, Inex shall deliver in writing to Alnylam the details of any Patents filed during the previous twelve month period.

3.0 GRANT OF LICENSE:

3.1 In consideration of the Royalty payments reserved in this Agreement, and the covenants on the part of Alnylam contained herein, Inex hereby grants to Alnylam an exclusive worldwide sublicense under the rights granted Inex in the University License Agreement to use and sublicense the Technology to research, develop, manufacture, have made, distribute, import, use, sell and have sold Products in and for the Alnylam Field on the terms and conditions hereinafter set forth during the term of this Agreement.

3.2 Subject to the terms and conditions of this Agreement and the LCA, Alnylam hereby grants Inex:

(a) a non-exclusive, royalty-free license under Alnylam's rights in the Technology solely for the purposes of performing (i) Inex's obligations under the Collaboration (as defined in the LCA) with respect to Products in accordance with the Research Plan as set forth in Article 3 of the LCA, and (ii) the Manufacturing Activities (as defined in the LCA). Such license does not include the right to grant sublicenses except to subcontractors of Inex permitted under Section 3.5 of the LCA or the Supply Agreement (as defined in the LCA).

(b) an exclusive, royalty-free license under Alnylam's rights in the Technology to develop, manufacture and commercialize Inex Royalty Products (as defined in the LCA) for the treatment, prophylaxis and diagnosis of diseases in humans in and for the Territory (as defined in the LCA). Such license includes the right to grant sublicenses as provided in Section 6.2 of the LCA.

3.3 Notwithstanding anything to the contrary in this Article 3, the parties acknowledge and agree that the University may use the Technology without charge in any manner whatsoever for non-commercial research, scholarly publication, educational or other non-commercial use.

4.0 SUBLICENSING:

4.1 [Intentionally omitted].

4.2 Alnylam shall have the right to grant sublicenses to third parties and to its Affiliates with respect to the Technology upon written notice to Inex and the University, provided that:

(a) Alnylam will cause the Affiliate or third party so sublicensed (i) to perform the terms of this Agreement as if such Affiliate or third party were Alnylam hereunder; (ii) to represent that such Affiliate or third party is not, as of the effective date of the relevant sublicense agreement, engaged in a dispute with the University; and (iii) to be subject to a written sublicense agreement that contains terms consistent with the terms of this Agreement as described in Section 4.2(c) and that provides that the University is a third party beneficiary of, and has the right to enforce directly against the sublicensee, the terms in such sublicense agreement that are consistent with the terms listed in Section 4.2(c)(ii); and

(b) any Affiliate so sublicensed shall confirm in writing that it agrees to be bound by the terms and conditions of this Agreement, including without limitation, the covenants in this Agreement to pay any amounts due to Inex under the terms of this Agreement. The obligations and liabilities of such Affiliate and Alnylam under this Agreement shall be joint and several and Inex shall not be obliged to seek recourse against an Affiliate before enforcing its rights against Alnylam. For greater certainty it is hereby confirmed that any default or breach by an Affiliate of any term of this Agreement will also constitute a default by Alnylam under this Agreement.

(c) As used in this Section 4.2, the “terms of this Agreement” means (i) the terms set forth in this Agreement; (ii) terms in such sublicense agreement consistent with Sections 1.3, 1.7, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8 and 2.13 of the Consent Agreement among Alnylam, Inex and the University of even date with this Agreement; and (iii) other customary and reasonable terms, including but not limited to terms relating to breach and termination, that are consistent with Alnylam’s obligations to Inex under this Agreement and the LCA.

4.3 Alnylam will furnish Inex with a copy of each sublicense granted within 30 days after execution. Any such copy may contain reasonable redactions as Alnylam may make, provided that such redactions do not include provisions necessary to demonstrate compliance with the requirements of this Agreement. If the University requests of Inex that a less redacted version of any sublicense be provided to the University, Alnylam agrees to discuss in good faith with Inex and the University the University’s concerns.

4.4 Any sublicense (including any sublicense granted to an Affiliate) granted by Alnylam shall contain covenants by the sublicensee to observe and perform similar terms and conditions to those in this Agreement and those terms set forth in Section 4.2(c), including, without limitation, a restriction on the grant of further sublicenses without notice to Inex and the University.

4.5 Any sublicense granted by Alnylam hereunder shall survive termination of the licenses or other rights granted to Alnylam under this Sublicense Agreement, and be assumed by Inex as long as (a) the sublicensee is not then in breach of its sublicense agreement, (b) the sublicensee agrees in writing to be bound to Inex as a sublicensor and to the University under the terms and conditions of this Agreement, and (c) the sublicensee agrees in writing that in no event shall Inex assume any obligations or liabilities, or be under any obligation or requirement of performance, under any such sublicense extending beyond Inex's obligations and liabilities under this Agreement.

5.0 ROYALTIES AND CONSIDERATION:

5.1 The parties acknowledge and agree that the consideration for the rights granted Alnylam to the Technology under this Agreement, and the consideration for the rights granted by Inex to Alnylam to other technologies under the LCA, is the payment by Alnylam of milestones and royalties in accordance with the terms of Article 7 of the LCA ("***Royalty***" or "***Royalties***").

5.2 [Intentionally omitted]

5.3 [Intentionally omitted]

5.4 [Intentionally omitted]

5.5 [Intentionally omitted]

5.6 [Intentionally omitted]

5.7 [Intentionally omitted]

5.8 [Intentionally omitted]

5.9 [Intentionally omitted]

5.10 [Intentionally omitted]

5.11 [Intentionally omitted]

5.12 [Intentionally omitted]

5.13 [Intentionally omitted]

6.0 PATENTS:

6.1 Inex shall pay all costs of prosecuting and maintaining the Patents.

6.2 Inex shall have the right, with reasonable input from Alnylam, to identify any process, use or products arising out of the Technology that may be patentable and shall take all reasonable steps to apply for a patent in the name of the University provided that Inex pays all costs of applying for, registering, and maintaining the patent in those jurisdictions in which Inex determines that a Patent is required.

6.3 On the issuance of a patent for the Technology Inex shall have the right to become, and shall become the licensee of the same all pursuant to the terms contained in the University License Agreement, and Alnylam shall have the right to become, and shall become the sublicensee of such rights pursuant to the terms contained in this Agreement.

6.4(a) For the purposes of this Article 6.4, "**Improvements**" means, in respect of any Patents: (i) any and all patents and any and all patent applications that claim priority to such Patents (whether complete or incomplete or whether filed or unfiled) including, but not limited to, provisional, non-provisional, continuations and continuations-in-part, and divisional patent applications and registrations in any jurisdiction world-wide; and (ii) any and all inventions arising from such patents or patent applications whether patented or not. Notwithstanding anything to the contrary in the University License Agreement, ownership of all Improvements (A) that fall within clause (i) of this Section 6.4(a) will be assigned to the University; and (B) that fall within clause (ii) of this Section 6.4(a) will follow inventorship as determined by U.S. patent law, except that the University will own all Improvements made by its employees, whether alone or jointly with Inex, under the 1999 CRA or 2007 CRA.

(b) Inex will promptly notify Alnylam of any disclosure under the 2007 CRA of new UBC Intellectual Property (as that term is defined in the 2007 CRA) created under the 2007 CRA that constitutes (a) INEX Collaboration IP or Joint Collaboration IP under the LCA, or (b) INEX Technology (as that term is defined in the LCA) to which Alnylam has a license under Section 6.1.1(a) of the LCA. Inex will promptly provide to Alnylam such information regarding such new UBC Intellectual Property as Alnylam may reasonably request including, but not limited to, all information regarding such new UBC Intellectual Property that is provided to Inex by the University. If requested by Alnylam within the six (6) month period provided under Section 11.1.2 of the 2007 CRA, Inex will exercise its Option under Section 11.1 of the 2007 CRA to make such new UBC Intellectual Property subject to the terms of the University License Agreement and this Agreement as requested by Alnylam.

6.5 Inex shall advise Alnylam in writing of all actions which it undertakes concerning the application and maintenance of the Patents, and shall provide copies of the substantive correspondence and documents which it sends or receives in connection therewith.

6.6 Should Inex:

(a) discontinue pursuing one or more patent applications, patent protection or patent maintenance in relation to the Patent(s) or any continuation, continuation in-part, division, reissue, re-examination or extension thereof; or

(b) not pursue patent protection in relation to the Patent(s) in any specific jurisdiction; or

(c) discontinue or not pursue patent protection in relation to any further process, use or products arising out of the Technology in any jurisdiction;

then Inex shall provide Alnylam with notice of its decision to discontinue or not to pursue such patent protection concurrently with the notice provided to the University by Inex pursuant to Section 6.6 of the University License Agreement.

6.7 [Intentionally omitted]

6.8 [Intentionally omitted]

7.0 WARRANTY:

7.1 [Intentionally omitted]

7.2 The parties acknowledge and agree that the International Sale of Goods Act and the United Nations Convention on Contracts for the International Sale of Goods have no application to this Agreement.

7.3 [Intentionally omitted]

7.4 [Intentionally omitted]

7.5 In the event of an alleged infringement by a third party of the Technology or any right with respect to the Technology, or any complaint by Alnylam alleging any infringement by a third party with respect to the Technology or any right with respect to the Technology, in each case that is licensed to Alnylam under this Agreement, Alnylam shall, subject to Inex having first obtained the University's consent as required by Article 7 of the University License Agreement, have the right to prosecute such litigation. Inex agrees to co-operate reasonably, and to ensure that the University co-operates reasonably, to the extent of executing all necessary documents and to vest in Alnylam the right to institute any such suits, so long as all the direct or indirect costs and expenses of bringing and conducting any such litigation or settlement shall be borne by Alnylam and in such event all recoveries shall inure to Alnylam. In the event of any litigation:

(a) Alnylam shall keep Inex fully informed of the actions and positions taken or proposed to be taken by Alnylam (on behalf of itself or a sublicensee) and actions and positions taken by all other parties to such litigation;

(b) solely to the extent that any final disposition of the litigation that will restrict the claims in or admit any invalidity of any Patent(s) or significantly adversely affect Inex's rights, no such disposition of the litigation shall be taken without full consultation with and approval by Inex, not to be unreasonably withheld or delayed; and

(c) Inex may elect to participate formally in the litigation to the extent that the court may permit, but any additional expenses generated by such formal participation shall be paid by Inex (subject to the possibility of recovery of some or all of such additional expenses from such other parties to the litigation).

(d) [Intentionally omitted]

7.6 In the event of an alleged infringement of the Technology or any third party use of the Technology which is Confidential Information, Alnylam and Inex agree that they shall reasonably cooperate to enjoin such third party's use of the Technology.

7.7 If any complaint alleging infringement or violation of any patent or other proprietary rights is made against Alnylam (or a sublicensee of Alnylam) with respect to the manufacture, use or sale of a Product, the following procedure shall be adopted:

(a) Alnylam shall promptly notify Inex upon receipt of any such complaint and shall keep Inex fully informed of the actions and positions taken by the complainant and taken or proposed to be taken by Inex (on behalf of itself or a sublicensee),

(b) all costs and expenses incurred by Alnylam (or any sublicensee of Alnylam) in investigating, resisting, litigating and settling such a complaint, including the payment of any award of damages and/or costs to any third party, shall be paid by Alnylam (or any sublicensee of Alnylam, as the case may be), and

(c) [Intentionally omitted]

(d) if as a result of such suit it is decided that a Product infringes any valid claim on a patent owned by another, Inex shall consider fair distribution of Royalty income.

8.0 [INTENTIONALLY OMITTED]

9.0 PUBLICATION AND CONFIDENTIALITY:

9.1 As between Inex and Alnylam, the confidentiality, non-use and publication provisions of Article 8 of the LCA shall apply to the Confidential Information of the parties. Notwithstanding any termination or expiration of this Agreement, such obligations shall survive and be binding upon the Recipient, its successors and assigns.

9.2 [Intentionally omitted]

9.3 [Intentionally omitted]

9.4 [Intentionally omitted]

9.5 [Intentionally omitted]

9.6 Alnylam acknowledges that the policies of the University require that the results of the University's research be publishable, subject to Article 9.0 of the University License Agreement. Inex agrees that it will promptly provide to Alnylam any proposed publication or presentation provided to Inex by the University under Section 9.6 of the University License Agreement that relates to the rights sublicensed to Alnylam under this Agreement. Inex will provide such proposed publication or presentation to Alnylam in a timely manner that provides Alnylam with a reasonable period to review and comment on such proposed publication or presentation within the timeframes allowed Inex under such Section 9.6. If Alnylam identifies to Inex in any such proposed publication or presentation any Objectionable Material (as that term is defined in Section 9.7 of the University License Agreement) or any patentable subject matter which needs protection, then Inex will work with the University and use commercially reasonable efforts to obtain for Alnylam the remedies available under Section 9.7 of the University License Agreement including, if requested by Alnylam, permitting Alnylam to participate in discussions with the University.

9.7 [Intentionally omitted]

9.8 [Intentionally omitted]

9.9 [Intentionally omitted]

9.10 [Intentionally omitted]

10.0 PRODUCTION AND MARKETING:

10.1 Alnylam shall not use any of the UBC Trade-marks or make reference to the University or its name in any advertising or publicity whatsoever, without the prior written consent of the University, except as required by law.

10.2 Alnylam shall use its reasonable commercial efforts to promote, market and sell the Products and utilize the Technology and to meet or cause to be met the market demand for the Products and the utilization of the Technology.

10.3 Alnylam acknowledges that if the University is of the view that Inex is in breach of Article 10.2 of the University License Agreement, the University shall notify Inex and Inex and the University shall appoint a mutually acceptable person as an independent evaluator to conduct the evaluation set forth in Article 10 of the University License Agreement. Alnylam will have the right to participate in any such process, and agrees to cooperate reasonably with Inex, at Inex's expense, in such process.

10.4 [Intentionally omitted]

10.5 [Intentionally omitted]

10.6 [Intentionally omitted]

10.7 [Intentionally omitted]

10.8 Alnylam agrees that it shall deliver to Inex an annual report, due on December 31 of each year during the term of this Agreement, which summarizes the major activities Alnylam has undertaken in the course of the preceding 12 months to develop and commercialize and/or market the Technology. The report will include an outline of the status of any Products in clinical trials and the existence of any sublicenses of the Technology.

11.0 ACCOUNTING RECORDS:

11.1 [Intentionally omitted]

11.2 [Intentionally omitted]

11.3 [Intentionally omitted]

11.4 [Intentionally omitted]

11.5 During the term of this Agreement and thereafter, Inex shall use reasonable efforts to ensure that all accounting or similar information provided to Inex or its representatives remains confidential and is treated as such by Inex and the University.

12.0 INSURANCE:

12.1 [Intentionally omitted]

12.2 [Intentionally omitted]

12.3 Alnylam shall either:

(a) demonstrate to Inex's reasonable satisfaction that Alnylam has a program of self insurance no less adequate than that which a reasonable and prudent businessperson carrying on a similar line of business would require; or

(b) sixty (60) days prior to the earlier of the start of any human clinical trials or other Product testing involving human subjects by Alnylam or any sublicensee or the first sale of any Product by Alnylam, procure and maintain clinical trials, public liability, product liability and errors and omissions insurance in reasonable amounts, with a reputable and financially secure insurance carrier.

12.4 Alnylam shall ensure that any and all such policies of insurance required pursuant to this Article 12.3(b) shall include the University, its Board of Governors, faculty, officers, employees, students, and agents as additional insureds.

13.0 ASSIGNMENT:

13.1 This Agreement may not be assigned or otherwise transferred, nor may any right or obligation hereunder be assigned or transferred, by either party by operation of law or otherwise, without the prior written consent of the other party; provided, however, that either party may, without the other party's consent, assign this Agreement and its rights and obligations hereunder in whole or in part to an Affiliate or, to a party that acquires, by merger, sale of assets or otherwise, all or substantially all of the business of such party to which the subject matter of this Agreement relates; and provided, further, that any assignment of rights and/or obligations under this Agreement shall be subject to the terms and conditions of the UBC License, the Consent Agreement and the LCA. Any attempted assignment not in accordance with this Section 13.1 shall be void. The assigning party shall remain responsible for the performance by its assignee of this Agreement or any obligations hereunder so assigned to such assignee.

14.0 GOVERNING LAW AND ARBITRATION:

14.1 This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia- and the laws of Canada in force therein without regard to its conflict of law rules. All parties agree that by executing this Agreement they have attorned to the jurisdiction of the Supreme Court of British Columbia. Subject to Articles 14.2 and 14.3, the courts of British Columbia shall have exclusive jurisdiction over this Agreement.

14.2 In the event of any dispute arising between the parties concerning this Agreement, its enforceability or the interpretation thereof, the same shall be settled by a single arbitrator appointed pursuant to the provisions of the Commercial Arbitration Act of British Columbia, or any successor legislation then in force. The place of arbitration shall be Vancouver, British Columbia. The language to be used in the arbitration proceedings shall be English.

14.3 Article 14.2 shall not prevent a party hereto from applying to a court of competent jurisdiction for interim protection such as, by way of example, an interim injunction.

14.4 Notwithstanding the rest of this Article 14, if a ruling by a court or arbitral authority on any dispute between Inex and Alnylam, regarding the interpretation of this Agreement, could reasonably affect the interpretation of this Agreement, then on receipt of notice of such a dispute from Inex, the University may elect to apply to join in such proceeding.

(a) If the University is permitted to join in such proceeding it shall be bound by the decision of such court or arbitral authority, in so far as the interpretation of such decision could reasonably affect the interpretation of this Agreement.

(b) If the University elects not to join in such proceeding (for reasons other than not being permitted to join) then the University hereby agrees to be bound by the decision of such court or arbitral authority, in so far as the interpretation of such decision could reasonably affect the interpretation of this Agreement.

(c) If the University is not permitted to join in such proceeding, then the University shall not be bound by the decision of such court or arbitral authority.

If Inex and the University retain common counsel to represent them for the purposes of any such proceeding, then Inex shall bear all costs of such counsel. If the University retains independent counsel, then Inex will bear one-half of the cost of such counsel.

15.0 NOTICES:

15.1 All payments, reports and notices or other documents that any of the parties hereto are required or may desire to deliver to any other party hereto may be delivered only by personal delivery or by registered or certified mail, or fax, all postage and other charges prepaid, at the address for such party set forth below or at such other address as any party may hereinafter designate in writing to the others. Any notice personally delivered or sent by fax shall be deemed to have been given or received at the time of delivery, or transmission of the fax. Any notice mailed as aforesaid shall be deemed to have been received on the expiration of five days after it is posted, provided that if there shall be at the time of mailing or between the time of mailing and the actual receipt of the notice a mail strike, slow down or labour dispute which might affect the delivery of the notice by the mail, then the notice shall only be effected if actually received.

If to Alnylam, to:

ALNYLAM PHARMACEUTICALS, INC.
300 Third Street
Cambridge, MA 02142
Attention: Chief Executive Officer
Facsimile No.: (617) 551-8101

and:

FABER DAEUFER & ROSENBERG PC
950 Winter Street, Suite 4500
Waltham, MA 02451
Attention: Sumy Daeufer
Facsimile No.: 781-795-4747

If to Inex:

Director, Business Development
Inex Pharmaceuticals Corporation
100 - 8900 Glenlyon Parkway
Burnaby, British Columbia
V5J 5J8
Telephone: (604) 419-3200
Fax: (604) 419-3202

16.0 TERM:

16.1 This Agreement and the license granted hereunder shall terminate on the expiration of a term of 20 years from the Date of Commencement or the expiration of the last Patent, whichever event shall last occur, unless earlier terminated as a result of the termination of Alnylam's rights to INEX Technology (as that term is defined in the LCA) under the LCA. Upon expiry of the term of this Agreement (but not on earlier termination of this Agreement for any other reason) Alnylam shall thereafter have, in perpetuity, a fully paid-up world wide license to use and sublicense the Technology and to manufacture, have made, distribute, import, use and sell Products in the Alnylam Field, without further payment of Royalties to Inex. The parties acknowledge that, (a) upon termination of the LCA under certain circumstances, Alnylam's license under this Agreement will become paid-up; (b) notwithstanding such license becoming paid-up, Alnylam will be responsible for the payment to the University, or for the reimbursement to Inex, of the amounts due the University from Inex under the University License Agreement arising out of Alnylam's activities under the licenses granted under this Agreement; (c) such payments will be based on the amounts that would have been due Inex under the LCA had the LCA not been terminated; and (d) except for becoming paid-up, the license granted Alnylam under this Agreement will not change as a result of such termination. Expiration or termination of this Agreement shall not relieve the parties of any obligation accruing prior to such expiration or termination. Any expiration or termination of this Agreement shall be without prejudice to the rights of either Party against the other accrued or accruing under this Agreement prior to expiration or termination, including without limitation the obligation to pay royalties sold prior to such expiration or termination.

17.0 [INTENTIONALLY OMITTED]

18.0 MISCELLANEOUS COVENANTS OF LICENSEE:

18.1 [Intentionally omitted]

18.2 [Intentionally omitted].

18.3 Alnylam shall comply with all laws, regulations and ordinances, whether Federal, Provincial, Municipal or otherwise with respect to the Technology and/or this Agreement.

18.4 [Intentionally omitted]

18.5 [Intentionally omitted]

19.0 [INTENTIONALLY OMITTED]

20.0 GENERAL:

20.1 [Intentionally omitted].

20.2 Nothing contained herein shall be deemed or construed to create between the parties hereto a partnership or joint venture. No party shall have the authority to act on behalf of any other party, or to commit any other party in any manner or cause whatsoever or to use any other party's name in any way not specifically authorized by this Agreement. No party shall be liable for any act, omission, representation, obligation or debt of any other party, even if informed of such act, omission, representation, obligation or debt.

20.3 Subject to the limitations hereinbefore expressed, this Agreement shall inure to the benefit of and be binding upon the parties, and their respective successors and permitted assigns.

20.4 No condoning, excusing or overlooking by any party of any default, breach or non-observance by any other party at any time or times in respect of any covenants, provisos, or conditions of this Agreement shall operate as a waiver of such party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance, so as to defeat in any way the rights of such party in respect of any such continuing or subsequent default or breach and no waiver shall be inferred from or implied by anything done or omitted by such party, save only an express waiver in writing.

20.5 No exercise of a specific right or remedy by any party precludes it from or prejudices it in exercising another right or pursuing another remedy or maintaining an action to which it may otherwise be entitled either at law or in equity.

20.6 Marginal headings as used in this Agreement are for the convenience of reference only and do not form a part of this Agreement and are not be used in the interpretation hereof.

20.7 The terms and provisions, covenants and conditions contained in this Agreement which by the terms hereof require their performance by the parties hereto after the expiration or termination of this Agreement shall be and remain in force notwithstanding such expiration or other termination of this Agreement for any reason whatsoever.

20.8 If any Article, part, section, clause, paragraph or subparagraph of this Agreement shall be held to be indefinite, invalid, illegal or otherwise voidable or unenforceable, the entire agreement shall not fail on account thereof, and the balance of the Agreement shall continue in full force and effect.

20.9 [Intentionally omitted]

20.10 All amounts due and owing to Inex hereunder but not paid by Alnylam on the due date thereof shall bear interest in Canadian dollars at the rate of one per cent (1%) per month. Such interest shall accrue on the balance of unpaid amounts from time to time outstanding from the date on which portions of such amounts become due and owing until payment thereof in full.

20.11 This Agreement sets forth the entire understanding between the parties and no modifications hereof shall be binding unless executed in writing by the parties hereto.

20.12 Whenever the singular or masculine or neuter is used throughout this Agreement the same shall be construed as meaning the plural or feminine or body corporate when the context or the parties hereto may require.

[Signature page follows]

IN WITNESS WHEREOF the parties hereto have hereunto executed this Agreement on the 8th day of January, 2007.

Signed for and on behalf of
ALNYLAM PHARMACEUTICALS, INC.
by its duly authorized officer:

/s/ John Maraganore

Name: John Maraganore, Ph.D.
Title: President and Chief Executive Officer
Date: January 8, 2007

Signed for and on behalf of
INEX PHARMACEUTICALS CORPORATION
by its duly authorized officer:

/s/ Timothy M. Ruane

Name: Timothy M. Ruane
Title: President & CEO
Date: January 8, 2007

SCHEDULE A - SUBLICENSED PATENTS

Inex File Number	Title	Serial/ Patent Numbers	Inventors	Owner
[*]	[*]	[*]	[*]	[*]

*** Confidential Treatment Requested.**

EXHIBIT 4.4

* Confidential Treatment has been requested for the marked portions of this exhibit pursuant to Rule 24B-2 of the Securities Exchange Act of 1934, as amended.

EXECUTION COPY

AMENDED AND RESTATED

LICENSE AND COLLABORATION AGREEMENT

by and between

TEKMIRA PHARMACEUTICALS CORPORATION

and

ALNYLAM PHARMACEUTICALS, INC.

Confidential

AMENDED AND RESTATED
LICENSE AND COLLABORATION AGREEMENT

This **AMENDED AND RESTATED LICENSE AND COLLABORATION AGREEMENT**, effective as of May 30, 2008, is made by and between Tekmira Pharmaceuticals Corporation (as successor in interest to INEX Pharmaceuticals Corporation ("INEX")), a corporation organized and existing under the laws of British Columbia, Canada ("Tekmira"), and Alnylam Pharmaceuticals, Inc., a corporation organized and existing under the laws of Delaware, U.S.A ("Alnylam").

RECITALS:

WHEREAS, Alnylam owns or controls certain intellectual property covering fundamental aspects of the structure and uses of therapeutic products that (a) function through RNA interference ("RNAi"), including but not limited to compositions and methods of use of Small Interfering RNAs (siRNAs) (defined below), (b) are, or function through the modulation of, micro RNA transcripts ("miRNA") or (c) are Immunostimulatory Oligonucleotide Compositions or IOCs (defined below); and Alnylam is developing capabilities to develop and commercialize such therapeutic products;

WHEREAS, Tekmira owns or controls certain intellectual property covering certain targeted nucleic acid delivery technology, and is also engaged in the business of discovering, developing, manufacturing and commercializing human therapeutic products, including those mediated by IOCs;

WHEREAS, Alnylam and Tekmira (as successor in interest to INEX) are parties to a License and Collaboration Agreement (the "Original Agreement") dated as of January 8, 2007 (the "Original Effective Date"), under which:

(a) Tekmira granted Alnylam an exclusive license under and to Tekmira's delivery technology for the research, development, manufacture and commercialization of RNAi and miRNA products formulated with Tekmira's technology for the treatment of diseases in humans;

(b) Alnylam granted Tekmira a license under and to (i) Alnylam's core RNAi patent rights for the research, development, manufacture and commercialization of RNAi products directed to up to three Targets (defined below) for the treatment of diseases in humans, and (ii) Alnylam's IOC patent rights for the research, development, manufacture and commercialization of IOC products for the treatment of diseases in humans; and

(c) Alnylam and Tekmira agreed to collaborate on the research and development of liposomal formulations for therapeutic products;

WHEREAS, on March 28, 2008, Tekmira, Protiva Biotherapeutics Inc. ("Protiva") and all holders of securities of Protiva entered into a Share Purchase Agreement (the "Purchase Agreement") pursuant to which, upon the completion of the transactions contemplated therein (the "Closing"), Tekmira will purchase all of the outstanding shares of capital stock of Protiva and Protiva will become a wholly-owned subsidiary of Tekmira;

WHEREAS, following the execution and delivery of the Purchase Agreement, and as a condition to Closing thereunder, Tekmira entered into a subscription agreement with Alnylam (the

"Alnylam Subscription Agreement") and a subscription agreement with F. Hoffmann-La Roche Ltd ("Roche") (the "Roche Subscription Agreement"), pursuant to which Alnylam and Roche have each, separately, agreed to purchase certain shares of Tekmira's common stock upon the Closing if certain conditions are met;

WHEREAS, as partial consideration for Alnylam's agreement to enter into the Alnylam Subscription Agreement, concurrently with the Alnylam Subscription Agreement, Alnylam and Tekmira entered into the First Amendment and Partial Termination of Loan and Security Agreement, which terminates the Loan and Security Agreement between Alnylam and Tekmira dated as of the Original Effective Date in part, and terminates the Negative Pledge Agreement executed in conjunction with such Loan and Security Agreement in its entirety;

WHEREAS, Alnylam and Protiva are parties to a Cross-License Agreement dated as of August 14, 2007 ("Original Protiva License Agreement"), which as a condition to Alnylam's agreement to enter into this Agreement, is being amended and restated concurrently with this Agreement (as so amended and restated, the "Protiva License Agreement");

WHEREAS, following the execution of the Original Protiva License Agreement, Protiva entered into a settlement agreement (the "Merck Settlement Agreement") with Merck & Co. and its affiliated companies (including without limitation Sirna Therapeutics, Inc., whether or not it remains affiliated with Merck & Co.) (collectively, the "Merck Entities") effective as of October 9, 2007, under which, among other things, Protiva granted to the Merck Entities a non-exclusive license to certain intellectual property of Protiva;

WHEREAS, as a condition to the effectiveness of the Alnylam Subscription Agreement, Alnylam has agreed to enter into this Amended and Restated License and Collaboration Agreement on the terms and conditions contained herein, including but not limited to, the parties' agreement to harmonize the license grants from Tekmira to Alnylam with respect to certain Tekmira intellectual property that is obtained or developed after the expiration of the Restriction Period (defined below) with the license grants from Protiva to Alnylam contained in the Protiva License Agreement; and the parties' agreement to harmonize the royalty and milestone payment obligations of the Parties with the obligations of Protiva and Alnylam contained in the Protiva License Agreement; and

WHEREAS, concurrent with the execution of this Agreement, the parties have entered into an escrow agreement (the "Escrow Agreement") pursuant to which the original signature pages to this Agreement and the fully-executed Protiva License Agreement, among other agreements, shall be placed into escrow and shall be either (i) released from escrow and delivered to the appropriate parties pursuant to the terms of the Escrow Agreement and, thereafter, this Agreement shall become effective, or (ii) each Party's original signature pages shall be returned to it pursuant to the terms of the Escrow Agreement and this Agreement will never become fully executed, delivered or effective.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, Alnylam and Tekmira agree to this Amended and Restated License and Collaboration Agreement effective as of the Effective Date (subject to the terms of Section 11.1):

1. DEFINITIONS

Unless specifically set forth to the contrary herein, the following terms, whether used in the singular or plural, shall have the respective meanings set forth below:

1.1 "Active Internal Development Program" with respect to a particular RNAi Product or miRNA Product, means that the following criteria have been satisfied, as of the relevant time under this Agreement: (a) an active program of Research, Development, Manufacture or Commercialization with respect to such RNAi Product or miRNA Product has been commenced and remains in effect internally at Alnylam or its Affiliates; and (b) if such program has not previously established preclinical proof-of-principle for such RNAi Product or miRNA Product, Alnylam or its Affiliates have committed to conduct such program at least through the completion of significant preclinical proof-of-principle testing of a specific Formulation for such RNAi Product or miRNA Product.

1.2 "Affiliate" means, with respect to a Party, (a) any corporation or business entity of which fifty percent (50%) or more of the securities or other ownership interests representing the equity, the voting stock or general partnership interest are owned, controlled or held, directly or indirectly, by such Party; (b) any corporation or business entity, which, directly or indirectly, owns, controls or holds fifty percent (50%) (or the maximum ownership interest permitted by law) or more of the securities or other ownership interests representing the equity, the voting stock or, if applicable, the general partnership interest, of such Party; or (c) any corporation or business entity, fifty percent (50%) or more of the securities or other ownership interests representing the equity of which is directly or indirectly owned, controlled or held by the same corporation, business entity or security holders, or holders of ownership interests, that own, control or hold fifty percent (50%) or more of the securities or other ownership interests representing the equity or the voting stock of such Party. Notwithstanding the foregoing, for purposes of the definitions of Control, Controls, Controlled by, Tekmira Collaboration IP, Tekmira In-Licenses, Tekmira IOC Technology, Tekmira Know-How, Tekmira Patent Rights, Tekmira Technology and Joint Collaboration IP, Protiva shall not be deemed an Affiliate of Tekmira.

1.3 "Alnylam Collaboration IP" means (a) any improvement, invention, discovery, Know-How or other Intellectual Property Right, patentable or otherwise, first identified, invented, discovered or developed by employees of Alnylam or its Affiliates or other persons not employed by Tekmira acting on behalf of Alnylam, in the performance of the Collaboration, the Manufacturing Activities, and/or Alnylam's obligations under the Original INEX Agreements, and (b) any Patent Rights in the Territory which claim, cover or relate to such improvements, discoveries or Know-How. Alnylam Collaboration IP excludes Alnylam's interest in Joint Collaboration IP.

1.4 "Alnylam Core Patent Rights" means those Patent Rights Controlled by Alnylam that are set forth in Schedule 1.4 of this Agreement, as such Schedule is supplemented from time to time pursuant to Section 6.5.1.

1.5 "Alnylam Field" means the treatment, prophylaxis and diagnosis of diseases in humans using an RNAi Product or miRNA Product.

1.6 "Alnylam IOC Technology" means (a) Know-How that (i) is useful or necessary to Research, Develop, Commercialize and/or Manufacture an IOC Product in the Tekmira IOC Field in

the Territory and (ii) is Controlled by Alnylam on the Original Effective Date (excluding any Alnylam Collaboration IP and Alnylam's interest in Joint Collaboration IP) and (b) those Patent Rights Controlled by Alnylam that are set forth in Schedule 1.6 of this Agreement.

1.7 "Alnylam Lipidoid Patent Rights" means those Patent Rights Controlled by Alnylam under a license from the Massachusetts Institute of Technology pursuant to the MIT License Agreement and that are set forth in Schedule 1.7 of this Agreement.

1.8 "**Alnylam Materials**" means animal models, cell lines, tissue samples, genes, plasmids, siRNAs, miRNA constructs, vectors, receptors and other proteins, peptides, and other biological materials related to the Alnylam Royalty Products, that in each case are provided by Alnylam to Tekmira for use in the performance of the Collaboration, including without limitation, the siRNA or miRNA composition comprising an Alnylam Royalty Product.

1.9 "Alnylam Partnered Product" means an RNAi Product or miRNA Product that is at the relevant time being Researched, Developed, Manufactured and/or Commercialized by Alnylam or its Affiliates with the participation or sponsorship of one or more Third Parties or, prior to the end of the Restriction Period, Protiva. For clarity, it is understood and agreed that no RNAi Product or miRNA Product developed or to be developed in a project or arrangement in which all or substantially all of Alnylam's or its Affiliates' contributions or anticipated contributions are or will be in the form of the grant by Alnylam or its Affiliates of licenses or sublicenses to one or more Intellectual Property Rights, will be considered an Alnylam Partnered Product.

1.10 "Alnylam RNAi Know-How" means Know-How that (a) Alnylam determines in its reasonable judgment to be useful or necessary to Research, Develop, Commercialize and/or Manufacture an Alnylam Royalty Product in the Alnylam Field in the Territory and (b) is either (i) Controlled by Alnylam on the Original Effective Date, or (ii) comes within Alnylam's Control during the Collaboration Term or the Manufacturing Term (excluding any Alnylam Collaboration IP and Alnylam's interest in Joint Collaboration IP).

1.11 "**Alnylam RNAi Patent Rights**" means Patent Rights that (a) claim (i) Alnylam RNAi Know-How, or (ii) the identification, characterization, optimization, construction, expression, formulation, use or production of an Alnylam Royalty Product, as the case may be, and which Alnylam determines in its reasonable judgment to be useful or necessary to Research, Develop, Commercialize and/or Manufacture an Alnylam Royalty Product in the Alnylam Field in the Territory, and (b) are Controlled by Alnylam at any time during the Collaboration Term or the Manufacturing Term (including, without limitation, the Alnylam Core Patent Rights and the Alnylam Lipidoid Patent Rights, but specifically excluding Alnylam IOC Technology and any Patent Rights included in Alnylam Collaboration IP or Alnylam's interest in Joint Collaboration IP).

1.12 "Alnylam RNAi Technology" means, collectively, Alnylam RNAi Know-How and Alnylam RNAi Patent Rights.

1.13 "Alnylam Royalty Product" means any RNAi Product or a miRNA Product that, but for the licenses granted hereunder, would be Covered by one or more Valid Claims of the Tekmira Patent Rights

1.14 "Alnylam Target" means any Target that is not a Tekmira Development Target, the PLK Target, nor a Protiva Development Target (as defined in the Protiva License Agreement); provided, however, that the exclusion of the PLK Target will not apply if Protiva provides notice to Alnylam under the Protiva License Agreement that Protiva is terminating its license rights under the Protiva License Agreement with respect to RNAi Products or miRNA Products for the PLK Target.

1.15 "Biodefense Target" means (a) a Target within the genome of one or more Category A, B and C pathogens, as defined by the National Institute of Allergy and Infectious Diseases, including without limitation, pathogens listed on Schedule 1.15, but specifically excluding influenza virus, or (b) an endogenous cellular Target against which Alnylam Researches, Develops and/or Commercializes an Alnylam Royalty Product for commercial supply to one or more Funding Authorities.

1.16 "Bona Fide Collaboration" means a collaboration between Alnylam and/or its Affiliates and one or more Third Parties involving the Research, Development, Manufacture and/or Commercialization of one or more RNAi Products and/or miRNA Products and established under a written agreement in which (a) the scope of the licenses granted, and financial or other commitments of value, are of material value to Alnylam and/or its Affiliates, and (b) Alnylam and/or its Affiliates undertakes and performs substantial, mutual research activity with the Third Party. For purposes of clarity, it is understood and agreed that no collaboration in which all or substantially all of Alnylam's or its Affiliates' contributions or anticipated contributions are or will be solely in the form of the grant by Alnylam or its Affiliates of licenses or sublicenses to one or more Intellectual Property Rights, will be considered a Bona Fide Collaboration.

1.17 "Business Day" means a day on which banking institutions in Boston, Massachusetts and Vancouver, British Columbia, Canada are open for business.

1.18 "Calendar Quarter" means the respective periods of three (3) consecutive calendar months ending on March 31, June 30, September 30 and December 31.

1.19 "Calendar Year" means each successive period of twelve (12) months commencing on January 1 and ending on December 31.

1.20 "cGMP" means current good manufacturing practices regulations applicable to the Manufacture of a Royalty Product that are promulgated by any Regulatory Authority.

1.21 "Change of Control" means a Change of Control under and as defined in the Protiva License Agreement without cross-reference to this Agreement, or any other transaction, or series of related transactions, whereby: (a) Tekmira merges, reorganizes, amalgamates or consolidates with another entity, and the shareholders of Tekmira owning at least fifty percent (50%) of the outstanding voting securities of Tekmira immediately prior to such transaction(s) own less than fifty percent (50%) of the outstanding voting securities of Tekmira or the surviving entity as a result of such transaction(s), unless such transaction(s) are a Permitted Financing Merger of Tekmira; (b) Tekmira sells, transfers or otherwise disposes of all or substantially all of its assets to which this Agreement relates; or (c) acquisition by a Significant Pharmaceutical Company of control of the management and policies of Tekmira; provided, that a Change of Control shall not include (i) the merger, reorganization, amalgamation or consolidation of Protiva with Tekmira after the end of the Restriction Period, or (ii) the sale or transfer of all or substantially all of the assets of Protiva to which the Protiva License Agreement relates to Tekmira after the end of the Restriction Period.

1.22 "Class 1 Non-Exclusively Licensed Tekmira IP" means all of the following to the extent they comprise Non-Exclusively Licensed Tekmira IP: (a) Generic Claims included in Tekmira Patent Rights, (b) all Know-How, and all Generic Claims included in the Patent Rights, that comprise Tekmira Collaboration IP, (c) Tekmira's interest in Joint Collaboration IP, and (d) Tekmira Know-How. For clarity, Class 1 Non-Exclusively Licensed IP does not include any Tekmira Technology Controlled by Tekmira prior to the end of the Restriction Period or any Tekmira Collaboration IP or Tekmira's interest in and Joint Collaboration IP that is first identified, invented discovered or developed prior to the end of the Restriction Period.

1.23 "Class 2 Non-Exclusively Licensed Tekmira IP" means all of the following to the extent they comprise Non-Exclusively Licensed Tekmira IP: (a) all claims other than Generic Claims and Target-Specific Claims included in Tekmira Patent Rights and (b) all claims other than Generic Claims included in the Patent Rights that comprise Tekmira Collaboration IP. For clarity, Class 2 Non-Exclusively Licensed IP does not include any Tekmira Technology Controlled by Tekmira prior to the end of the Restriction Period or any Tekmira Collaboration IP or Tekmira's interest in and Joint Collaboration IP that is first identified, invented discovered or developed prior to the end of the Restriction Period.

1.24 "Collaboration IP" means the collective reference to Alnylam Collaboration IP, Tekmira Collaboration IP and Joint Collaboration IP.

1.25 "**Collaboration Term**" means the period commencing on **[*]**. The Collaboration Term may be extended upon the mutual written agreement of the Parties.

1.26 "Combination Product" means a Royalty Product combined with any other clinically active therapeutic, prophylactic or diagnostic ingredient. All references to Royalty Product in this Agreement shall be deemed to include Combination Product, to the extent applicable.

1.27 "Commercialization" or **"Commercialize"** means any and all activities directed to marketing, promoting, distributing, importing and selling a Royalty Product and activities directed to obtaining pricing and reimbursement approvals, as applicable.

1.28 "**Commercially Reasonable Efforts"** means the carrying out of obligations in a diligent and sustained manner using such effort and employing such resources as would normally be exerted or employed by a similarly situated biopharmaceutical company for a product resulting from its own research efforts of similar market potential, profit potential or strategic value at a similar stage of its product life.

1.29"Confidential Information" means any and all information and data, including without limitation Alnylam RNAi Technology, Alnylam IOC Technology, Tekmira Technology and Tekmira IOC Technology, and all other scientific, pre-clinical, clinical, regulatory, manufacturing, marketing, financial and commercial information or data, whether communicated in writing or orally or by any other method, which is provided by one Party to the other Party in connection with this Agreement (or under the Original INEX Agreements). Alnylam RNAi Technology, Alnylam IOC Technology and Alnylam Collaboration IP are Confidential Information of Alnylam. Tekmira IOC Technology, Tekmira Collaboration IP, and Tekmira Technology are Confidential Information of Tekmira. Joint Collaboration IP is the Confidential Information of the Parties.

1.30 "Contract Year" means the twelve (12) month period beginning on the Original Effective Date and each succeeding twelve (12) month period thereafter during the Agreement Term; provided, that the first and second Contract Years of the Collaboration Term shall be deemed to have begun on **[*]**, respectively. Each Contract Year shall be divided into four (4) "**Contract Quarters**" comprised of successive three (3) month periods.

1.31 "Control", "Controls" or "Controlled by" means, with respect to any (a) material, know-how or other information or (b) Intellectual Property Right, the possession of (whether by ownership or license, other than pursuant to this Agreement), or the ability of a Party or its Affiliates to grant access to, or a license or sublicense of, such item or right as provided for herein without violating the terms of any agreement or other arrangement with any Third Party existing at the time such Party would be required hereunder to grant the other Party such access or license or sublicense. For clarity, the Parties acknowledge that no conceptions, developments, techniques, data, inventions, improvements, technical information, or works of authorship that were, are, or that hereafter may be in whole or in part conceived, reduced to practice, discovered, created, authored or otherwise made or obtained by or for Protiva or its contractors at any time since January 18, 2001, will be considered to be Controlled by Tekmira by virtue of any agreement, right, or claim existing or arguably existing prior to the Effective Date.

1.32 "Cover," "Covering", "Covers" or **"Covered"** means, with respect to a Royalty Product, that in the absence of an assignment of rights to, or a license granted under, a Valid Claim, the Research, Development, Manufacture or Commercialization of such Royalty Product would infringe such Valid Claim.

1.33 "Development," "Developing" or **"Develop"** means, with respect to a Royalty Product, the research and development activities related to (a) the generation, characterization, optimization, construction, expression, formulation, use and production of a Royalty Product, and (b) any other research and development activities related to the clinical testing and qualification of such Royalty Product for clinical testing, and such other tests, studies and activities as may be required or recommended to obtain Regulatory Approval of such Royalty Product, including toxicology studies, statistical analysis and report writing, pre-clinical testing, clinical studies and regulatory affairs, product approval and registration activities.

1.34 "Exclusively Licensed Tekmira IP" means any (a) Tekmira Technology that is either (i) Controlled by Tekmira or its Affiliates on the Original Effective Date, or (ii) first discovered or created by Tekmira or its Affiliates during the Agreement Term but prior to the end of the Restriction Period or otherwise comes within the Control of Tekmira or its Affiliates prior to the Effective Date, and (b) Tekmira Collaboration IP and Tekmira's interest in Joint Collaboration IP that are first identified, invented, discovered or developed prior to the end of the Restriction Period.

1.35 "**Existing Alnylam In-Licenses**" means the Third Party agreements listed on Schedule 1.35.

1.36 "**Existing Tekmira In-Licenses**" means the Third Party agreements listed on Schedule 1.36.

1.37 "**FDA**" means the United States Food and Drug Administration and any successor governmental authority having substantially the same function.

1.38 "First Commercial Sale" means, with respect to a Royalty Product, the first sale for end use or consumption of such Royalty Product in a country in the Territory after all required Regulatory Approvals have been granted by the Regulatory Authority of such country. For the avoidance of doubt, sales for clinical study purposes or compassionate, named patient or similar use, shall not constitute a First Commercial Sale, and sales to a Funding Authority shall constitute a First Commercial Sale.

1.39 "Formulation" means a particular RNAi Product or miRNA Product delivery formulation, characterized by its components and its unique ratios among components.

1.40 "FTE" or **"Full-Time Equivalent"** means with respect to Tekmira, the equivalent of the work of one (1) scientist, full time for one (1) year, for or on behalf of Tekmira, which equates to a total of [*] per year of scientific work performed directly in the Collaboration, and the direct scientific management thereof. In no event shall the work of one individual person account for more than one (1) FTE year.

1.41 "FTE Rate" means an amount per FTE of work actually performed in the Collaboration under the Research Plan or in Manufacturing Activities under the Manufacturing Plan that is equal to **[*]**; provided, however, that during each Contract Year of the Collaboration Term such rate shall apply only to any FTEs engaged in the Collaboration over and above the initial **[*]** FTEs in such Contract Year. Commencing with the second Contract Year, the then-current FTE Rate shall be adjusted by the percent change year to year in the Consumer Price Index (All Items) for the Province of British Columbia, Canada as published by Statistics Canada for the period of each applicable Contract Year.

1.42 "**Funding Authorities**" means the United States Department of Health and Human Services or other United States or foreign government or international agencies responsible for requesting, approving and/or funding the development and manufacture of products for biodefense purposes.

1.43 "Generic Claim" means a claim of a Patent Right that (a) recites a nucleic acid-lipid particle comprising: an siRNA or miRNA, at least one cationic lipid, at least one non-cationic lipid, and a conjugated lipid that inhibits aggregation of particles, and/or methods or uses of such particle in the delivery of siRNA or miRNA; and (b) does not recite any Particular Moiety, or any particular or specific cationic lipid, non-cationic lipid, or conjugated lipid.

1.44 "IND" means an Investigational New Drug application, Clinical Study Application, Clinical Trial Exemption, or similar application or submission for approval to conduct human clinical investigations of Royalty Product filed with or submitted to a Regulatory Authority in conformance with the requirements of such Regulatory Authority.

1.45 "Initiate", **"Initiated"** or **"Initiation"** means, with respect to a Phase I Study or a Phase II Study, the administration of the first dose to a subject in such study.

1.46 "In-Licenses" means collectively, the Existing Alnylam In-Licenses and the Tekmira In-Licenses, but excludes the Tekmira-UBC License Agreement.

1.47 "**Intellectual Property Rights**" means all intellectual property rights subject to protection by intellectual property laws in any country of the world, arising under statutory or common law, contract or otherwise, and whether or not perfected, including without limitation, all (a) Patent Rights; (b) Collaboration IP; (c) rights associated with works of authorship, including without limitation copyrights, moral rights, copyright applications, copyright registrations; (d) rights associated with trademarks, service marks, trade names, logos, trade dress, goodwill and the applications for registration and registrations thereof; (e) rights relating to the protection of trade secrets and confidential information; (f) rights analogous to those set forth in this Section and any and all other proprietary rights relating to intangible property now existing, hereafter filed, issued or acquired.

1.48 "InterfeRx License Transaction" means a transaction in which Alnylam (a) grants a sublicense under Tekmira Technology and a Target-specific license under Alnylam Core Patent Rights to a Third Party, but (b) does not have the right to collaborate with such Third Party to develop RNAi Products against such Target or Targets.

1.49 "**IOC**" or "**Immunostimulatory Oligonucleotide Composition**" means a single-stranded or double-stranded ribonucleic acid ("RNA") composition, or derivative thereof, that has activity solely through an immunostimulatory mechanism and has no RNAi activity against a human gene transcript or viral genomic sequence.

1.50 "IOC Product" means a product containing, comprised of or based on IOCs or IOC derivatives.

1.51 "ISIS License Agreement" means the Strategic Collaboration & License Agreement between Isis Pharmaceuticals, Inc., and Alnylam Pharmaceuticals, Inc., dated March 11, 2004, together with Letter Agreements dated March 9, 2004 and March 11, 2004, respectively, and as amended on June 14, 2005, and as further amended from time to time.

1.52 "Joint Collaboration IP" means, collectively, (a) any improvement, discovery or Know-How, patentable or otherwise, first identified, invented, discovered or developed jointly by the Parties or their Affiliates or others acting on behalf of Tekmira and Alnylam in the performance of the Collaboration, the Manufacturing Activities and/or the obligations of the Parties under the Original INEX Agreements, and (b) any Patent Rights in the Territory which claim, cover or relate to such improvements, discoveries or Know-How.

1.53 "Joint Research Committee" or **"JRC"** means the joint research committee as more fully described in Article 4.

1.54 "Know-How" means, with respect to a Royalty Product, all biological materials and other tangible materials, inventions, practices, methods, protocols, formulas, formulations, knowledge, know-how, trade secrets, processes, assays, skills, experience, techniques and results of

experimentation and testing, including without limitation pharmacological, toxicological and pre-clinical and clinical test data and analytical and quality control data, patentable or otherwise, which relates to the identification, characterization, optimization, construction, expression, formulation, use or production of such Royalty Product and which are reasonably useful or necessary to Research, Develop, Manufacture or Commercialize such Royalty Product in the Territory in (a) the Alnylam Field, in the case of Alnylam Royalty Products and Tekmira Development Products or (b) the Tekmira IOC Field, in the case of Tekmira IOC Products.

1.55 "Lead Formulation" means a Formulation that has been identified by Tekmira and Alnylam as being the end product of Tekmira's and Alnylam's work under the Research Plan for a particular Alnylam siRNA or miRNA payload(s) directed at a particular Target. It is expected that formulated materials using a number of different initial Formulations would be delivered by Tekmira to Alnylam, tested by Alnylam, and (on the basis of such tests, and subsequent iterative tests if needed) culled or otherwise adjusted by Tekmira to the point where both parties believe that no further formulation adjustments, or improvements are anticipated under the Research Plan. That Formulation is the Lead Formulation in that situation.

1.56 "Loan Agreement" means that certain Loan and Security Agreement between the Parties dated the Original Effective Date, as amended by the First Amendment and Partial Termination of Loan and Security Agreement between the Parties dated March 28, 2008.

1.57 "**Major Market**" means any of the United States, the European Union, United Kingdom, France, Germany, Italy, Spain or Japan.

1.58 "Manufacturing" or **"Manufacture"** means, with respect to a Royalty Product, all activities associated with the production, manufacture and processing of such Royalty Product, and the filling, finishing, packaging, labeling, shipping, and storage of such Royalty Product, including without limitation formulation process scale-up for toxicology and clinical study use, aseptic fill and finish, stability testing, analytical development, quality assurance and quality control, and in the case of the Manufacturing of Alnylam Royalty Products by Tekmira, the production of the bulk finished dosage form of Alnylam Royalty Product from the RNAi or miRNA construct.

1.59 "Manufacturing Activities" of a Party means those activities performed by such Party under the Manufacturing Plan, the Supply Agreement, and/or the Quality Agreements relating to the Manufacture and supply of Alnylam Royalty Products.

1.60 "**Manufacturing Plan**" means the detailed written plan of work for the Manufacture of the bulk finished dosage form of Alnylam Royalty Products for Alnylam by Tekmira pursuant to Section 5.1 for any given Contract Year of the Agreement Term, as such plan is approved and updated by the JRC as necessary pursuant to Section 4.1. The updated Manufacturing Plan for calendar year 2008 is attached to this Agreement as Schedule 5.1. The Manufacturing Plan shall be further updated pursuant to Section 5.1(b).

1.61 "Manufacturing Term" means the period commencing on the Original Effective Date and continuing through the end of the Agreement Term, unless the Manufacturing Activities are terminated earlier in accordance with the terms of this Agreement, including without limitation, Section 11.6.

1.62 "miRNA Product" means a product containing, comprised of or based on native or chemically modified RNA oligomers designed to either modulate an miRNA and/or provide the function of an miRNA.

1.63 "MIT License Agreement" means the Amended and Restated Exclusive Patent License Agreement effective as of May 9, 2007 between the Massachusetts Institute of Technology and Alnylam, as further amended from time to time.

1.64 "NDA" means a New Drug Application, Biologics License Application, Worldwide Marketing Application, Marketing Authorization Application, Section 510(k) filing or similar application or submission filed with a Regulatory Authority in a country or group of countries to obtain marketing approval for a biological, pharmaceutical or other therapeutic, prophylactic or diagnostic product in that country or in that group of countries.

1.65 "**Necessary Third Party IP**" means, with respect to any country in the Territory, on a country-by-country basis, Know-How or Patent Rights in such country owned or controlled by a Third Party that Cover a Royalty Product, it being understood and agreed that for this purpose, no Know-How or Patent Rights controlled by Protiva and licensed to Alnylam under the Protiva License Agreement will be considered Necessary Third Party IP.

1.66 "Net Sales" means, with respect to a Royalty Product, the aggregate gross invoice prices of all units of such Royalty Product sold by a Party and its Related Parties to Third Parties (other than a Sublicensee of such Party) after deducting, if not previously deducted, from the amount invoiced or received (a) trade and quantity discounts actually given, including early-pay cash discounts; (b) returns, rebates, chargebacks and other allowances actually given; (c) retroactive price reductions that are actually granted; and (d) bad debts, sales or excise taxes, transportation and insurance, custom duties, and other governmental charges actually incurred or accounted for in accordance with generally accepted accounting principles in the United States or Canada, if applicable, consistently applied by the applicable Party

With respect to sales of Combination Products, Net Sales shall be calculated on the basis of the gross invoice price of the Royalty Product(s) containing the same composition and concentration of Royalty Product sold without other clinically active ingredients. In the event that the Royalty Product is sold only as a Combination Product and not sold without other clinically active ingredients, the Parties shall negotiate in good faith another basis on which to calculate Net Sales with respect to the Combination Product that fairly reflects the value of the Royalty Product relative to the other clinically active ingredients in the Combination Product.

A percentage of the deductions set forth in clauses (a) through (d) above equal to the ratio of the Net Sales for the Royalty Product to the Net Sales of the Combination Product will be applied in calculating Net Sales for a Combination Product.

1.67 "Non-Exclusively Licensed Tekmira IP" means all Tekmira Technology, Tekmira Collaboration IP and Tekmira's interest in Joint Collaboration IP, other than the Exclusively Licensed Tekmira IP.

1.68 "**Novartis Agreement**" means the Research Collaboration and License Agreement between Novartis Institutes for BioMedical Research, Inc. ("Novartis") and Alnylam Pharmaceuticals,

Inc. dated October 12, 2005, as amended by the Addendum Re: Influenza Program to Research Collaboration and License Agreement effective as of February 17, 2006, and as further amended from time to time.

1.69 "Original INEX Agreements" means (i) the Original Agreement and (ii) the Evaluation Agreement among Alnylam, Tekmira and INEX dated March 25, 2006, the Letter Agreement among Alnylam, Tekmira and INEX dated March 25, 2006, as each of the Evaluation Agreement and Letter Agreement were amended by the Letter Agreement among Alnylam, Tekmira and INEX dated July 13, 2006.

1.70 "Particular Moiety" means a specific nucleotide sequence of an RNAi Product or miRNA Product, in either case directed against a particular Target.

1.71 "Party" means Tekmira and/or Alnylam.

1.72 "Patent Rights" means all patents (including all reissues, extensions, substitutions, confirmations, re-registrations, re-examinations, invalidations, supplementary protection certificates and patents of addition) and patent applications (including all provisional applications, continuations, continuations-in-part and divisionals).

1.73 "Permitted Financing Merger" means any transaction, or series of related transactions, whereby Tekmira merges, reorganizes, amalgamates or consolidates with another entity, and the shareholders of Tekmira owning at least fifty percent (50%) of the outstanding voting securities of Tekmira immediately prior to such transaction(s) own less than fifty percent (50%) of the outstanding voting securities of Tekmira or the surviving entity as a result of such transaction(s), but where: (a) the business of Tekmira immediately prior to such transaction(s) is the primary business of Tekmira or the surviving entity immediately after such transaction(s); (b) members of the Board of Directors of Tekmira immediately prior to such transaction(s) comprise more than 50% of the Board of Directors of Tekmira or the surviving entity immediately after such transaction(s) and for the subsequent twelve (12) months; and (c) the chief executive officer and chief financial officer of Tekmira immediately prior to such transaction(s) remain the chief executive officer and chief financial officer of Tekmira or the surviving entity immediately after such transaction(s) and for the subsequent twelve (12) months.

1.74 "Person" means and includes any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, government body, and any other form of entity or organization.

1.75 "Phase I Study" means a clinical study of an Alnylam Royalty Product in human volunteers or patients the purpose of which is preliminary determination of safety and tolerability of a dosing regime and for which there are no primary endpoints (as understood by the FDA or other Regulatory Authorities) in the protocol relating to efficacy.

1.76 "Phase II Study" means (a) a dose exploration, dose response, duration of effect, kinetics, dynamic relationship or preliminary efficacy and safety study of an Alnylam Royalty Product in the target patient population or (b) a controlled dose-ranging clinical trial to evaluate further the efficacy and safety of an Alnylam Royalty Product in the target patient population and to define the optimal dosing regimen.

1.77 "Phase III Study" means a controlled pivotal clinical study of an Alnylam Royalty Product that is prospectively designed to demonstrate statistically whether such Alnylam Royalty Product is effective and safe for use in a particular indication in a manner sufficient to obtain Regulatory Approval to market such Alnylam Royalty Product.

1.78 "Pre-Existing Alnylam Alliance Agreements" means the agreements set forth in Schedule 1.78.

1.79 "Product Trademarks" means the trademark(s), service mark(s), accompanying logos, trade dress and/or indicia of origin used in connection with the distribution, marketing, promotion and sale of Royalty Products in the Territory. For purposes of clarity, the term Product Trademark(s) shall not include, without limitation, the corporate names and logos of either Party, and shall include any internet domain names incorporating such Product Trademarks.

1.80 "**Quality Agreement**" means an agreement or agreements to be entered into between the Parties containing quality assurance provisions for the Manufacture by Tekmira, its permitted Affiliates or their respective permitted subcontractors, for Alnylam, of the finished dosage form of Alnylam Royalty Products pursuant to the Manufacturing Plan.

1.81 "Regulatory Approval" means any and all approvals, licenses, registrations or authorizations of any Regulatory Authority, necessary for the Commercialization of a Royalty Product, including the approval of NDAs.

1.82 "Regulatory Authority" means any applicable government regulatory authority involved in granting approvals for the Research, Development, Manufacturing, Commercialization, reimbursement and/or pricing of a Royalty Product in the Territory, including without limitation the FDA.

1.83 "Related Party" means a Party's Affiliates and permitted Sublicensees, which term does not include wholesale distributors of the Party or its Affiliates who purchase Royalty Products from such Party or its Affiliates in an arm's -length transaction and who have no other obligation, including without limitation a reporting obligation, to such Party or its Affiliates.

1.84 "Research" or "**Researching"** means identifying, evaluating, validating and optimizing RNAi Products (and/or miRNA Products in the case of Alnylam).

1.85 "Research Plan" means the detailed written plan of work for the Collaboration for a given Contract Year of the Collaboration Term, as approved and updated by the Joint Research Committee as necessary during the Collaboration Term pursuant to Sections 3.1.1 and 4.1.

1.86 "Research Program Product" means the Formulations that are related to RNAi Product(s) and/or miRNA Product(s) developed under the Research Plan under this Agreement and/or under the R&D Research Plan (as defined in the Protiva License Agreement) for which Alnylam or its Affiliate has established an Active Internal Development Program.

1.87 "RNAi Product" means a product containing, comprised of or based on siRNAs or siRNA derivatives or other double-stranded moieties effective in gene function modulation and

designed to modulate the function of particular genes or gene products by causing degradation through RNA interference of a Target mRNA to which such siRNAs or siRNA derivatives or moieties are complementary.

1.88 "**Royalty Payor**" means, in relation to (a) an Alnylam Royalty Product, Alnylam, and (b) a Tekmira Royalty Product, Tekmira.

1.89 "Royalty Product" means, either (a) an Alnylam Royalty Product, or (b) a Tekmira Royalty Product.

1.90 "**Royalty Recipient**" means, in relation to (a) an Alnylam Royalty Product, Tekmira, and (b) a Tekmira Royalty Product, Alnylam.

1.91 "**Selection Term**" means the period commencing on the Original Effective Date and continuing for five (5) Contract Years of the Agreement Term thereafter, unless such period is extended pursuant to the terms of Section 2.2.

1.92 "**Significant Pharmaceutical Company**" means a pharmaceutical company, biotechnology company, or group of such companies acting in concert, with annual sales of human pharmaceutical products greater than three (3) billion U.S. dollars ($3,000,000,000).

1.93 "Small Interfering RNA" or **"siRNA"** means a double-stranded ribonucleic acid (RNA) composition designed to act primarily through an RNA interference mechanism that consists of either (a) two separate oligomers of native or chemically modified RNA that are hybridized to one another along a substantial portion of their lengths, or (b) a single oligomer of native or chemically modified RNA that is hybridized to itself by self-complementary base-pairing along a substantial portion of its length to form a hairpin.

1.94 "Sublicensee" means a Third Party to whom a Party grants a sublicense permitted under this Agreement under any Alnylam RNAi Technology, Alnylam IOC Technology, Alnylam Lipidoid Patent Rights, Tekmira Technology, Tekmira IOC Technology (to the extent permitted for purposes of the Collaboration only) or Collaboration IP (or a license in the case of Joint Collaboration IP), as the case may be, to Research, Develop, Manufacture or Commercialize a Royalty Product in the Territory and in (a) the Alnylam Field, in the case of Alnylam Royalty Products and Tekmira Development Products or (b) the Tekmira IOC Field, in the case of Tekmira IOC Products, in each case subject to Sections 6.1.1(b) or 6.2, or otherwise grants rights to distribute, promote or sell a Royalty Product.

1.95 "**Supply Agreement**" means that certain Manufacturing and Supply Agreement between the Parties dated February 7, 2007.

1.96 "**Target**" means: (a) a polypeptide or entity comprising a combination of at least one polypeptide and other macromolecules, that is a site or potential site of therapeutic intervention by a therapeutic agent; or a nucleic acid which is required for expression of such polypeptide; (b) variants of a polypeptide, cellular entity or nucleic acid described in clause (a); (c) a defined non-peptide entity, including a microorganism, virus, bacterium or single cell parasite; provided that the entire genome of a virus shall be regarded as a single Target; or (d) a naturally occurring interfering RNA or miRNA or precursor thereof.

1.97 "**Target-Specific Claim**" means a claim in an issued or pending patent that recites one or more specified Particular Moiety(ies).

1.98 "Tax Convention" means the Canada-US Tax Convention (1980), as amended.

1.99 "Tekmira" means Tekmira Pharmaceuticals Corporation.

1.100 "Tekmira Collaboration IP" means (a) any improvement, invention, discovery, Know-How or other Intellectual Property Right, patentable or otherwise, first identified, invented, discovered or developed by employees of Tekmira or its Affiliates or other persons (other than Protiva) not employed by Alnylam acting on behalf of Tekmira, in the performance of the Collaboration, the Manufacturing Activities, and/or Tekmira's obligations under the Original INEX Agreements, and (b) any Patent Rights in the Territory which claim, cover or relate to such improvements, discoveries or Know-How. Tekmira Collaboration IP excludes Tekmira's interest in Joint Collaboration IP.

1.101 "Tekmira In-License" means an agreement between Tekmira or its Affiliates, and a Third Party, pursuant to which Tekmira or any of its Affiliates Control(s) Tekmira Technology relating to the Alnylam Field under a license or sublicense from such Third Party, including without limitation, the Existing Tekmira In-Licenses.

1.102 "Tekmira IOC Field" means the treatment, prophylaxis and diagnosis of diseases in humans using an IOC Product.

1.103 "Tekmira IOC Technology" means (a) Know-How and other Intellectual Property Rights with respect to IOC Products and/or IOCs that are either (i) Controlled by Tekmira or its Affiliates on the Original Effective Date, or (ii) come within the Control of Tekmira or its Affiliates after the Original Effective Date, and (b) Patent Rights that (i) claim (x) such Know-How or other Intellectual Property Rights, or (y) the identification, characterization, optimization, construction, expression, formulation, delivery, use or production of an IOC Product and/or IOC, and that are useful or necessary to Research, Develop, Commercialize and/or Manufacture IOC Products in the Tekmira IOC Field in the Territory, and (ii) are Controlled by Tekmira or its Affiliates.

1.104 "Tekmira Know-How" means Know-How with respect to an RNAi Product or miRNA Product (excluding any Tekmira Collaboration IP, Tekmira's interest in Joint Collaboration IP and any such Know-How sublicensed to Alnylam pursuant to the UBC Sublicense) that (a) is Controlled by Tekmira or its Affiliates on the Original Effective Date, or (b) comes within the Control of Tekmira or its Affiliates following the Original Effective Date.

1.105 "Tekmira Patent Rights" means Patent Rights that (a) claim (i) Tekmira Know-How, or (ii) the identification, characterization, optimization, construction, expression, formulation, delivery, use or production of an RNAi Product or miRNA Product, and that are useful or necessary to Research, Develop, Commercialize and/or Manufacture RNAi Products or miRNA Products in the Alnylam Field in the Territory, and (b) are Controlled by Tekmira or its Affiliates at any time during the Agreement Term(excluding any Patent Rights included in Tekmira Collaboration IP, Tekmira's interest in Joint Collaboration IP and any such Patent Rights licensed to Alnylam pursuant to the UBC Sublicense).

1.106 "**Tekmira Royalty Product**" means any (a) Tekmira Development Product that, but for the licenses granted hereunder, would be Covered by one or more Valid Claims under the Alnylam Core Patent Rights or the Alnylam Lipidoid Patent Rights, or (b) IOC Product that but for the licenses granted hereunder, would be Covered by one or more Valid Claims under the Alnylam IOC Technology.

1.107 "Tekmira Technology" means, collectively, Tekmira Know-How and Tekmira Patent Rights.

1.108 "Tekmira-UBC License Agreement" means that certain license agreement between Tekmira and the University of British Columbia ("UBC") dated effective July 1, 1998, as amended by Amendment Agreement between Tekmira and UBC dated effective July 11, 2006, and Second Amendment Agreement dated effective the Original Effective Date.

1.109 "Territory" means all of the countries in the world, and their territories and possessions.

1.110 "Third Party" means an entity other than a Party and its Affiliates.

1.111 "**Third Party Liposome Patent Rights**" means with respect to an Alnylam Royalty Product, (a) the Alnylam Lipidoid Patent Rights and/or (b) other technology comprising a lipid component or liposomal formulation useful or necessary for the Research, Development, Manufacture or Commercialization of such Alnylam Royalty Product and Controlled by Alnylam under a license from a Third Party, and in each case with respect to which Intellectual Property Rights Alnylam has granted to Tekmira a non-exclusive, royalty- and milestone fee-bearing (on a pass-through basis) license to Research, Develop, Manufacture and Commercialize Tekmira Royalty Products in the Alnylam Field in the case of Tekmira Development Product, and in the Tekmira IOC Field in the case of IOC Products.

1.112 "Transaction Documents" means the Alnylam Subscription Agreement, the Supply Agreement, the Quality Agreements, the Tekmira-UBC License Agreement, the UBC Sublicense Documents, the Loan Agreement, all letter agreements and other documents executed by the Parties on or about the Original Effective Date in connection with the Original Agreement, and any other documents or agreements that are executed by the Parties after the Original Effective Date as contemplated by this Agreement.

1.113 "UBC Sublicense Documents" means the collective reference to (a) the Sublicense Agreement dated as of the Original Effective Date between the Parties (the "UBC Sublicense"), (b) the Consent and Agreement dated as of the Original Effective Date among the Parties and UBC, and (c) the Assignment dated the Original Effective Date between Tekmira and UBC.

1.114 "**Valid Claim"** means a claim of: (a) an issued and unexpired Patent Right, which claim has not been revoked or held unenforceable, unpatentable or invalid by a decision of a court or other governmental agency of competent jurisdiction that is not appealable or has not been appealed within the time allowed for appeal, and which has not been abandoned, disclaimed, denied or admitted to be invalid or unenforceable through reissue, re-examination or disclaimer or otherwise, or (b) a patent application for a patent included within the Patent Rights a claim of which has been pending less than five (5) years and which claim has not been cancelled, withdrawn or abandoned or finally rejected by an administrative agency action from which no appeal can be taken.

1.115 Additional Definitions. The following terms have the meanings set forth in the corresponding Sections of this Agreement:

Term	Section
"AAA"	12.6.1
"Agreement Term"	11.1
"Alnylam Class 1 Royalty Products"	6.1.1(b)(i)
"Alnylam Class 2 Royalty Products"	6.1.1(b)(ii)
"Alnylam Data"	3.2(e)
"Alnylam Indemnitees"	9.5.1
"Alnylam Subscription Agreement"	Recitals
"Bankrupt Party"	11.3
"Breaching Party"	11.2.1(a)
"Code"	11.3
"Collaboration"	3.1.1
"Condition Satisfaction Date"	11.1
"Closing"	Recitals
"CRT Agreement"	6.5.1
"Dispute"	12.6.1
"Effective Date"	11.1
"Equipment"	3.4
"Escrow Agreement"	Recitals
"Excluded Claim"	12.6.1
"Follow-On Product"	7.2(d)
"FTO Notice"	6.9(a)
"Indemnitee"	9.5.3
"INEX"	Preamble
"Infringement Claim"	10.4.1
"Losses"	9.5.1
"Manufacturing Activities Committee"	4.1
"Merck Entities"	Recitals
"Merck Restriction"	6.2.3
"Merck Settlement Agreement"	Recitals
"miRNA"	Preamble
"More Favorable Terms"	6.9(a)(ii)
"Non-Bankrupt Party"	11.3
"Non-Breaching Party"	11.2.1(a)
"Novartis"	1.68
"Opportunity Response Period"	6.9(b)(i)
"Original Agreement"	Recitals
"Original Effective Date"	Recitals
"Original Protiva License Agreement"	Recitals
"Permitted Investor"	12.17.1(c)
"Platform License"	6.9(a)

Term	Section
"Post-IND Opportunity Response Period"	6.9(b)(i)
"Product Notice"	6.9(b)
"Project Manager"	4.1
"Prosecuting Party"	10.2.4(e)
"Protiva"	Recitals
"Protiva License Agreement"	Recitals
"Purchase Agreement"	Recitals
"Region"	11.2.2
"Responsible Party"	10.4.3
"Restricted Joint Invention"	3.7.4
"Restriction Period"	3.7.1
"RNAi"	Preamble
"Roche"	Recitals
"Roche-Nutley"	6.2.2(c)
"Roche Sublicensees"	6.2.2(c)
"Roche Subscription Agreement"	Recitals
"Shares"	7.1
"SPC"	10.7
"Stanford Agreement"	6.5.1
"Successful Product"	7.2(d)
"Target Response Notice"	2.2
"Tekmira Development Product"	2.1
"Tekmira Development Target"	2.1
"Tekmira Facilities Option"	3.7.2
"Tekmira Indemnitees"	9.5.2
"Tekmira In-License Provisions"	6.4(a)
"Tekmira IOC Product"	6.9(b)(i)
"Tekmira Patent"	11.5(a)
"UBC"	1.108
"UBC Sublicense"	1.113

2. TEKMIRA DEVELOPMENT TARGETS.

2.1 Tekmira Development Targets. During the Selection Term, and subject to the terms and conditions of this Agreement and Alnylam's right to grant rights thereto at the time of selection, Tekmira may select up to three (3) Targets with respect to which Tekmira shall Research, Develop, Manufacture and Commercialize RNAi Products directed to such Target under its license to the Alnylam Core Patent Rights and Alnylam Lipidoid Patent Rights pursuant to Section 6.1.2(a) (each such Target, a "Tekmira Development Target", and each such RNAi Product, a "Tekmira Development Product"). For clarity, the Parties acknowledge that the three (3) Tekmira Development Targets shall be in addition to the PLK Target and the three Protiva Development Targets that are among the subjects of the Protiva License Agreement. The Parties acknowledge that the selection of each Tekmira Development Target is subject to Novartis' right of first offer under the Novartis Agreement and to other Alnylam obligations to Third Parties.

2.2 Selection Process. The following process shall apply to the selection of Tekmira Development Targets. Tekmira shall initially notify Alnylam in writing of the NCBI Gene ID number

(or, if a NCBI Gene ID number is not available, the specific sequence of the proposed Target) of each Target nominated by Tekmira for selection as a Tekmira Development Target. Prior to nominating a Target to Alnylam, Tekmira shall possess bona fide data regarding the validation of such Target for potential therapeutic modulation by siRNAs. Within **[*]** following Alnylam's receipt of a notice nominating a Target, Alnylam shall notify Tekmira in writing (a "Target Response Notice") whether such Target is either: (a) subject to a contractual obligation to a Third Party that would be breached by the inclusion of such Target as a Tekmira Development Target under this Agreement, or (b) determined by Alnylam after its review in good faith of its ongoing or planned scientific and/or business activities and strategy to be a Target of interest to Alnylam. If neither of these criteria apply, the Target shall be considered to have been successfully nominated as a Tekmira Development Target. Alnylam shall use Commercially Reasonable Efforts consistent with the terms of the Novartis Agreement to obtain Novartis' consent to the selection by Tekmira of such Target as a Tekmira Development Target under this Agreement, and shall notify Tekmira in writing as to whether or not such Target is available for license hereunder. If a Target submitted to Alnylam is not so available for license as a Tekmira Development Target, then Tekmira may nominate an additional Target as a Tekmira Development Target, until an aggregate of three (3) Tekmira Development Targets have been identified and approved for selection pursuant to the foregoing procedure; provided, that Tekmira may not submit more than three (3) proposed Targets (in addition to any Protiva Development Targets or candidate Protiva Development Targets submitted under the Protiva License Agreement) to Alnylam for evaluation pursuant to the foregoing procedure in any single Calendar Quarter. Any Target approved for selection pursuant to the foregoing procedure shall be a Tekmira Development Target. If upon the expiration of the Selection Term all three (3) Tekmira Development Targets have not been approved for selection pursuant to the foregoing procedure, then the Selection Term shall be extended until the earlier of (i) the date on which an aggregate of three (3) Tekmira Development Targets have been so identified and approved for selection and (ii) the **[*]** anniversary of the Original Effective Date. For clarity, notwithstanding the number of Targets evaluated by Alnylam for availability for selection as a Tekmira Development Target, Tekmira shall not be entitled to more than three (3) Tekmira Development Targets.

3. COLLABORATION

3.1 Collaboration.

3.1.1 Collaboration and Research Plan. During the Collaboration Term Alnylam and Tekmira shall use Commercially Reasonable Efforts to collaborate in the research, development and process (and analytical methods) development of liposomal formulations of RNAi Products, miRNA Products and IOC Products, as specifically set forth in the Research Plan (such activities, are referred to as the "Collaboration"). The JRC has agreed upon a detailed Research Plan for the Collaboration for the full twelve-months of the first Contract Year of the Collaboration Term. Attached to this Agreement as Schedule 3.1 is an updated Research Plan for the second Contract Year of the Collaboration Term, which Research Plan shall be updated quarterly by the JRC during the remainder of the Collaboration Term. The Parties shall update, and the JRC shall approve in accordance with Section 4.1, updates to the Research Plan for each Contract Year thereafter (if any) during the Collaboration Term.

3.1.2 FTEs and Collaboration Funding. Tekmira agrees to provide up to **[*]** FTEs in each Contract Year of the Collaboration Term to perform its obligations under the Collaboration as provided in the Research Plan. The use of additional FTEs will be subject to approval by the JRC. Alnylam shall fund the Collaboration in accordance with Section 7.5.1.

3.2 Information Exchange. Subject to and in accordance with the provisions of Article 6, as set forth below:

(a) Within three (3) months after the Effective Date and on an ongoing basis during the Agreement Term Tekmira shall disclose to Alnylam all Tekmira Technology that is Controlled by Tekmira or its Affiliates as of the Original Effective Date and/or during the Agreement Term, and all Collaboration IP that, in each case, has not been previously disclosed, and shall update such disclosure at least once each Calendar Quarter;

(b) During the Collaboration Term, through the JRC, Tekmira shall disclose to Alnylam Tekmira IOC Technology Controlled by Tekmira on the Original Effective Date and/or during the Collaboration Term, as and to the extent Tekmira determines, in its reasonable judgment, that such Tekmira IOC Technology is necessary or useful for Alnylam's performance of its obligations under the Collaboration with respect to IOC Products;

(c) During the Collaboration Term, through the JRC, Alnylam shall disclose to Tekmira (i) all Alnylam IOC Technology, Alnylam Collaboration IP and Joint Collaboration IP that, in each case, has not been previously disclosed, and shall update such disclosure at least once each Calendar Quarter with regard to Alnylam Collaboration IP and Joint Collaboration IP;

(d) During the Collaboration Term, through the JRC, Alnylam shall disclose to Tekmira Alnylam RNAi Technology as and to the extent Alnylam determines, in its reasonable judgment, that such Alnylam RNAi Technology is necessary or useful for Tekmira's performance of its obligations under the Collaboration and Manufacturing Activities with respect to Alnylam Royalty Products;

(e) Promptly after the Effective Date and on an ongoing and timely basis thereafter during the Research Term, Alnylam shall (unless otherwise requested by Tekmira in any instance or instances) disclose to Tekmira data generated by Alnylam using any of the materials or chemical compounds provided by Tekmira to Alnylam for use in furtherance of the conduct of the Collaboration ("Alnylam Data"); and

(f) Each Party shall make available its employees, consultants and subcontractors engaged in the performance of its obligations under the Collaboration and/or the Manufacturing Activities upon reasonable notice during normal business hours to consult with the other Party with respect to the Collaboration and/or the Manufacturing Activities, as coordinated through the Project Managers or such other individual of a Party as may be designated by such Party and consistent with the resource requirements specified in the Research Plan and/or the Manufacturing Plan.

3.3 Alnylam Materials for Collaboration. Unless the Parties otherwise agree in writing, Tekmira will supply, in accordance with the relevant approved raw material specifications, all materials to be used by Tekmira in the performance of its obligations under the Collaboration other than the Alnylam Materials listed in the Research Plan. Alnylam or its designees will provide Tekmira with the Alnylam Materials listed in the Research Plan. Except as explicitly authorized in writing by Alnylam, all Alnylam Materials delivered to Tekmira shall remain the sole property of

Alnylam. Tekmira agrees (a) to account for all Alnylam Materials, (b) not to provide Alnylam Materials to any Third Party (other than to subcontractors of Tekmira permitted under Section 3.5) without the express prior written consent of Alnylam, (c) not to use Alnylam Materials for any purpose other than performing its obligations under the Collaboration, including, without limitation, not to analyze, characterize, modify or reverse engineer any Alnylam Materials or take any action to determine the structure or composition of any Alnylam Materials unless required to perform its obligations under the Collaboration, and (d) to destroy or return to Alnylam all unused quantities of Alnylam Materials according to Alnylam's written directions. The Alnylam Materials supplied for use in the Collaboration must be used with prudence and appropriate caution in any experimental work, since not all their characteristics may be known; however, Alnylam shall notify Tekmira of any health hazards of which it is or becomes aware relating to the use or handling of the Alnylam Materials.

3.4 Alnylam Equipment for Collaboration. Unless otherwise agreed by the Parties in writing, Tekmira will supply all equipment and machinery necessary to perform its obligations under the Collaboration ("Equipment"). If Alnylam or its designees provide Tekmira with Equipment, (a) such Equipment will not be used by Tekmira except in performance of its obligations under the Collaboration under this Agreement, (b) title to such Equipment will remain with Alnylam, (c) Tekmira will ensure that such Equipment is properly labeled as Alnylam property and remains free and clear of any liens or encumbrances, (d) Tekmira will install the Equipment in a manner which will permit its removal without material injury to the place of installation and (e) the Equipment shall be installed at Tekmira's or Protiva's facility located in British Columbia, Canada, and shall be maintained and used at such and not elsewhere without the prior written consent of Alnylam. At Alnylam's written request, such Equipment will be returned to Alnylam, or to Alnylam's designee. Tekmira will be responsible, at its own cost, for maintenance of such Equipment; provided, however, that Alnylam shall be responsible for: (i) ensuring all Equipment provided by Alnylam is in good working order at the time of delivery to Tekmira, and (ii) unless otherwise agreed by the Parties, performing equipment qualification and calibration prior to either Party's use of such Equipment at Tekmira's premises. Tekmira shall not be required to purchase spare parts for the Equipment. To the extent Alnylam provides spare parts for such Equipment, such spare parts will remain the property of Alnylam and will be used by Tekmira only for maintenance of such Equipment. Tekmira will immediately notify Alnylam if at any time it believes any such Equipment has been damaged, lost or stolen.

3.5 Subcontractors and Third Party Research Collaborations. (a) Tekmira may utilize the services of Affiliates or Third Party contractors to perform its obligations under the Collaboration only as specified in the Research Plan or with the prior written approval of the JRC; provided that (i) prior to the expiration of the Restriction Period, Tekmira may not, under any circumstances, subcontract any aspect of its obligations under the Research Plan or the Collaboration to Protiva without Alnylam's prior written consent, which consent shall not be unreasonably withheld or delayed; (ii) Tekmira shall remain at all times fully liable for its responsibilities under this Agreement; and (iii) Tekmira's agreement with any permitted subcontractor provides Alnylam the same rights under this Agreement as if Tekmira had done the work itself, and any such agreement shall include confidentiality and non-use provisions which are no less stringent than those set forth in Article 8 of this Agreement.

(b) In addition, the Parties agree that it may be necessary or useful to enter into Third Party collaborations which provide technology, information, data or know-how, patentable or otherwise,

which are necessary or useful for Tekmira and/or Alnylam to perform its obligations under the Collaboration. Such Third Party collaborations shall not conflict with the terms and conditions of this Agreement. In the event that any such Third Party collaborations are contemplated in connection with the Collaboration, the JRC shall discuss, subject to Third Party confidentiality obligations, and agree upon entering into such Third Party collaborations, and the Research Plan shall be amended to include such Third Party collaborations. The Parties shall use good faith efforts to ensure that, to the extent possible, all such Third Party collaborations shall provide that any and all data and results, discoveries and inventions, whether patentable or not, arising out of the Third Party collaboration may be used by bona fide collaborators of the Party entering into the Third Party collaboration agreement and shall include confidentiality and non-use provisions which are no less stringent than those set forth in Article 8 of this Agreement. In addition, the Party entering into such Third Party collaborations shall use Commercially Reasonable Efforts to obtain a right to sublicense to the other Party and its Related Parties any Intellectual Property Rights arising out of the Third Party collaboration.

3.6 Records. Each Party shall maintain scientific records, in sufficient detail and in good scientific manner appropriate for patent and regulatory purposes, which shall fully and properly reflect all work done and results achieved in the performance of the Collaboration. Alnylam shall have the right, during normal business hours and upon reasonable notice, to inspect and copy (or request Tekmira to copy) all records of Tekmira maintained in connection with the work done and results achieved in the performance of the Collaboration to the extent such records relate to Alnylam Royalty Products. Tekmira shall have the right, during normal business hours and upon reasonable notice, to inspect and copy (or request Alnylam to copy) all records of Alnylam maintained in connection with the work done and results achieved in the performance of the Collaboration to the extent such records relate to IOC Products. All such records and the information disclosed therein shall be maintained in confidence in accordance with Article 8.

3.7 Separate Conduct of Certain Activities by Tekmira and Protiva.

3.7.1 Separate Conduct. Immediately upon the effective date of the Purchase Agreement and through **[*]** (the "Restriction Period"), Tekmira has taken and will take all steps necessary to ensure, to the maximum extent practicable, that there was and is no collaboration between, or joint inventive work conducted by, Tekmira and Protiva under the Research Plan or the Manufacturing Plan, or under the Second Target Research Plan, the PLK Research Plan or the R&D Research Plan (as each such term is defined in the Protiva License Agreement), or any activities contemplated thereunder, with the goal of preventing any and all of Tekmira's intellectual property from becoming licensed to Merck & Co. under the Merck Settlement Agreement. Such steps shall include, without limitation, the requirement that during the Restriction Period, Tekmira has maintained and shall maintain research and manufacturing operations that are separate from the research and manufacturing operations of Protiva for all activities under the Research Plan, the Manufacturing Plan, the Second Target Research Plan, the PLK Research Plan and the R&D Research Plan (as each such term is defined in the Protiva License Agreement), and has ensured and shall ensure that the Tekmira personnel who work on the Research Plan or the Manufacturing Plan did not and do not undertake research or Manufacturing activities with or for Protiva under the Second Target Research Plan, the PLK Research Plan or the R&D Research Plan.

3.7.2 Common Management; Tekmira Facilities Option. Notwithstanding the requirements of Section 3.7.1, during the Restriction Period (a) Tekmira and Protiva may (i) have

common management in the form of one person who serves as CEO of both companies, (ii) have interlocking boards of directors, and (iii) share with each other or loan to each other specific items of equipment and/or other tangible and intangible assets (but not human resources, other than administrative personnel not involved in Research, Development or Manufacturing activities); and (b) Protiva may use Tekmira's physical facilities solely to Manufacture (i) at Alnylam's sole discretion, a product formulation developed by Protiva for Alnylam under the Protiva License Agreement; or (ii) upon mutual written agreement of Alnylam, Tekmira and Protiva, an RNAi Product directed to the PLK Target (as such terms are defined under the Protiva License Agreement) ("Tekmira Facilities Option").

3.7.3 Notification. During the period from the Effective Date through **[*]**, Tekmira shall notify Alnylam in writing within thirty (30) days after conception of any intellectual property conceived by Tekmira or Protiva (or their employees or consultants) prior to **[*]**, with respect to which Alnylam has or should have a license under this Agreement, the UBC Sublicense or the Protiva License Agreement, it being understood that such notice as to the period from the end of the Restriction Period through **[*]** will be for informational purposes only.

3.7.4 Violations, Penalties. In the event that any joint invention is made (i) by inventor(s) who are employees or consultants of Tekmira and inventor(s) who are employees or consultants of Protiva during the Restriction Period, (ii) due to or in respect of the conduct of Protiva and/or Tekmira during the Restriction Period and (iii) without any inventive contribution from Alnylam or communication by or through Alnylam of any information or materials from Protiva or Tekmira to the other in a manner that is material to the determination of inventorship (any such joint invention is hereinafter referred to as a "Restricted Joint Invention"), with the result that any rights to such Restricted Joint Invention are licensed to Merck Entities under the Merck Settlement Agreement (or would have been so licensed to Merck Entities under the terms of the Merck Settlement Agreement as they existed on the Effective Date), then, except and solely to the extent that any such Restricted Joint Invention arises from Manufacturing performed by Protiva at a Tekmira facility as a result of the exercise of the Tekmira Facilities Option:

(a) Tekmira shall cause Protiva to pay to Alnylam any and all royalties and milestone payments received from Merck Entities under the Merck Settlement Agreement with respect to the development or commercialization of any product as to which the Merck Entities owed such royalties or milestones due to the Coverage of such product by any claims (whether issued or pending) Covering such Restricted Joint Invention (or that would have been so received from Merck Entities under the terms of the Merck Settlement Agreement as they existed on the Effective Date);

(b) Alnylam shall have a fully-paid, perpetual, milestone-free, royalty-free, and exclusive (except as to the Merck Entities' rights under the Merck Settlement Agreement) license to Tekmira's right, title and interest in the Restricted Joint Invention;

(c) Alnylam shall have the unilateral right, exercisable at any time upon written notice to Tekmira, to terminate Alnylam's obligation to retain Tekmira as Alnylam's exclusive manufacturer pursuant to Section 5.1 and the Supply Agreement; and

(d) any and all royalties required to be paid by Alnylam to Tekmira under this Agreement with respect to Alnylam Royalty Products Covered by the Exclusively Licensed Tekmira IP shall be reduced by **[*]**.

4. JOINT RESEARCH COMMITTEE.

4.1 Joint Research Committee and Project Managers. As soon as practicable after the Original Effective Date the Parties established a Joint Research Committee with authority to approve the initial Research Plan, review for approval the annual update to such Research Plan, coordinate the conduct of activities under the Collaboration, and the Manufacturing Activities, approve the initial Manufacturing Plan, review for approval the quarterly update to such Manufacturing Plan, coordinate the conduct of activities under the Manufacturing Plan, and generally facilitate communication between the Parties. The JRC shall consist of two (2) representatives of each Party, together with such other personnel of a Party as such Party deems reasonably necessary to accomplish the objectives of this Agreement. Each Party shall also designate a "Project Manager". The Project Managers will be responsible for the day-to-day coordination of the Collaboration and the Manufacturing Activities, and will serve to facilitate communication between the Parties. Each Party may change its designated Project Manager from time to time upon written notice to the other Party. The JRC shall be empowered to create subcommittees of itself, including without limitation, a committee to oversee Manufacturing Activities (the "Manufacturing Activities Committee"), as it may deem appropriate or necessary. The Manufacturing Activities Committee shall consist of representatives of the Parties' manufacturing and quality assurance departments. Each such subcommittee shall report to the JRC, which shall have the authority to approve or reject recommendations or actions proposed thereby subject to the terms of this Article 4.

4.2 Meetings. The JRC shall meet in accordance with schedules established by mutual written agreement of the Parties, but no less frequently than once per Contract Quarter during the Collaboration Term, with the location for such meetings alternating between Alnylam and Tekmira facilities (or such other locations as are determined by the JRC). Alternatively, the JRC may meet by means of teleconference, videoconference or other similar communications equipment, but at least two (2) meetings per Calendar Year shall be conducted in person. Each Party shall bear its own expenses relating to attendance at such meetings by its representatives. With respect to decisions of the JRC, the representatives of each Party shall have collectively one vote on behalf of such Party. For each meeting of the JRC, at least one (1) representative of each Party shall constitute a quorum. Action on any matter may be taken at a meeting, by teleconference, videoconference or by written agreement.

4.3 Minutes. A secretary shall be appointed for each meeting and shall prepare minutes of the meeting, which shall provide a written description in reasonable detail of the discussions held at the meeting and a list of any actions, decisions or determinations approved by the JRC.

4.4 Disputes. The JRC shall attempt to resolve any and all disputes relating to this Agreement by consensus; provided, that the Manufacturing Activities Committee (if it exists at the relevant time) shall first attempt to resolve any and all disputes relating to the Manufacturing Activities (if necessary or appropriate, by reference to the Supply Agreement and the applicable Quality Agreement, including without limitation, the batch evaluation, acceptance and rejection procedures and standards set forth therein), and failing resolution by the Manufacturing Activities Committee, the JRC shall attempt to resolve such dispute. If the JRC is unable to reach a consensus

with respect to a dispute, then the dispute shall be submitted to escalating levels of Tekmira and Alnylam senior management for review. If such dispute cannot be resolved despite escalation, then the Chief Executive Officers of Alnylam and Tekmira shall attempt to resolve such dispute. In the event that the Chief Executive Officers cannot reach an agreement regarding such dispute within thirty (30) days after submission to them for resolution, then:

(a) If the dispute is one over which the JRC has authority pursuant to Section 4.1, then Alnylam shall have final decision-making authority; provided, however, that Alnylam may not, without Tekmira's consent, increase Tekmira's obligation during the Collaboration Term to provide FTEs to perform its obligations under the Collaboration in excess of **[*]** FTEs per Contract Year of the Collaboration Term; and

(b) With respect to all other disputes between the Parties, the dispute resolution provisions of Section 12.6 shall apply.

Notwithstanding the foregoing, if the dispute between the Parties is over the reasonable comparability of the factors described in Section 5.1(a)(ii) and the Manufacturing Activities Committee cannot agree within five (5) Business Days after submission of the bona fide Third Party quote to the Manufacturing Activities Committee, then the Parties shall not refer the matter to the JRC but rather to an independent Third Party manufacturing consultant reasonably acceptable to the Parties and the Parties shall cause such independent Third Party to render his/her decision as soon as possible but no later than fifteen (15) Business Days after submission, which decision shall be binding on the Parties.

5. MANUFACTURING

5.1 Manufacturing and Supply.

(a) Exclusive Manufacturing Obligations. Alnylam hereby retains Tekmira, on a product-by-product basis, as Alnylam's exclusive manufacturer to Manufacture and supply Alnylam's requirements of the bulk finished dosage form of each Alnylam Royalty Product formulated using Tekmira Technology, and/or Alnylam Technology, including, without limitation, the Third Party Liposome Patent Rights, in each case for toxicology and other non-clinical studies and clinical development, through the completion of all Phase II Studies of such Alnylam Royalty Product that are initiated prior to the initiation of the first Phase III Study of such Alnylam Royalty Product; provided, however, that such exclusive supply engagement shall only apply during the Manufacturing Term and shall not apply to any Alnylam Royalty Product (on a product-by-product basis):

(i) that Tekmira cannot or will not Manufacture and supply (or is not or will not be able to Manufacture and supply), to Alnylam's reasonable satisfaction, (x) at the requisite scale, in sufficient quantities, within requisite timelines based on Alnylam's actual and/or planned development program for such Alnylam Royalty Product and in accordance with the applicable product master batch record, specifications and other quality requirements for such Alnylam Royalty Product as set forth in the Supply Agreement and the applicable Quality Agreement, (y) in accordance with all applicable laws and regulations, including without limitation the requirements of cGMP, and (z) using a facility with respect to which Tekmira or its permitted subcontractor has obtained approval from the applicable Regulatory Authorities to Manufacture and supply such Alnylam Royalty Product; or

(ii) with respect to which Alnylam would be required to pay Tekmira an amount per batch of the bulk finished dosage form of such Alnylam Royalty Product that is **[*]** greater than the cost per batch for the Manufacture of such finished dosage form as quoted in a bona fide offer received by Alnylam from a Third Party; provided, that the specifications for such finished dosage form, and the batch size, quantity, and quality of product would be at least reasonably comparable. In the event that Alnylam would be entitled under this clause (ii) to obtain its requirements of the finished dosage form of an Alnylam Royalty Product from a Third Party, then prior to Alnylam engaging such Third Party for such services Tekmira may submit a revised per batch price quote for such finished dosage form and if Tekmira's revised per batch price quote is **[*]** Third Party's quote, Alnylam shall continue to obtain its supply of such finished dosage form from Tekmira in accordance with this Article 5.

Moreover, Alnylam may obtain supply of the bulk finished dosage form of any Alnylam Royalty Product from a Third Party in such amounts as may be required in order to qualify and maintain such Third Party as a "backup" supplier as part of Alnylam's prudent supply chain management policies; provided, however, that so long as Tekmira is able to comply with the requirements set forth in this Section 5.1(a), Tekmira shall continue to be Alnylam's primary supplier. For purposes of determining whether Tekmira is able to comply with the requirements of this Section 5.1(a), the capabilities of Tekmira and its wholly-owned subsidiary Protiva, acting either together or separately, shall be taken into account, and Protiva acting separately will not be considered unable to comply with such requirements solely due to any refusal of Alnylam to approve subcontracting to Protiva pursuant to Section 5.3(b), whether or not such refusal is reasonable.

(b) Alternate Supplier. Tekmira shall, upon Alnylam's written request provided to Tekmira at any time after (i) the Effective Date, identify and reasonably verify the suitability of a Third Party as a "backup" supplier of Alnylam Royalty Products as soon as reasonably possible and/or (ii) **[*]**, establish and qualify a Third Party as a "backup" supplier of Alnylam Royalty Products as soon a reasonably possible, but in no event more than twelve (12) months after receipt of such request; provided, however, that the JRC may agree to extend such time periods. Alnylam shall have the right to propose such "backup" supplier(s) and Tekmira shall have the right to consent to such "backup" supplier(s), which consent shall not be unreasonably withheld or delayed. Within thirty (30) days after the Effective Date Tekmira will deliver to the JRC, for review and approval, an update to the Manufacturing Plan containing a project overview for establishing and qualifying a "backup" supplier. This project overview will include contract manufacturing organization targets, timelines, equipment requirements, and both FTE and out-of-pocket expense estimates. The qualification of a "backup" supplier is not intended in any way to alter Tekmira's rights to Manufacture Alnylam Royalty Products under this Agreement. All internal FTE costs and extraordinary out-of-pocket expenses actually incurred by Tekmira in, and reasonably required, to qualify a "backup" supplier as set forth in this Section 5.1(b) shall be reimbursed by Alnylam (in the case of FTE costs, at the applicable FTE Rate and not to exceed the project overview estimate without the prior approval of the JRC). Tekmira acknowledges and agrees that the FTE Rate reflects Tekmira's fully-loaded costs and expenses in performing its obligations under the project overview portion of the Manufacturing Plan, and that Tekmira is solely responsible for its costs and expenses in performing its obligations thereunder. However, Alnylam agrees to reimburse Tekmira for any extraordinary out-of pocket costs and expenses incurred by Tekmira in performing its obligations under this Section 5.1(b) to the extent that such out-of pocket costs and expenses are approved by the JRC in advance in writing and are reasonable, documented costs and expenses actually and directly incurred by Tekmira.

5.2 Manufacturing Funding. Alnylam shall pay Tekmira for the supply of bulk finished dosage form of Alnylam Royalty Products in accordance with Section 7.5.2.

5.3 Supply Agreement; Subcontracting Restriction; Phase III and Commercial Supply.

(a) The Parties have entered into the Supply Agreement effective the Original Effective Date. The Parties hereby amend the terms of the Supply Agreement by: (i) replacing each reference to "Initial Collaboration Term" in Section 8.1(b) of the Supply Agreement with "Collaboration Term" and (ii) replacing the reference to "Section 5.1(a) or (b)" in Section 14.2 of the Supply Agreement with "Section 5.1(a)(i) or (ii)".

(b) Notwithstanding anything in this Agreement or in the Supply Agreement to the contrary, prior to December 31, 2008, Tekmira may not, under any circumstances, subcontract any aspect of its obligations under the Manufacturing Plan, the Manufacturing Activities or the Supply Agreement to Protiva without Alnylam's prior written consent, which consent shall not be unreasonably withheld or delayed.

(c) The Parties agree to discuss in good faith from time to time Tekmira's Manufacture and supply of Alnylam's requirements of the bulk finished dosage form of Alnylam Royalty Products for Phase III Studies and commercial sale, however, nothing in this Agreement or the Supply Agreement shall be deemed to be a binding obligation of either Party to enter into such a transaction.

5.4 Technology Transfer. If Alnylam elects to Manufacture the finished dosage form of an Alnylam Royalty Product, or to have such finished dosage form Manufactured by a Third Party, in each case as permitted under this Agreement, including without limitation Sections 5.1 above and Sections 11.2.2, 11.4 and 11.6, then Tekmira will provide to Alnylam or its designee, all Manufacturing information, including, without limitation, documentation, technical assistance, and any materials or equipment owned by Alnylam, and cooperation by appropriate employees of Tekmira as Alnylam or its designee may reasonably require in order to Manufacture such finished dosage form. Alnylam will compensate Tekmira for such assistance at the FTE Rate, except in the case of a material breach by Tekmira of this Agreement, the Supply Agreement or a Quality Agreement by Tekmira in which event Tekmira shall provide such assistance free of charge for an appropriate and reasonable period of time.

6. LICENSES

6.1 License Grants.

6.1.1 Alnylam Royalty Products.

(a) **Exclusive Alnylam Royalty Product License.** Subject to the terms and conditions of this Agreement, Tekmira hereby grants to Alnylam an exclusive, royalty-bearing license under and to use the Exclusively Licensed Tekmira IP to Research, Develop, Manufacture and Commercialize Alnylam Royalty Products in the Alnylam Field and in and for the Territory. Such license includes the right to grant sublicenses as provided in Section 6.2 below.

(b) **Non-Exclusive Alnylam Royalty Product Licenses.**

(i) Class 1 Non-Exclusively Licensed Tekmira IP. Tekmira grants to Alnylam a non-exclusive, royalty-bearing license under and to use Class 1 Non-Exclusively Licensed Tekmira IP to Research, Develop, Manufacture and Commercialize Alnylam Royalty Products in the Alnylam Field and in and for the Territory ("Alnylam Class 1 Royalty Products"). Such license includes the right to grant sublicenses as provided in Section 6.2 below.

(ii) Class 2 Non-Exclusively Licensed Tekmira IP. Tekmira grants to Alnylam a non-exclusive, royalty-bearing license under and to use Class 2 Non-Exclusively Licensed Tekmira IP to Research, Develop, Manufacture and Commercialize Alnylam Royalty Products for any Alnylam Target in the Alnylam Field and in and for the Territory ("Alnylam Class 2 Royalty Products"). Such license includes the right to grant sublicenses as provided in Section 6.2 below.

(c) **Collaboration and Manufacturing Activity License.** Subject to the terms and conditions of this Agreement, Alnylam hereby grants Tekmira a non-exclusive, royalty-free license under (i) Alnylam RNAi Technology and Alnylam Collaboration IP and (ii) Alnylam's rights in Tekmira Technology, and Tekmira Collaboration IP, in each case as permitted and solely for the purposes of performing (x) Tekmira's obligations under the Collaboration with respect to Alnylam Royalty Products in accordance with the Research Plan as set forth in Article 3, and (y) the Manufacturing Activities. Such license does not include the right to grant sublicenses except to subcontractors of Tekmira permitted under Sections 3.5 or 5.3(b) or the Supply Agreement.

6.1.2 Tekmira Royalty Products.

(a) **Tekmira Development Product License.** Subject to the terms and conditions of this Agreement, Alnylam hereby grants Tekmira (i) an exclusive, royalty-bearing license under the Alnylam Core Patent Rights, the Alnylam Lipidoid Patent Rights, Alnylam Collaboration IP and Alnylam's interest in Joint Collaboration IP, and (ii) an exclusive, royalty-free license under Alnylam's rights in Tekmira Technology and Tekmira Collaboration IP, in each case to Research, Develop, Manufacture and Commercialize Tekmira Development Products in the Alnylam Field in and for the Territory. Such license includes the right to grant sublicenses as provided in Section 6.2 below.

(b) **Alnylam Data License**. Alnylam grants to Tekmira a perpetual, non-exclusive, royalty-free, worldwide license to use and exploit the Alnylam Data; provided, however, that: (i) Tekmira will, pursuant to Article 8, protect from disclosure any of such Alnylam Data that constitutes Alnylam's Confidential Information and (ii) to the extent any Alnylam Data that constitutes Alnylam's Confidential Information relates to a Particular Moiety (other than a Particular Moiety directed at a Tekmira Development Target), Tekmira will not use or exploit such Alnylam Data, or transfer or sublicense such ALNYLAM Data to any Third Party, for the purposes of Research, Development, or Commercialization of products directed at the Target of such Particular Moiety, except to subcontractors of Tekmira permitted under Section 3.5 or 5.3(b) or the Supply Agreement.

(c) **IOC Product License.** Subject to the terms and conditions of this Agreement, Alnylam hereby grants Tekmira an exclusive, royalty-bearing license under Alnylam's interest in the Alnylam IOC Technology, Alnylam Collaboration IP and Alnylam's interest in Joint Collaboration IP to Research, Develop, Manufacture and Commercialize IOC Products in the Tekmira IOC Field in and for the United States. Such license includes the right to grant sublicenses as provided in Section 6.2 below.

(d) **Collaboration License**. Subject to the terms and conditions of this Agreement, Tekmira hereby grants Alnylam a non-exclusive, royalty-free license under (i) Tekmira Technology and Tekmira Collaboration IP, and (ii) Tekmira IOC Technology that is Controlled by Tekmira on the Original Effective Date and during the Collaboration Term, as permitted and solely for the purposes of performing Alnylam's obligations under the Collaboration with respect to Tekmira Royalty Products in accordance with the Research Plan as set forth in Article 3. Such license does not include the right to grant sublicenses except to subcontractors of Alnylam permitted under Section 3.5.

6.1.3 Royalty Term. Upon expiration of all royalty obligations hereunder all licenses of the Parties under this Article 6 then in effect shall become fully paid-up, perpetual, non-exclusive licenses.

6.2 Sublicenses.

6.2.1 Affiliates. Each Party shall be entitled to grant sublicenses of its rights under this Agreement (and licenses of its rights under and to Joint Collaboration IP) to its Affiliates for so long as such entities remain Affiliates and upon written confirmation by such Affiliates that they agree to be bound by the terms and conditions of this Agreement; provided, however, that (a) Tekmira may not sublicense its rights under this Agreement to perform the Collaboration or to perform Manufacturing Activities to a Tekmira Affiliate of which **[*]** or more of the outstanding voting securities are owned, controlled or held by a Significant Pharmaceutical Company or by any investment entity affiliated with any such Significant Pharmaceutical Company and (b) any such sublicense shall be subject in all respects to the terms of Section 3.7. If a Party grants a sublicense to its Affiliate: (i) the granting Party unconditionally guarantees the performance of such Affiliate as if such Affiliate were a signatory to this Agreement to the extent the performance or lack of performance is a breach of this Agreement, and (ii) the obligations and liabilities of such Affiliate shall be joint and several and the non-granting Party shall not be obliged to seek recourse against such Affiliate before enforcing its rights against the granting Party. For greater certainty, it is hereby confirmed that any default or breach by such Affiliate of any term of this Agreement will also constitute a default by the granting Party under this Agreement, and the non-granting Party shall be entitled to exercise its rights hereunder, in addition to any other rights and remedies to which the non-granting Party may be entitled.

6.2.2 Alnylam Royalty Products. Alnylam shall be entitled to grant sublicenses of its rights under this Agreement (and licenses under and to its rights in any Joint Collaboration IP) to Third Parties to Research, Develop, Manufacture and Commercialize Alnylam Royalty Products; provided, that:

(a)with respect to any license or sublicense of Alnylam's rights under Section 6.1.1(b)(i), such license or sublicense may only be granted to one or more Third Parties in a Bona Fide Collaboration with Alnylam, but solely within the scope of and for the purposes of such Bona Fide Collaboration, or with respect to the Research, Development, Manufacture and/or Commercialization of Alnylam Class 1 Royalty Products that meet one or more of the following: (i) such Alnylam Class 1 Royalty Product was initially Developed at least to the point of preclinical proof-of-principle by Alnylam in an Active Internal Development Program; (ii) such Alnylam Class 1 Royalty Product is an Alnylam Partnered Product; or (iii) such Alnylam Class 1 Royalty Product is a Research Program Product;

(b) with respect to any license or sublicense of Alnylam's rights under Section 6.1.1(b)(ii), such right to license or sublicense will apply only with respect to the Research, Development,

Manufacturing, and/or Commercialization of Alnylam Class 2 Royalty Products that meet one or more of the following:

(x) such Alnylam Class 2 Royalty Product is a Research Program Product; or

(y) such Alnylam Class 2 Royalty Product incorporates the same Formulation as the Lead Formulation of a Research Program Product, whether or not it is directed at the same Target as such Research Program Product, and also meets one or more of the following: (1) such Alnylam Class 2 Royalty Product was initially Developed at least to the point of preclinical proof-of-principle by Alnylam in an Active Internal Development Program; or (2) such Alnylam Class 2 Royalty Product is an Alnylam Partnered Product;

(c) Alnylam may sublicense any and all of its rights under Section 6.1.1(b) to Roche and to Hoffmann-La Roche Inc. ("Roche-Nutley", and together with Roche, the "Roche Sublicensees") pursuant to an agreement substantially in the form set forth in Schedule 6.2.2.

(d)(i) with respect to any sublicense of Alnylam's rights under Sections 6.1.1(a) and/or (b) in respect of any Alnylam Royalty Product for which Tekmira *has not* initiated Manufacturing of batches of finished dosage form for GLP toxicology studies, Alnylam shall use Commercially Reasonable Efforts to facilitate a business discussion between Tekmira and Alnylam's Sublicensee (other than Tekmira or its Affiliates) with respect to the provision of manufacturing services by Tekmira to such Sublicensee, (ii) with respect to any sublicense of Alnylam's rights under Sections 6.1.1(a) and/or (b) in respect of any Alnylam Royalty Product for which Tekmira *has* initiated Manufacturing of batches of finished dosage form for GLP toxicology studies, Alnylam's Sublicensee (other than Tekmira or its Affiliates) shall be required to obtain its requirements of the bulk finished dosage form of such Alnylam Royalty Product from Tekmira on the terms set forth in Article 5, however, Tekmira agrees to negotiate in good faith with Alnylam and/or Alnylam's Sublicensee either an alternate or modified supply arrangement or the release of such Sublicensee from such exclusive supply obligation in return for reasonable compensation to Tekmira, and (iii) prior to entering into an InterfeRx License Transaction with a Third Party that includes a license and/or sublicense to Alnylam's rights under Sections 6.1.1(a) and/or (b), Alnylam and Tekmira shall discuss in good faith and agree in writing, on a sublicense-by-sublicense basis, as the case may be, on the portion of any license fees, milestones and/or royalties that would be payable to Tekmira in respect of such sublicense.

(e) In no event shall the provisions of this Section 6.2.2 be construed as requiring Alnylam to enter into any sublicensing transactions with respect to the Tekmira Technology.

(f) For clarity, in no event will the sublicensing restrictions described in Sections 6.2.2(a), (b) or (c) apply to licenses and sublicenses of Alnylam's rights under Section 6.1.1(a). Alnylam may also sublicense any and all of its rights under Section 6.1.1(a) to Protiva under the terms of the Protiva License Agreement. Tekmira acknowledges and agrees that in the case of a sublicense to Protiva, Protiva shall be fully responsible for payment and performance of all obligations under this Agreement pertaining to such sublicense and Tekmira hereby releases Alnylam from any and all obligations and liabilities under this Agreement with respect to such sublicense.

6.2.3 Tekmira Royalty Products. Tekmira shall be entitled to grant sublicenses of its rights under this Agreement (and licenses under and to its rights in any Joint Collaboration IP) to Third Parties to Research, Develop, Manufacture and Commercialize Tekmira Royalty Products to any Third

Party upon prior written notice to Alnylam; provided, however, that (i) in no event may Tekmira or its Affiliates grant a sublicense under any of the Exclusively Licensed Tekmira IP to the Merck Entities (the "Merck Restriction") and (ii) in all events, any such sublicense shall be subject to the terms of Section 3.7.

6.2.4 Sublicense Terms. Each license and/or sublicense granted by a Party pursuant to Section 6.2.2 or 6.2.3 shall be subject and subordinate to the terms and conditions of this Agreement and shall contain terms and conditions consistent with those in this Agreement, including, without limitation, the requirements of Section 6.4 below. Agreements with any Commercializing Sublicensee shall contain the following provisions: (a) a requirement that such Sublicensee submit applicable sales or other reports consistent with those required hereunder; (b) an audit requirement similar to the requirement set forth in Section 7.6; and (c) a requirement that such Sublicensee comply with the confidentiality and non-use provisions of Article 8 with respect to both Parties' Confidential Information. Each Party shall at all times be responsible for the performance of its Sublicensees under this Agreement. In the event a granting Party becomes aware of a material breach of any sublicense by a Third Party Sublicensee, the granting Party shall promptly notify the other Party of the particulars of same and take all Commercially Reasonable Efforts to enforce the terms of such sublicense.

6.2.5 Notice. Unless otherwise provided in this Agreement, a Party granting a license and/or sublicense as contemplated in Section 6.2.4 will notify the other Party within ten (10) Business Days after execution of such sublicense and provide a copy of the fully executed license and/or sublicense agreement, as the case may be, to the other Party within the same time frame (with such reasonable redactions as the disclosing Party may make, provided that such redactions do not include provisions necessary to demonstrate compliance with the requirements of this Agreement), which shall be treated as Confidential Information of the disclosing Party; and provided further that Alnylam may disclose such agreement(s) to Third Parties under confidence if and to the extent required in order to comply with Alnylam's contractual obligations under both this Agreement and Third Party agreements.

6.2.6 Survival. Any sublicense contemplated in Section 6.2.4 granted by a Party shall survive termination of the licenses or other rights granted to the sublicensing Party under this Agreement in accordance with this Article 6, and be assumed by the other Party as long as (a) the Sublicensee is not then in breach of its license and/or sublicense agreement, (b) the Sublicensee agrees in writing to be bound to the other Party as a licensor under the terms and conditions of the license and/or sublicense agreement, and (c) the Sublicensee agrees in writing that in no event shall the other Party assume any obligations or liabilities, or be under any obligation or requirement of performance, under any such license and/or sublicense extending beyond such other Party's obligations and liabilities under this Agreement.

6.3 Joint Collaboration IP. Subject to the rights granted each Party under this Agreement, each Party shall have the right to use, sell, keep, license or assign its interest in Joint Collaboration IP and otherwise undertake all activities a sole owner might undertake with respect to such Joint Collaboration IP without the consent of and without accounting to the other Party.

6.4 In-Licenses. (a) (i) All licenses and other rights granted to Tekmira under this Article 6 are subject to the rights granted to Alnylam under the Existing Alnylam In-Licenses and are also subject to and limited to the extent of, the rights Alnylam has granted and is required to grant to Third Parties pursuant to the Pre-Existing Alnylam Alliance Agreements. All licenses and other rights

granted to Alnylam with respect to the Tekmira Technology under this Article 6 are subject to the rights granted to Tekmira, and to Tekmira's ability to grant rights to Alnylam under the Tekmira In-Licenses.

(ii) Concurrently with the Original Effective Date the Parties and UBC entered into the UBC Sublicense Documents each containing provisions governing or relating to the sublicense to Alnylam of rights to Tekmira Technology and Tekmira Collaboration IP in the Alnylam Field that are Controlled by Tekmira by virtue of its licenses from UBC under the Tekmira-UBC License Agreement. Alnylam hereby agrees, effective as of the end of the Restriction Period, that its rights and licenses under the UBC Sublicense Documents, to the extent applicable to any Technology (as defined in the Tekmira-UBC License Agreement) first discovered or reduced to practice following the end of the Restriction Period or otherwise first included in the licenses to Tekmira under the Tekmira-UBC License Agreement following the end of the Restriction Period (including without limitation any Tekmira Collaboration IP discovered or reduced to practice following the end of the Restriction Period that is to be assigned to UBC under the UBC Sublicense Documents), shall be non-exclusive, notwithstanding anything to the contrary in the UBC Sublicense Documents or otherwise. If and to the extent that the foregoing requires any notice to or consent from UBC, Alnylam agrees to assist Tekmira as reasonably requested, at any time and from time to time following the Effective Date, to provide such notice or facilitate such consent (it being understood and agreed that Alnylam is not obligated to provide UBC, directly or indirectly, with any additional compensation in order to secure any such consent).

(iii) Following the Original Effective Date, each and every Tekmira In-License entered into by Tekmira shall contain terms substantially similar to the provisions set forth in Schedule 6.4(a) (such provisions, the "Tekmira In-License Provisions"). For clarity, if Tekmira possesses a reasonable belief at the time Tekmira enters into an agreement with a Third Party for the in-license of Intellectual Property Rights, that such Intellectual Property Rights do not and will not relate to the Alnylam Field, then Tekmira shall not be required to include the Tekmira In-License Provisions in such Third Party in-license agreement; provided, however, that if after execution of such an in-license agreement it is discovered or determined that some or all of such in-licensed Intellectual Property Rights does relate to the Alnylam Field, then Tekmira shall use Commercially Reasonable Efforts to amend such Third Party in-license agreement to incorporate provisions substantially similar to the Tekmira In-License Provisions.

(b) Each Party shall comply with all applicable terms and conditions of the In-Licenses, the Tekmira-UBC License Agreement and the UBC Sublicense Documents to which it is a party, and shall take such actions as may be required to allow the other Party to comply with its obligations thereunder, including but not limited to, obligations relating to patent matters, confidentiality, reporting, indemnification and diligence. Without limiting the foregoing, Tekmira agrees to comply with the requirements set forth in the MIT License Agreement, including but not limited to, the requirements listed on Schedule 6.4(b).

(c) Alnylam shall be solely responsible for obtaining licenses of Necessary Third Party IP for the Research, Development, Manufacturing or Commercialization of Alnylam Royalty Products. Tekmira shall be solely responsible for obtaining licenses of Necessary Third Party IP for the Research, Development, Manufacturing or Commercialization of Tekmira Royalty Products. Such licenses shall not grant rights to any Third Party that conflict with the terms and conditions of this Agreement.

6.5 Options to Obtain Additional Patent Rights.

6.5.1 CRT Agreement and Stanford Agreement. Notwithstanding anything to the contrary herein, the licenses to Alnylam Core Patent Rights hereunder initially shall not include licenses to Patent Rights licensed by Alnylam or its Affiliates under either (a) the Agreement between The Board of Trustees of The Leland Stanford Junior University and Alnylam U.S., Inc. (formerly Alnylam Pharmaceuticals, Inc.), dated September 17, 2003 ("Stanford Agreement") or (b) the License Agreement between Cancer Research Technologies Limited and Alnylam U.S., Inc. (formerly Alnylam Pharmaceuticals, Inc.) dated July 18, 2003 (the "CRT Agreement"); provided that if any such Patent Rights in-licensed by Alnylam become issued Patent Rights that Cover a Tekmira Development Product, Alnylam shall so notify Tekmira in writing, and Tekmira shall have the option of expanding its licenses to the Alnylam Core Patent Rights hereunder to include such issued Patent Rights by notifying Alnylam of such election in writing. Upon such election, (i) Tekmira shall pay Alnylam a reasonable upfront license fee for such rights, (ii) the Parties shall enter into a separate agreement documenting the specific terms of the sublicense (consistent with the requirements of the applicable Third Party license agreement), and (iii) Schedule 1.4 shall be amended to include such issued Patent Rights and the Stanford Agreement or the CRT Agreement, as the case may be, shall be deemed an Existing Alnylam In-License and Schedule 1.35 shall be amended accordingly.

6.5.2 ISIS License Agreement. Alnylam hereby grants Tekmira an option, exercisable at any time during the Agreement Term upon written notice to Alnylam, to obtain an exclusive license under Alnylam's rights under the ISIS License Agreement to Research, Develop, Manufacture and Commercialize Tekmira Development Products in the Alnylam Field in the Territory, under terms and conditions to be negotiated by the Parties in good faith.

6.6 No Other Rights. Except as otherwise expressly provided in this Agreement, under no circumstances shall a Party hereto, as a result of this Agreement, obtain any ownership interest, license or other right in any Intellectual Property Rights of the other Party, including rights owned, controlled or developed by the other Party, or provided by the other Party to the receiving Party at any time pursuant to this Agreement.

6.7 Diligence and Annual Reports. (a) Alnylam shall use Commercially Reasonable Efforts to Research, Develop and Commercialize an Alnylam Royalty Product in the Territory. Tekmira shall use Commercially Reasonable Efforts to Research, Develop and Commercialize a Tekmira Royalty Product in the Territory.

(b) Each Party agrees that it shall deliver to the other Party an annual report, due no later than December 31 of each Contract Year of the Agreement Term, which summarizes the major activities undertaken by the reporting Party during the preceding twelve (12) months to Research, Develop and Commercialize its Royalty Products in the Territory in the applicable field. The report will include an outline of the status of any such Royalty Products in clinical trials and the existence of any sublicenses with respect to such Royalty Products which have not been previously disclosed.

6.8 Compliance. Each Party shall conduct its obligations under this Agreement in accordance with all applicable laws, rules and regulations, including without limitation current governmental regulations concerning good laboratory practices, good clinical practices, cGMP and the requirements of the United States Federal government in connection with activities funded by it, as applicable.

6.9 Alnylam Rights Relating to Tekmira IOC Technology and IOC Products.

(a) **IOC Technology.** Until the expiration of the last Valid Claim of the Alnylam IOC Patent Rights, Alnylam may, upon written notice to Tekmira (an "FTO Notice"), elect to take from Tekmira, and Tekmira will grant to Alnylam, a worldwide, royalty-bearing, non-exclusive license (with no rights to sublicense) to the Tekmira IOC Technology to Research, Develop and Commercialize IOC Products (a "Platform License"). For clarity, such Platform License will not grant Alnylam any rights to Tekmira IOC Technology Covering only a specific Tekmira IOC Product or particular uses of such IOC Product, and is intended to provide Alnylam with "freedom to operate" under the Tekmira IOC Technology to Research, Develop and/or Commercialize IOC Products Controlled by Alnylam. Upon Tekmira's receipt of such FTO Notice from Alnylam, the Parties shall promptly commence good faith negotiations for a period of up **[*]** in an effort to reach a mutually acceptable definitive agreement for such Platform License that is consistent with the terms of this Section 6.9(a) and contains other customary and reasonable terms mutually agreeable to the Parties.

(i) Whether or not Alnylam has previously provided an FTO Notice, Tekmira will provide Alnylam with at least thirty (30) days' prior written notice before entering into any agreement with a Third Party with respect to a Platform License. Such notice will include a description of the financial terms of such proposed Platform License sufficient to permit Alnylam to understand and evaluate such terms.

(ii) If Tekmira offers a Platform License to a Third Party or a Third Party offers to obtain a Platform License at any time during the first five (5) years after Alnylam has provided an FTO Notice, and the terms of such Platform License offer, taken as a whole, are the same as, or more favorable to such Third Party than (x) the terms of the Parties' definitive agreement for a Platform License, or (y) if the Parties have not yet entered into a definitive agreement for a Platform License, the last proposal for a Platform License made in the course of the Parties' negotiations pursuant to this Section 6.9(a) (in either case of (x) or (y), "More Favorable Terms"), then upon written notice from Alnylam, either (A) the Parties will amend the Parties' definitive agreement for a Platform License to match or improve upon the More Favorable Terms; or (B) the Parties will promptly conclude a definitive agreement for a Platform License on substantially similar terms as the More Favorable Terms.

(b) **IOC Products.** Prior to the expiration of the last Valid Claim of the Alnylam IOC Patent Rights, Tekmira shall notify Alnylam in writing (a "Product Notice") prior to entering into bona fide negotiations with a Third Party for the rights to Research, Develop and/or Commercialize any IOC Product Controlled by Tekmira (an "Tekmira IOC Product"). Such Product Notice shall include material information relating to such Tekmira IOC Product that Alnylam may reasonably require in order for Alnylam to evaluate and determine its interest in such Tekmira IOC Product.

(i) If Tekmira issues the Product Notice prior to the acceptance of a bona fide IND filing by a Regulatory Authority in the United States or one of the Major Markets for the applicable Tekmira IOC Product, then Alnylam shall have forty-five (45) days after receipt of such Product Notice (the "Opportunity Response Period") to notify Tekmira in writing of its interest in such Tekmira IOC Product. If Alnylam notifies Tekmira in writing within the Opportunity Response Period that it is interested in such Tekmira IOC Product, then the Parties shall promptly commence good faith negotiations (in Tekmira's case on an exclusive basis) for a period of up to ninety (90) days after Alnylam receives the Product Notice in an effort to conclude a mutually acceptable definitive agreement for the exclusive rights to Research, Develop and Commercialize such Tekmira IOC Product ("Product License"). The royalties payable to Tekmira in respect of such Tekmira IOC Product contained in such definitive agreement will be equal to the royalties and milestones payable with respect to an IOC Product under this Agreement; provided, however that Tekmira shall not be required to reimburse Alnylam for any royalties or milestones payable by Alnylam in respect of such Tekmira IOC Product under any Third Party agreements pursuant to which Alnylam Controls the Alnylam IOC Technology licensed to Tekmira under this Agreement that Cover such Tekmira IOC Product, and the agreement will otherwise contain reasonable and customary terms that are consistent with the terms of this Section 6.9(b); provided, however, that the Parties shall enter into good faith negotiations to agree upon ancillary financial provisions to compensate Tekmira for its prior reasonable Research and Development expenditures solely in connection with such Tekmira IOC Product, which expenditures shall be based on the properly allocated costs and expenses directly incurred by Tekmira for the Research, Development and/or Manufacture of such Tekmira IOC Product through and including the Opportunity Response Period, which costs shall include all reasonable and properly allocated internal costs (determined in accordance with the then-current Tekmira FTE Rate) for the FTEs directly performing Research, Development and Manufacturing activities with respect to such Tekmira IOC Product during such period and the reasonable, direct out-of-pocket expenses actually paid by Tekmira in its performance of the Research, Development and/or Manufacture of such Tekmira IOC Product. If Tekmira issues the Product Notice after the acceptance of a bona fide IND filing by a Regulatory Authority in the United States or one of the Major Markets for the applicable Tekmira IOC Product, then Alnylam shall have ninety (90) days after receipt of such Product Notice (the "Post-IND Opportunity Response Period") to notify Tekmira in writing of its interest in such Tekmira IOC Product. If Alnylam notifies Tekmira in writing within the Post-IND Opportunity Response Period that it is interested in such Tekmira IOC Product, then the Parties will use Commercially Reasonable Efforts to negotiate and execute a definitive agreement for the Product reasonable and customary terms mutually agreeable to the Parties, including appropriate financial consideration after taking into account the maturity of Tekmira's Research, Development and Commercialization activities through and including the Opportunity Response Period. If (x) Alnylam notifies Tekmira that it is not interested in obtaining a Product License with respect to such Tekmira IOC Product, (y) Alnylam does not notify Tekmira in writing within the Opportunity Response Period that it is interested in such Tekmira IOC Product, or (z) despite each Party's good faith efforts, Alnylam and Tekmira are not able to reach agreement on and execute a definitive agreement for a Product License within such one hundred and twenty (120) day period, then Tekmira may enter into negotiations with any Third Party for such Tekmira IOC Product.

(ii) If (x) at any time prior to the expiration of the last Valid Claim of the Alnylam IOC Patent Rights Tekmira offers to a Third Party or a Third Party offers to obtain rights to Research, Develop and/or Commercialize a Tekmira IOC Product that has been the subject of a Product Notice and with respect to which Alnylam does not have a Product License, and (y) the terms of such Third Party Product License offer, taken as a whole, are the same as, or more favorable to the Third Party than the last Product License offer with respect to such Tekmira IOC Product made by a Party to the other in the course of the Parties' negotiations pursuant to this Section 6.9(b), then prior to executing any agreement with such Third Party (A) Tekmira will provide to Alnylam a description of the terms of such Third Party Product License offer sufficient to permit Alnylam to evaluate such offer terms, and (B) Alnylam will have thirty (30) days to evaluate such offer and determine if Alnylam wishes to enter into a Product License agreement with Tekmira for such Tekmira IOC Product on terms that are substantially similar to those offered to or by such Third Party. If Alnylam elects to enter into an agreement with Tekmira in accordance with the immediately preceding sentence, then the Parties will promptly conclude an agreement on substantially similar terms to the Third Party Product License offer. If Alnylam does not notify Tekmira in writing within such thirty (30) day period that it is interested in concluding a Product License agreement for such Tekmira IOC Product, then Tekmira may conclude an agreement with a Third Party for such Tekmira IOC Product on terms that are, taken as a whole, not more favorable to such Third Party than the terms presented to Alnylam pursuant to this Section 6.9(b).

7. PAYMENTS; ROYALTIES AND REPORTS

7.1 Upfront Consideration. As partial consideration for the license and grant of rights under this Agreement, Alnylam previously paid to Tekmira Eight Million Dollars ($8,000,000) by issuing to Tekmira 361,990 shares of Alnylam's common stock, par value $0.01 per share (the "Shares").

7.2 Milestone Fees Payable by Alnylam.

(a) As partial consideration for the grant by Tekmira to Alnylam of the licenses and other rights hereunder, Alnylam shall make the milestone payments to Tekmira set forth below no later than thirty (30) calendar days after the earliest date on which the corresponding milestone event has been achieved with respect to each Alnylam Royalty Product (other than an Alnylam Royalty Product directed to a Biodefense Target) to achieve such milestone event:

Milestone Event	Payment
[*]	[*]
[*]	[*]
[*]	[*]
[*]	[*]
[*]	[*]
[*]	[*]

In the event one or more milestone events set out above are skipped for any reason, the payment for such skipped milestone event(s) will be due at the same time as the payment for the next achieved milestone event.

(b) If, however, an Alnylam Royalty Product is directed to a Biodefense Target, in lieu of the milestone payments set forth in Section 7.2(a), the following milestone payments shall be payable no later than thirty (30) calendar days after the later of (i) the earliest date on which the corresponding milestone event has been achieved with respect to such Alnylam Royalty Product, and (ii) receipt by Alnylam of all funding from a Funding Authority that Alnylam is eligible to receive for the achievement of such milestone event with respect to such Alnylam Royalty Product:

Milestone Event	Payment
[*]	[*]
[*]	[*]
[*]	[*]

In the event one or more milestone events set out above are skipped for any reason, the payment for such skipped milestone event(s) will be due at the same time as the payment for the next achieved milestone event.

(c) Notwithstanding that an Alnylam Royalty Product is directed to a Biodefense Target, if Alnylam or its Related Parties Commercialize or sell such Alnylam Royalty Product other than to a Funding Authority, the milestone payment amounts set forth in Section 7.2(a) shall then apply in lieu of the amounts set forth in Section 7.2(b).

(d) The milestone payments described above shall be payable only once in relation to each Alnylam Royalty Product that achieves Approval in a Major Market (or, in the case of an Alnylam Royalty Product directed to a Biodefense Target, an Alnylam Royalty Product that achieves the First Commercial Sale in a Major Market) (each, a "Successful Product"). Therefore, unless and until there is a Successful Product directed to a particular Alnylam Target, any of the milestone payments made by ALNYLAM under this Section in connection with an Alnylam Royalty Product directed to such Target shall be fully creditable against the repeated achievement of such milestone event by any other Alnylam Royalty Product directed to such Target. However, in the event that there is a Successful Product with respect to an Alnylam Target and Alnylam subsequently begins to Develop or continues to Develop another Alnylam Royalty Product directed to such Target (a "Follow-On Product"), then, if and when any of the milestone events set out above is thereafter achieved for such Follow-On Product, in addition to the milestone payment for such milestone event, there will also be due and payable all of the milestone payment(s) for any such milestones that were achieved for such Follow-On Product prior to the achievement of Approval or First Commercial Sale (as the case may be) in a Major Market of a Successful Product with respect to such Target).

(e) With respect to any Alnylam Development Product that is a Licensed Product (as such terms are defined in the Protiva License Agreement) that also meets the definition of an Alnylam Royalty Product under this Agreement, Alnylam shall not be required to pay milestone fees under both such agreements, but, rather, shall pay only the larger of such milestone fees under such agreements, respectively. Milestone payments shall be made by Alnylam in cash by wire transfer to a bank account of Tekmira pursuant to wire instructions provided by Tekmira to Alnylam in writing in advance.

7.3 Royalties.

7.3.1 Royalties Payable on Net Sales by Alnylam. As partial consideration for the grant by Tekmira to Alnylam of the licenses and other rights hereunder, subject to the terms and conditions of this Agreement, Alnylam shall pay to Tekmira royalties on Net Sales of Alnylam Royalty Products in the Territory by Alnylam and its Related Parties as follows:

(a) Where the Net Sales are those of, and are invoiced by, any one of the following:

(i) Alnylam or its Affiliate;

(ii) a Roche Sublicensee under a sublicense granted in accordance with Section 6.2.2(c);

(iii) Regulus Therapeutics LLC, under a sublicense granted by Alnylam in compliance with Section 6.2.1; or

(iv) another Sublicensee under a sublicense granted by Alnylam in connection with, and solely for the purpose of, a Bona Fide Collaboration of Alnylam, and solely for the purposes of such Bona Fide Collaboration,

the applicable running royalty rates shall be as set out in the table below (all references are to U.S. dollars, and the Net Sales figures are the aggregated sums with respect to Alnylam and all of its Affiliates and Sublicensees):

Aggregate Calendar Year Net Sales of the Alnylam Royalty Product in the Territory	**Royalty (as a percentage of Net Sales)**
On the first **[*]**	[*]
On the subsequent **[*]**	[*]
Greater than **[*]**	[*]

(b) In all other cases, the applicable running royalty rates shall be as set out in the table below:

Aggregate Calendar Year Net Sales of the Alnylam Royalty Product in the Territory	**Royalty (as a percentage of Net Sales)**
On the first **[*]**	[*]
On the subsequent [*]	[*]
On the subsequent **[*]**	[*]
Greater than **[*]**	[*]

7.3.2 Royalties Payable on Net Sales by Tekmira.

(a) As partial consideration for the grant by Alnylam to Tekmira of the licenses and other rights hereunder, subject to the terms and conditions of this Agreement, Tekmira shall pay to Alnylam royalties on Net Sales of Tekmira Development Products that are Tekmira Royalty Products, in the Territory by Tekmira and its Related Parties as follows:

Aggregate Calendar Year Net Sales of the Tekmira Development Product in the Territory	**Royalty (as a percentage of Net Sales)**
On the first **[*]**	[*]
On the subsequent **[*]**	[*]
On the subsequent **[*]**	[*]
Greater than **[*]**	[*]

(b) Subject to the terms and conditions of this Agreement, Tekmira shall pay to Alnylam royalties on Net Sales of IOC Products that are Tekmira Royalty Products, in the Territory by Tekmira and its Related Parties as follows:

Aggregate Calendar Year Net Sales of the IOC Product in the Territory	**Royalty (as a percentage of Net Sales)**
On the first **[*]**	[*]
On the subsequent **[*]**	[*]
Greater than **[*]**	[*]

7.3.3 Additional Royalty Provisions. Royalties on Royalty Products at the rate set forth above, shall be payable on a country-by-country and product-by-product basis commencing on the date of First Commercial Sale of such Royalty Product in a country and continuing until the later of the expiration of the last Valid Claim Covering the Manufacture or Commercialization of such Royalty Product in the country of sale, subject to the following conditions:

(a) only one royalty shall be due with respect to the same unit of Royalty Product. Moreover, with respect to any Alnylam Development Product that is a Licensed Product (as such

terms are defined in the Protiva License Agreement) that also meets the definition of an Alnylam Royalty Product under this Agreement, Alnylam shall not be required to pay royalties under both such agreements, but, rather, shall pay only the larger of such royalties under such agreements, respectively;

(b) no royalties shall be due upon the sale or other transfer among a Party and its Related Parties, but in such cases the royalty shall be due and calculated upon such Party's or its Related Party's Net Sales to the first independent Third Party;

(c) no royalties shall accrue on the sale or other disposition of the Royalty Product by a Party or its Related Parties for use in a clinical study sponsored by such Party or under an IND prior to Regulatory Approval of such Royalty Product in the applicable jurisdiction; and

(d) no royalties shall accrue on the disposition of a Royalty Product in reasonable quantities by a Party or its Related Parties as samples (promotion or otherwise) or as donations (for example, to non-profit institutions for a non-commercial purpose).

Moreover, the Parties acknowledge and agree that nothing in this Agreement (including without limitation any exhibits or attachments hereto) shall be construed as representing an estimate or projection of either (i) the number of Royalty Products that will or may be successfully Researched, Developed or Commercialized or (ii) anticipated sales or the actual value of any Royalty Product, and that the figures set forth in this Article 7 or elsewhere in this Agreement or that have otherwise been discussed by the Parties are merely intended to define a Party's royalty payment obligations to each other in the event such sales performance is achieved.

7.3.4 Reports; Payment of Royalty. During the Agreement Term, commencing upon the First Commercial Sale of a Royalty Product, the Royalty Payor shall furnish to the Royalty Recipient a quarterly written report showing the quantity of Royalty Products sold in each country (as measured in saleable units of product), the gross sales of such Royalty Product in each country, total deductions for such Royalty Product for each country included in the calculation of Net Sales, the Net Sales in each country of such Royalty Product subject to royalty payments sold by the Royalty Payor and its Related Parties during the reporting period and the royalties payable with respect to such Royalty Product under this Agreement. Quarterly reports shall be due no later than the twenty-fifth (25th) day following the close of each Calendar Quarter. Royalties shown to have accrued by each royalty report shall be due and payable on the date such royalty report is due. The Royalty Payor shall keep complete and accurate records in sufficient detail to enable the royalties and other payments payable hereunder to be determined.

7.4 Necessary Third Party IP.

7.4.1 Third Party License Payments. Tekmira shall pay **[*]** of all royalties, license fees, milestones and similar payments (if any) payable to Tekmira's Affiliates or to any Third Parties for the rights to Tekmira Technology licensed to Alnylam under this Agreement under any Tekmira In-License and shall pay **[*]** of all amounts owed to UBC under the Tekmira-UBC License Agreement in respect of the sublicence to Alnylam under the UBC Sublicense. Alnylam shall pay **[*]** of all royalties, license fees, milestones and similar payments (if any) payable to Alnylam's Affiliates or to any Third Parties for the rights to Alnylam RNAi Technology, Alnylam IOC Technology and Alnylam Lipidoid Patent Rights licensed to Tekmira under this Agreement; **[*]**.

7.4.2 Royalty Adjustment. If the Research, Development, Manufacture or Commercialization of a Royalty Product by a Royalty Payor in accordance with this Agreement infringes Necessary Third Party IP, the applicable royalties in each country in the Territory payable to the Royalty Recipient pursuant to Section 7.3 will be reduced by the amount of royalties paid with respect to Necessary Third Party IP; provided, however, that in no event shall the royalties due be reduced by **[*]** of the royalties otherwise due (and will not in any case be reduced below **[*]** of the amount of royalties that would otherwise be due).

7.4.3 Adjustments for Payments to UBC. In the event that Alnylam is required to make any payments to UBC in respect of the Tekmira Technology or Tekmira Collaboration IP licensed to Alnylam pursuant to the UBC Sublicense Agreement or pursuant to a direct license agreement between UBC and Alnylam as a result of the default by, or bankruptcy or insolvency of, Tekmira as more fully described in Section 3.4 and Article 17.0 of the Tekmira-UBC License Agreement, then Alnylam shall be entitled to offset any amounts payable by Alnylam to Tekmira under this Agreement (or under the Protiva License Agreement if payments are due instead to Protiva pursuant to Sections 7.2(e) or 7.3.3(a)) by the amount of Alnylam's payments to UBC until such amounts have been credited in full.

7.4.4 Adjustment for More Favorable Terms. If after the Effective Date, Tekmira grants to a Third Party any license under the Tekmira Technology substantially similar in scope and substance to the license granted to Alnylam by Tekmira under this Agreement on terms calling for milestone fees and royalties that are, as a whole, more favorable (to the licensee in such other license) than the comparable terms contained in this Article VII with respect to milestones fees and royalties payable by Alnylam, then Tekmira shall so notify Alnylam, and at Alnylam's option, such more favorable financial terms granted to such Third Party shall apply to Alnylam's or its Affiliates' or Sublicensees' license for Alnylam Royalty Products, rather than the milestone fees and royalty terms under this Article VII.

7.5 Collaboration and Manufacturing Activity Funding.

7.5.1 Collaboration Funding. As consideration for the performance by Tekmira of its obligations under the Collaboration, Alnylam agrees to fund the FTEs provided by Tekmira as follows:

(a) During the Collaboration Term, the compensation to Tekmira for up to **[*]** FTEs in each Contract Year of the Collaboration Term to perform its obligations under the Collaboration as provided in the Research Plan shall not be less than an aggregate of **[*]** in each such Contract Year; and

(b) the use of any additional FTEs in each Contract Year of the Collaboration Term as approved by the JRC shall be funded at the FTE Rate pro-rated to the duration that such FTEs actually perform such activities under the Collaboration in accordance with the Research Plan, and as documented by Tekmira pursuant to Section 7.5.3 below.

Tekmira acknowledges and agrees that the FTE Rate reflects Tekmira's fully-loaded costs and expenses in performing its obligations under the Collaboration and that Tekmira is solely responsible

for its costs and expenses in performing its obligations under the Collaboration. However, Alnylam agrees to reimburse Tekmira for any extraordinary out-of pocket costs and expenses incurred by Tekmira in performing its obligations under the Collaboration in accordance with the Research Plan to the extent that such costs and expenses are approved by the JRC in advance in writing and are reasonable, documented costs and expenses actually and directly incurred by Tekmira. After the Collaboration Term, Alnylam's funding obligation shall cease and (to the extent mutually agreed by the Parties) each Party shall be responsible for funding its own participation in the Collaboration and all expenses incurred by such Party in connection therewith.

7.5.2 Product Manufacturing Cost. As consideration for the performance by Tekmira of the Manufacturing Activities and the delivery of quantities of bulk finished dosage form of Alnylam Royalty Product Manufactured and supplied by Tekmira to Alnylam pursuant to Section 5.1(a), Alnylam agrees to purchase each such batch of bulk finished dosage form at a price comprised of:

(a) **[*]**; and

(b) **[*]**.

Tekmira shall provide Alnylam upon request with an estimate of Tekmira's per batch price for any Alnylam Royalty Product.

7.5.3 Invoicing and Payment. Tekmira shall, within thirty (30) days following the end of each calendar month during the Collaboration Term, deliver to Alnylam a detailed invoice (a) stating the number of FTEs that performed activities under the Collaboration during such calendar month and the nature of such work, and (b) detailing any out-of-pocket expenses invoiced to Tekmira to be reimbursed by Alnylam pursuant to Section 5.1(b), 7.5.1 or 7.5.2, and accompanied by adequate documentation of such expenses. All undisputed payments shall be made by Alnylam within forty-five (45) days of its receipt of such an invoice.

7.6 Audits.

7.6.1 Access. Upon the written request of a Party and not more than once in each Calendar Year, the other Party and/or its Related Parties shall permit an independent certified public accounting firm of nationally recognized standing selected by the requesting Party and reasonably acceptable to the other Party, at the requesting Party's expense except as set forth below, to have access during normal business hours to such of the records of the other Party as may be reasonably necessary to verify the accuracy of the royalty, FTE, expense and other financial reports required to be delivered under this Agreement for any Calendar Year ending not more than thirty-six (36) months prior to the date of such request, for the sole purpose of verifying the basis and accuracy of payments made under this Article 7.

7.6.2 Discrepancies; Default Interest. If such accounting firm identifies a discrepancy made during such period, the appropriate Party shall pay the other Party the amount of the discrepancy within twenty (20) Business Days of the date the requesting Party delivers to the other Party such accounting firm's written report so concluding, or as otherwise agreed by the Parties in writing. Such written report shall be binding upon the Parties. The fees charged by such accounting firm shall be paid by the requesting Party, unless such discrepancy represents an underpayment by the other Party of more than the lesser of **[*]** or **[*]** of the total amounts due hereunder, in which case such fees shall

be paid by the other Party. Unless an audit for such Calendar Year has been commenced upon the expiration of **[*]** following the end of such Calendar Year, the calculation of royalties and other payments payable with respect to such Calendar Year shall be binding and conclusive upon both Parties, and each Party and its Related Parties shall be released from any further liability or accountability with respect to royalties and other payments for such Calendar Year. All amounts due and owing to a Party hereunder by the other Party but not paid by the other Party on the due date thereof shall bear interest at the rate of one per cent (1%) per month.

7.6.3 Confidentiality. Each Party shall treat all financial information subject to review under this Section 7.6 or under any sublicense agreement in accordance with the confidentiality and non-use provisions of Article 8 of this Agreement, and shall cause its accounting firm to enter into an acceptable confidentiality agreement with the other Party and/or its Related Parties obligating it to retain all such information in confidence pursuant to such confidentiality agreement.

7.7 Payment Exchange Rate. All dollar amounts in this Agreement are United States dollar amounts. All payments to be made under this Agreement, including without limitation, any payments based on revenues generated by Related Parties in respect of Royalty Products, shall be made in United States dollars and shall be paid by bank wire transfer in immediately available funds to such bank account in Canada or the United States, as may be designated in writing by the receiving Party from time to time. In the case of sales outside the United States by any Party and its Related Parties, the rate of exchange to be used in computing the amount of currency equivalent in United States dollars due shall be made at the rate of exchange utilized by such Party in its worldwide accounting system, prevailing on the third to the last Business Day of the month preceding the month in which such sales are recorded.

7.8 Income Tax Withholding. (a) If laws, rules or regulations require withholding of income taxes or other taxes imposed upon payments set forth in this Article 7, the paying Party shall make such withholding payments as required and subtract such withholding payments from the payments set forth in this Article 7. The paying Party shall submit appropriate proof of payment of the withholding taxes to the receiving Party within a reasonable period of time. At the request of the receiving Party, the paying Party shall, at its cost, give the receiving Party such reasonable assistance, which shall include the provision of appropriate certificates of such deductions made together with other supporting documentation as may be required by the relevant tax authority, to evidence such payment and to enable the receiving Party to claim exemption from such withholding or other tax imposed or to obtain a repayment thereof or reduction thereof, and shall upon request provide such additional documentation from time to time as is reasonably required to confirm the payment of tax.

(b) Tekmira represents and warrants that, as of the Effective Date, it is a resident of Canada for Canadian income tax purposes and for purposes of the Tax Convention. Alnylam represents and warrants that, as of the Effective Date, it is a resident of the United States of America for United States income tax purposes and for purposes of the Tax Convention. The paying Party confirms that, with regard to any payment under Article 7, it will withhold at the rate applicable under the Tax Convention if and to the extent that the Tax Convention governs the withholding from such payment required by applicable law. Tekmira and Alnylam agree to provide written notice to the other Party if its rights or obligations under the Agreement are assigned to a Person that is not a resident of the United States of America (in the case of Alnylam) for United States income tax purposes and for purposes of the Tax Convention, or a resident of Canada (in the case of Tekmira) for Canadian income tax purposes and for purposes of the Tax Convention.

8. CONFIDENTIALITY AND PUBLICATION

8.1 Nondisclosure Obligation. (a) All Confidential Information disclosed by one Party to the other Party hereunder shall be maintained in confidence by the receiving Party and shall not be disclosed to a Third Party or used for any purpose except as set forth herein without the prior written consent of the disclosing Party, except to the extent that such Confidential Information:

(i) is known by the receiving Party at the time of its receipt, and not through a prior disclosure by the disclosing Party, as documented by the receiving Party's business records;

(ii) is in the public domain by use and/or publication before its receipt from the disclosing Party, or thereafter enters the public domain through no fault of the receiving Party;

(iii) is subsequently disclosed to the receiving Party by a Third Party who may lawfully do so and is not under an obligation of confidentiality to the disclosing Party; or

(iv) is developed by the receiving Party independently of Confidential Information received from the disclosing Party, as documented by the receiving Party's business records.

(b) Notwithstanding the obligations of confidentiality and non-use set forth above and in Section 8.2.2 below, a receiving Party may provide Confidential Information disclosed to it, and disclose the existence and terms of this Agreement and the other Transaction Documents, in each case as may be reasonably required in order to perform its obligations and to exploit its rights under this Agreement and the other Transaction Documents, and specifically to (i) Related Parties, and their employees, directors, agents, consultants, advisors and/or other Third Parties for the performance of its obligations hereunder (or for such entities to determine their interest in performing such activities) in accordance with this Agreement in each case who are obligated to keep such Confidential Information confidential; (ii) governmental or other Regulatory Authorities in order to obtain patents or perform its obligations or exploit its rights under this Agreement; provided, that such Confidential Information shall be disclosed only to the extent reasonably necessary to do so, (iii) the extent required by applicable law, including without limitation by the rules or regulations of the United States Securities and Exchange Commission or similar regulatory agency in a country other than the United States or of any stock exchange or Nasdaq, (iv) any bona fide actual or prospective underwriters, investors, lenders or other financing sources and any bona fide actual or prospective collaborators or strategic partners and to consultants and advisors of such Party, in each case who are obligated to keep such Confidential Information confidential, (v) to Third Parties to the extent a Party is required to do so pursuant to the terms of an In-License or a Pre-Existing Alnylam Alliance Agreement, and (vi) UBC to the extent a Party is required to do so in order to comply with its obligations to UBC under the UBC Sublicense Documents or the Tekmira-UBC License Agreement, as the case may be.

If a Party is required by judicial or administrative process to disclose Confidential Information that is subject to the non-disclosure provisions of this Section 8.1 or Section 8.2, such Party shall promptly inform the other Party of the disclosure that is being sought in order to provide the other Party an opportunity to challenge or limit the disclosure obligations. Confidential Information that is disclosed by judicial or administrative process shall remain otherwise subject to the confidentiality and non-use

provisions of this Section 8.1 and Section 8.2, and the Party disclosing Confidential Information pursuant to law or court order shall take all steps reasonably practical, including without limitation seeking an order of confidentiality, to ensure the continued confidential treatment of such Confidential Information. In addition to the foregoing restrictions on public disclosure, if either Party concludes that a copy of this Agreement must be filed with the United States Securities and Exchange Commission or similar regulatory agency in a country other than the United States, such Party shall seek the maximum confidential treatment available under applicable law, provide the other Party with a copy of this Agreement showing any sections as to which the Party proposes to request confidential treatment, provide the other Party with an opportunity to comment on any such proposal and to suggest additional portions of this Agreement for confidential treatment, and take such Party's reasonable comments into consideration before filing this Agreement.

8.2 Publication and Publicity.

8.2.1 Publication. Tekmira and Alnylam each acknowledge the other Party's interest in publishing the results of the Collaboration. Each Party also recognizes the mutual interest in obtaining valid patent protection and in protecting business interests and trade secret information. Consequently, except for disclosures permitted pursuant to Section 8.1 and 8.2.2(b), either Party, its Affiliates, or their respective employees or consultants wishing to make a publication or a disclosure to a Third Party relating to the Collaboration or any Royalty Product of the other Party shall deliver to the other Party a copy of the proposed written publication or an outline of an oral disclosure at least thirty (30) days prior to submission for publication or presentation. The reviewing Party shall have the right (a) to propose modifications to the publication or presentation for patent reasons, trade secret reasons or business reasons, or (b) to request a reasonable delay in publication or presentation in order to protect patentable information. If the reviewing Party requests a delay, the publishing Party shall delay submission or presentation for a period of thirty (30) days to enable patent applications protecting each Party's rights in such information to be filed in accordance with Article 10 below. Upon expiration of such thirty (30) days, the publishing Party shall be free to proceed with the publication or presentation. If the reviewing Party requests modifications to the publication or presentation, the publishing Party shall edit such publication to prevent disclosure of trade secret or proprietary business information prior to submission of the publication or presentation. With respect to any proposed publications or disclosures by investigators or academic or non-profit collaborators, such materials shall be subject to review under this Section 8.2 to the extent that Tekmira or Alnylam, as the case may be, has the right and ability (after using reasonable efforts) to do so. For the avoidance of doubt, subject to its obligations under Section 8.1, each Party may make publications and disclosures to Third Parties relating to its own Royalty Products outside of the Collaboration without any obligation to permit the other Party to review or comment on such publication or disclosure.

8.2.2 Publicity. (a) Except as set forth in Section 8.1 above and clause (b) below, no disclosure of the existence of, or the terms of, this Agreement or the other Transaction Documents may be made by either Party, and no Party shall use the name, trademark, trade name or logo of the other Party or its employees in any publicity, news release or disclosure relating to this Agreement or its subject matter, without the prior express written permission of the other Party, except as may be required by law or expressly permitted by the terms hereof.

(b) The Parties expect that upon the Effective Date of this Agreement Tekmira will, and Alnylam may, issue separate press releases publicizing the execution of this Agreement and the

Protiva License Agreement, and that prior to the execution of this Agreement, Alnylam and Tekmira shall agree in writing upon any such press releases. After such initial press releases, neither Party shall issue a press release or public announcement relating to this Agreement without the prior written approval of the other Party, which approval shall not be unreasonably withheld, except that a Party may (i) once a press release or other written statement is approved in writing by both Parties, make subsequent public disclosure of the information contained in such press release or other written statement without the further approval of the other Party, and (ii) issue a press release or public announcement as required, in the reasonable judgment of such Party, by applicable law, including without limitation by the rules or regulations of the United States Securities and Exchange Commission or similar regulatory agency in a country other than the United States or of any stock exchange or NASDAQ.

9. REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION

9.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Party that each representation and warranty made by it under this Article 9 that is made as of or on the Effective Date, is also made by it as of and upon the Condition Satisfaction Date. Each Party represents and warrants to the other Party that as of the Effective Date of this Agreement:

9.1.1 It is duly organized and validly existing under the laws of its jurisdiction of incorporation or formation, and has full corporate or other power and authority to enter into this Agreement and the other Transaction Documents to which it is a party, and to carry out the provisions hereof. Further, except for any Regulatory Approvals, pricing and/or reimbursement approvals, manufacturing approvals and/or similar approvals necessary for the Research, Development, Manufacture or Commercialization of the Royalty Products, all necessary consents, approvals and authorizations of all government authorities required to be obtained by such Party as of the Effective Date in connection with the execution, delivery and performance of this Agreement and the other Transaction Documents to which it is a party have been obtained by the Effective Date.

9.1.2 It is duly authorized to execute and deliver this Agreement and the other Transaction Documents to which it is a party, and to perform its obligations hereunder, and the person or persons executing this Agreement and the other Transaction Documents to which it is a party on its behalf has been duly authorized to do so by all requisite corporate action.

9.1.3 This Agreement and the other Transaction Documents to which it is a party are legally binding upon it and enforceable in accordance with its terms. Except as set forth in Section 9.1.3 of Schedule 9 to this Agreement, the execution, delivery and performance of this Agreement and the other Transaction Documents to which it is a party by it does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party and by which it may be bound, or with its charter or by-laws.

9.1.4 Except, in Alnylam's case, as set forth in Section 9.1.3 of Schedule 9 to this Agreement, it has not, and will not during the Agreement Term, grant any right to any Third Party which would conflict with the rights granted to the other Party hereunder. It has (or will have at the time performance is due) maintained and will maintain and keep in full force and effect all agreements (including license agreements) and filings (including patent filings) necessary in such Party's reasonable judgment to perform its obligations hereunder. Further, (a) the execution and delivery of

this Agreement and the other Transaction Documents to which it is a party by such Party, (b) the performance of such Party's obligations hereunder and the other Transaction Documents to which it is a party and (c) the licenses and sublicenses to be granted by such Party pursuant to this Agreement or the other Transaction Documents do not conflict with or violate any requirement of applicable laws or regulations existing as of the Effective Date and applicable to such Party.

9.1.5 Neither Party nor any of its Affiliates has been debarred or is subject to debarment and neither Party nor any of its Affiliates will use in any capacity, in connection with the Collaboration or, in the case of Tekmira the Manufacturing Activities, any person or entity that has been debarred pursuant to Section 306 of the United States Federal Food, Drug, and Cosmetic Act, or that is the subject of a conviction described in such section. Each Party agrees to inform the other Party in writing immediately if it or any Person that is performing activities in the Collaboration, and Tekmira agrees to inform Alnylam immediately in writing if it or any person or entity that is performing the Manufacturing Activities, is debarred or is the subject of a conviction described in Section 306, or if any action, suit, claim, investigation or legal or administrative proceeding is pending or, to the best of the notifying Party's knowledge, is threatened, relating to the debarment or conviction of the notifying Party or any person or entity used in any capacity by such Party or any of its Affiliates in connection with the Collaboration or the Manufacturing Activities, as the case may be.

9.2 Alnylam Representations and Warranties. Alnylam represents and warrants to Tekmira that as of the Effective Date of this Agreement:

9.2.1 To Alnylam's knowledge, the Alnylam Core Patent Rights and the Patent Rights comprising Alnylam IOC Technology exist and are not invalid or unenforceable, in whole or in part;

9.2.2 Except as set forth on Section 9.1.3 of Schedule 9 to this Agreement, it has not assigned, transferred, conveyed or otherwise encumbered its right, title and interest in the Alnylam RNAi Technology, the Alnylam Lipidoid Patent Rights, Alnylam IOC Technology or the Alnylam Collaboration IP or Alnylam's interest in Joint Collaboration IP in a manner that conflicts with any rights granted to Tekmira hereunder;

9.2.3 There are no claims, judgments or settlements actually made or, to Alnylam's knowledge, threatened, against or amounts with respect thereto owed by, Alnylam or its Affiliates relating to the Alnylam RNAi Technology, Alnylam Lipidoid Patent Rights or Alnylam IOC Technology;

9.2.4 Alnylam's obligations under the Collaboration Research Plan will be performed with requisite care, skill and diligence, in accordance with applicable laws and industry standards, and by individuals who are appropriately trained and qualified;

9.2.5 All siRNA, miRNA and other materials supplied by Alnylam to be used by Tekmira in the manufacture of Alnylam Royalty Products will have been Manufactured in accordance with the master batch records and released in accordance with the applicable specifications for such siRNA, miRNA and other materials, cGMP (if applicable), and all other applicable laws; and

9.2.6 None of the terms of the Existing Alnylam In-Licenses or Pre-Existing Alnylam Alliance Agreements prohibit or limit the use by Tekmira, for the Research, Development, Manufacture or Commercialization of the Tekmira Royalty Products, of any Intellectual Property Rights granted by Tekmira to Alnylam hereunder.

9.3 Tekmira Representations and Warranties. Tekmira represents and warrants to Alnylam that:

9.3.1 The Patent Rights listed in Schedule 1.73 are all the Tekmira Patent Rights existing on the Effective Date. As of the Effective Date, to Tekmira's knowledge, the Tekmira Patent Rights exist and are not invalid or unenforceable, in whole or in part. To Tekmira's knowledge, the conception, development and reduction to practice of the Tekmira Patent Rights and the Tekmira Collaboration IP and Joint Collaboration IP existing on the Effective Date have not constituted or involved the misappropriation of trade secrets or other rights or property of any person or entity;

9.3.2 The Patent Rights identified on Schedule 1.73 as Controlled by Tekmira through an ownership interest are owned by Tekmira free and clear of any liens or encumbrances. The Patent Rights identified on Schedule 1.73 as the "**[*]**" and any Tekmira Collaboration IP existing on the Effective Date have all been duly assigned to **[*]** in the Alnylam Field on or prior to the Effective Date. Such assignment of Patent Rights has been made, and will be properly recorded in the appropriate patent office in the United States as soon as possible, but in no event later than **[*]** after the Effective Date, and in the appropriate patent offices in the remainder of the Territory as soon as possible, but in no event later than **[*]** after the Effective Date, and not in violation of any obligations to any Third Parties. The Patent Rights identified on Schedule 1.73 as Controlled by Tekmira under a license from a Third Party (including without limitation, the Patent Rights identified as the "**[*]**") are all licensed by Tekmira from **[*]** under the terms of the **[*]** License Agreement. There are no Patent Rights comprising Tekmira Collaboration IP existing on the Effective Date. The **[*]** License Agreement is legally binding on the parties thereto, enforceable in accordance with its terms, and neither Tekmira, nor to Tekmira's knowledge, **[*]**, is in default of the **[*]** License Agreement. Tekmira has provided Alnylam with a complete and correct copy of the **[*]** License Agreement, and shall not amend or otherwise modify the **[*]** License Agreement in a manner that would impair or conflict with the rights granted to Alnylam under this Agreement without Alnylam's prior written consent;

9.3.3 Tekmira has not assigned, transferred, conveyed or otherwise encumbered its right, title and interest in the Tekmira Technology or the Patent Rights identified on Schedule 1.73, the Tekmira Collaboration IP or its interest in Joint Collaboration IP or in the Tekmira IOC Technology, in a manner that conflicts with the rights granted to Alnylam hereunder;

9.3.4 There are no (a) claims, judgments or settlements actually made or, to Tekmira's knowledge, threatened, against, or amounts with respect thereto owed by, Tekmira or its Affiliates relating to the Tekmira Technology or any Patent Rights or Know-How licensed to Alnylam pursuant to the UBC Sublicense, nor (b) any pending or threatened claims or litigation relating to the Tekmira Technology or any Patent Rights or Know-How licensed to Alnylam pursuant to the UBC Sublicense. Tekmira will promptly notify Alnylam in writing should it become aware of any claims asserting such infringement;

9.3.5 Tekmira's obligations under the Collaboration Research Plan and the Manufacturing Activities will be performed with requisite care, skill and diligence, in accordance with applicable

laws and industry standards, and by individuals who are appropriately trained and qualified, and at the time of delivery to Alnylam, the Alnylam Royalty Products Manufactured and supplied by Tekmira under this Agreement (a) will have been Manufactured in accordance with the master batch records and released in accordance with the Specifications (as such term is defined in the Supply Agreement) for such Alnylam Royalty Product and cGMP (if applicable), and all other applicable laws, and (b) will not be adulterated or misbranded under all applicable laws; and

9.3.6 Prior to the Effective Date Tekmira re-sold all the Shares in a manner consistent with the terms of the Original Agreement, and pursuant to and in accordance with the Plan of Distribution and other terms and conditions set forth in the Registration Statement on Form S-3ASR filed by Alnylam on January 18, 2007, and all other applicable law. During the period from the Original Effective Date through the Effective Date, Tekmira was and is not an "investment company" under the U.S. Investment Company Act of 1940, as amended, and during the Agreement Term Tekmira shall take, all actions necessary to ensure that it is not an "investment company" under the U.S. Investment Company Act of 1940, as amended.

9.3.7 As of the Effective Date, (a) Tekmira is not and will not be in default in the performance or in breach of any of its obligations pursuant to any Transaction Document, (b) no representation or warranty of Tekmira set forth in any Transaction Document shall have been untrue when made and (c) Tekmira shall not have committed any fraud or material misstatement or omission of fact in its dealings with Alnylam pursuant to the Transaction Documents.

9.3.8 The Merck Settlement Agreement does not provide that any payments other than milestone and royalty payments will be owed or would be owed by the Merck Entities to Protiva or its Affiliates with respect to the development or commercialization of any product due to the coverage of such product by any claims (whether issued or pending) covering any Restricted Joint Invention.

9.4 Warranty Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN THE OTHER TRANSACTION DOCUMENTS, NEITHER PARTY MAKES ANY REPRESENTATION OR EXTENDS ANY WARRANTY OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, TO THE OTHER PARTY WITH RESPECT TO ANY INTELLECTUAL PROPERTY, ROYALTY PRODUCTS, GOODS, THE COLLABORATION, RIGHTS OR OTHER SUBJECT MATTER OF THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS AND HEREBY DISCLAIMS ALL IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OR VALIDITY OF PATENT RIGHTS WITH RESPECT TO ANY AND ALL OF THE FOREGOING. EACH PARTY HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE DEVELOPMENT, MANUFACTURE OR COMMERCIALIZATION OF ANY ROYALTY PRODUCT PURSUANT TO THIS AGREEMENT WILL BE SUCCESSFUL OR THAT ANY PARTICULAR SALES LEVEL WITH RESPECT TO SUCH ROYALTY PRODUCTS WILL BE ACHIEVED.

9.5 Indemnification.

9.5.1 Indemnification by Tekmira. Tekmira shall indemnify, hold harmless, and defend Alnylam, its Affiliates, and their respective directors, officers, employees, consultants and agents

("Alnylam Indemnitees") from and against any and all Third Party claims, suits, losses, liabilities, damages, costs, fees and expenses (including reasonable legal fees) (collectively, "Losses") arising out of or resulting from, directly or indirectly, (a) any breach of, or inaccuracy in, any representation or warranty made by Tekmira in this Agreement or in the other Transaction Documents, or any breach or violation of any covenant or agreement of Tekmira in or pursuant to this Agreement or in the other Transaction Documents, (b) the negligence or willful misconduct by or of Tekmira, its Affiliates and its and their respective Sublicensees, and their respective directors, officers, employees, consultants and agents, (c) the Research, Development, Manufacture or Commercialization of a Tekmira Royalty Product to the extent such activities are not performed by an Alnylam Indemnitee, or (d) the performance by Tekmira of its obligations under the Collaboration or the Manufacturing Activities. The indemnification obligations under this Agreement exclude Losses arising out of Infringement Claims resulting from Tekmira's exercise in accordance with the terms of this Agreement of any Intellectual Property Rights granted by Alnylam to Tekmira or its Affiliates hereunder. Tekmira shall have no obligation to indemnify the Alnylam Indemnitees to the extent that the Losses arise out of or result from, directly or indirectly, (i) any breach of, or inaccuracy in, any representation or warranty made by Alnylam in this Agreement or in the other Transaction Documents, (ii) any breach or violation of any covenant or agreement of Alnylam in or pursuant to this Agreement or the other Transaction Documents, or (iii) the negligence or willful misconduct by or of any of the Alnylam Indemnitees or Alnylam Sublicensees.

9.5.2 Indemnification by Alnylam. Alnylam shall indemnify, hold harmless, and defend Tekmira, its Affiliates and their respective directors, officers, employees, consultants and agents ("Tekmira Indemnitees") from and against any and all Losses arising out of or resulting from, directly or indirectly, (a) any breach of, or inaccuracy in, any representation or warranty made by Alnylam in this Agreement or in the other Transaction Documents, or any breach or violation of any covenant or agreement of Alnylam in or pursuant to this Agreement or the other Transaction Documents, (b) the negligence or willful misconduct by or of Alnylam, its Affiliates and its and their respective Sublicensees, and their respective directors, officers, employees, consultants and agents, (c) the Research, Development, Manufacture or Commercialization of an Alnylam Royalty Product to the extent such activities are not performed by a Tekmira Indemnitee, or (d) the performance by Alnylam of its obligations under the Collaboration. The indemnification obligations under this Agreement exclude Losses arising out of Infringement Claims resulting from Alnylam's exercise in accordance with the terms of this Agreement or the UBC Sublicense Documents of any Intellectual Property Rights granted by Tekmira to Alnylam or its Affiliates hereunder or thereunder. Furthermore, Alnylam shall have no obligation to indemnify the Tekmira Indemnitees to the extent that the Losses arise out of or result from, directly or indirectly, (i) any breach of, or inaccuracy in, any representation or warranty made by Tekmira in this Agreement or in the other Transaction Documents, (ii) any breach or violation of any covenant or agreement of Tekmira in or pursuant to this Agreement or the other Transaction Documents, (iii) the negligence or willful misconduct by or of any of the Tekmira Indemnitees or Tekmira Sublicensees, and/or (iv) the Research, Development or Manufacturing of an Alnylam Royalty Product to the extent such activities are performed by a Tekmira Indemnitee.

9.5.3 Indemnification Procedure. In the event of any such claim against any Tekmira Indemnitee or Alnylam Indemnitee (individually, an "Indemnitee"), the indemnified Party shall promptly notify the other Party in writing of the claim and the indemnifying Party shall manage and control, at its sole expense, the defense of the claim and its settlement. The Indemnitee shall cooperate with the indemnifying Party and may, at its option and expense, be represented in any such action or

proceeding. The indemnifying Party shall not be liable for any settlements, litigation costs or expenses incurred by any Indemnitee without the indemnifying Party's written authorization. Notwithstanding the foregoing, if the indemnifying Party believes that any of the exceptions to its obligation of indemnification of the Indemnitees set forth in Sections 9.5.1 or 9.5.2 may apply, the indemnifying Party shall promptly notify the Indemnitees, which shall then have the right to be represented in any such action or proceeding by separate counsel at their expense; provided, that the indemnifying Party shall be responsible for payment of such expenses if the Indemnitees are ultimately determined to be entitled to indemnification from the indemnifying Party.

9.6 Limitation of Liability. NEITHER PARTY HERETO WILL BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS OR THE EXERCISE OF ITS RIGHTS HEREUNDER OR THEREUNDER, INCLUDING LOST PROFITS ARISING FROM OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF ANY NOTICE OF SUCH DAMAGES, EXCEPT AS A RESULT OF A PARTY'S WILLFUL MISCONDUCT OR A MATERIAL BREACH OF THE CONFIDENTIALITY AND NON-USE OBLIGATIONS IN ARTICLE 8. NOTHING IN THIS SECTION 9.6 IS INTENDED TO LIMIT OR RESTRICT THE INDEMNIFICATION RIGHTS OR OBLIGATIONS OF EITHER PARTY.

9.7 Injunctive Relief. Each Party acknowledges the competitive and technical value and the sensitive and confidential nature of the Confidential Information, and agrees that monetary damages alone will be inadequate to protect the other Party's interests against any actual or threatened material breach of Article 8 of this Agreement. Each Party further acknowledges the importance of the standstill obligations in Section 12.17 to the other Party's business and corporate development, and agrees that monetary damages alone will be inadequate to protect the other Party's interests against any actual or threatened material breach of Section 12.17 of this Agreement. Accordingly, each Party consents to the granting of specific performance and injunctive or other equitable or other relief to the other Party in respect of any actual or threatened breach of Article 8 or Section 12.17 of this Agreement, without proof of actual damages. These specific remedies are in addition to any other remedy to which the Parties may be entitled at law or in equity.

9.8 Insurance. Each Party shall secure and maintain in full force and effect throughout the term of this Agreement (and for at least three (3) years thereafter for claims made coverage), insurance with coverage and minimum policy limits set forth as follows:

(a) Alnylam:

(i) *Worker's Compensation*, (to the extent applicable) including coverage for occupational disease, with benefits determined by statute, and at least **[*]** of coverage for *Employer's Liability*.

(ii) *Comprehensive General Liability* and *Personal/Advertising Injury*, including coverage for contractual liability assumed by such Party and coverage for such Party's independent contractor(s), with per occurrence limits of at least **[*]** each and a general aggregate limit of **[*]**.

(iii) *Umbrella Liability*, exclusive of the coverage provided by the policies listed above, with a limit per occurrence of at least **[*]**.

(vi) *Products Liability*, exclusive of the coverage provided by the Comprehensive General Liability policy, with an aggregate limit of at least (i) **[*]** upon the earlier of (x) initiation of clinical studies of a Royalty Product by such Party or (y) the commencement of Manufacturing of a Royalty Product by or on behalf of such Party, and (ii) **[*]** upon the First Commercial Sale of a Royalty Product by such Party; and

(b) Tekmira:

(i) *Worker's Compensation*, (to the extent applicable) including coverage for occupational disease, with benefits determined by statute, and at least **[*]** of coverage for Employer's Liability.

(ii) *Commercial General Liability*, including coverage for contractual liability assumed by such Party and coverage for such Party's independent contractor(s), with per occurrence limits of at least **[*]** each and a general aggregate limit of **[*]**.

(iii) *Umbrella / Excess Liability*, exclusive of the coverage provided by the policies listed above, with a limit per occurrence of at least **[*]**.

(iv) *Products Liability*, exclusive of the coverage provided by the Commercial General Liability policy, with an aggregate limit of at least (i) **[*]** per claim and **[*]** on an annual aggregate basis upon the earlier of (x) initiation of clinical studies of a Royalty Product by such Party or (y) the commencement of Manufacturing of a Royalty Product by or on behalf of such Party, and (ii) **[*]** upon the First Commercial Sale of a Royalty Product by such Party or an amount mutually agreed to by both Parties.

Each Party shall furnish to the other Party a certificate from an insurance carrier (having a minimum AM Best rating of A) demonstrating the insurance requirements set forth above. The insurance certificate shall confirm each of the following: (x) such insurance is primary and non-contributing to any liability insurance carried by the other Party; and (y) the insured shall endeavor to provide thirty (30) days prior written notice to the other Party in the event of cancellation. Provided that Tekmira, acting reasonably, determines it is not prejudicial to its business interests (and provided that such provision is available from Tekmira's then-current insurance underwriter) Tekmira will add Alnylam as an "additional insured" under its Products Liability Policy at any time during the term of this Agreement (and in any event, Tekmira shall use commercially reasonable efforts to add Alnylam as an "additional insured" under its Products Liability Policy before the first commercial sale of any Alnylam Royalty Product). Alnylam agrees that upon Tekmira adding Alnylam as an "additional insured" under its Products Liability Policy, Alnylam will also add Tekmira as an "additional insured" under its own Products Liability policy.

10. INTELLECTUAL PROPERTY OWNERSHIP, PROTECTION AND RELATED MATTERS

10.1 Inventorship and Ownership of Collaboration IP. (a) Inventorship for patentable inventions conceived or reduced to practice during the course of the performance of activities pursuant to this Agreement shall be determined in accordance with United States patent laws for determining inventorship.

(b) The Parties hereby acknowledge and agree that except as otherwise provided in this Agreement, any Intellectual Property Rights owned by either Party prior to the Original Effective Date shall remain owned by such Party. Alnylam shall own the entire right, title and interest in and to all Alnylam Collaboration IP. Subject to clause (c) below, Tekmira shall own the entire right, title and interest in and to all Tekmira Collaboration IP. The Parties shall jointly own any Joint Collaboration IP.

(c) Subject to the grant of license rights between the Parties set forth in this Agreement, Tekmira agrees to promptly assign its right, title and interest in and to all Tekmira Collaboration IP to UBC, (i) all in accordance with the terms of the UBC-Tekmira License Agreement and the UBC Sublicense Documents, and (ii) subject to the grant by UBC of an exclusive license to Tekmira in the Alnylam Field under the UBC-Tekmira License Agreement, and, subject to Section 6.4(a)(ii), to the grant by Tekmira of an exclusive license to Alnylam in the Alnylam Field under the UBC Sublicense Documents.

10.2 Prosecution and Maintenance of Patent Rights.

10.2.1 Alnylam Patent Rights and Know-How. Alnylam has the sole responsibility to, at Alnylam's discretion, file, prosecute, conduct *ex parte* and *inter partes* proceedings (including the defense of any interference or opposition proceedings) and maintain, in the Territory, all Patent Rights comprising Alnylam RNAi Technology, Alnylam IOC Technology or Alnylam Collaboration IP, in Alnylam's name.

10.2.2 Tekmira Patent Rights and Know-How. Tekmira has the sole responsibility to, at Tekmira's discretion, file, prosecute, conduct *ex parte* and *inter partes* proceedings, (including the defense of any interference or opposition proceedings), and maintain, in the Territory, all Patent Rights comprising Tekmira Technology or Tekmira IOC Technology, in Tekmira's name, or Tekmira Collaboration IP, in UBC's name.

10.2.3 Joint Collaboration IP. Subject to Tekmira's continuing right to the prior review of, comment on, revision to and approval of material documents, which shall not be unreasonably delayed or withheld, Alnylam has the sole responsibility to, at Alnylam's discretion, file, conduct *ex parte* and *inter partes* prosecution, and maintain (including the defense of any interference or opposition proceedings) in the Territory, all Patent Rights comprising Joint Collaboration IP, in the names of both Tekmira and Alnylam. Each Party shall use Commercially Reasonable Efforts to make available to Alnylam or its authorized attorneys, agents or representatives, such of its employees as Alnylam in its reasonable judgment deems necessary in order to assist it in obtaining patent protection for such Joint Collaboration IP. Each Party shall sign, or use Commercially Reasonable Efforts to have signed, all legal documents necessary to file and prosecute patent applications or to obtain or maintain patents in respect of such Joint Collaboration IP, at no cost to Alnylam.

10.2.4 Contingent Rights.

(a) In the event that Alnylam elects not to seek or continue to seek or maintain patent protection on any Alnylam IOC Technology or Alnylam Collaboration IP which is subject to Tekmira's licensed rights under Section 6.1.2(a) or (b), or Joint Collaboration IP, then Tekmira shall have the right (but not the obligation), at its expense, to file, prosecute and maintain in any country

within the Territory patent protection on such Alnylam IOC Technology or Alnylam Collaboration IP in the name of Alnylam or on such Joint Collaboration IP in the names of Alnylam and Tekmira. In the event that Alnylam declines to file, prosecute and/or maintain Valid Claims at Tekmira's request in Joint Collaboration IP, then Tekmira shall have the right (but not the obligation) at its expense, to file, prosecute and maintain in any country within the Territory patent prosecution on such Joint Collaboration IP in the names of Alnylam and Tekmira.

(b) In the event that Tekmira elects not to seek or continue to seek or maintain patent protection on any Tekmira Technology or Tekmira Collaboration IP, which is subject to Alnylam's licensed rights under Section 6.1.1(a), then subject to the provisions of the UBC Sublicense Documents, Alnylam shall have the right (but not the obligation), at its expense, to prosecute and maintain in any country within the Territory patent protection on such Tekmira Technology in the name of Tekmira or Tekmira Collaboration IP in the name of UBC.

(c) The Party having the right to prosecute and maintain patents under Sections 10.2.1, 10.2.2 and 10.2.3 shall be referred to as the "Prosecuting Party". The Prosecuting Party shall use Commercially Reasonable Efforts to make available to the other Party or its authorized attorneys, agents or representatives, such of its employees as are reasonably necessary to assist the other Party in obtaining and maintaining the patent protection described under this Section 10.2.4. The Prosecuting Party shall sign or use Commercially Reasonable Efforts to have signed all legal documents necessary to file and prosecute such patent applications or to obtain or maintain such patents.

10.2.5 Cooperation. Each Party hereby agrees: (a) to make its employees, agents and consultants reasonably available to the other Party (or to the other Party's authorized attorneys, agents or representatives), to the extent reasonably necessary to enable such Party to undertake patent prosecution; (b) to provide the other Party with copies of all material correspondence pertaining to prosecution with the patent offices; (c) to cooperate, if necessary and appropriate, with the other Party in gaining patent term extensions wherever applicable to Patent Rights; and (d) to endeavor in good faith to coordinate its efforts with the other Party to minimize or avoid interference with the prosecution and maintenance of the other Party's patent applications.

10.2.6 Patent Expenses. The patent filing, prosecution and maintenance expenses incurred after the Original Effective Date with respect to Patent Rights comprised of Alnylam Core Patent Rights, Alnylam IOC Technology, Alnylam Lipidoid Patent Rights, Tekmira Technology, Tekmira IOC Technology and Collaboration IP shall be borne by each Party having the right to file, prosecute and maintain such Patent Rights under this Section 10.2.

10.3 Third Party Infringement.

10.3.1 Notices. Each Party shall promptly report in writing to the other Party during the Agreement Term (a) any known or suspected infringement of any Alnylam RNAi Technology, Alnylam IOC Technology, Tekmira Technology, Tekmira IOC Technology or Collaboration IP with respect to a Royalty Product, or (b) unauthorized use or misappropriation of any Confidential Information by a Third Party of which it becomes aware, and shall provide the other Party with all available evidence supporting such infringement, or unauthorized use or misappropriation

10.3.2 Rights to Enforce.

(a) Subject to the provisions of any Tekmira In-License and the provisions of the UBC Sublicense Documents, in respect of the Alnylam Royalty Products in the Alnylam Field in the Territory, Alnylam shall have the sole and exclusive right to initiate an infringement or other appropriate suit anywhere in the world against any Third Party who at any time has infringed, or is suspected of infringing, any Patent Rights, or of using without proper authorization, any Know-How, comprising any of the Exclusively Licensed Tekmira IP, with respect to such Alnylam Royalty Products.

(b) Tekmira shall have the sole and exclusive right to initiate an infringement or other appropriate suit anywhere in the world against any Third Party who at any time has infringed, or is suspected of infringing, any Patent Rights, or of using without proper authorization, any Know-How, comprising any Non-Exclusively Licensed Tekmira IP other than any Patent Rights or Know-How comprising Joint Collaboration IP.

(c) Alnylam shall have the sole and exclusive right to initiate an infringement or other appropriate suit anywhere in the world against any Third Party who at any time has infringed, or is suspected of infringing, any Patent Rights, or of using without proper authorization any Know-How, comprising Alnylam RNAi Technology, Alnylam IOC Technology or Alnylam Collaboration IP; provided, that if Alnylam fails to initiate a suit or take other appropriate action with respect to Alnylam IOC Technology in the United States with respect to an IOC Product that it has the initial right to initiate or take pursuant thereto within ninety (90) days after becoming aware of the basis for such suit or action, then Tekmira may, in its discretion, provide Alnylam with written notice of Tekmira's intent to initiate a suit or take other appropriate action with respect to such IOC Product. If Tekmira provides such notice and Alnylam fails to initiate a suit or take such other appropriate action within thirty (30) days after receipt of such notice from Tekmira, then Tekmira shall have the right to initiate a suit or take other appropriate action that it believes is reasonably required to protect its licensed interests under the Alnylam IOC Technology and Alnylam Collaboration IP with respect to such IOC Product.

(d) Alnylam shall have the first right to initiate an infringement or other appropriate suit anywhere in the world against any Third Party who at any time has infringed, or is suspected of infringing, any Patent Rights, or of using without proper authorization any Know-How, comprising Joint Collaboration IP that is Non-Exclusively Licensed Tekmira IP; provided, that if Alnylam fails to initiate a suit or take other appropriate action with respect to such Joint Collaboration IP in the Territory within ninety (90) days after becoming aware of the basis for such suit or action, then Tekmira may, in its discretion, provide Alnylam with written notice of Tekmira's intent to initiate a suit or take other appropriate action with respect to such Joint Collaboration IP. If Tekmira provides such notice and Alnylam fails to initiate a suit or take such other appropriate action within thirty (30) days after receipt of such notice from Tekmira, then Tekmira shall have the right to initiate a suit or take other appropriate action that it believes is reasonably required to protect its licensed interests under such Joint Collaboration IP.

10.3.3 Procedures; Expenses and Recoveries. The Party having the right to initiate any infringement suit pursuant to Section 10.3.2 above shall have the sole and exclusive right to select counsel for any such suit, and shall pay all expenses of the suit, including legal fees and court costs and reimbursement of the other Party's reasonable out-of-pocket expense in rendering assistance requested by the initiating Party. If required under applicable law in order for the initiating Party to

initiate and/or maintain such suit, or if the initiating Party is unable to initiate or prosecute such suit solely in its own name or it is otherwise advisable to obtain an effective legal remedy, in each case, the other Party shall join as a party to the suit and will execute and cause its Affiliates to execute all documents necessary for the initiating Party to initiate litigation to prosecute and maintain such action. In addition, at the initiating Party's request, the other Party shall provide reasonable assistance to the initiating Party in connection with an infringement suit at no charge to the initiating Party except for reimbursement by the initiating Party of reasonable out-of-pocket expenses incurred in rendering such assistance. The other Party shall have the right to participate and be represented in any such suit by its own counsel at its own expense, and to share equally all expenses of such suit if it so elects. If the Parties obtain from a Third Party, in connection with such suit, any damages, license fees, royalties or other compensation (including any amount received in settlement of such litigation), such amounts shall be allocated in all cases, first to reimburse each Party for all expenses of the suit, including legal fees and disbursements, court costs and other litigation expenses; with the balance being allocated as follows:

(i) in the case of amounts received in respect of an infringement of Exclusively Licensed Tekmira IP in a suit brought by Alnylam pursuant to Section 10.3.2(a) with respect to an Alnylam Royalty Product, such amount remaining after deduction of expenses as set forth above shall be treated as if it were Net Sales of such Alnylam Royalty Product, with Tekmira receiving a royalty on such remaining amount pursuant to the terms of Section 7.3.1; and the balance being retained by Alnylam; or

(ii) in the case of amounts received in respect of an infringement suit brought by Tekmira pursuant to Section 10.3.2(b), the entire such amount remaining after deduction of expenses as set forth above shall be retained by Tekmira; or

(iii) in the case of amounts received in respect of an infringement of Alnylam RNAi Technology, Alnylam IOC Technology or Alnylam Collaboration IP in a suit brought by Alnylam pursuant to Section 10.3.2(c), such amount remaining after deduction of expenses as set forth above shall be retained by Alnylam; or

(iv) in the case of amounts received in respect of an infringement suit brought by Tekmira pursuant to the proviso in Section 10.3.2(c) with respect to an IOC Product, such amount remaining after deduction of expenses as set forth above shall be treated as if it were Net Sales of such IOC Product, with Alnylam receiving a royalty on such remaining amount pursuant to the terms of Section 7.3.2; and the balance being retained by Tekmira; or

(v) in the case of amounts received in respect of an infringement suit brought by either Party with respect to Joint Collaboration IP that is Non-Exclusively Licensed Tekmira IP pursuant to Section 10.3.2(d), the entire such amount remaining after deduction of expenses as set forth above shall be paid to the Party conducting the litigation, or shared equally if both Parties participated voluntarily throughout the litigation and shared its expenses.

10.4 Claimed Infringement.

10.4.1 Notice. In the event that a Third Party at any time provides written notice of a claim to, or brings an action, suit or proceeding against, any Party or any of their respective Affiliates or Sublicensees, claiming infringement of its patent rights or unauthorized use or misappropriation of its

know-how, based upon an assertion or claim arising out of the use of the Intellectual Property Rights of the other Party that is licensed or assigned under this Agreement in the Research, Development, Manufacture or Commercialization of a Royalty Product in the Territory and in (a) the Alnylam Field, in the case of Alnylam Royalty Products and Tekmira Development Products or (b) the Tekmira IOC Field, in the case of Tekmira IOC Products ("Infringement Claim"), such Party shall promptly notify the other Party of the claim or the commencement of such action, suit or proceeding, enclosing a copy of the claim and all papers served.

10.4.2 Responsibility.

(a) **Alnylam Royalty Products**. Any Infringement Claim brought against either Party or its Affiliates or Sublicensees arising out of the Research, Development, Manufacture or Commercialization of any Alnylam Royalty Product in the Alnylam Field in the Territory, shall be defended by Alnylam if it so desires. Tekmira agrees to make reasonably available to Alnylam its advice and counsel regarding the technical merits of any such claim and to offer reasonable assistance to Alnylam at no cost to Alnylam.

(b) **Tekmira Royalty Products**. Any Infringement Claim brought against either Party or its Affiliates or Sublicensees arising out of the Research, Development, Manufacture or Commercialization of any Tekmira Royalty Product in the Territory and in (a) the Alnylam Field, in the case of Tekmira Development Products or (b) the Tekmira IOC Field, in the case of Tekmira IOC Products, shall be defended by Tekmira if it so desires. All liabilities, damages, costs and expenses arising out of such Infringement Claims shall be borne by Tekmira.

10.4.3 Procedure. The Party with responsibility for the Infringement Claim under Section 10.4.2 (the "Responsible Party") shall have the sole and exclusive right to select counsel for any Infringement Claim; provided, that it shall consult with the other Party with respect to selection of counsel for such defense. The Responsible Party shall keep the other Party informed, and shall from time to time consult with such other Party regarding the status of any such claims and shall provide such other Party with copies of all documents filed in, and all written communications relating to, any suit brought in connection with such claims. The other Party shall also have the right to participate and be represented in any such claim or related suit, at its own expense. The other Party shall have the sole and exclusive right to control the defense of an Infringement Claim in the event the Responsible Party fails to exercise its right to assume such defense within thirty (30) days following written notice of such Infringement Claim. No Party shall settle any claims or suits involving rights of another Party without obtaining the prior written consent of such other Party, which consent shall not be unreasonably withheld.

10.4.4 Limitations. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, THE FOREGOING STATES THE ENTIRE RESPONSIBILITY OF ALNYLAM AND TEKMIRA, AND THE SOLE AND EXCLUSIVE REMEDY OF ALNYLAM OR TEKMIRA, AS THE CASE MAY BE, IN THE CASE OF ANY CLAIMED INFRINGEMENT OF ANY THIRD PARTY PATENT RIGHTS OR UNAUTHORIZED USE OR MISAPPROPRIATION OF ANY THIRD PARTY'S KNOW-HOW.

10.5 Other Infringement Resolutions. In the event of a dispute or potential dispute that has not ripened into a demand, claim or suit of the types described in Sections 10.3 and 10.4 of this Agreement (e.g., actions seeking declaratory judgments and revocation proceedings), the same

principles governing control of the resolution of the dispute, consent to settlements of the dispute, and implementation of the settlement of the dispute (including the sharing in and allocation of the payment or receipt of damages, license fees, royalties and other compensation) shall apply.

10.6 Product Trademarks. Alnylam shall own the Product Trademarks for Alnylam Royalty Products and shall be solely responsible for filing and maintaining such Product Trademarks in the Territory (including payment of costs associated therewith), Alnylam shall assume full responsibility, at its sole cost and expense, for any infringement of a Product Trademark for an Alnylam Royalty Product by a Third Party and for any claims of infringement of the rights of a Third Party by the use of a Product Trademark in connection with such Alnylam Royalty Product. Tekmira shall own the Product Trademarks for Tekmira Royalty Products and shall be solely responsible for filing and maintaining such Product Trademarks in the Territory (including payment of costs associated therewith). Tekmira shall assume full responsibility, at its sole cost and expense, for any infringement of a Product Trademark for a Tekmira Royalty Product by a Third Party and for any claims of infringement of the rights of a Third Party by the use of a Product Trademark in connection with such Tekmira Royalty Product.

10.7 Patent Term Extensions. The Parties shall use reasonable efforts to obtain all available supplementary protection certificates ("SPC") and other extensions of Patent Rights (including those available under the Hatch-Waxman Act). Each Party shall execute such authorizations and other documents and take such other actions as may be reasonably requested by the other Party to obtain such extensions. The Parties shall cooperate with each other in gaining patent term restorations, extensions and/or SPCs wherever applicable to Patent Rights. The Party first eligible to seek patent term restoration or extension of any such Patent Rights or any SPC related thereto shall have the right to do so; provided, that if in any country the first Party has an option to extend the patent term for only one of several patents, the first Party shall consult with the other Party before making the election. If more than one patent is eligible for extension or patent term restoration, the Parties shall agree upon a strategy that shall maximize patent protection and commercial value for Royalty Products, as the case may be. All filings for such extensions and certificates shall be made by the Party to whom responsibility for prosecution and maintenance of the Patent Rights is assigned, provided, that in the event that the Party to whom such responsibility is assigned elects not to file for an extension or SPC, such Party shall (a) inform the other Party of its intention not to file and (b) grant the other Party the right to file for such extension or SPC in the patentee's name and such Party shall provide all necessary assistance in connection therewith.

10.8 Patent Certification. To the extent required by law or permitted by law, the Parties shall use Commercially Reasonable Efforts to maintain with the applicable Regulatory Authorities during the Agreement Term correct and complete listings of applicable Patent Rights for Royalty Products, as the case may be, being commercialized, including all so called "Orange Book" listings required under the Hatch-Waxman Act.

11. TERM AND TERMINATION

11.1 Effective Date; Agreement Term and Expiration. The "Effective Date" shall be the date upon which this Agreement and the Protiva License Agreement are released from escrow and delivered to the appropriate parties in accordance with the terms of the Escrow Agreement. Unless and until the foregoing condition is met, the Original Agreement shall remain in full force and effect

and the terms and conditions of the Original Agreement shall govern the Parties without any regard being given to this Agreement or its terms and conditions. On the date upon which the foregoing condition is met (the "Condition Satisfaction Date"), this Agreement will supersede and replace the Original Agreement and this Agreement shall continue until terminated pursuant to Section 11.2. ("Agreement Term").

11.2 Termination for Cause.

11.2.1 Cause for Termination. This Agreement may be terminated at any time during the Agreement Term:

(a) upon written notice by either Party (the "Non-Breaching Party") if the other Party (the "Breaching Party") is in breach of any of its material obligations under this Agreement, in any case by causes and reasons within the Breaching Party's control and, if the breach is capable of being cured, the Breaching Party has not cured such breach within ninety (90) days after receiving such notice, which notice shall set out the requirements to cure such breach; provided, however, in the event of a good faith Dispute with respect to the existence of a material breach that is capable of being cured, the ninety (90) day cure period shall be tolled until such time as the Dispute is resolved pursuant to Section 12.6 hereof; or

(b) upon written notice by the Non-Breaching Party if the Breaching Party is in breach of any of its material obligations under any Transaction Document to which it is a party (other than the Supply Agreement or any Quality Agreement), in any case by causes and reasons within the Breaching Party's control, and if the breach is capable of being cured, the Breaching Party has not cured such breach within the period provided for cure under the applicable Transaction Document or, if greater, ninety (90) days after receiving such notice; provided, that (x) if the breach is capable of being cured, the written notice of breach provided by the Non-Breaching Party shall set out the requirements to cure such breach and the applicable cure period, and (y) in the event of a good faith dispute with respect to the existence of a material breach if the breach is capable of being cured, the applicable cure period shall be tolled until such time as the dispute is resolved pursuant to the dispute resolution provisions of the applicable Transaction Document, or in the absence of any dispute resolution provisions in the applicable Transaction Document, Section 12.6 hereof; or

(c) by either Party upon the filing or institution of bankruptcy, reorganization, liquidation or receivership proceedings, or upon an assignment of a substantial portion of the assets for the benefit of creditors by the other Party; provided, however, that in the event of any involuntary bankruptcy or receivership proceeding such right to terminate shall only become effective if the Party consents to the involuntary bankruptcy or receivership or such proceeding is not dismissed within thirty (30) days after the filing thereof.

11.2.2 Effect of Termination for Cause. Notwithstanding the foregoing, if the material breach has, or is reasonably likely to have, a material adverse effect only on the Research, Development, Manufacture or Commercialization of a Royalty Product in a Region or Regions, then this Agreement shall not terminate with respect to such Royalty Product in the Territory outside of such Region(s); provided, that with respect to such Royalty Product in such Region(s):

(a) except to the extent such licenses are necessary for the Breaching Party to perform its obligations under clause (c) below, the licenses granted to the Breaching Party under this Agreement with respect to the Research, Development, Manufacture and Commercialization of such Royalty Product in such Region(s) shall terminate; and

(b) subject to the Breaching Party's obligations under the In-Licenses, if the Breaching Party is

(i) Alnylam with respect to a Tekmira Development Product, the license granted to Tekmira in Section 6.1.2(a)(i) shall be converted into royalty-free, perpetual license;

(ii) Alnylam with respect to an IOC Product, the license granted to Tekmira in Section 6.1.2(b) shall be converted into a royalty-free, perpetual license; or

(iii) Tekmira with respect to an Alnylam Royalty Product, the licenses granted to Alnylam in Sections 6.1.1(a) and (b) shall be converted into a royalty-free, perpetual license and the milestone obligations with respect to such Alnylam Royalty Product shall also terminate;

provided, however, that to the extent (x) such license in clauses (i), (ii) or (iii) includes a sublicense under Necessary Third Party IP, including without limitation the In-Licenses, the non-Breaching Party shall be fully responsible for all royalties, milestones or other payments under such license of Necessary Third Party IP reasonably allocable to such Royalty Product in such Region(s) or (y) Tekmira is the Breaching Party and the applicable Alnylam Royalty Product is Covered by Intellectual Property Rights sublicensed to Alnylam by Tekmira pursuant to the UBC Sublicense Documents, Alnylam shall be fully responsible for all royalties and sublicense revenue payable by Tekmira to UBC in respect of such sublicensed Intellectual Property Rights under the Tekmira-UBC License Agreement after the effective date of clause (iii) above subject to Alnylam's right to offset such payments pursuant to Section 7.4.3;

(c) in the event that Tekmira is the Breaching Party with respect to an Alnylam Royalty Product and is Manufacturing and supplying such Alnylam Royalty Product pursuant to Section 5.1, Tekmira shall have the obligation, if requested by Alnylam, to continue to Manufacture and supply such Alnylam Royalty Product for such Region(s) for a period of up to eighteen (18) months after the effective date of termination on the same terms thereunder, the Supply Agreement and the applicable Quality Agreement.

For purposes of this Article 11, "Region" shall mean any of the following regions in the Territory: (i) the United States; (ii) the European Union, (iii) the region comprised of the following countries: Australia, Bangladesh, Bhutan, Brunei, Darussalam, Burma, Cambodia, China (including Hong Kong), India, Indonesia, Japan, Laos, Macao, Malaysia, Mongolia, Nepal, New Zealand, Papua New Guinea, Pakistan, Philippines, Republic of Korea, Singapore, Sri Lanka, Taiwan, Thailand and Vietnam; and (iv) the region comprised of the countries of the world not included in clauses (i), (ii) or (iii) above.

Moreover, any breach of the restrictions in Section 6.1.2(b) which Tekmira fails to cure pursuant to Section 11.2.1 shall result in the termination of Tekmira's license under such Section to the Alnylam Data, but it shall not, by itself, result in the termination of any other licenses to Tekmira under this Agreement unless Alnylam meets the burden of demonstrating that such breach has had or is reasonably likely to have a material adverse effect on the benefits, taken as a whole, that Alnylam reasonably anticipates it will obtain from this Agreement and the Protiva License Agreement and the activities and grants contemplated under such agreements.

11.3 Termination upon Bankruptcy of a Party. If this Agreement is terminated by either Party (the "Non-Bankrupt Party") pursuant to Section 11.2.1(c) due to the rejection of this Agreement by or on behalf of the other Party (the "Bankrupt Party") under Section 365 of the United States Bankruptcy Code (the "Code"), all licenses and rights to licenses granted under or pursuant to this Agreement by the Bankrupt Party to the Non-Bankrupt Party are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the Code, licenses of rights to "intellectual property" as defined under Section 101(35A) of the Code. The Parties agree that the Non-Bankrupt Party, as a licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the Code, and that upon commencement of a bankruptcy proceeding by or against the Bankrupt Party under the Code, the Non-Bankrupt Party shall be entitled to a complete duplicate of, or complete access to (as the Non-Bankrupt Party deems appropriate), any such intellectual property and all embodiments of such intellectual property. Such intellectual property and all embodiments thereof shall be promptly delivered to the Non-Bankrupt Party (a) upon any such commencement of a bankruptcy proceeding upon written request therefor by the Non-Bankrupt Party, unless the Bankrupt Party elects to continue to perform all of its obligations under this Agreement or (b) if not delivered under (a) above, upon the rejection of this Agreement by or on behalf of the Bankrupt Party upon written request therefor by the Non-Bankrupt Party. The foregoing provisions are without prejudice to any rights the Non-Bankrupt Party may have arising under the Code or other applicable law.

11.4 Termination upon a Change of Control. Upon Tekmira (a) receiving or otherwise becoming aware of a proposal or intention by a Third Party to take any action, whether directly or indirectly, including without limitation a non-binding letter of intent, that could lead to a Change of Control, (b) Tekmira planning to solicit or soliciting offers relating to its or Protiva's voting securities or assets that could lead to a Change of Control, or (c) any Change of Control, Tekmira shall provide prompt written notice thereof to Alnylam. In the event of a Change of Control Alnylam may elect, upon prior written notice to Tekmira, to terminate any or all of the following: (i) the Collaboration, (ii) all Manufacturing Activities, the Supply Agreement and/or any Quality Agreements, (iii) Section 12.17 and/or (v) Alnylam's license grants to Tekmira under the Alnylam Lipidoid Patent Rights; provided, however, that subject to the terms and conditions of the MIT License Agreement, to the extent that a Tekmira Development Product is Covered by a Valid Claim of an Alnylam Lipidoid Patent Right and is also comprised of a Library Component (as defined in the MIT License Agreement) on the effective date of termination, such license grant shall survive, but only with respect to such Tekmira Development Product and such Library Component.

11.5 Termination upon an Invalidity Challenge.

(a) **Invalidity Challenge by Alnylam**. If Alnylam or its Related Party asserts in any court or other governmental agency of competent jurisdiction that a Tekmira Patent Right or a Patent Right Controlled by Tekmira by virtue of the Tekmira-UBC License Agreement and sublicensed to Alnylam pursuant to the UBC Sublicense (in either case, an "Tekmira Patent") is invalid, unenforceable, or that no issued Valid Claim embodied in such Tekmira Patent excludes a Third Party from making, having made, using, selling, offering for sale, importing or having imported an Alnylam Royalty Product in such jurisdiction, then Tekmira shall be entitled, upon written notice to Alnylam, to terminate all licenses granted to Alnylam for such Alnylam Royalty Product(s) covered by such Tekmira Patent that is under challenge in the applicable jurisdiction; provided however, that Tekmira shall not terminate such license if within thirty (30) days of Alnylam's receipt of Tekmira's notification hereunder, Alnylam has:

(i) confirmed by written notice to Tekmira that Alnylam no longer intends to challenge the validity or enforceability of such Tekmira Patent; or

(ii) provided to Tekmira documentation to confirm Alnylam's withdrawal of its filing, submission, or other process commenced in any court or other governmental agency of competent jurisdiction to challenge the validity or enforceability of any such Tekmira Patent.

(b) **Invalidity Challenge by Tekmira.** If Tekmira or its Related Party asserts in any court or other governmental agency of competent jurisdiction that any Patent Right comprising Alnylam RNAi Patent Rights, Alnylam Lipidoid Patent Rights, Alnylam IOC Technology or Alnylam Core Patent Rights is invalid, unenforceable, or that no issued Valid Claim embodied in such Patent Right excludes a Third Party from making, having made, using, selling, offering for sale, importing or having imported a Tekmira Royalty Product in such jurisdiction, then Alnylam shall be entitled, upon written notice to Tekmira, to terminate all licenses granted to Tekmira for such Tekmira Royalty Product(s) covered by the Alnylam RNAi Patent Rights, Alnylam Lipidoid Patent Rights, Alnylam IOC Technology or Alnylam Core Patent Rights under challenge in the applicable jurisdiction; provided, however, that Alnylam shall not terminate such license if within thirty (30) days of Tekmira's receipt of Alnylam's notification hereunder, Tekmira has:

(i) confirmed by written notice to Alnylam that Tekmira no longer intends to challenge the validity or enforceability or any Patent Right under the Alnylam RNAi Patent Rights, Alnylam Lipidoid Patent Rights, Alnylam IOC Technology or Alnylam Core Patent Rights; or

(ii) provided to Alnylam, documentation to confirm Tekmira's withdrawal of its filing, submission, or other process commenced in any court or other governmental agency of competent jurisdiction to challenge the validity or enforceability of any Patent Right under the Alnylam RNAi Patent Rights, Alnylam Lipidoid Patent Rights, Alnylam IOC Technology or Alnylam Core Patent Rights.

11.6 Termination of Exclusive Manufacturing Obligations. Alnylam shall have the right to terminate the Manufacturing Activities, the Supply Agreement and any Quality Agreement in the event of a breach by Tekmira of any of its material obligations under Article 5, the Supply Agreement or any Quality Agreement, in any case by causes and reasons within Tekmira's control, upon written notice to Tekmira setting out the requirements to cure, and if the breach is capable of being cured, Tekmira has not cured such breach within ninety (90) days after receiving such notice; provided, however, that in the event of a good faith Dispute with respect to the existence of a material breach that is capable of being cured, the ninety (90) day cure period shall be tolled until such time as the Dispute is resolved pursuant to Section 12.6 hereof.

11.7 Effect of Expiration or Termination; Survival. Expiration or termination of this Agreement shall not relieve the Parties of any obligation accruing prior to such expiration or termination. Any expiration or termination of this Agreement shall be without prejudice to the rights of either Party against the other accrued or accruing under this Agreement prior to expiration or termination, including without limitation the obligation to pay royalties sold prior to such expiration or termination. The provisions of Articles 1, 8, 9, and 12 and Sections 3.3 (third and fourth sentences only), 3.4, 3.6, 3.7.3, 3.7.4, 5.4, 6.1.2(b), 6.2.6, 6.3, 6.6, 7.6, 7.7, 7.8(b), 10.1, 10.2.3, 10.4.2, 10.4.3, 10.4.4, 10.5 (to the extent relevant to a demand, claim or suit of the type described in Section 10.4), 10.6, 11.2.2, 11.3, and 11.7 shall survive any expiration or termination of this Agreement; provided, however, that if this Agreement is terminated pursuant to Section 11.2.1 and the Breaching Party or

the Bankrupt Party is (a) Tekmira or its Affiliate, then Sections 6.1.2(b) and 12.17 shall terminate or (b) Alnylam, then Section 6.9 shall terminate. Except as set forth in this Article 11, upon termination or expiration of this Agreement all other rights and obligations cease.

12. MISCELLANEOUS

12.1 ***Force Majeure***. Neither Party shall be held liable to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in performing any obligation under this Agreement to the extent that such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party, potentially including without limitation embargoes, war, acts of war (whether war be declared or not), insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, fire, floods, or other acts of God, or acts, omissions or delays in acting by any governmental authority or the other Party. The affected Party shall notify the other Party of such *force majeure* circumstances as soon as reasonably practical, and shall promptly undertake all reasonable efforts necessary to cure such *force majeure* circumstances.

12.2 Assignment. This Agreement may not be assigned or otherwise transferred, nor may any right or obligation hereunder be assigned or transferred, by either Party by operation of law or otherwise, without the prior written consent of the other Party; provided, however, that subject to Section 11.4, either Party may, without the other Party's consent, assign this Agreement and its rights and obligations hereunder in whole or in part to an Affiliate or, to a party that acquires, by merger, sale of assets or otherwise, all or substantially all of the business of such Party to which the subject matter of this Agreement relates. Notwithstanding the foregoing, Tekmira may not assign (a) this Agreement or its rights and obligations hereunder to Protiva without Alnylam's prior written consent, except that Tekmira may, upon prior written notice to Alnylam, transfer its rights and obligations with respect to any Tekmira Development Target and any Tekmira Development Products to Protiva; provided that, (i) any such transfer shall be subject in all respects to the Merck Restriction and the terms of Section 3.7, (ii) Protiva is and remains a wholly-owned subsidiary of Tekmira, (iii) Protiva agrees in writing to perform all of Tekmira's obligations with respect to such Tekmira Development Target(s) and Tekmira Development Product(s) and (iv) Tekmira guarantees in writing the performance of Protiva's obligations to Alnylam with respect to such Tekmira Development Target(s) and Tekmira Development Product(s); or (b) its rights under this Agreement to perform the Collaboration or to perform Manufacturing Activities to any Tekmira Affiliate of which **[*]** or more of the outstanding voting securities are owned, controlled or held by a Significant Pharmaceutical Company or by any investment entity affiliated with any such Significant Pharmaceutical Company. The above notwithstanding: (i) Tekmira agrees not to assign or transfer this Agreement to any Third Party who is not also the assignee or transferee of all ownership rights in the Tekmira Technology or otherwise in a manner that would be inconsistent with Alnylam's rights under this Agreement; and (ii) Alnylam agrees not to assign this Agreement to any Third Party who is not also the assignee or transferee of all ownership rights in the Alnylam Core Patent Rights or otherwise in a manner that would be inconsistent with Protiva's rights under this Agreement. Any attempted assignment not in accordance with this Section 12.2 shall be void. The assigning Party shall remain responsible for the performance by its assignee of this Agreement or any obligations hereunder so assigned to such assignee. Alnylam agrees to notify Tekmira in the event that all or a part of this Agreement is assigned to an Affiliate of Alnylam, which assignment may result in payments from such Affiliate to the Tekmira under the agreement; provided, however, that the failure to provide such notice shall not constitute a material breach of this Agreement.

12.3 Severability. If any one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, unless the absence of the invalidated provision(s) adversely affects the substantive rights of the Parties. The Parties shall in such an instance use their best efforts to replace the invalid, illegal or unenforceable provision(s) with valid, legal and enforceable provision(s) which, insofar as practical, implement the purposes of this Agreement.

12.4 Notices. All notices which are required or permitted hereunder shall be in writing and sufficient if delivered personally, sent by facsimile (and promptly confirmed by personal delivery, registered or certified mail or overnight courier), sent by nationally-recognized overnight courier or sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Alnylam, to:	ALNYLAM PHARMACEUTICALS, INC. 300 Third Street Cambridge, MA 02142 Attention: Chief Executive Officer Facsimile No.: (617) 551-8101
and:	FABER DAEUFER & ROSENBERG PC 950 Winter Street, Suite 4500 Waltham, MA 02451 Attention: Sumy Daeufer Facsimile No.: 781-795-4747
If to Tekmira, to:	TEKMIRA PHARMACEUTICALS CORPORATION #200 – 8900 Glenlyon Parkway Burnaby, B.C. Canada V5J 5J8 Attention: President and C.E.O Facsimile No.: (604) 419-3201
and:	LANG MICHENER LLP 1500-1055 West Georgia Street Vancouver, British Columbia Attention: Leo Raffin Facsimile No.: (604) 893-2356

or to such other address as the Party to whom notice is to be given may have furnished to the other Party in writing in accordance herewith. Any such notice shall be deemed to have been given: (a) when delivered if personally delivered or sent by facsimile on a Business day (or if delivered or sent on a non-Business Day, then on the next Business day); (b) on receipt if sent by nationally-recognized overnight courier; and/or (c) on receipt if sent by mail.

12.5 Applicable Law. The Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, U.S.A; provided that (i) matters of intellectual property law concerning the existence, validity, ownership, infringement or enforcement of intellectual property

shall be determined in accordance with the national intellectual property laws relevant to the intellectual property in question, and (ii) the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods is expressly excluded from this Agreement.

12.6 Dispute Resolution.

12.6.1 Disputes. The Parties shall negotiate in good faith and use reasonable efforts to settle any dispute, controversy or claim arising from, or related to, this Agreement or to the breach hereof (collectively, "Dispute"). In the event that the Chief Executive Officers cannot reach an agreement regarding a Dispute within thirty (30) days after submission to them for resolution, the provisions of Section 4.4(a) do not apply, and a Party wishes to pursue the matter, each such Dispute that is not an "Excluded Claim" shall be finally resolved by binding arbitration in accordance with the Commercial Arbitration Rules and Supplementary Procedures for Large Complex Disputes of the American Arbitration Association ("AAA") and Section 12.6.2 below, and judgment on the arbitration award may be entered in any court having jurisdiction thereof. As used in this Section 12.6, the term "Excluded Claim" shall mean a dispute that concerns (a) the validity or infringement of a patent, trademark or copyright, or (b) any antitrust, anti-monopoly or competition law or regulation, whether or not statutory.

12.6.2 Arbitration. The arbitration shall be conducted by a panel of three (3) persons experienced in the pharmaceutical business who are independent of both Parties and neutral with respect to the Dispute presented for arbitration. Within thirty (30) days after initiation of arbitration, each Party shall select one person to act as arbitrator and the two Party-selected arbitrators shall select a third arbitrator within thirty (30) days of their appointment. If the arbitrators selected by the Parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be appointed by the AAA. The place of arbitration shall be Chicago, Illinois, USA, and all proceedings and communications shall be in English.

Either Party may apply to the arbitrators for interim injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either Party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any injunctive or provisional relief necessary to protect the rights or property of that Party pending the arbitration award. The arbitrators shall have no authority to award punitive or any other type of damages not measured by a Party's compensatory damages. Each Party shall bear its own costs and expenses and attorneys' fees, and the Party that does not prevail in the arbitration proceeding shall pay the arbitrators' and any administrative fees of arbitration. Except to the extent necessary to confirm an award or as may be required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of an arbitration without the prior written consent of both Parties. In no event shall an arbitration be initiated after the date when commencement of a legal or equitable proceeding based on the Dispute, controversy or claim would be barred by the applicable Massachusetts statute of limitations.

(a) The Parties agree that, in the event of a Dispute over the nature or quality of performance under this Agreement, neither Party may terminate this Agreement until final resolution of the Dispute through arbitration or other judicial determination. The Parties further agree that any payments made pursuant to this Agreement pending resolution of the Dispute shall be refunded promptly if an arbitrator or court determines that such payments are not due.

(b) The Parties hereby agree that any disputed performance or suspended performances pending the resolution of the arbitration that the arbitrator determines to be required to be performed by a Party must be completed within a reasonable time period following the final decision of the arbitrator.

(c) The Parties hereby agree that any monetary payment to be made by a Party pursuant to a decision of the arbitrator shall be made in United States dollars, free of any tax or other deduction. The Parties further agree that the decision of the arbitrator shall be the sole, exclusive and binding remedy between them regarding determination of the matters presented to the arbitrator.

12.7 Entire Agreement; Amendments. This Agreement, together with the other Transaction Documents, contain the entire understanding of the Parties with respect to the subject matter hereof and licenses granted hereunder. All express or implied agreements and understandings, either oral or written, with regard to the subject matter hereof and the licenses granted hereunder, including without limitation, the Original INEX Agreements, are superseded by the terms of this Agreement and the other Transaction Documents. This Agreement (including the Schedules hereto) and the other Transaction Documents may be amended, or any term hereof modified, only by a written instrument duly executed by authorized representatives of both Parties hereto.

12.8 Headings. The captions to the Articles and Sections hereof are not a part of this Agreement, but are merely for convenience to assist in locating and reading the several Articles and Sections hereof.

12.9 Independent Contractors. It is expressly agreed that Alnylam and Tekmira shall be independent contractors and that the relationship between Alnylam and Tekmira shall not constitute a partnership, joint venture or agency. Neither Party shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other Party, without the prior written consent of such other Party.

12.10 Waiver. The waiver by either Party hereto of any right hereunder, or of the failure of the other Party to perform, or of a breach by the other Party, shall not be deemed a waiver of any other right hereunder or of any other breach or failure by such other Party, whether of a similar nature or otherwise.

12.11 Cumulative Remedies. No remedy referred to in this Agreement is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to in this Agreement or otherwise available under law.

12.12 Waiver of Rule of Construction. Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this Agreement. Accordingly, the rule of construction that any ambiguity in this Agreement shall be construed against the drafting Party shall not apply.

12.13 Counterparts. The Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12.14 Binding Effect. Subject to Section 11.1, as of the Effective Date, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and permitted assigns.

12.15 No Third Party Beneficiaries. Except as expressly contemplated herein, no Third Party, including any employee of any Party to this Agreement, shall have or acquire any rights by reason of this Agreement.

12.16 Finder's Fee. Tekmira agrees to indemnify and to hold harmless Alnylam from any liability for any commission or compensation in the nature of a finder's fee (and the reasonable costs and expenses of defending against such liability or asserted liability) for which Tekmira or any of its officers, partners, employees, or representatives is responsible. Alnylam agrees to indemnify and hold harmless Tekmira from any liability for any commission or compensation in the nature of a finder's fee (and the reasonable costs and expenses of defending against such liability or asserted liability) for which Alnylam or any of its officers, employees or representatives is responsible.

12.17 Standstill.

(a) Subject to the terms of this Section 12.17, until the fifth year anniversary of the Original Effective Date, without the approval of the Board of Directors of Tekmira, neither Alnylam nor any of its Affiliates will:

(i) acquire or offer to acquire in one or more transactions, any voting securities or other securities convertible into voting securities of Tekmira representing in aggregate 10% or more of the issued and outstanding voting securities of Tekmira (assuming the conversion of such other securities convertible into voting securities of Tekmira);

(ii) solicit proxies with respect to the voting of any securities of Tekmira or otherwise attempt to influence the voting of any securities of Tekmira by the holders of such securities;

(iii) enter in any agreement with or assist any Third Party, or assist or participate in any group acting jointly or in concert, with respect to any of the foregoing; or

(iv) make any public announcement or disclosure with respect to any of the foregoing, except to the extent required by applicable law and except for disclosure of the foregoing terms as contemplated by Article 8.

(b) Alnylam represents and warrants to Tekmira that, as of the Effective Date, Alnylam, together with its Affiliates, does not beneficially own, or exercise control or direction over, any voting securities or other securities convertible into voting securities of Tekmira, except for (i) securities owned, or over which Alnylam and/or its Affiliates exercise control or direction, for purposes of any 401(k) or similar benefit plan maintained by Alnylam or its Affiliates for its or their employees over which Alnylam has no independent investment control and (ii) securities acquired by Alnylam pursuant to the Alnylam Subscription Agreement. For as long as the restrictions in Section 12.17.1(a) are in effect, Alnylam agrees to provide Tekmira with prompt notice of any acquisition of voting securities or other securities convertible into voting securities of Tekmira.

(c) Upon Tekmira receiving or otherwise becoming aware of a bona fide proposal or intention by a Third Party (other than a Permitted Investor) to take any action described in Section 12.17.1(a)(i)-(iv), whether directly or indirectly, including without limitation a non-binding letter of intent, Tekmira shall immediately notify Alnylam of such proposal or intention. The restrictions in Section 12.17.1(a) shall immediately terminate and be of no further force or effect on the earlier of (a) such bona fide proposal or intention being disclosed publicly (other than by Alnylam) or (b) the Board of Directors or management of Tekmira engaging in substantive discussions with such Third Party concerning such proposal or intention. A "Permitted Investor" means any investor, other than a pharmaceutical or biotechnology company, who acquires in one or more transactions, any voting securities or other securities convertible into voting securities of Tekmira representing in aggregate 10% or more, but less than 20%, of the issued and outstanding voting securities of Tekmira (assuming the conversion of such other securities convertible into voting securities of Tekmira), so long as such investor evidences no intent to seek to influence the management of Tekmira (other than by voting such acquired securities).

(d) In the event that Tekmira plans to solicit or does solicit offers (other than in respect of a public offering of its securities, including any private placement to a Permitted Investor) relating to the acquisition of voting securities or other securities convertible into voting securities of Tekmira representing 10% or more of the issued and outstanding voting securities of Tekmira (assuming the conversion of such other securities convertible into voting securities of Tekmira), or in the event Tekmira engages in any discussions in which Tekmira may solicit or receive any offer relating to the acquisition of an ownership interest (excluding licenses) in any Tekmira Technology, Tekmira shall immediately notify Alnylam of such circumstance and the restrictions in Section 12.17.1(a) shall immediately terminate and be of no further force or effect.

(e) Upon a breach by Tekmira of any of the representations, warranties or covenants set forth in the Alnylam Subscription Agreement, the restrictions in Section 12.17.1(a) shall immediately terminate and be of no further force or effect.

(f) Nothing in this Section 12.17.1 shall be deemed to affect or impair the right of Alnylam to enforce its lawful remedies against Tekmira or to prevent Alnylam from exercising any rights granted by Tekmira to Alnylam.

(g) Nothing in this Section 12.17.1 shall prohibit Alnylam or its Affiliates from owning or making open market purchases of any voting securities of Tekmira, or any securities convertible into or exercisable for any such voting securities, for purposes of any 401(k) or similar benefit plan maintained by Alnylam or its Affiliates for its or their employees; *provided* that Alnylam and its Affiliates will not request or direct that the trustee or other administrator of any such plan acquire any voting securities of Tekmira or exercise any influence over the voting of such securities.

(h) Alnylam and Tekmira agree and acknowledge that the restrictions contained in this Section 12.17.1: (i) shall continue in full force and effect following both the execution of the Purchase Agreement and the Closing, and (ii) shall not apply to the transactions contemplated in the Alnylam Subscription Agreement and the Roche Subscription Agreement.

12.18 Employees. Until the fifth year anniversary of the Original Effective Date, neither Alnylam nor any of its Affiliates will knowingly offer to hire or hire any individual who is, at such time, an officer or employee of Tekmira or any of its Affiliates, and who was, at any time in the preceding three (3) months, involved in (i) selecting the Tekmira Development Targets, (ii) the Research, Development, Manufacture and Commercialization of Tekmira Development Products and/or (iii) conducting the Collaboration. For clarity, placing an advertisement in a newspaper, periodical or other publication of general availability, or other general recruitment activities not directed at a particular individual, do not constitute an "offer to hire."

12.19 Protiva License Agreement. Tekmira, as the parent company of Protiva, hereby agrees to use reasonable and diligent efforts to cause Protiva to perform Protiva's obligations in accordance with the terms of the Protiva License Agreement. Moreover, Tekmira hereby unconditionally and irrevocably agrees that, if and to the extent Protiva fails to pay to Alnylam when due any financial obligation at any time owed by Protiva to Alnylam in connection with the Protiva License Agreement (including without limitation any damages for breach), Tekmira shall be responsible for such financial obligation, and will be required to make such payment to Alnylam in satisfaction of Protiva's obligation.

12.20 Further Assurances. The Parties will with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each Party will provide such further documents or instruments required by the other Party as may be reasonably necessary or desirable to give effect to the purpose of this Agreement and carry out its provisions.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

TEKMIRA PHARMACEUTICAL CORPORATION

BY: /s/ Ian Mortimer
NAME: Ian Mortimer
TITLE: CFO
DATE:

ALNYLAM PHARMACEUTICALS, INC.

BY: /s/ John Maraganore
NAME: John Maraganore
TITLE: Chief Executive Officer
DATE:

SCHEDULE 1.4

ALNYLAM CORE PATENT RIGHTS

CaseNumber	AppTitle	Ctry	AppNumber	FilDate	PubNumber	PubDate	PatNumber	IssDate	Application Status
[*]	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**

SCHEDULE 1.6

ALNYLAM IOC PATENT RIGHTS

Alnylam's undivided one-half interest in the following:

CaseNumber	AppTitle	Ctry	AppNumber	FilDate	PubNumber	PubDate	PatNumber	IssDate	Application Status
[*]	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**

SCHEDULE 1.7

ALNYLAM LIPIDOID PATENT RIGHTS

CaseNumber	AppTitle	Ctry	AppNumber	FilDate	PubNumber	PubDate	PatNumber	IssDate	Application Status
[*]	[*]	[*]	[*]	[*]	[*]	[*]	[*]	[*]	[*]

SCHEDULE 1.15

BIODEFENSE TARGETS

[*]

SCHEDULE 1.35

EXISTING ALNYLAM IN-LICENSES

Existing Alnylam In-Licenses shall include the following Third Party agreements:

[*]

SCHEDULE 1.36

EXISTING TEKMIRA IN-LICENSES

Existing Tekmira In-Licenses shall include the following Third Party agreements:

[*]

SCHEDULE 1.73

TEKMIRA PATENT RIGHTS

[*]

PATENT RIGHTS CONTROLLED BY TEKMIRA THROUGH AN OWNERSHIP INTEREST

TEKMIRA File Number	Title	Serial/ Patent Numbers	Inventors	Owner
[*]	[*]	[*]	[*]	[*]

PATENT RIGHTS CONTROLLED BY TEKMIRA UNDER A LICENSE FROM A THIRD PARTY

TEKMIRA File Number	Title	Serial/ Patent Numbers	Inventors	Owner
[*]	[*]	[*]	[*]	[*]

SCHEDULE 1.78

PRE-EXISTING ALNYLAM ALLIANCE AGREEMENTS

[*]

SCHEDULE 3.1

UPDATED RESEARCH PLAN

[*]

SCHEDULE 5.1

UPDATED MANUFACTURING PLAN

[*]

SCHEDULE 6.2.2

ROCHE SUBLICENSE AGREEMENT

[*]

SCHEDULE 6.4(a)

TEKMIRA IN-LICENSE PROVISION

Notwithstanding anything to the contrary in this **[Tekmira In-License]**, if this **[Tekmira In-License]** is terminated outside the course of an Intervening Event (as defined below), and Alnylam Pharmaceuticals, Inc. ("ALNYLAM") is not then in material breach of a sublicense agreement with Tekmira (an "Existing Sublicense Agreement") under the technology covered by this **[Tekmira In-License]** (the "Technology"), or ALNYLAM's further sublicensee is not then in material breach of its further sublicense with ALNYLAM, then **[Third Party licensor]** will, at the request of ALNYLAM (or such further sublicensee), grant to ALNYLAM (or to such further sublicensee) a direct license to the Technology and other rights covered by such Existing Sublicense Agreement (or covered by the further sublicense between ALNYLAM and such further sublicensee), effective as of the date of termination of this **[Tekmira In-License]**, on the same terms as such Existing Sublicense Agreement (or such further sublicense).

Further, and notwithstanding anything to the contrary in this **[Tekmira In-License]**, the parties acknowledge and agree that **[Third Party licensor]** retains the right to any Technology sublicensed to ALNYLAM as necessary to fulfill its rights under this Section. To the extent that ALNYLAM is granted any rights to use the Technology under an Existing Sublicense Agreement, **[Third Party licensor]** retains the right to grant to ALNYLAM (or to ALNYLAM's further sublicensee) a direct license in respect of the same rights under the Technology covered in the Existing Sublicense Agreement (or covered in the sublicense agreement between ALNYLAM and such further sublicensee). **[Third Party licensor]** agrees that it shall not enforce such right to grant a direct license unless the Existing Sublicense Agreement (or the sublicense agreement between ALNYLAM and such further sublicensee) is rejected, disclaimed, resiliated or terminated during the course of any intervening proceedings that may occur with respect to Tekmira, including but not limited to any insolvency proceedings or winding up proceedings (which can include proceedings commenced under the Companies Creditors Arrangement Act, the appointment of an interim receiver or receiver, and/or the appointment of a Trustee in Bankruptcy), or upon further order of a Court of competent jurisdiction (an "Intervening Event"). Should an Intervening Event occur and if the Existing Sublicense Agreement (or the sublicense agreement between ALNYLAM and such further sublicensee) is otherwise in good standing at such time, **[Third Party licensor]** will at such time enforce its rights to grant to ALNYLAM (or to such further sublicensee) a direct license in respect of the same rights under the Technology covered in the Existing Sublicense Agreement (or the sublicense agreement between ALNYLAM and such further sublicensee), effective as of the date of such Intervening Event, on the same terms as such Existing Sublicense Agreement.

Further, and notwithstanding anything to the contrary in this **[Tekmira In-License]**, Tekmira shall have no right to assign this **[Tekmira In-License]**, and **[Third Party licensor]** will not consent to any such assignment, if such assignment would, or is reasonably likely to, result in a termination of, or any diminution of, ALNYLAM's rights under any Existing Sublicense Agreement.

SCHEDULE 6.4(b)

MIT LICENSE AGREEMENT OBLIGATIONS

The sublicense rights granted Tekmira to the Alnylam Lipidoid Patent Rights under this Agreement are subject to, and qualified by, the following terms and conditions. Tekmira is required to comply with all of its obligations in this Schedule 6.4(b) in connection with its exercise of its sublicense to the Alnylam Lipidoid Patent Rights in addition to any similar obligations set forth elsewhere in this Agreement or as otherwise required in order for Alnylam to comply with its obligations under the MIT License Agreement.

As used in this Schedule 6.4(b), the following terms have the following meanings, regardless of whether such term has a different meaning elsewhere in this Agreement. All other capitalized terms used in this Schedule 6.4(b) and not otherwise defined in this Schedule 6.4(b) have the meanings set forth elsewhere in this Agreement.

"Patent Challenge" means any action challenging the validity, patentability, enforceability and/or scope of any of the Alnylam Lipidoid Patent Rights, provided however that participation of Tekmira in an interference proceeding before the United States Patent and Trademark Office shall not be considered a "Patent Challenge" hereunder.

"M.I.T." means the Massachusetts Institute of Technology.

Consequences of a Patent Challenge. Without limiting the generality of Sections 6.4 and 11.5(b) of this Agreement, Tekmira acknowledges that M.I.T may require that Alnylam terminate the sublicenses granted under Section 6.1.2 (a) in accordance pursuant to Section 12.5(b) of the MIT License Agreement in the event of Tekmira or any of its Affiliates or permitted Sublicensees brings a Patent Challenge against M.I.T., (except as required under a court order or subpoena). In the event that Tekmira or any of its Affiliates or permitted Sublicensees brings a Patent Challenge against M.I.T., (except as required under a court order or subpoena), and M.I.T. does not choose to exercise its rights to require that Alnylam terminate the MIT License Agreement, then: in the event that such a Patent Challenge is successful, Tekmira will have no right to recoup any royalties paid during the period of challenge. In the event that such a Patent Challenge is unsuccessful, Tekmira shall reimburse Alnylam and M.I.T. for all of their costs and expenses it incurred as a result of such Patent Challenge, including without limitation attorneys fees, court costs, litigation related disbursements, and third party and expert witness fees (collectively, "Litigation Costs"). Reimbursement for Litigation Costs shall made within thirty (30) days of receipt of one or more invoices from Alnylam or M.I.T. for such Litigation

Costs. Alnylam and M.I.T. shall have up to twelve (12) months after final resolution to submit such invoices to Tekmira for payment. To the extent a court of competent jurisdiction deems or rules that this clause is unenforceable, then Alnylam and Tekmira agree that this clause shall be reformed by the court to the extent necessary so that it is enforceable.

Governing Law/Jurisdiction. This Schedule 6.4(b) and all disputes arising out of or related to this Schedule 6.4(b) and the MIT License Agreement, or the performance, enforcement, breach or termination hereof, and any remedies relating thereto, shall be construed, governed, interpreted and applied in accordance with the laws of the Commonwealth of Massachusetts, U.S.A., without regard to conflict of laws principles, except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent shall have been granted. The state and federal courts located in Boston, MA, USA, provide the exclusive forum for any Patent Challenge and/or any court action between the parties relating to MIT License Agreement. Tekmira submits to the jurisdiction of such courts and waives any claim that such court lacks jurisdiction over Tekmira or its Affiliates or constitutes an inconvenient or improper forum.

SCHEDULE 9

EXCEPTIONS TO REPRESENTATIONS AND WARRANTIES

[*]

EXHIBIT 4.5

* Confidential Treatment has been requested for the marked portions of this exhibit pursuant to Rule 24B-2 of the Securities Exchange Act of 1934, as amended.

EXECUTION COPY

AMENDED AND RESTATED

CROSS-LICENSE AGREEMENT

Between

ALNYLAM PHARMACEUTICALS, INC.

And

PROTIVA BIOTHERAPEUTICS INC.

Dated: May 30, 2008

AMENDED AND RESTATED CROSS-LICENSE AGREEMENT

This Amended and Restated Cross-License Agreement (this "Agreement") is entered into as of May 30, 2008, by and between ALNYLAM PHARMACEUTICALS, INC., a corporation organized under the laws of the State of Delaware having a principal office at 300 Third Street, Cambridge, MA 02142, U.S.A., and PROTIVA BIOTHERAPEUTICS INC., a Canadian corporation, having a principal office at 100-3480 Gilmore Way, Burnaby, B.C., Canada.

RECITALS

WHEREAS, ALNYLAM owns or controls certain intellectual property covering fundamental aspects of the structure and uses of therapeutic products that (a) function through RNA interference ("RNAi"), including but not limited to compositions and methods of use of siRNAs (defined below), or (b) are, or function through the modulation of, miRNAs (as defined below); and ALNYLAM is developing capabilities to develop and commercialize such therapeutic products;

WHEREAS, PROTIVA owns or controls certain intellectual property covering certain targeted nucleic acid delivery technology known as Stable Nucleic Acid Lipid Particle technology (the "SNALP Technology") which is useful for the delivery of a variety of therapeutic products that function through RNAi or are, or function through the modulation of, miRNA, and is also engaged in the business of discovering, developing, manufacturing and commercializing human therapeutic products;

WHEREAS, ALNYLAM and PROTIVA are parties to a Cross-License Agreement dated as of August 14, 2007 (the "Original Cross-License Agreement") under which:

(i) ALNYLAM granted PROTIVA non-exclusive licenses under certain ALNYLAM intellectual property to research, develop and commercialize products directed at up to four Targets (as defined below). PROTIVA selected the PLK Target and the Second Target (each as defined below) prior to the effective date of this Agreement, and has the right to select two additional Targets, subject to ALNYLAM's obligations to Third Parties (as defined below) and the terms of this Agreement;

(ii) PROTIVA granted ALNYLAM a non-exclusive license under certain of PROTIVA's intellectual property related to delivery technologies also known as SNALP Technology with application to one or more products to be researched, developed and commercialized by ALNYLAM alone or in partnership with Third Parties; and

(iii) ALNYLAM agreed to support certain research and development activities to be conducted by PROTIVA over a **[*]**-year period to develop RNAi products to be delivered using PROTIVA's technology, and obtained a non-exclusive license under certain PROTIVA intellectual property to further develop and commercialize the products that are the subject of such research and development activities;

WHEREAS, following the execution of the Original Cross-License Agreement, PROTIVA entered into a settlement agreement (the "Merck Settlement Agreement") with Merck

***Confidential Treatment Requested.**

& Co. and its affiliated companies (including without limitation Sirna Therapeutics, Inc., whether or not it remains affiliated with Merck & Co.) (collectively, the "Merck Entities") effective as of October 9, 2007, under which, among other things, PROTIVA granted to the Merck Entities a non-exclusive license to certain intellectual property of PROTIVA;

WHEREAS, ALNYLAM and TEKMIRA Pharmaceuticals Corporation (as successor in interest to Inex Pharmaceuticals Corporation) ("TEKMIRA") are parties to a License and Collaboration Agreement dated as of January 8, 2007 (the "Original ALNYLAM-TEKMIRA License Agreement"), which as a condition to ALNYLAM's agreement to enter into this Agreement, is being amended and restated concurrently with this Agreement (as so amended and restated, the "ALNYLAM-TEKMIRA License Agreement");

WHEREAS, on March 28, 2008, TEKMIRA, PROTIVA and all holders of securities of PROTIVA entered into a Share Purchase Agreement (the "Purchase Agreement") pursuant to which, upon completion of the transactions contemplated therein (the "Closing"), TEKMIRA will purchase all of the outstanding shares of capital stock of PROTIVA and PROTIVA will become a wholly-owned subsidiary of TEKMIRA;

WHEREAS, following the execution and delivery of the Purchase Agreement, and as a condition to Closing thereunder, TEKMIRA entered into a subscription agreement with ALNYLAM (the "ALNYLAM Subscription Agreement") and a subscription agreement with F. Hoffmann-La Roche Ltd ("ROCHE") (the "ROCHE Subscription Agreement"), pursuant to which ALNYLAM and ROCHE have each, separately, agreed to purchase certain shares of TEKMIRA's common stock upon the Closing if certain conditions are met;

WHEREAS, as a condition to the effectiveness of the ALNYLAM Subscription Agreement, ALNYLAM has agreed to enter into this Agreement on the terms and conditions contained herein, including but not limited to, the Parties' agreement to harmonize the license grants from PROTIVA to ALNYLAM contained in this Agreement with certain license grants from TEKMIRA to ALNYLAM in the ALNYLAM-TEKMIRA License Agreement and the Parties' agreement to harmonize the royalty and milestone payment obligations of the Parties with the obligations of TEKMIRA and ALNYLAM contained in the ALNYLAM-TEKMIRA License Agreement; and

WHEREAS, concurrent with the execution of this Agreement, the Parties have entered into an escrow agreement (the "Escrow Agreement") pursuant to which the original signature pages to this Agreement and the fully-executed ALNYLAM-TEKMIRA License Agreement, among other agreements, shall be placed into escrow and shall be either (i) released from escrow and delivered to the appropriate parties pursuant to the terms of the Escrow Agreement and, thereafter, this Agreement shall become effective, or (ii) each Party's original signature pages shall be returned to it pursuant to the terms of the Escrow Agreement and this Agreement will never become fully executed, delivered or effective.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, ALNYLAM and PROTIVA enter into this Agreement effective as of the Effective Date (defined below) and subject to the terms of Section 12.1:

ARTICLE I – DEFINITIONS

General. When used in this Agreement, each of the following terms, whether used in the singular or plural, will have the meanings set forth in this Article I.

1.1 Act means the United States Food, Drug and Cosmetic Act of 1938, 21 U.S.C. §§321 et seq., as such may be amended from time to time, and its implementing regulations.

1.2 Active Internal Development Program, with respect to a particular RNAi Product or miRNA Product, means that the following criteria have been satisfied, as of the relevant time under this Agreement:

(a) an active program of Research, Development or Commercialization with respect to such RNAi Product or miRNA Product has been commenced and remains in effect internally at ALNYLAM or its Affiliates; and

(b) if such program has not previously established preclinical proof-of-principle for such RNAi Product or miRNA Product, ALNYLAM or its Affiliates have committed to conduct such program at least through the completion of significant preclinical proof-of-principle testing of a specific Formulation for such RNAi Product or miRNA Product.

1.3 Affiliate means any corporation, company, partnership, joint venture and/or firm which controls, is controlled by, or is under common control with a Party. For purposes of the foregoing sentence, "control" will mean (a) in the case of corporate entities, direct or indirect ownership of at least fifty percent (50%) of the stock or shares having the right to vote for the election of directors, (b) in the case of non-corporate entities, direct or indirect ownership of at least fifty percent (50%) of the equity interest with the power to direct the management and policies of such non-corporate entities, and (c) in any country where local law does not permit foreign entities to own stock or shares or have equity interest of fifty percent (50%) or more in such entities, the direct or indirect ownership or control of the maximum percentage of such stock or shares or equity interest as is permitted under local law.

1.4 ALNYLAM means Alnylam Pharmaceuticals, Inc., a Delaware corporation, its Affiliates (including its subsidiary, Alnylam U.S., Inc.), Alnylam Europe AG and its successors and assigns.

1.5 ALNYLAM Development Products means ALNYLAM Class 1 Development Products and ALNYLAM Class 2 Development Products.

1.6 ALNYLAM Field means, with respect to any Target, the use of prophylactic or therapeutic RNAi Products or miRNA Products against such Target for the prevention or treatment of human disease, and related Research, Development and Commercialization.

1.7 ALNYLAM Partnered Product means an RNAi Product or miRNA Product, as the case may be, that is at the relevant time being Researched, Developed, and/or Commercialized by ALNYLAM with the participation or sponsorship of one or more Third Parties or, prior to the end of the Restriction Period, TEKMIRA. For clarity, it is understood and agreed that no RNAi

Product or miRNA Product developed or to be developed in a project or arrangement in which all or substantially all of ALNYLAM's contributions or anticipated contributions are or will be in the form of the grant by ALNYLAM of licenses or sublicenses to one or more intellectual properties will be considered an ALNYLAM Partnered Product.

1.8 ALNYLAM Patent Rights means (a) the patents and patent applications listed on Exhibit A-1 and all patent applications hereafter filed that derive priority from the patents and patent applications listed on Exhibit A-1, including all continuations, continuations-in-part, divisions, applications for certificate of invention, provisionals, or any substitute applications, any patents issued with respect to any such patent applications; and all reissues, substitutions, confirmations, re-registrations, re-examinations, supplementary protection certificates, certificates of invention and patents of addition of any such patents; and all foreign equivalents of any of the foregoing; and (b) the Exclusively Licensed Tekmira IP. Moreover, solely with respect to the PROTIVA Development Target that is the Second Target, ALNYLAM Patent Rights will also include the patents and patent applications listed on Exhibit A-1-A and all patent applications hereafter filed by ALNYLAM that derive priority from the patents and patent applications listed on Exhibit A-1-A, including all continuations, continuations-in-part, divisions, applications for certificate of invention, provisionals, or any substitute applications, any patents issued with respect to any such patent applications; and all reissues, substitutions, confirmations, re-registrations, re-examinations, supplementary protection certificates, certificates of invention and patents of addition of any such patents; and all foreign equivalents of any of the foregoing.

1.9 ALNYLAM Target means any Target that is neither the PLK Target nor a PROTIVA Development Target, nor a Tekmira Development Target under (and as defined in) the ALNYLAM-TEKMIRA License Agreement; provided, however, that the exclusion of the PLK Target will not apply if PROTIVA provides notice to ALNYLAM that PROTIVA is terminating its license rights under this Agreement with respect to RNAi Products or miRNA Products for the PLK Target.

1.10 Approval means, with respect to each Licensed Product Developed and Commercialized, the receipt of sufficient authorization from the appropriate regulatory authority on a country-by-country basis to market and sell such Licensed Product in a country, including (where necessary in a particular country prior to marketing a Licensed Product) all separate pricing and/or reimbursement approvals that may be required for marketing

1.11 Biodefense Targets means (a) a Target within the genome of one or more Category A, B and C pathogens, as defined by the National Institute of Allergy and Infectious Diseases, including without limitation, pathogens listed on Schedule 1.15 to the ALNYLAM-TEKMIRA License Agreement, but specifically excluding influenza virus, or (b) an endogenous cellular Target against which ALNYLAM Develops and/or Commercializes an ALNYLAM Development Product that is a Licensed Product for commercial supply to one or more Funding Authorities.

1.12 Bona Fide Collaboration means a collaboration between a Party and one or more Third Parties involving the Research and Development of one or more RNAi Products (and/or miRNA Products in the case of ALNYLAM) and established under a written agreement in which (i) the scope of the licenses granted, and financial or other commitments of value, are of material

value to such Party, and (ii) such Party undertakes and performs substantial, mutual research activity with the Third Party. For purposes of clarity, it is understood and agreed that no collaboration in which all or substantially all of ALNYLAM's contributions or anticipated contributions are or will be in the form of the grant by ALNYLAM of licenses or sublicenses to one or more intellectual properties will be considered a Bona Fide Collaboration.

1.13 Commercialize or Commercialization means any and all activities directed to manufacturing (including, without limitation, by means of contract manufacturers), marketing, promoting, distributing, importing, exporting and selling an RNAi Product (and/or an miRNA Product in the case of ALNYLAM), in each case for commercial purposes, and activities directed to obtaining pricing and reimbursement approvals, as applicable.

1.14 Commercially Reasonable Efforts means the level of efforts and resources that would be employed by ALNYLAM or PROTIVA as the case may be in connection with Researching, Developing, and Commercializing its own products of similar market potential at a similar stage of its product life, taking into account the apparent attributes of the molecule, the competitiveness of the relevant marketplace, the proprietary positions of Third Parties, regulatory structures, including the likelihood of obtaining an Approval, and the anticipated profitability of such product.

1.15 Confidential Information means all proprietary or confidential information and materials, patentable or otherwise, of a Party which are disclosed by or on behalf of such Party to the other Party hereunder, including, without limitation, chemical substances, formulations, techniques, methodology, equipment, data, reports, know how, sources of supply, patent positioning, business plans, and also including without limitation proprietary and confidential information of Third Parties in possession of such Party under an obligation of confidentiality, whether or not related to making, using or selling RNAi Products or miRNA Products.

1.16 Develop, Developing or Development means with respect to an RNAi Product (and/or an miRNA Product in the case of ALNYLAM), preclinical and clinical drug development activities, including without limitation: test method development and stability testing, toxicology, formulations, manufacturing scale-up, preclinical and clinical manufacture, quality assurance/quality control development, statistical analysis and report writing; clinical studies and regulatory affairs; Approval and registration.

1.17 Exclusively Licensed Tekmira IP shall have the meaning ascribed to it in the ALNYLAM-TEKMIRA License Agreement.

1.18 FDA means the United States Food and Drug Administration or any successor agency thereto.

1.19 Field means, with respect to the PLK Target and any PROTIVA Development Target, the use of prophylactic or therapeutic RNAi Products against such Target for the prevention or treatment of human disease, and related Research, Development and Commercialization.

1.20 First Commercial Sale means, with respect to each Licensed Product, the first commercial sale in a country as part of a nationwide introduction after receipt by a Product Seller (as defined below) of Approval in such country, excluding *de minimis* named patient and compassionate use sales.

1.21 Formulation means a particular SNALP formulation, characterized by its components and its unique ratios among components.

1.22 Funding Authorities means the United States Department of Health and Human Services or other United States or foreign government or international agencies responsible for requesting, approving and/or funding the development and manufacture of products for biodefense purposes.

1.23 GAAP means United States generally accepted accounting principles applied on a consistent basis. Unless otherwise defined or stated, financial references shall be calculated by the accrual method under GAAP.

1.24 Generic Claim means a claim in an issued or pending patent that meets the following criteria:

(a) the claim recites a nucleic acid-lipid particle comprising: an siRNA or miRNA, at least one cationic lipid, at least one non-cationic lipid, and a conjugated lipid that inhibits aggregation of particles, and/or methods or uses of such particle in the delivery of siRNA or miRNA; and

(b) the claim does not recite any Particular Moiety or any particular or specific cationic lipid, non-cationic lipid, or conjugated lipid.

1.25 IND or Investigational New Drug Application means a United States investigational new drug application or its equivalent or any corresponding foreign application.

1.26 Joint Patent Rights means all patents and patent applications to the extent specifically claiming inventions or improvements discovered or reduced to practice jointly by PROTIVA and ALNYLAM (as determined in accordance with U.S. patent law) directly in the course of work conducted after the Original Effective Date and before the Effective Date by them under the Second Target Research Plan or under the R&D Research Plan, or conducted after the Effective Date by them whether or not under the PLK Research Plan or the R&D Research Plan, together with all patent applications hereafter filed that derive priority from such patents and patent applications, including all continuations, continuations-in-part, divisions, applications for certificate of invention, provisionals, or any substitute applications, any patents issued with respect to any such patent applications; and all reissues, substitutions, confirmations, re-registrations, re-examinations, supplementary protection certificates, certificates of invention and patents of addition of any such patents; and all foreign equivalents of any of the foregoing.

1.27 Joint Steering Committee or JSC means the committee described in Section 6.1 of this Agreement.

1.28 Lead Formulation is a Formulation that has been identified by PROTIVA and ALNYLAM as being the end product of PROTIVA's and ALNYLAM's work under the R&D Research Plan (and, if ALNYLAM exercises its Opt-In Right, also under the PLK Research

Plan) for a particular ALNYLAM siRNA payload(s) directed at a particular Target. It is expected that formulated materials using a number of different initial Formulations would be delivered by PROTIVA to ALNYLAM, tested by ALNYLAM, and (on the basis of such tests, and subsequent iterative tests if needed) culled or otherwise adjusted by PROTIVA to the point where both parties believe that no further formulation adjustments, or improvements are anticipated under the R&D Research Plan (or, as applicable, the PLK Research Plan). That Formulation is the Lead Formulation in that situation.

1.29 Licensed Information means all biological materials and other tangible materials, information, data, inventions, practices, methods, protocols, formulas, formulations, knowledge, know-how, trade secrets, processes, assays, skills, experience, techniques and results of experimentation and testing, including without limitation pharmacological, toxicological and preclinical and clinical test data and analytical and quality control data, patentable or otherwise, which relates to the identification, characterization, optimization, construction, expression, formulation, use or production of RNAi Products or miRNA Products and Formulations thereof and which are reasonably useful or necessary to Research, Develop, or Commercialize such RNAi Products or miRNA Products in the Territory in the ALNYLAM Field and are controlled by PROTIVA; provided, however, that in no event shall Licensed Information include Confidential Information of PROTIVA with respect to, or methods for the development of, the chemistry, formulation or manufacture of RNAi Products or miRNA Products beyond the scope of the information, materials and data described in Appendix II.

1.30 Licensed Product means: (a) with respect to PROTIVA and its Affiliates and Sublicensees, an RNAi Product, the identification, characterization, validation, synthesis, development, use, formulation, manufacture, production or sale of which, where and when occurring, would, but for the grant of a license or sublicense from ALNYLAM, infringe a Valid Claim of the ALNYLAM Patent Rights; and (b) with respect to ALNYLAM and its Affiliates and Sublicensees, an RNAi Product or miRNA Product, the identification, characterization, validation, synthesis, development, use, formulation, manufacture, production or sale of which, where and when occurring, would, but for the grant of a license or sublicense from PROTIVA, infringe a Valid Claim of the PROTIVA Patent Rights.

1.31 Major Market means, individually and collectively, the United States, Canada, the United Kingdom, France, Germany, Italy, Spain and Japan.

1.32 miRNA Product means a product containing, comprised of or based on native or chemically modified RNA oligomers designed to either modulate microRNA transcripts (“miRNA”) and/or provide the function of an miRNA.

1.33 Necessary Third Party IP means, with respect to any country in the Territory, on a country-by-country basis, information, materials, data, know-how or patent rights (including, without limitation, all rights in patents and patent applications) in such country owned or controlled by a Third Party that in the absence of a license would be infringed through the manufacture, use or sale of, as applicable, (a) ALNYLAM Development Products that are Licensed Products; (b) PROTIVA Development Products; and (c) Licensed Products for the PLK Target; provided, however, that, for clarity, in each of (a), (b) and (c) above, information, materials, data, know-how or patent rights (including, without limitation, all rights in patents and

patent applications) in such country owned or controlled by TEKMIRA and licensed to ALNYLAM under the ALNYLAM-TEKMIRA License Agreement shall not be considered Necessary Third Party IP.

1.34 Net Sales means, with respect to any Licensed Products, the gross amount invoiced, with respect to Articles II and III hereof, by PROTIVA, its Affiliates or Sublicensees, or, with respect to Article IV hereof, by ALNYLAM, its Affiliates or Sublicensees (in each case, a "Product Seller") on sales or other dispositions of such Licensed Products to Third Parties which are not Affiliates or Sublicensees of the Product Seller, less, (a) to the extent allowed and taken, sales returns and allowances, granted or accrued, including trade, quantity and cash discounts and any other adjustments, including those granted on account of price adjustments, billing errors, rejected goods, damaged or defective goods, recalls, returns, rebates, chargebacks, reimbursements or similar payments granted or given to wholesalers or other distributors, buying groups, health care insurance carriers or other institutions; (b) adjustments arising from consumer discount programs or similar programs, or arising in connection with any Discount or Savings Program (as defined below); (c) customs or excise duties, sales tax, consumption tax, value added tax, and other similar taxes (except income taxes) measured by the production, sale, or delivery of goods; (d) duties relating to sales and any payments in respect of sales to the United States government, any State government or any foreign government, or to any governmental authority, or with respect to any government subsidized program or managed care organization; and (e) charges for freight and insurance related to the return of Licensed Products and not otherwise paid by the customer. For purposes of this definition of "Net Sales" only, "Discount or Savings Program" means any discount, rebate or reimbursement program applicable to a Licensed Product under which the Product Seller provides to low income, uninsured or other patients the opportunity to purchase pharmaceutical products at discounted prices.

In the event that a Licensed Product is sold in any country in the form of a combination product containing one or more therapeutically active ingredients in addition to such Licensed Product in any year, Net Sales of such combination product will be adjusted by multiplying actual Net Sales of such combination product in such country by the fraction A/(A+B), where A is the average Net Sales price per daily dose during such year of the Licensed Product in such country, if sold separately in such country, and B is the average Net Sales price per daily dose of any product containing the other therapeutically active ingredients in the combination product in such country, if sold separately in such country. If, in a specific country, the product containing the other therapeutically active ingredients in the combination product are not sold separately in such country, Net Sales will be calculated by multiplying actual Net Sales of such combination product by the fraction A/C, where A is the average Net Sales price per daily dose of the Licensed Product in such country and C is the average Net Sales price per daily dose of the combination product in such country. If, in a specific country, the Licensed Product is not sold separately in such country, Net Sales will be calculated by multiplying actual Net Sales of such combination product by the fraction (C-B)/C, where B is the average Net Sales price per daily dose of the product containing the other therapeutically active ingredients in the combination product in such country and C is the average Net Sales price per daily dose of the combination product in such country. If, in a specific country, both the Licensed Product and the product containing the other therapeutically active ingredients in the combination product are not sold separately in such country, the Net Sales price for the Licensed Product and the product

containing the other therapeutically active ingredients in the combination product will be negotiated by the Parties in good faith based upon the costs, overhead and profit as are then incurred for the Licensed Product and all similar substances then being made and marketed by the selling Party and having an ascertainable market price.

In the event a Product Seller receives non-monetary consideration in exchange for the sale or other disposition of Licensed Products to Third Parties that are not Affiliates or Sublicensees of the Product Seller, Net Sales for such sale or other disposition shall include the fair market value of the non-cash consideration received as a result of such sale or other disposition. If such sale or other disposition occurred in a country where such Product Seller, within the preceding six months, sold the same Licensed Product in commercial quantities solely for monetary consideration, the fair market value of the non-cash consideration received for such Licensed Product shall be determined on the basis of the value received in such solely monetary transactions. If such Product Seller did not have sales or other dispositions of Licensed Product in such country solely for monetary consideration in such six-month period, then the fair market value of such products shall be determined on the basis of all relevant facts and circumstances.

In the event that the Product Seller prices and sells Licensed Products in conjunction with other products of such Product Seller at a single price or rate or at a discount for collectively buying such products, then Net Sales with respect to such Licensed Product shall equal the number of units of the Licensed Product sold together with the non-Licensed Products multiplied by the average Net Sales price at which the Product Seller sold the Licensed Product individually to similar customers for similarly sized orders.

Net Sales shall be determined from books and records maintained in accordance with generally accepted accounting principles in the United States, consistently applied throughout the organization and across all products of the entity whose sales of Licensed Product are giving rise to Net Sales.

1.35 Opt-In Period is defined in Section 2.8.

1.36 Opt-In Right is defined in Section 2.8.

1.37 Original Effective Date means August 14, 2007.

1.38 Particular Moiety means a specific nucleotide sequence of an RNAi Product or miRNA Product, in either case directed against a particular individual Target.

1.39 Party means either ALNYLAM or PROTIVA; Parties means both ALNYLAM and PROTIVA.

1.40 Phase I Clinical Trial means the first study of a Licensed Product in humans the primary purpose of which is the determination of safety and which may include the determination of pharmacokinetic and/or pharmacodynamic profiles in healthy individuals or patients.

1.41 Phase II Clinical Trial means (a) a study of dose exploration, dose response, duration of effect, kinetics or preliminary efficacy and safety study of a Licensed Product in the

target patient population, or (b) a controlled dose-ranging clinical trial to evaluate further the efficacy and safety of such Licensed Product in the target population and to define the optimal dosing regimen.

1.42 Phase III Clinical Trial means a controlled study of a Licensed Product in patients of the efficacy and safety of such Licensed Product which is prospectively designed to demonstrate statistically whether such Licensed Product is effective and safe for use in a particular indication in a manner sufficient to obtain Approval to market such Licensed Product.

1.43 PLK Research Plan means the plan described in Section 2.3 of this Agreement.

1.44 PLK Target means polo-like kinase 1 as more specifically described in Appendix I.

1.45 PLK Term means the period of time commencing on the Effective Date and ending upon the expiration or abandonment of all issued patents and filed applications within the ALNYLAM Patent Rights or the earlier notice by PROTIVA to ALNYLAM that PROTIVA is terminating its license rights under this Agreement with respect to RNAi Products for the PLK Target.

1.46 PROTIVA means Protiva Biotherapeutics Inc., a Canadian corporation, its Affiliates (including its subsidiary, Protiva Biotherapeutics (USA), Inc., but excluding, solely for purposes of this definition, TEKMIRA), and its successors and assigns.

1.47 PROTIVA Patent Rights means:

(a) the following (collectively the "Class 1 PROTIVA Patent Rights"):

(1) the patents and patent applications listed on Exhibit A-2;

(2) all Generic Claims as reflected in any of the patents and patent applications described in subsection 1.47(b)(i);

(3) all Generic Claims as reflected in any patents or patent applications claiming intellectual property discovered or reduced to practice solely by PROTIVA directly in the course of work conducted by it following the Original Effective Date and prior to the Effective Date under the Second Target Research Plan or following the Effective Date under the PLK Research Plan (prior to, but not after, the end of the Opt-In Period, if ALNYLAM fails to exercise its Opt-In Right) or under the R&D Research Plan; and

(4) all Generic Claims as reflected in any patents or patent applications claiming intellectual property owned or controlled by PROTIVA and that are useful or necessary for Researching, Developing, or Commercializing an RNAi Product or miRNA Product in the ALNYLAM Field;

together with all Generic Claims in patent applications hereafter filed that derive priority from the patents and patent applications described in (1), (2), (3) or (4) above, including all continuations, continuations-in-part, divisions, applications for certificate of invention, provisionals, or any substitute applications, any Generic Claims in patents issued with respect to any such patent applications; and all reissues, substitutions, confirmations, re-registrations, re-examinations, supplementary protection certificates, certificates of invention and patents of addition of any such claims; and all foreign equivalents of any of the foregoing; and

(b) the following (collectively the "Class 2 PROTIVA Patent Rights"):

(1) claims (other than Generic Claims and Target-Specific Claims) as reflected in the patents and patent applications listed on Exhibit A-3;

(2) claims (other than Generic Claims) as reflected in all patents and patent applications claiming intellectual property discovered or reduced to practice solely by PROTIVA directly in the course of work conducted by it following the Original Effective Date and prior to the Effective Date under the Second Target Research Plan or following the Effective Date under the PLK Research Plan (prior to, but not after, the end of the Opt-In Period, if ALNYLAM fails to exercise its Opt-In Right) or under the R&D Research Plan; and

(3) claims (other than Generic Claims and Target-Specific Claims) as reflected in all patents and patent applications claiming intellectual property owned or controlled by PROTIVA and that is useful or necessary for Researching, Developing, or Commercializing an RNAi Product or miRNA Product in the ALNYLAM Field,

together with all claims (other than Generic Claims and Target-Specific Claims) in patent applications hereafter filed that derive priority from the patents and patent applications described in (1) or (3) above, and all claims (other than Generic Claims) in patent applications hereafter filed that derive priority from the patents and patent applications described in (2) above, including all continuations, continuations-in-part, divisions, applications for certificate of invention, provisionals, or any substitute applications, any claims (other than Generic Claims) in patents issued with respect to any such patent applications; and all reissues, substitutions, confirmations, re-registrations, re-examinations, supplementary protection certificates, certificates of invention and patents of addition of any such claims; and all foreign equivalents of any of the foregoing.

1.48 R&D Program Product means the Formulations that are related to RNAi Product(s) and/or miRNA Products(s) developed under the R&D Research Plan under this Agreement and/or under the Research Plan (as defined in the ALNYLAM-TEKMIRA License Agreement) for which ALNYLAM has established an Active Internal Development Program.

1.49 R&D Research Plan means the plan described in Section 5.4 of this Agreement.

1.50 Research or Researching means identifying, evaluating, validating and optimizing RNAi Products (and/or miRNA Products in the case of ALNYLAM).

1.51 RNAi Product means a product containing, comprised of or based on siRNAs or siRNA derivatives or other double-stranded moieties effective in gene function modulation and designed to modulate the function of particular genes or gene products by causing degradation through RNA interference of a Target mRNA to which such siRNAs or siRNA derivatives or moieties are complementary.

1.52 Royalty Quarter means each of the four (4) calendar quarters that begin January 1, April 1, July 1 and October 1 of each year

1.53 Second Target means the Target described in Appendix I.

1.54 Second Target Research Plan means the research plan for the Second Target described in the Original Cross-License Agreement, and in effect as of the Effective Date.

1.55 siRNA means a double-stranded ribonucleic acid (RNA) composition designed to act primarily through an RNA interference mechanism that consists of either (a) two separate oligomers of native or chemically modified RNA that are hybridized to one another along a substantial portion of their lengths, or (b) a single oligomer of native or chemically modified RNA that is hybridized to itself by self-complementary base-pairing along a substantial portion of its length to form a hairpin.

1.56 Sublicensee means a Third Party that is not an Affiliate of a Party, to whom such Party (or another permitted sublicensee of such Party under this Agreement) grants a sublicense of all or a portion of the rights licensed to it hereunder as permitted herein, including the right to manufacture or have manufactured a Licensed Product. A Sublicensee will be deemed to include any Third Party who is granted a sublicense hereunder by such Party pursuant to the terms of the outcome or settlement of any infringement or threatened infringement action.

1.57 Target means (a) a polypeptide or entity comprising a combination of at least one polypeptide and other macromolecules, that is a site or potential site of therapeutic intervention by a therapeutic agent; or a nucleic acid which is required for expression of such polypeptide, together with all variants of such polypeptide, cellular entity or nucleic acid described above; (b) a defined non-peptide entity, including a microorganism, virus, bacterium or single cell parasite; provided that the entire genome of a microorganism, virus, bacterium, or single cell parasite shall be regarded as a single Target; or (c) a naturally occurring interfering RNA or miRNA or precursor thereof.

1.58 Target-Specific Claim means a claim in an issued or pending patent that recites one or more specified Particular Moiety(ies).

1.59 Territory means worldwide. For clarity, at any time the Territory will not include any country to which the exportation or re-exportation of materials, products and related technical data covered by this Agreement is restricted by the laws, rules or executive orders of the federal government of the United States, which restriction has not been removed or waived.

1.60 Third Party(ies) means any person or entity other than PROTIVA, ALNYLAM, and their respective Affiliates.

1.61 Valid Claim means (a) any claim in an issued and unexpired patent within the ALNYLAM Patent Rights or PROTIVA Patent Rights, as applicable, which has not been held unenforceable, unpatentable or invalid by a decision of a court or other governmental agency of competent jurisdiction, which decision is unappealable or unappealed within the time allowed for appeal, and which has not been admitted by the holder of the patent to be invalid or unenforceable through reissue, re-examination, or disclaimer or otherwise and (b) a patent application within the ALNYLAM Patent Rights or PROTIVA Patent Rights, as applicable, a claim of which has been pending less than five (5) years and which claim has not been cancelled, withdrawn or abandoned or finally rejected by an administrative agency action from which no appeal can be taken.

Additional Defined Terms	Section Reference
ALNYLAM Class 1 Development Product	4.1(a)
ALNYLAM Class 2 Development Product	4.1(b)
ALNYLAM Data	5.6
ALNYLAM Indemnitee	10.1
ALNYLAM-TEKMIRA License Agreement	Recitals
ALNYLAM Subscription Agreement	Recitals
Analytical Report	5.4(b)
Class 1 PROTIVA Patent Rights	1.47(a)
Class 2 PROTIVA Patent Rights	1.47(b)
Change of Control	14.7
Closing	Recitals
Discount or Savings Program	13.7
Effective Date	12.1
Escrow Agreement	Recitals
Excluded Claim	14.2(a)
FTE	5.2
Follow-On Product	3.7
Licensee	9.1
Losses	10.1
Merck Entities	Recitals
Merck Restriction	2.1
Merck Settlement Agreement	Recitals
miRNA	1.33
Novartis	3.2
Novartis Agreement	3.2
Original ALNYLAM-TEKMIRA License Agreement	Recitals
Original Cross-License Agreement	Recitals
Product Seller	1.36
Prosecuting Party	7.2(c)
PROTIVA Development Product	3.1
PROTIVA Development Target	3.1

Additional Defined Terms	Section Reference
PROTIVA Indemnitee	10.2
Purchase Agreement	Recitals
Research Term	5.1
Restriction Period	13.1
Restricted Joint Invention	13.4
RNAi	Recitals
ROCHE	Recitals
ROCHE-NUTLEY	4.1(c)
ROCHE Sublicensee	4.1(c)
ROCHE Subscription Agreement	Recitals
Significant Pharmaceutical Company	14.6
SNALP Technology	Recitals
Substances	5.4(c)
Successful Biodefense Product	4.10
Successful Product	3.7
Target Response Notice	3.2
TEKMIRA	Recitals
Tekmira Development Target	1.9
Tekmira Facilities Option	13.2
Third Party Claim	7.8(a)
Transaction Document	12.2(e)

ARTICLE II - PLK LICENSE GRANT AND OPT-IN RIGHTS

2.1 License of ALNYLAM Patent Rights.

(a) Subject to the provisions of Article XIII, ALNYLAM grants to PROTIVA a non-exclusive royalty-bearing right and license under the ALNYLAM Patent Rights, subject to the terms and conditions of the in-license(s) identified on Exhibit B governing ALNYLAM's rights, and under ALNYLAM's interest in Joint Patent Rights, only for purposes of Researching, Developing and Commercializing RNAi Products for the PLK Target in the Field in the Territory. The license granted in this Section 2.1 will be in effect for the PLK Term.

(b) During the PLK Term and prior to the expiration of the Opt-In Period, PROTIVA will have no right to grant sublicenses to any Third Party under the license granted in this Section 2.1 without the prior written consent of ALNYLAM. Following the expiration of the Opt-In Period: (i) if ALNYLAM has duly exercised its Opt-In Right, such restriction on sublicensing will be continued and will be made part of the Parties' co-development and co-commercialization agreement referred to in Section 2.8(a); and (ii) if ALNYLAM has not exercised its Opt-In Right, the license granted in this Section 2.1 will thereafter include the right for PROTIVA to grant a sublicense or sublicenses to one or more Third Parties, provided the sublicensed RNAi Product(s) either (a) incorporate or exploit material intellectual property rights (such as, without limitation, patents and/or Confidential Information) owned or controlled by PROTIVA, other than Valid Claims of the ALNYLAM Patent Rights and/or (b) are substantially

developed by PROTIVA in a Bona Fide Collaboration with such Third Party. Notwithstanding the foregoing, (i) in no event may PROTIVA or its Affiliates grant a sublicense under any of the Exclusively Licensed Tekmira IP to the Merck Entities under the licenses granted in this Section 2.1 or Section 3.3 (the "Merck Restriction") and (ii) in all events, any sublicense granted under this Section 2.1(b) shall be subject to the terms of Article XIII.

2.2 Retained Rights of ALNYLAM. ALNYLAM expressly retains any rights not expressly granted to PROTIVA under this Article II (or otherwise under this Agreement). ALNYLAM represents and warrants that it has the right to grant the license under the ALNYLAM Patent Rights provided in Section 2.1 with respect to the PLK Target.

2.3 PLK Research Plan. On or prior to the Effective Date PROTIVA has, with ALNYLAM's approval, prepared a research plan setting out the primary activities to be conducted by PROTIVA with respect to the PLK Target (the "PLK Research Plan"). Such PLK Research Plan is attached to this Agreement as Exhibit C. PROTIVA will fund and be responsible for conducting all activities under the PLK Research Plan or otherwise warranted by the terms and conditions of this Agreement.

2.4 Role of JSC. The conduct of the PLK Research Plan will be coordinated by the Joint Steering Committee. The JSC will attempt to act by consensus in respect of all matters arising under or in connection with the PLK Research Plan. If such a consensus is not obtainable with respect to a matter, PROTIVA's representatives on the JSC will, prior to an exercise by ALNYLAM of the Opt-In Right, have the deciding vote on that matter so long as they exercise such right in a manner that is consistent with this Agreement.

2.5 Conduct of Activities and Commercially Reasonable Efforts. PROTIVA shall use Commercially Reasonable Efforts to carry out Research, Development, and Commercialization of RNAi Products directed at the PLK Target on a sustained basis in a continuing program for Development and Commercialization during the PLK Term. The activities of PROTIVA's Affiliates, Sublicensees, subcontractors, collaborators, transferees, and successors shall be attributed to PROTIVA for purposes of determining PROTIVA's satisfaction of the foregoing diligence obligations. If PROTIVA uses any Third Party contract resources to conduct part or all of its activities under the PLK Research Plan, it shall obtain agreements from such contractor(s) providing for rights in favor of ALNYLAM, substantially equivalent to the rights ALNYLAM would have had if PROTIVA had done the work itself.

2.6 Regulatory Filings. PROTIVA, its Affiliates or Sublicensees will be responsible for preparing, filing, and prosecuting all appropriate governmental applications and/or filings to obtain Approval of RNAi Products for the PLK Target during the Opt-In Period. Except as may be otherwise agreed in the co-development agreement in the event that ALNYLAM exercises its Opt-In Right, PROTIVA, its Affiliates or Sublicensees will own and maintain all such applications and/or filings and Approvals of the RNAi Products for the PLK Target.

2.7 Reporting.

(a) General. Promptly after the Effective Date, and on an on-going basis thereafter (at least once each Calendar Quarter), PROTIVA will provide to ALNYLAM and the JSC all then-

existing Licensed Information in respect of RNAi Products for the PLK Target (including but not limited to preclinical pharmacology, toxicology, clinical and regulatory plans and data), to enable ALNYLAM to evaluate and decide whether to exercise its Opt-In Right with respect to co-development of RNAi Products for the PLK Target and to enable the JSC to assess the progress and direction of PROTIVA's research activities.

(b) Clinical Events. PROTIVA will notify ALNYLAM in writing within five (5) business days of the dosing of the first patient in a Phase II Clinical Trial and in a Phase III Clinical Trial for each Licensed Product for the PLK Target.

2.8 Opt-In Right for Co-Development and Co-Commercialization.

(a) At any time during the period commencing on the Effective Date and ending sixty (60) days following the dosing of the first patient in a Phase II Clinical Trial in respect of an RNAi Product for the PLK Target or the selection of a back-up to such an RNAi Product (if applicable); or, if sooner, ending on the date on which ALNYLAM notifies PROTIVA that ALNYLAM does not intend to exercise its Opt-In Right (the "Opt-In Period"), ALNYLAM may exercise its right to co-develop and co-commercialize RNAi Products for the PLK Target with PROTIVA ("Opt-In Right") by providing written notice to PROTIVA. Upon provision of such written notice, the Parties agree to negotiate and complete a written agreement providing for the co-development and co-commercialization of the RNAi Products for the PLK Target by the Parties in accordance with the terms and conditions set forth in Appendix IV to this Agreement. Upon the full execution of such agreement, the terms in Sections 2.10 and 2.11 of this Agreement will no longer apply. The Parties agree (i) that the terms and conditions set forth in Appendix IV will be binding on the Parties and in effect upon the exercise by ALNYLAM of its Opt-In Right and (ii) to use good faith efforts to complete the definitive agreement within **[*]** days following ALNYLAM's exercise of its Opt-In Right.

(b) If ALNYLAM does not exercise its Opt-In Right or notifies PROTIVA in writing that it does not intend to exercise its Opt-In Right with respect to RNAi Products for the PLK Target, PROTIVA may, subject to the terms of Article XIII and the Merck Restriction, continue its activities under the PLK Research Plan and/or undertake different or altered activities in its discretion. Additionally, PROTIVA may at any time thereafter notify ALNYLAM in writing if PROTIVA wishes to terminate its license rights under this Agreement with respect to RNAi Products for the PLK Target. If ALNYLAM has not exercised its Opt-In Right or elects not to exercise its Opt-In Right, and if PROTIVA notifies ALNYLAM in writing that it wishes to terminate its license rights in respect of the PLK Target, rights granted to PROTIVA under the ALNYLAM Patent Rights with respect to the PLK Target herein will terminate immediately.

(c) PLK Research Plan Information and Materials. In the event that PROTIVA wishes to terminate its activities under the PLK Research Plan, PROTIVA will provide written notice to ALNYLAM. If such termination notice is made prior to the end of the Opt-In Period, PROTIVA will promptly provide to ALNYLAM all then-existing Licensed Information with respect to any Formulation with respect to the PLK Target, to the extent such Licensed Information has not previously been provided to ALNYLAM. For purposes of clarity, any activities of ALNYLAM in respect of the PLK Target after termination of PROTIVA's license hereunder with respect to the PLK Target will be subject to the terms and conditions of Article IV of this Agreement to the extent relevant to the PROTIVA Patent Rights.

2.9 Initial Fee. In connection with the rights granted and other terms of this Agreement, ALNYLAM has previously paid to PROTIVA three million U.S. dollars ($3,000,000) and PROTIVA acknowledges the full receipt of such payment.

2.10 Milestone Payments with Respect to Licensed Products for the PLK Target. With respect to Licensed Products for the PLK Target and the achievement by PROTIVA, its Sublicensees or Affiliates of the milestone events in the table below for Licensed Products for the PLK Target, PROTIVA will provide written notice to ALNYLAM of the occurrence of a milestone event within **[*]** business days of such event, and pay the indicated milestone fee to ALNYLAM within **[*]** days after the occurrence of the relevant event (all references are to U.S. dollars). Milestone payments will be due only once and only in respect of the first Licensed Product for the PLK Target being Developed by PROTIVA, or an Affiliate or Sublicensee for which the milestone event is achieved.

Milestone Event	Milestone Fee
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**

* The due date of the payment for this milestone event will be upon the end of the Opt-In Period and only if ALNYLAM does not exercise the Opt-In Right.

In the event one or more milestone events set out above are skipped for any reason, the payment for such skipped milestone event(s) will be due at the same time as the payment for the next achieved milestone event.

2.11 Royalties on Licensed Products for the PLK Target.

(a) Royalties on Net Sales will be due and payable by PROTIVA to ALNYLAM on a Licensed Product-by-Licensed Product basis in respect of Licensed Products for the PLK Target and on a country-by-country basis in the Territory until the expiration of the last Valid Claim covering such Licensed Product in such country. Beginning with the first Royalty Quarter in which a First Commercial Sale in a country occurs, and during subsequent Royalty Quarters, running royalties are payable on Net Sales in the Territory in accordance with the applicable running royalty rates set out in subsections (b) of this Section 2.11. If at the time of the First Commercial Sale or at any time thereafter all of ALNYLAM's Valid Claims covering a Licensed Product expire in a particular country, then such RNAi Product shall be royalty-free in such country; provided, however, that if one or more additional Valid Claims of ALNYLAM covering such Licensed Product thereafter issue in such country, such Licensed Product shall thereafter be royalty-bearing in such country for all Net Sales of such Licensed Product in such country occurring after the date of such issuance until expiration of such Valid Claims. No royalties will be payable more than once by PROTIVA with respect to any single unit of Licensed Product.

(b) Subject to subsection (a) of this Section 2.11, royalties will be due to ALNYLAM in accordance with the applicable rate in the table below (all references are to U.S. dollars):

Aggregate Annual Net Sales	Royalty Rate
On the first **[*]**	**[*]**
On the subsequent **[*]**	**[*]**
On the subsequent **[*]**	**[*]**
Greater than **[*]**	**[*]**

(c) The royalties due to ALNYLAM under this Section 2.11 may be reduced on a country-by-country basis in the Territory by the amount of royalties due to Third Parties as a result of the in-license of Necessary Third Party IP; provided, however, that royalties due to ALNYLAM under this Section 2.11 may not be reduced by more than one-third of the royalties otherwise due (and will not in any case be reduced below **[*]** of the amount of royalties that would otherwise be due, e.g. for Net Sales up to and including **[*]** the minimum effective royalty rate would be **[*]**. For purposes of illustration only, if annual Net Sales of a License Product for the PLK Target are **[*]**, and royalties due in respect of Necessary Third Party IP for the sale of such product total **[*]** of Net Sales (or **[*]**), royalties due to ALNYLAM may be reduced only by **[*]** which is determined as follows: maximum reduction is **[*]** of the royalty due on Net Sales of **[*]**, calculated by **[*]**.

2.12 Term of PLK License. Unless terminated sooner as described in Article XII, the term of the licenses granted to PROTIVA with respect to the PLK Target commenced on the Effective Date and ends upon the expiration or abandonment of all issued patents and filed applications within the ALNYLAM Patent Rights; provided, however, that following the expiration of such license at the end of such term, PROTIVA and its Affiliates or Sublicensees shall have the worldwide, perpetual and paid-up right to Research, Develop, and Commercialize any RNAi Product directed at the PLK Target to the extent not covered by other patent rights.

2.13 Effect upon Second Target Research Plan. The Parties hereby agree that, while PROTIVA may at its option continue work under the Second Target Research Plan and otherwise on the Second Target as a PROTIVA Development Target, ALNYLAM will no longer (as of the Effective Date) support that work, or by virtue of its payment of the Initial Fee, be deemed to be supporting that work.

ARTICLE III - Target-by-Target License to PROTIVA under ALNYLAM Patent Rights

3.1 PROTIVA Development Targets. During the **[*]** year period beginning on the Original Effective Date, PROTIVA may select up to three (3) Targets with respect to which PROTIVA shall Research, Develop and Commercialize RNAi Products directed to such Targets under the ALNYLAM Patent Rights (each such Target, a “PROTIVA Development Target”, and

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each such RNAi Product, a "PROTIVA Development Product"). For clarity, the Parties acknowledge that the three PROTIVA Development Targets shall be in addition to the three (3) Tekmira Development Targets that are the subject of the ALNYLAM-TEKMIRA License Agreement. The Parties acknowledge that the selection of each PROTIVA Development Target (other than the Second Target) is subject to Novartis' right of first offer under the Novartis Agreement and to other binding ALNYLAM obligations to Third Parties pre-existing the date of PROTIVA's notice to ALNYLAM of PROTIVA's selection of such Target. Effective as of the Effective Date, the Parties hereby agree that the Second Target shall be one of the three (3) PROTIVA Development Targets under this Agreement, and that Section 3.2 will not be applicable to the Second Target.

3.2 Selection Process. The following process shall apply to the selection of PROTIVA Development Targets. As to Targets that are peptide entities, PROTIVA shall initially notify ALNYLAM in writing of the NCBI Gene ID number (or, if a NCBI Gene ID number is not available, the specific sequence of the proposed Target) of each Target nominated by PROTIVA for selection as a PROTIVA Development Target. As to Targets that are non-peptide entities, PROTIVA shall initially notify ALNYLAM in writing of the non-peptide entity. Within [*] business days following ALNYLAM's receipt of a notice nominating a Target, ALNYLAM shall notify PROTIVA in writing (a "Target Response Notice") whether such Target is either: (a) subject to a binding contractual obligation to a Third Party that would be breached by the inclusion of such Target as a PROTIVA Development Target under these terms, or (b) the subject of an Active Internal Development Program at ALNYLAM and such Active Internal Development Program was in existence as such prior to the receipt of such notice from PROTIVA and ALNYLAM determines in good faith that it intends to continue such Active Internal Development Program, and so notifies PROTIVA. If neither of these criteria applies, the Target shall be considered to have been successfully nominated as a PROTIVA Development Target. ALNYLAM shall use commercially reasonable efforts consistent with the terms of the Novartis Agreement to obtain Novartis' consent to the selection by PROTIVA of such Target as a PROTIVA Development Target under these terms, and shall notify PROTIVA in writing as to whether or not such Target is available for license hereunder. If a Target submitted to ALNYLAM is not so available for license as a PROTIVA Development Target, then PROTIVA may nominate an additional Target as a PROTIVA Development Target, until two (2) PROTIVA Development Targets (in addition to the Second Target) have been identified and approved for selection pursuant to the foregoing procedure; provided, that PROTIVA may not have pending at any given time more than two (2) proposed Targets to ALNYLAM for evaluation pursuant to the foregoing procedure (in addition to any Tekmira Development Targets or candidate Tekmira Development Targets submitted or pending under the ALNYLAM-TEKMIRA License Agreement). Any Target approved by ALNYLAM for selection pursuant to the foregoing procedure shall be a PROTIVA Development Target. As used herein, "Novartis Agreement" means that certain Research Collaboration and License Agreement between Novartis Institutes for BioMedical Research, Inc. ("Novartis") and ALNYLAM dated October 12, 2005, as amended by the Addendum Re: Influenza Program to Research Collaboration and License Agreement effective as of February 17, 2006, and as further amended from time to time.

3.3 License. Subject to the provisions of Article XIII and the terms and conditions of the in-licenses identified on Exhibit B governing ALNYLAM's rights, ALNYLAM will grant to PROTIVA a non-exclusive license under the ALNYLAM Patent Rights and under ALNYLAM's

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interest in Joint Patent Rights with respect to up to three (3) PROTIVA Development Targets, to Research, Develop and Commercialize PROTIVA Development Products covered by such ALNYLAM Patent Rights in the Field in the Territory. Such license will be royalty-bearing with respect to PROTIVA Development Products covered by Valid Claims of the ALNYLAM Patent Rights and will include the right to grant sublicenses to Third Parties to Research, Develop and Commercialize PROTIVA Development Product(s), provided such PROTIVA Development Product(s) either (a) incorporate or exploit material intellectual property rights (such as, without limitation, patents and/or Confidential Information) owned or controlled by PROTIVA, other than such Valid Claims of the ALNYLAM Patent Rights and/or (b) are substantially developed by PROTIVA in a Bona Fide Collaboration with such Third Party. A copy of the fully executed sublicense agreement will be promptly provided to ALNYLAM. Notwithstanding the foregoing, (i) any sublicense, to the extent applicable to any Exclusively Licensed Tekmira IP, shall be subject to the Merck Restriction and (ii) in all events, any sublicense granted under this Section 3.3 shall be subject to the terms of Article XIII.

3.4 Term. Unless terminated sooner as described in Article XII, the term of the license grant in respect of each PROTIVA Development Target begins upon the approval of a Target as a PROTIVA Development Target (or in the case of the Second Target, upon the Effective Date, it being understood and agreed that PROTIVA held certain licenses under the Original Cross License Agreement with respect to the Second Target from the Original Effective Date through the Effective Date) and ends upon the expiration or abandonment of all issued patents and filed applications within the ALNYLAM Patent Rights; provided, however, that following the expiration of such license at the end of such term, PROTIVA and its Affiliates or Sublicensees shall have the worldwide, perpetual and paid-up right to Research, Develop, and Commercialize any PROTIVA Development Product to the extent not covered by other patent rights.

3.5 Sublicense.

(a) Any sublicense granted by PROTIVA pursuant to Section 3.3 shall be subject and subordinate to the terms and conditions of this Agreement and shall contain terms and conditions consistent with those in this Agreement, including, without limitation, the requirements of Section 3.6 below. Agreements with any Sublicensee shall contain the following provisions: (a) a requirement that such Sublicensee submit applicable sales or other reports consistent with those required hereunder; (b) an audit requirement similar to the requirement set forth in Section 9.5; and (c) a requirement that such Sublicensee comply with the confidentiality and non-use provisions of Article VIII. PROTIVA shall assume full responsibility for the performance of all obligations and observance of all terms herein under the licenses granted to PROTIVA Development Targets and will itself pay and account to ALNYLAM for all payments due under such licenses by reason of such sublicense. Sublicenses under the license granted to PROTIVA Development Targets will remain in full force and effect in the event of any termination of such license, provided that Sublicensee(s) are in compliance with the sublicense agreement (or are in compliance within thirty (30) days of the termination) and agree in writing with ALNYLAM to the same terms and conditions as in the sublicense agreement. In the event PROTIVA becomes aware of a material breach of any sublicense by a Sublicensee, PROTIVA shall promptly notify ALNYLAM of the particulars of same and take all reasonable efforts to enforce the terms of such sublicense.

(b) Unless otherwise provided in this Agreement, PROTIVA will notify ALNYLAM within ten (10) business days after execution of a sublicense entered into under Section 3.3 and provide a copy of the fully executed sublicense agreement to ALNYLAM within the same time frame (with such reasonable redactions as PROTIVA may make, provided that such redactions do not include provisions necessary to demonstrate compliance with the requirements of this Agreement), which shall be treated as Confidential Information under Article VIII; and provided further that ALNYLAM may disclose such agreement(s) to Third Parties under confidence if and to the extent required in order to comply with ALNYLAM's contractual obligations under both this Agreement and Third Party agreements.

3.6 Retained Rights of ALNYLAM. ALNYLAM expressly retains any rights not expressly granted to PROTIVA under this Article III (or otherwise under this Agreement). ALNYLAM represents and warrants that it has the right to grant the license under the ALNYLAM Patent Rights provided in Section 3.3.

3.7 Milestones with Respect to PROTIVA Development Products. On a Licensed Product-by-Licensed Product basis for PROTIVA Development Products that are Licensed Products, payments will be due by PROTIVA to ALNYLAM based upon the achievement of certain milestone events as set forth in the table below (all references are to U.S. dollars). PROTIVA will provide written notice to ALNYLAM of the occurrence of a milestone event within **[*]** business days of such event, and pay the indicated milestone fee to ALNYLAM within **[*]** days after the occurrence of the relevant event.

Capitalized terms in the chart below shall be read in context to apply to PROTIVA Development Products that are Licensed Products.

Milestone Event	Milestone Fee
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**

In the event one or more milestone events set out above are skipped for any reason, the payment for such skipped milestone event(s) will be due at the same time as the payment for the next achieved milestone event. The milestone payments described above shall be payable only once in relation to each Licensed Product that achieves Approval in a Major Market (each, a "Successful Product"). Therefore, unless and until there is a Successful Product directed to a particular Target, any of the milestone payments made by PROTIVA under this Section in connection with

a Licensed Product directed to such Target shall be fully creditable against the repeated achievement of such milestone event by any other Licensed Product directed to such Target. However, in the event that there is a Successful Product with respect to a Target and PROTIVA subsequently begins to Develop or continues to Develop another Licensed Product directed to such Target (a "Follow-On Product"), then, if and when any of the milestone events set out above is thereafter achieved for such Follow-On Product, in addition to the milestone payment for such milestone event, there will also be due and payable all of the milestone payment(s) for any such milestones that were achieved for such Follow-On Product prior to the achievement of Approval in a Major Market of a Successful Product with respect to such Target.

3.8 Clinical Events. PROTIVA will notify ALNYLAM in writing within **[*]** business days of the dosing, respectively, of the first patient in a Phase II Clinical Trial and in a Phase III Clinical Trial for each PROTIVA Development Product.

3.9 Royalties on PROTIVA Development Products. The license granted with respect to PROTIVA Development Targets under ALNYLAM Patent Rights will be royalty-bearing with respect to PROTIVA Development Products that are, with respect to PROTIVA, Licensed Products. Beginning with the first Royalty Quarter in which a First Commercial Sale in a country occurs, and on a country-by-country basis during subsequent Royalty Quarters, running royalties on Net Sales of PROTIVA Development Products covered by one or more Valid Claims of ALNYLAM Patent Rights in the Territory will be due in accordance with the applicable running royalty rates set out in the table below (all references are to U.S. dollars, and the Net Sales figures are the aggregated sums with respect to PROTIVA and all of its Affiliates and Sublicensees). If at the time of the First Commercial Sale or at any time thereafter all of the Valid Claims of ALNYLAM Patent Rights covering a PROTIVA Development Product expire in a particular country, then such product shall be royalty-free in such country; provided, however, that if one or more additional Valid Claims of ALNYLAM Patent Rights covering the PROTIVA Development Product thereafter issue in such country, such PROTIVA Development Product shall thereafter be royalty-bearing in such country for all Net Sales of such PROTIVA Development Product in such country occurring after the date of such issuance until expiration of such Valid Claim(s). No royalties will be payable more than once by PROTIVA with respect to any single unit of Licensed Product.

Aggregate Annual Net Sales	Royalty Rate
On the first **[*]**	**[*]**
On the subsequent **[*]**	**[*]**
On the subsequent **[*]**	**[*]**
Greater than **[*]**	**[*]**

3.10 Royalty Reduction. The royalties due to ALNYLAM under Section 3.9 above may be reduced on a country-by-country basis in the Territory by the amount of royalties paid or

payable with respect to Necessary Third Party IP; provided, however, that royalties due to ALNYLAM under Section 3.9 may not be reduced by more than **[*]** of the royalties otherwise due (and will not in any case be reduced below **[*]** of the amount of royalties that would otherwise be due, e.g. for Net Sales up to and including **[*]** the minimum effective royalty rate would be **[*]**). For purposes of illustration only, if annual Net Sales of a PROTIVA Development Product are **[*]** and royalties due to Third Parties in respect of the sale of such product total **[*]** of Net Sales (or **[*]**), royalties due to ALNYLAM may be reduced only by **[*]** which is determined as follows: maximum reduction is **[*]** of the royalty due on Net Sales of **[*]**, calculated by **[*]**.

3.11 Studies by ALNYLAM. With mutual acknowledgement by PROTIVA and ALNYLAM, ALNYLAM has conducted certain activities as described in Appendix III to the Original Cross License Agreement. ALNYLAM has made the results of such studies available to PROTIVA under the Original Cross-License Agreement. The Parties hereby affirm their agreement to permit use, without royalty or other additional fee, of such results or other results arising from the Feasibility Study Agreement between ALNYLAM and PROTIVA dated April 16, 2007 and referenced under the letter agreement between the Parties dated June 1, 2007 in a manner consistent with the activities described in Appendix III to the Original Cross-License Agreement and in conjunction with or in support of PROTIVA's past and expected activities under the Second Target Research Plan (whether before or after the Effective Date).

ARTICLE IV - License to ALNYLAM under PROTIVA Patent Rights and Intellectual Property

4.1 Grants by PROTIVA.

(a) Class 1: PROTIVA grants to ALNYLAM a non-exclusive license under Class 1 PROTIVA Patent Rights, PROTIVA's interest in Joint Patent Rights and the Licensed Information to Research, Develop and Commercialize RNAi Products and miRNA Products for any Target in the ALNYLAM Field and in the Territory ("ALNYLAM Class 1 Development Products"). Such license includes the right to grant sublicenses under the license granted under this Section 4.1(a) to one or more Third Parties in a Bona Fide Collaboration with ALNYLAM, but solely within the scope of and for the purposes of such Bona Fide Collaboration, or with respect to the Researching, Developing and/or Commercializing of ALNYLAM Class 1 Development Products that meet one or more of the following: (i) such ALNYLAM Class 1 Development Product was initially Developed at least to the point of preclinical proof-of-principle by ALNYLAM in an Active Internal Development Program; (ii) such ALNYLAM Class 1 Development Product is an ALNYLAM Partnered Product; or (iii) such ALNYLAM Class 1 Development Product is an R&D Program Product.

(b) Class 2: PROTIVA grants to ALNYLAM a non-exclusive license under Class 2 PROTIVA Patent Rights and the Licensed Information to Research, Develop and Commercialize RNAi Products and miRNA Products for any ALNYLAM Target in the ALNYLAM Field and in the Territory ("ALNYLAM Class 2 Development Products"). Such license includes the right to grant sublicenses under the license granted in this Section 4.1(b); provided that such right to sublicense will apply only with respect to the Researching, Developing and/or Commercializing of ALNYLAM Class 2 Development Products that meet one or more of the following:

(i) such ALNYLAM Class 2 Development Product is an R&D Program Product; or

(ii) such ALNYLAM Class 2 Development Product incorporates the same Formulation as the Lead Formulation of an R&D Program Product, whether or not it is directed at the same ALNYLAM Target as that R&D Program Product, and also meets one or more of the following: (1) such ALNYLAM Class 2 Development Product was initially Developed at least to the point of preclinical proof-of-principle by ALNYLAM in an Active Internal Development Program; or (2) such ALNYLAM Class 2 Development Product is an ALNYLAM Partnered Product.

(c) ALNYLAM may sublicense any and all of its rights under this Section 4.1 to ROCHE and to Hoffmann-La Roche Inc. ("ROCHE-NUTLEY", and together with ROCHE, the "ROCHE Sublicensees") pursuant to an agreement substantially in the form set forth in Exhibit E to this Agreement.

(d) ALNYLAM and PROTIVA acknowledge and agree that the determination of which items to include under Class 1 PROTIVA Patent Rights and Class 2 PROTIVA Patent Rights, both as defined in Section 1.47 and listed in Exhibits A-2 and A-3 respectively, was made based upon the descriptions included such Section. Accordingly, ALNYLAM and PROTIVA agree that any item listed in Exhibit A-3 as Class 2 PROTIVA Patent Rights or claim thereunder that meets the definition of Class 1 PROTIVA Patent Rights as described in Section 1.47 will become a Class 1 PROTIVA Patent Right and the relevant Exhibits will be updated accordingly. For purposes of clarity, only items or claims under Class 2 PROTIVA Patent Rights may change to Class 1 PROTIVA Patent Rights, and the Parties agree that Class 1 PROTIVA Patent Rights will not change to Class 2 PROTIVA Patent Rights for any purpose of this Agreement.

4.2 Retained Rights of PROTIVA. PROTIVA expressly retains any rights of PROTIVA not expressly granted to ALNYLAM under this Article IV (or otherwise under this Agreement). PROTIVA represents and warrants that it has the right to grant the license under the PROTIVA Patent Rights provided in Section 4.1.

4.3 Term. Unless terminated sooner as described in Article XII, the term of the licenses granted to ALNYLAM under the Class 1 PROTIVA Patent Rights and the Class 2 PROTIVA Patent Rights commenced on the Original Effective Date and ends upon the expiration or abandonment of all issued patents and filed applications with the Class 1 PROTIVA Patent Rights and Class 2 PROTIVA Patent Rights, respectively; provided, however, that following the expiration of such license at the end of such term, ALNYLAM and its Affiliates or Sublicensees shall have the worldwide, perpetual and paid-up right to Research, Develop, and Commercialize any Class 1 ALNYLAM Development Product or Class 2 ALNYLAM Development Product to the extent not covered by other patent rights.

4.4 No grant of rights to TEKMIRA. Except in connection with the exercise of the Tekmira Facilities Option or as otherwise specifically set forth in this Agreement, prior to the end of the Restriction Period, in no event will ALNYLAM have the right to sublicense or agree to sublicense any PROTIVA Patent Rights to TEKMIRA.

4.5 Sublicense.

(a) Any sublicense granted by ALNYLAM pursuant to Section 4.1 shall be subject and subordinate to the terms and conditions of this Agreement and shall contain terms and conditions consistent with those in this Agreement, including, without limitation, the requirements of Sections 4.2 and 4.4 above. Agreements with any Sublicensee shall contain the following provisions: (i) a requirement that such Sublicensee submit applicable sales or other reports consistent with those required hereunder; (ii) an audit requirement similar to the requirement set forth in Section 9.5; and (iii) a requirement that such Sublicensee comply with the confidentiality and non-use provisions of Article VIII. ALNYLAM shall assume full responsibility for the performance of all obligations and the observance of all terms herein under a sublicense to the license granted for ALNYLAM Development Products and will itself pay and account to PROTIVA for all payments due by reason of such sublicense. Sublicenses under the licenses granted for ALNYLAM Development Products will remain in full force and effect in the event of any termination of one or both of the licenses, provided that sublicensee(s) are in compliance with the sublicense agreement (or are in compliance within thirty (30) days of the termination) and agree in writing with PROTIVA to the same terms and conditions as in the sublicense agreement. In the event ALNYLAM becomes aware of a material breach of any sublicense by a Sublicensee, ALNYLAM shall promptly notify PROTIVA of the particulars of same and take all reasonable efforts to enforce the terms of such sublicense.

(b) Unless otherwise provided in this Agreement, ALNYLAM will notify PROTIVA within ten (10) business days after execution of a sublicense entered into under Section 4.1 and provide a copy of the fully executed sublicense agreement to PROTIVA within the same time frame (with such reasonable redactions as ALNYLAM may make, provided that such redactions do not include provisions necessary to demonstrate compliance with the requirements of this Agreement), which shall be treated as Confidential Information under Article VIII; and provided further that PROTIVA may disclose such agreement(s) to Third Parties under confidence if and to the extent required in order to comply with PROTIVA's contractual obligations under both this Agreement and Third Party agreements.

4.6 License Fee; Payment. In addition to the fee paid by ALNYLAM pursuant to Section 2.9, ALNYLAM has previously paid PROTIVA an upfront license fee of **[*]** for the licenses granted to ALNYLAM under Section 4.1 of this Agreement. PROTIVA acknowledges the full receipt of such payment.

4.7 Milestones with Respect to ALNYLAM Development Products. On a product-by-product basis for ALNYLAM Development Products that are Licensed Products, and subject to the provisions of Section 4.10, payments will be due by ALNYLAM to PROTIVA based on the achievement of certain milestone events as set forth in the table below (all references are to U.S. dollars). ALNYLAM will provide written notice to PROTIVA of the occurrence of a milestone event within **[*]** business days of such event, and pay the indicated milestone fee to PROTIVA within **[*]** days after the occurrence of the relevant event.

Capitalized terms in the chart below shall be read in context to apply to ALNYLAM Development Products that are Licensed Products; provided, however, that only one milestone payment will be due in respect of a given Licensed Product.

Milestone Event	Milestone Fee
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**

In the event one or more milestone events set out above are skipped for any reason, the payment for such skipped milestone event(s) will be due at the same time as the payment for the next achieved milestone event. The milestone payments described above shall be payable only once in relation to each Successful Product. Therefore, unless and until there is a Successful Product directed to a particular Target, any of the milestone payments made by ALNYLAM under this Section in connection with a Licensed Product directed to such Target shall be fully creditable against the repeated achievement of such milestone event by any other Licensed Product directed to such Target. However, in the event that there is a Successful Product with respect to a Target and ALNYLAM subsequently begins to Develop or continues to Develop a Follow-On Product, if and when any of the milestone events set out above is thereafter achieved for such Follow-On Product, in addition to the milestone payment for such milestone event, there will also be due and payable all of the milestone payment(s) for any such milestones that were achieved for such Follow-On Product prior to the achievement of Approval in a Major Market of a Successful Product with respect to such Target .

4.8 Clinical Events. ALNYLAM will notify PROTIVA in writing within **[*]** business days of the dosing, respectively, of the first patient in each of a Phase I Clinical Trial, a Phase II Clinical Trial, and a Phase III Clinical Trial for each ALNYLAM Development Product.

4.9 Royalties on ALNYLAM Development Products. The license granted with respect to ALNYLAM Development Products under PROTIVA Patent Rights will be royalty-bearing with respect to ALNYLAM Development Products that are, with respect to ALNYLAM, Licensed Products (whether or not the same are directed to Biodefense Targets). Beginning with the first Royalty Quarter in which a First Commercial Sale in a country occurs, and on a country-by-country basis during subsequent Royalty Quarters, and subject to the provisions of Section 4.10, running royalties on Net Sales of ALNYLAM Development Products covered by one or more Valid Claims of PROTIVA Patent Rights in the Territory will be determined and due, as follows:

(a) Where the Net Sales are those of, and are invoiced by, any one of the following:

(i) ALNYLAM or its Affiliate;

(ii) a ROCHE Sublicensee under a sublicense granted in accordance with Section 4.1(c);

(iii) Regulus Therapeutics LLC, under a sublicense granted by ALNYLAM in compliance with Section 4.5; or

(iv) another Sublicensee under a sublicense granted by ALNYLAM in connection with, and solely for the purpose of, a Bona Fide Collaboration of ALNYLAM, and solely for the purposes of such Bona Fide Collaboration,

the applicable running royalty rates shall be as set out in the table below (all references are to U.S. dollars, and the Net Sales figures are the aggregated sums with respect to ALNYLAM and all of its Affiliates and Sublicensees):

Aggregate Annual Net Sales	Royalty Rate
On the first **[*]**	**[*]**
On the subsequent **[*]**	**[*]**
Greater than **[*]**	**[*]**

(b) In all other cases, the applicable running royalty rates shall be as set out in the table below:

Aggregate Annual Net Sales	Royalty Rate
On the first **[*]**	**[*]**
On the subsequent **[*]**	**[*]**
On the subsequent **[*]**	**[*]**
Greater than **[*]**	**[*]**

(c) If at the time of the First Commercial Sale or at any time thereafter all of the Valid Claims of PROTIVA Patent Rights covering an ALNYLAM Development Product expire in a particular country, then such product shall be royalty-free in such country; provided, however, that if one or more additional Valid Claims of PROTIVA Patent Rights covering the ALNYLAM Development Product thereafter issue in such country, such ALNYLAM Development Product shall thereafter be royalty-bearing in such country for all Net Sales of such ALNYLAM Development Product in such country occurring after the date of such issuance until expiration of such Valid Claim(s). No royalties will be payable more than once by ALNYLAM with respect to any single unit of Licensed Product.

4.10 Biodefense Targets. The milestone fees payable by ALNYLAM to PROTIVA under Section 4.7 with respect to ALNYLAM Development Products that are Licensed Products directed to Biodefense Targets that are not intended for sale to a Funding Authority, will be as set forth in Section 4.7. The milestone fees payable by ALNYLAM to PROTIVA with respect to ALNYLAM Development Products that are Licensed Products directed to Biodefense Targets which are intended for sale to a Funding Authority shall be payable on a product-by-product basis as follows:

Milestone Event	Milestone Fee
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**

In the event one or more milestone events set out above are skipped for any reason, the payment for such skipped milestone event(s) will be due at the same time as the payment for the next achieved milestone event. The milestone payments described above shall be payable only once in relation to each Licensed Product directed to a Biodefense Target that achieves First Commercial Sale in a Major Market (each, a "Successful Biodefense Product"). Therefore, unless and until there is a Successful Biodefense Product directed to a particular Biodefense Target, any of the milestone payments made by ALNYLAM under this Section in connection with a Licensed Product directed to such Biodefense Target shall be fully creditable against the repeated achievement of such milestone event by any other Licensed Product directed to such Biodefense Target. However, in the event that there is a Successful Product with respect to a Biodefense Target and PROTIVA subsequently begins to Develop or continues to Develop a Follow-On Product, then, if and when any of the milestone events set out above is thereafter achieved for such Follow-On Product, in addition to the milestone payment for such milestone event, there will also be due and payable all of the milestone payment(s) for any such milestones that were achieved for such Follow-On Product prior to the achievement of Approval in a Major Market of a Successful Product with respect to such Biodefense Target.

4.11 Royalty Reduction. Any royalties due PROTIVA under Section 4.9 above may be reduced on a country-by-country basis in the Territory by the amount of royalties paid with respect to Necessary Third Party IP; provided, however, that royalties due to PROTIVA under Section 4.9 may not be reduced by more than **[*]** of the royalties otherwise due (and will not in any case be reduced below **[*]** of the amount of royalties that would otherwise be due, e.g. for Net Sales up to and including **[*]** the minimum effective royalty rate would be **[*]**). For purposes of illustration only, if annual Net Sales of an ALNYLAM Development Product are **[*]** and royalties due to Third Parties in respect of the sale of such product total **[*]** of Net Sales (or **[*]**), royalties due to PROTIVA may be reduced only by **[*]**, which is determined as follows: maximum reduction is one-third of the royalty due on Net Sales of **[*]**, calculated by **[*]**.

4.12 Suspension of Royalties and Milestones. If any ALNYLAM Development Product that is a Licensed Product is also an "Alnylam Royalty Product" (as such term is defined in the ALNYLAM-TEKMIRA License Agreement), ALNYLAM shall not be required to pay royalties or milestone fees with respect to such ALNYLAM Development Product that is a Licensed Product under both this Agreement and the ALNYLAM-TEKMIRA License Agreement, but, rather, shall pay only the larger of such royalties or milestone fees under such agreements, respectively. Moreover, in the event that ALNYLAM is required to make any payments to UBC pursuant to the UBC Sublicense Agreement or pursuant to a direct license agreement between UBC and ALNYLAM as a result of the default by, or bankruptcy or insolvency of, TEKMIRA as more fully described in Section 3.4 and Article 17.0 of the Tekmira-UBC License Agreement (as such terms are defined in the ALNYLAM-TEKMIRA License Agreement), then ALNYLAM shall be entitled to offset any amounts payable by ALNYLAM to PROTIVA under this Agreement pursuant to this Section 4.12 by the amount of ALNYLAM's payments to UBC until such amounts have been credited in full.

4.13 More Favorable Terms. If after the Effective Date, PROTIVA grants to a Third Party any license substantially similar in scope and substance to the license grant to Alnylam with respect to the PROTIVA Patent Rights on terms calling for milestone fees and royalties that are, as a whole, more favorable (to the licensee in such other license) than the comparable terms contained in this Article IV, then PROTIVA shall so notify ALNYLAM and, at ALNYLAM's option, such more favorable financial terms granted to such Third Party shall apply to ALNYLAM's or its Affiliates' or Sublicensees' license with respect to the PROTIVA Patent Rights, rather than the royalty terms and milestone fees stated under this Article IV.

4.14 Acknowledgement. For clarity, the Parties acknowledge that no conceptions, developments, techniques, data, inventions, improvements, technical information, or works of authorship that were, are, or that hereafter may be in whole or in part conceived, reduced to practice, discovered, created, authored or otherwise made or obtained by or for TEKMIRA or its contractors at any time during the period from January 18, 2001 through the expiration of the Restriction Period, will be considered to be owned or controlled by PROTIVA by virtue of any agreement, right, or claim existing or arguably existing prior to the Effective Date.

ARTICLE V - Conduct of R&D Research Plan and Funding from ALNYLAM

5.1 Research Term. ALNYLAM and PROTIVA hereby agree to continue to conduct a research and development program pursuant to the R&D Research Plan, which program commenced on the Original Effective Date and shall continue until **[*]** (the "Research Term"); provided, however, that the Research Term may be extended once by ALNYLAM for an additional **[*]** if ALNYLAM exercises such right by notice received by PROTIVA no later than **[*]** prior to the expiration of the initial **[*]**.

5.2 During the Research Term, PROTIVA will use commercially reasonable efforts to provide for the conduct of activities pursuant to the R&D Research Plan by qualified employees of PROTIVA, or individual contractors approved by the JSC, who collectively will spend time and effort working on activities pursuant to the R&D Research Plan equivalent to the

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time and effort of seven (7) full-time employees for the Research Term. Full-time employee or equivalent will be based on at least forty-five (45) weeks per calendar year and forty (40) hours per week of work (less normal vacations, sick days and holidays) ("FTE").

5.3 Funding. ALNYLAM will continue to provide funding to PROTIVA for the staffing and conduct of activities under the R&D Research Plan in the amount of **[*]** during the Research Term (and funding in the same amount over the renewal term, if any), payable in **[*]** equal quarterly installments of **[*]** each. The funding amount is deemed to cover PROTIVA's reasonably anticipated costs for the FTEs dedicated to the conduct of the R&D Research Plan in accordance with Section 5.2 above, including any general and administrative overhead costs for such FTEs and the costs and expenses for chemical and other research supplies and equipment used by the FTEs in conducting activities under the R&D Research Plan. For purposes of clarity, such costs and expenses will not be separately reimbursed by ALNYLAM to PROTIVA.

5.4 Conduct of Research.

(a) General. PROTIVA will conduct its activities under the R&D Research Plan in good scientific manner, and in compliance in all material respects with the requirements of applicable laws and regulations (including, where applicable, the requirements of the United States Federal government in connection with activities funded by it) and, where necessary, with applicable good laboratory practices, to attempt to achieve its objectives efficiently and expeditiously. Without limiting the foregoing, PROTIVA will carry out its obligations under the R&D Research Plan and this Agreement using sustained efforts that are at least equivalent to those efforts and resources commonly used by PROTIVA and other biopharmaceutical companies similar to PROTIVA for a comparable program of research. PROTIVA will maintain laboratories, offices and all other facilities reasonably necessary to carry out the activities to be performed by it pursuant to the R&D Research Plan. In conformity with standard pharmaceutical and biotechnology industry practices and the terms and conditions of this Agreement, PROTIVA will prepare and maintain, or will cause to be prepared and maintained, complete and accurate written records, accounts, notes, reports and data with respect to activities conducted pursuant to the R&D Research Plan.

(b) R&D Research Plan. PROTIVA will conduct activities under a mutually agreed upon research plan pursuant to which PROTIVA will seek to identify and develop Formulations using PROTIVA's SNALP Technology (and expected to be covered by PROTIVA Patent Rights) to deliver siRNA drug molecules supplied from ALNYLAM locally or systemically (e.g. to intended cells and tissues, organs or whole animals) (the "R&D Research Plan"). ALNYLAM will have sole discretion as to the selection of siRNA molecules for inclusion under the R&D Research Plan, provided that ALNYLAM may not select such molecules if ALNYLAM knows or reasonably should know that such molecule is directed to any of the following: (i) the PLK Target; (ii) the Second Target; (iii) another PROTIVA Development Target which is approved or remains in process in accordance with the terms in Section 3.2 of this Agreement or (iv) a Tekmira Development Target. During the Research Term, PROTIVA will not work on ALNYLAM Targets included in the R&D Research Plan for its internal programs or on behalf of any Third Party, unless PROTIVA is, at the time of ALNYLAM's request to include such ALNYLAM Target in the R&D Research Plan, working on such Target (i) in its internal programs or (ii) on behalf of any Third Party, or has agreed in writing to do so with a Third

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Party; and PROTIVA promptly provides written notice to ALNYLAM with respect to which exception above applies and for which ALNYLAM Target. ALNYLAM will have the right to suspend work on any siRNA molecule, and, if it so desires, to name additional siRNA molecules in its place, under the R&D Research Plan at any time upon written notice to PROTIVA. The R&D Research Plan will set forth the research objectives and activities to be performed during the Research Term with reasonable specificity, including without limitation: the Party responsible for performing identified activities and a timeline for such activities. The R&D Research Plan will otherwise be consistent with this Agreement. In the event of any conflict between the terms of this Agreement and the terms in the R&D Research Plan as it may be updated, the terms of this Agreement will govern. The Parties have prepared an updated R&D Research Plan setting out the primary activities to be conducted for the 2008 calendar year, which is attached to this Agreement as Exhibit D. The JSC will be responsible for further updating and amending the R&D Research Plan at least quarterly or more frequently as needed, based on the progress and results of the conduct of the R&D Research Plan. PROTIVA will, from time to time as outlined in the R&D Research Plan, provide, periodic reports to ALNYLAM with respect to progress under the R&D Research Plan (no less frequently than quarterly), including without limitation information on PROTIVA's standard-form Analytical Report for formulated materials delivered by PROTIVA to ALNYLAM as contemplated under the R&D Research Plan and Appendix II to this Agreement ("Analytical Report"). At the end of the Research Term, PROTIVA will provide a final report to ALNYLAM with respect to all results and outcomes (e.g., Formulations) of the then current R&D Research Plan.

(c) Material Transfer. In order to facilitate the work under the R&D Research Plan, ALNYLAM and PROTIVA will transfer to one another certain materials or chemical compounds for use in furtherance of the conduct of the R&D Research Plan ("Substances"). Except as otherwise provided under this Agreement, Substances delivered by one Party to the other Party will remain the sole property of the supplying Party, will be used only for purposes of the R&D Research Plan and will remain solely under the control of the supplying Party, will not be used or delivered to or for the benefit of any Third Party without the prior written consent of the supplying Party and will not be used in research or testing involving human subjects. The Substances supplied pursuant to this Agreement will be used with prudence and appropriate caution as all of their characteristics may not be known. THE SUBSTANCES ARE PROVIDED "AS IS" AND WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OR MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE.

(d) Subcontracts. PROTIVA will not be permitted to perform any of its obligations in connection with performance of activities under the R&D Research Plan through the use of subcontractor(s) without the prior written consent of ALNYLAM.

5.5 Role of JSC. The conduct of the R&D Research Plan will be coordinated by the Joint Steering Committee. If a consensus is not reached among the members of the Joint Steering Committee with respect to the conduct of activities under the R&D Research Plan, ALNYLAM's representatives on the JSC will have the deciding vote on that matter, provided that such decision is otherwise made in a manner consistent with this Agreement.

5.6 Disclosures Pursuant to R&D Research Plan.

(a) Promptly after the Effective Date, and on an on-going basis thereafter (at least once each Calendar Quarter), PROTIVA will provide to ALNYLAM all then-existing Licensed Information with respect to each Formulation identified or developed under this Agreement in connection with the R&D Research Plan . During the Research Term, the provision of such Licensed Information by PROTIVA will be without additional cost to ALNYLAM to the extent such activities are within the scope of work under the R&D Research Plan.

(b) Subsequent to the Research Term as may be extended, or otherwise if outside the scope of the work under the R&D Research Plan, and subject to mutual agreement as to reasonable additional fees or costs, ALNYLAM may engage PROTIVA as a consultant (and PROTIVA agrees to be so engaged) for purposes of effectuating the provision of such Licensed Information and with respect to regulatory matters.

(c) Promptly after the Effective Date and on an ongoing and timely basis thereafter during the Research Term, ALNYLAM shall (unless otherwise requested by PROTIVA in any instance or instances) disclose to PROTIVA data generated by ALNYLAM using the Substances provided by PROTIVA to ALNYLAM pursuant to Section 5.4(c) (“ALNYLAM Data”).

(d) ALNYLAM grants to PROTIVA a perpetual, non-exclusive, royalty-free, worldwide license to use and exploit the ALNYLAM Data; provided, however, that: (i) PROTIVA will, pursuant to Article VIII, protect from disclosure any of such ALNYLAM Data that constitutes ALNYLAM’s Confidential Information and (ii) to the extent any ALNYLAM Data that constitutes ALNYLAM’s Confidential Information relates to a Particular Moiety (other than a Particular Moiety directed at the PLK Target or a PROTIVA Development Target), PROTIVA will not use or exploit such ALNYLAM Data, or transfer or sublicense such ALNYLAM Data to any Third Party, for the purposes of Research, Development, or Commercialization of products directed at the Target of such Particular Moiety, except to contractors and subcontractors of PROTIVA permitted under Section 5.2 or 5.4(d).

5.7 Regulatory Matters. ALNYLAM will have the sole authority and responsibility, at its cost and expense, for all regulatory matters relating to conduct of any clinical trials on R&D Program Products and seeking and obtaining regulatory approvals. In addition to performing any activities pursuant to the R&D Research Plan, during the Research Term, PROTIVA will provide ALNYLAM with such assistance as is reasonably requested by ALNYLAM from time to time to perform its responsibilities with respect to regulatory matters at no additional cost to ALNYLAM. Subsequent to the Research Term, PROTIVA will be paid its costs and reasonable fees at its then-current consulting rates for such additional assistance.

5.8 Biological Data. During the Research Term, to the extent not prohibited under agreements with Third Parties, PROTIVA agrees to make available to ANLYLAM, and ALNYLAM agrees to make available to PROTIVA, as and when more fully described in the R&D Research Plan, all relevant biological data from material *in vitro* and *in vivo* testing (whether or not conducted under the R&D Research Plan and whether conducted prior to or following the Original Effective Date) of Formulations that may be identified or developed under the R&D Research Plan.

ARTICLE VI - JOINT STEERING COMMITTEE

6.1 Joint Steering Committee. The Parties previously established a Joint Steering Committee pursuant to the Original Cross License Agreement. This JSC will continue and will include an equal number of representatives from each Party and will meet at least once every calendar quarter in person or via telephone conference.

6.2 JSC Responsibilities. The JSC has the following responsibilities:

(i) coordinating the conduct of activities under the PLK Research Plan and the R&D Research Plan;

(ii) receiving updates on the overall progress of the PLK Research Plan and the R&D Research Plan and, consistent with Appendix II hereof, any Analytical Reports and related disclosures under the respective research plans;

(iii) reviewing, recommending and approving annual updates to the PLK Research Plan and the R&D Research Plan and related budgets; and

(iv) performing such other activities as are contemplated by this Agreement or that the Parties agree will be the responsibility of the JSC, it being understood and agreed that the JSC shall have no role or responsibilities following the Effective Date with respect to any work or activities under the Second Target Research Plan.

The JSC's responsibilities with respect to the PLK Research Plan and progress thereunder may be delegated by the Parties' respective members of the JSC to senior level employees of the Parties who will follow the requirements set forth in this Agreement for the JSC in the context of the PLK Target.

ARTICLE VII – INTELLECTUAL PROPERTY

7.1 Ownership. Inventorship for patentable inventions conceived or reduced to practice during the course of the performance of activities pursuant to this Agreement shall be determined in accordance with United States patent laws for determining inventorship. ALNYLAM will solely own all intellectual property discovered and reduced to practice solely by ALNYLAM directly in the course of work conducted after the Original Effective Date under the Second Target Research Plan or under the PLK Research Plan or under the R&D Research Plan. PROTIVA will solely own all intellectual property discovered and reduced to practice solely by PROTIVA directly in the course of work conducted after the Original Effective Date under the Second Target Research Plan or under the PLK Research Plan or under the R&D Research Plan. The Parties will jointly own all intellectual property discovered and reduced to practice jointly by ALNYLAM and PROTIVA directly in the course of work conducted after the Original Effective Date under the Second Target Research Plan or under the PLK Research Plan or under the R&D Research Plan, and all Joint Patent Rights.

7.2 Prosecution and Maintenance of Patent Rights. ALNYLAM will have the sole right and responsibility, at ALNYLAM's discretion and at its expense, to file, prosecute and maintain patent protection in the Territory for all ALNYLAM Patent Rights, except for Exclusively Licensed Tekmira IP. PROTIVA will have the sole right and responsibility, at PROTIVA's discretion and at its expense, to file, prosecute and maintain patent protection in the Territory for all PROTIVA Patent Rights.

7.3 Joint Patent Rights. Subject to the rights granted each Party under this Agreement, each Party shall have the right to use, sell, keep, license or assign its interest in Joint Patent Rights and otherwise undertake all activities a sole owner might undertake with respect to such Joint Patent Rights without the consent of and without accounting to the other Party. Subject to PROTIVA's continuing right to the prior review of, comment on, revision to and approval of material documents, which shall not be unreasonably delayed or withheld, ALNYLAM has the first responsibility to, at ALNYLAM's discretion and expense, file, prosecute, and maintain (including the defense of any interference or opposition proceedings) in the Territory, all Joint Patent Rights, in the names of both PROTIVA and ALNYLAM. If ALNYLAM elects not to seek or continue to seek or maintain patent protection on any Joint Patent Rights, then PROTIVA shall have the right (but not the obligation), at its expense, to file, prosecute and maintain (including the defense of any interference or opposition proceedings) in the Territory, such Joint Patent Right, in the names of both PROTIVA and ALNYLAM.

7.4 Cooperation. Each Party hereby agrees: (a) to make its employees, agents and consultants reasonably available to the other Party (or to the other Party's authorized attorneys, agents or representatives), to the extent reasonably necessary to enable such Party to undertake patent prosecution; (b) to provide the other Party with copies of all material correspondence pertaining to prosecution with the patent offices; (c) to cooperate, if necessary and appropriate, with the other Party in gaining patent term extensions wherever applicable to patent rights; and (d) to endeavor in good faith to coordinate its efforts with the other Party to minimize or avoid interference with the prosecution and maintenance of the other Party's patent applications.

7.5 Third Party Infringement of ALNYLAM Patent Rights.

(a) Each Party will promptly report in writing to the other Party during the Term any known or suspected infringement by a Third Party of any of the ALNYLAM Patent Rights of which such Party becomes aware, as such infringement relates to Research, Development or Commercialization of Licensed Products for the PLK Target or one or more of the PROTIVA Development Targets, or any PROTIVA Development Products, and will provide the other Party with all available evidence supporting such infringement.

(b) ALNYLAM will have the sole and exclusive right to initiate an infringement or other appropriate suit in the Territory with respect to infringements or suspected infringements of any of the ALNYLAM Patent Rights, and to any and all recoveries obtained in connection therewith.

(c) ALNYLAM will have the sole and exclusive right to select counsel for any suit referred to in subsection 7.5(b) above initiated by it and will pay all expenses of the suit, including without limitation attorneys' fees and court costs.

7.6 Third Party Infringement of PROTIVA Patent Rights.

(a) Each Party will promptly report in writing to the other Party during the Term any known or suspected infringement by a third party of any of the PROTIVA Patent Rights of

which such Party becomes aware, as such infringement relates to the Research, Development or Commercialization of Licensed Products directed at any ALNYLAM Target or any ALNYLAM Development Products and will provide the other Party with all available evidence supporting such infringement.

(b) PROTIVA will have the sole and exclusive right to initiate an infringement or other appropriate suit in the Territory with respect to infringements or suspected infringements of any of the PROTIVA Patent Rights and to any and all recoveries obtained in connection therewith.

(c) PROTIVA will have the sole and exclusive right to select counsel for any suit referred to in subsection 7.6(b) above initiated by it and will pay all expenses of the suit, including without limitation attorneys' fees and court costs.

7.7 Rights to Enforce Joint Patent Rights.

(a) Each Party will promptly report in writing to the other Party during the Term any known or suspected infringement by a third party of any of the Joint Patent Rights of which such Party becomes aware. ALNYLAM will have the first right to initiate an infringement or other appropriate suit in the Territory with respect to infringements or suspected infringements of any of the Joint Patent Rights; provided, that if ALNYLAM fails to initiate a suit or take other appropriate action with respect to a Joint Patent Right within ninety (90) days after becoming aware of the basis for such suit or action, then PROTIVA may, in its discretion, provide ALNYLAM with written notice of PROTIVA's intent to initiate a suit or take other appropriate action with respect to such Joint Patent Right. If PROTIVA provides such notice and ALNYLAM fails to initiate a suit or take such other appropriate action within thirty (30) days after receipt of such notice from PROTIVA, then PROTIVA shall have the right to initiate a suit or take other appropriate action that it believes is reasonably required to protect its interests under such Joint Patent Right.

(b) Regardless of which Party brings such enforcement action, the Party not bringing the enforcement action shall (i) provide all reasonable assistance to the Party bringing the action, at the expense of the Party bringing the action, and (ii) have the right to join and participate in such action at its own expense with its own counsel and to share equally all expenses of such suit if it so elects. If required under applicable law in order for the initiating Party to initiate and/or maintain such suit, or if the initiating Party is unable to initiate or prosecute such suit solely in its own name or it is otherwise advisable to obtain an effective legal remedy, in each case, the other Party shall, at the expense of the initiating Party, join as a party to the suit and will execute and cause its Affiliates to execute all documents necessary for the initiating Party to initiate litigation to prosecute and maintain such action.

(c) Any damages or other recovery, whether by settlement or otherwise, from an action under this Section 7.7 to enforce the Joint Patent Rights shall first be applied pro rata to reimburse the Parties for the costs and expenses of litigation in such action, and any remaining amount shall be paid to the Party conducting the litigation, or shared equally if both Parties participated voluntarily throughout the litigation and shared its expenses.

7.8 Claimed Infringement of Third Party Rights.

(a) In the event that a Third Party at any time provides written notice of a claim to, or brings an action, suit or proceeding against, either Party, or any of their respective Affiliates or Sublicensees, claiming infringement of its patent rights based upon an assertion or claim arising out of the development, use, manufacture, distribution, importation or sale of Licensed Products ("Third Party Claim"), such Party will promptly notify the other Party of the claim or the commencement of such action, suit or proceeding, enclosing a copy of the claim and all papers served. Each Party agrees to make available to the other Party its advice and counsel regarding the technical merits of any such claim at no cost to the other Party and to offer reasonable assistance to the other Party at no cost to the other Party.

(b) Except as set forth herein, each Party shall have sole and exclusive responsibility for the defense of its own interests in actions in which they are named in connection with any Third Party Claim brought against either Party or any of their respective Affiliates or Sublicensees. All litigation costs and expenses incurred by either Party in connection with the defense of such Third Party Claim will be borne by such Party. Each Party will keep the other Party promptly informed, and may from time to time consult with the other Party regarding the status of any such Third Party Claims.

(c) Neither Party will settle any Third Party claim in a manner that is in derogation of the rights of the other Party without obtaining the prior written consent of such other Party.

(d) THE PROVISIONS OF THIS SECTION 7.8 STATE THE ENTIRE RESPONSIBILITY OF THE PARTIES, AND THE SOLE AND EXCLUSIVE REMEDY OF THE PARTIES, IN THE CASE OF ANY THIRD PARTY CLAIMS OR VIOLATION OF ANY THIRD PARTY'S RIGHTS.

7.9 Other Infringement Resolutions. In the event of a dispute or potential dispute which has not ripened into a demand, claim or suit of the types described above in this Article VII, the same principles governing control of the resolution of the dispute, consent to settlements of the dispute, and implementation of the settlement of the dispute will apply.

7.10 Interpretation of Patent Judgments. If any claim relating to a patent under the ALNYLAM Patent Rights or the PROTIVA Patent Rights or Joint Patent Rights becomes the subject of a judgment, decree or decision of a court, tribunal, or other authority of competent jurisdiction in any country, which judgment, decree, or decision is or becomes final (there being no further right of review) and adjudicates the validity, enforceability, scope, or infringement of the same, the construction of such claim in such judgment, decree or decision shall be followed thereafter in such country in determining whether a product is a Licensed Product hereunder, not only as to such claim but also as to all other claims in such country to which such construction reasonably applies. If at any time there are two or more conflicting final judgments, decrees, or decisions with respect to the same claim, the decision of the higher tribunal shall thereafter control, but if the tribunal be of equal rank, then the final judgment, decree, or decision more favorable to such claim shall control unless and until the majority of such tribunals of equal rank adopt or follow a less favorable final judgment, decree, or decision, in which event the latter shall control.

7.11 Product Trademarks. ALNYLAM shall own trademarks for ALNYLAM Development Products and shall be solely responsible for filing and maintaining such trademarks in the Territory (including payment of costs associated therewith), ALNYLAM shall assume full responsibility, at its sole cost and expense, for any infringement of a trademark for an ALNYLAM Development Product by a Third Party and for any claims of infringement of the rights of a Third Party by the use of a trademark in connection with such ALNYLAM Development Product. PROTIVA shall own the trademarks for PROTIVA Development Products and shall be solely responsible for filing and maintaining such trademarks in the Territory (including payment of costs associated therewith). PROTIVA shall assume full responsibility, at its sole cost and expense, for any infringement of a trademark for a PROTIVA Development Product by a Third Party and for any claims of infringement of the rights of a Third Party by the use of a trademark in connection with such PROTIVA Development Product.

7.12 Patent Certification. To the extent required by law or permitted by law, the Parties shall use reasonable efforts to maintain with the applicable regulatory authorities during the Term correct and complete listings of applicable patent rights for ALNYLAM Development Products and PROTIVA Development Products, as the case may be, being commercialized, including all so called “Orange Book” listings required under the Hatch-Waxman Act.

ARTICLE VIII – CONFIDENTIAL INFORMATION, PUBLICATION, AND NON-SOLICITATION

8.1 Non-Use and Non-Disclosure of Confidential Information. Each Party agrees that all Confidential Information of a Party that is disclosed by a Party to the other Party (a) will not be used by the receiving Party except in connection with the activities contemplated by this Agreement or in order to further the purposes of this Agreement, (b) will be maintained in confidence by the receiving Party, and (c) will not be disclosed by the receiving Party to any Third Party who is not a consultant or advisor under an obligation of confidentiality to, the receiving Party or an Affiliate or Sublicensee of the receiving Party, without the prior written consent of the disclosing Party. Notwithstanding the foregoing, the receiving Party will be entitled to use and disclose Confidential Information of the disclosing Party which (i) was known by the receiving Party or its Affiliates prior to its date of disclosure by the disclosing Party to the receiving Party as demonstrated by legally admissible evidence available to the receiving Party or its Affiliates, (ii) either before or after the date of the disclosure such Confidential Information is lawfully disclosed to the receiving Party or its Affiliates by sources other than the disclosing Party, (iii) either before or after the date of the disclosure by the disclosing Party to the receiving Party such Confidential Information becomes published or otherwise part of the public domain through no fault or omission on the part of the receiving Party or its Affiliates, (iv) is independently developed by or for the receiving Party or its Affiliates without reference to or in reliance upon the Confidential Information as demonstrated by legally admissible evidence available to the receiving Party or its Affiliates, (v) is reasonably necessary to conduct clinical trials or to obtain regulatory approval of RNAi Products or miRNA Products or for the prosecution and maintenance of patent rights, (vi) is reasonably required in order for a Party to obtain financing or conduct discussions with Development or Commercialization partners so long as such Third Party recipients are bound by an obligation of confidentiality or (vii) in the reasonable judgment of the disclosing Party is required to be disclosed by the receiving Party to comply with applicable laws or regulations or legal process, including without limitation by the

rules or regulations of the United States Securities and Exchange Commission or similar regulatory agency in a country other than the United States or of any stock exchange or NASDAQ, provided that the receiving Party provides prior written notice of such disclosure to the disclosing Party and takes reasonable and lawful actions to avoid or minimize the extent of such disclosure.

If a Party is required by judicial or administrative process to disclose Confidential Information that is subject to the non-disclosure provisions of this Section 8.1, such Party shall promptly inform the other Party of the disclosure that is being sought in order to provide the other Party an opportunity to challenge or limit the disclosure obligations. Confidential Information that is disclosed by judicial or administrative process shall remain otherwise subject to the confidentiality and non-use provisions of this Section 8.1, and the Party disclosing Confidential Information pursuant to law or court order shall take all steps reasonably practical, including without limitation seeking an order of confidentiality, to ensure the continued confidential treatment of such Confidential Information. In addition to the foregoing restrictions on public disclosure, if either Party concludes that a copy of this Agreement must be filed with the United States Securities and Exchange Commission or similar regulatory agency in a country other than the United States, such Party shall seek the maximum confidential treatment available under applicable law, provide the other Party with a copy of this Agreement showing any sections as to which the Party proposes to request confidential treatment, provide the other Party with an opportunity to comment on any such proposal and to suggest additional portions of this Agreement for confidential treatment, and take such Party's reasonable comments into consideration before filing this Agreement.

8.2 Limitation on Disclosures. Each Party agrees that it will provide Confidential Information received from the other Party solely to its employees, consultants and advisors, and the employees, consultants and advisors of its Affiliates or Sublicensees as applicable, who have a legitimate business need to know and an obligation to maintain in confidence the Confidential Information of the disclosing Party. The disclosing Party is liable for any breach of the non-disclosure obligation of its consultants, advisors, Affiliates and Sublicensees as applicable.

8.3 Publication. PROTIVA and ALNYLAM each acknowledge the other Party's interest in publishing the results of the R&D Research Plan and the PLK Research Plan. Each Party also recognizes the mutual interest in obtaining valid patent protection and in protecting business interests and trade secret information. Consequently, except for disclosures permitted pursuant to Section 8.1 and 8.2, either Party, its Affiliates, or their respective employees or consultants wishing to make a publication or a disclosure to a Third Party relating to the R&D Research Plan, the PLK Research Plan or any Licensed Product of the other Party shall deliver to the other Party a copy of the proposed written publication or an outline of an oral disclosure at least thirty (30) days prior to submission for publication or presentation. The reviewing Party shall have the right (a) to propose modifications to the publication or presentation for patent reasons, trade secret reasons or business reasons, or (b) to request a reasonable delay in publication or presentation in order to protect patentable information. If the reviewing Party requests a delay, the publishing Party shall delay submission or presentation for a period of thirty (30) days to enable patent applications protecting each Party's rights in such information to be filed in accordance with Article VII above. Upon expiration of such thirty (30) days, the publishing Party shall be free to proceed with the publication or presentation. If the reviewing

Party requests modifications to the publication or presentation, the publishing Party shall edit such publication to prevent disclosure of trade secret or proprietary business information prior to submission of the publication or presentation. With respect to any proposed publications or disclosures by investigators or academic or non-profit collaborators, such materials shall be subject to review under this Section 8.3 to the extent that PROTIVA or ALNYLAM, as the case may be, has the right and ability (after using reasonable efforts) to do so. For the avoidance of doubt, subject to its obligations under Section 8.1, each Party may make publications and disclosures to Third Parties relating to its own Licensed Products outside of the R&D Research Plan without any obligation to permit the other Party to review or comment on such publication or disclosure.

8.4 Non-Solicitation. Until **[*]**, neither ALNYLAM nor any of its Affiliates will knowingly offer to hire or hire any individual who is, at such time, an officer or employee of PROTIVA or any of its Affiliates, and who was, at any time in the preceding three (3) months, involved in (i) selecting the PROTIVA Development Targets, (ii) the Development and Commercialization of PROTIVA Development Products and/or (iii) conducting the R&D Research Plan or Second Target Research Plan or PLK Research Plan. For clarity, placing an advertisement in a newspaper, periodical or other publication of general availability, or other general recruitment activities not directed at a particular individual, do not constitute an "offer to hire."

ARTICLE IX – REPORTS, TAXES AND PAYMENTS

9.1 Terminology. For purposes of Articles II and III, the "Licensee" referred to in this Article IX shall be understood to be PROTIVA. For purposes of Article IV, the "Licensee" referred to in this Article IX shall be understood to be ALNYLAM.

9.2 Reports. As to each Royalty Quarter commencing with the Royalty Quarter during which the First Commercial Sale occurs, within thirty (30) days after the end of such Royalty Quarter (if the Licensee has not entered into an agreement with a Sublicensee) and within thirty (30) days after the receipt by the Licensee from a Sublicensee of such Sublicensee's report, as required by such Sublicensee's sublicense for each Royalty Quarter (if the Licensee has entered into an agreement with a Sublicensee), the Licensee will deliver to the other Party to this Agreement a written report showing, on a country-by-country basis, the Net Sales of Licensed Products calculated under GAAP and its royalty obligation for such quarter with respect to such Net Sales under this Agreement together with wire transfer of an amount equal to such royalty obligation. All Net Sales will be segmented in each such report according to sales by the Licensee and each Affiliate and Sublicensee, as well as on a product-by-product basis, including the rates of exchange used to convert Net Sales to United States Dollars from the currency in which such sales were made. For the purposes of this Agreement, the rates of exchange to be used for converting Net Sales to United States Dollars will be the simple average of the selling and buying rates of U.S. dollars published in *The Wall Street Journal East Coast Edition* for the last business day of the Royalty Quarter covered by the report.

9.3 Tax Withholding. The Licensee will use all reasonable and legal efforts to reduce tax withholding with respect to payments to be made to the other Party under this Agreement. Notwithstanding such efforts, if the Licensee concludes that tax withholdings under the laws of

***Confidential Treatment Requested.**

any country are required with respect to payments, the Licensee will make the full amount of the required payment to such other Party after any tax withholding. In any such case, the Licensee shall provide such other Party with a written explanation of such withholding and original receipts or other evidence reasonably desirable and sufficient to allow it to document such tax withholdings for purposes of claiming foreign tax credits and similar benefits. For purposes of clarity, any payment due in respect of fees set out in any of Articles II, III or IV of this Agreement will be paid in the full amount specified after any tax withholding, with the amount of any tax withholding associated with such payments to be paid by the Licensee to the appropriate government authority.

9.4 Payments. Unless otherwise agreed by the Parties, all payments required to be made under this Agreement will be made in United States Dollars via wire transfer to an account designated in advance by the receiving Party.

9.5 Audits.

(a) At any given point in time, the Licensee will have on file and will require its Affiliates and Sublicensees to have on file complete and accurate records for the last three (3) years of all Net Sales of Licensed Products. The other Party to this Agreement will have the right, once during each twelve (12) month period, to retain at its own expense an independent qualified certified public accountant reasonably acceptable to the Licensee to review such records solely for accuracy and for no other purpose upon reasonable notice and under a written obligation of confidentiality, during regular business hours. If the audit demonstrates that the payments owed under this Agreement have been understated, the Licensee will pay the balance to such other Party together with interest on such amounts from the date on which such payment obligation accrued at a rate equal to the then current 30-day United States dollar LIBOR rate plus two percent per annum. If the underpayment is greater than five percent of the amount owed, then the Licensee will reimburse such other Party for its reasonable out-of-pocket costs of the audit. If the audit demonstrates that the payments owed under this Agreement have been overstated, such other Party to this Agreement will credit the balance against the next payment due from the Licensee (without interest).

(b) PROTIVA shall require that the terms of any sublicense under its rights in this Agreement are fully in compliance with the terms and conditions of the in-licenses governing ALNYLAM's rights under the ALNYLAM Patent Rights identified on Exhibit B, including without limitation, all obligations with respect to maintenance of records and audit rights. ALNYLAM will provide PROTIVA in a timely manner with a true and complete copy (subject to redaction of financial and other information not material to ALNYLAM's ability to sublicense rights licensed thereunder to PROTIVA under this Agreement) of all such in-licenses.

ARTICLE X – INDEMNIFICATION AND INSURANCE

10.1 PROTIVA Indemnification. PROTIVA agrees to indemnify and hold harmless ALNYLAM and its Affiliates, and their respective agents, directors, officers and employees and their respective successors and assigns (the "ALNYLAM Indemnitees") from and against any and all losses, costs, damages, fees or expenses ("Losses") incurred by an ALNYLAM Indemnitee arising out of or in connection with any claim, suit, demand, investigation or

proceeding brought by a Third Party or a PROTIVA Affiliate based on (a) the development, use, manufacture, distribution or sale of any Licensed Product covered by ALNYLAM Patent Rights by PROTIVA or any of its Affiliates or Sublicensees, including, but not limited to, any claims made against ALNYLAM by Third Parties or a PROTIVA Affiliate alleging infringement, injury, damage, death or other consequence occurring to any person claimed to result, directly or indirectly, from the possession, use or consumption of, or treatment with, any Licensed Product covered by ALNYLAM Patent Rights, whether claimed by reason of breach of warranty, negligence, product defect or otherwise, and regardless of the form or forum in which any such claim is made, (b) any breach of any representation, warranty or covenant of PROTIVA in this Agreement, and (c) actions taken or omitted to be taken by PROTIVA or its Affiliates, subcontractors or Sublicensees, or the employees, agents or representatives of any of them in performing PROTIVA's obligations under this Agreement.

The above indemnification shall not apply to the extent that any Losses are due to a material breach of any of ALNYLAM's representations, warranties, covenants and/or obligations under this Agreement.

10.2 ALNYLAM Indemnification. ALNYLAM agrees to indemnify and hold harmless PROTIVA and its Affiliates, and their respective agents, directors, officers and employees and their respective successors and assigns (the "PROTIVA Indemnitees") from and against any and all Losses incurred by a PROTIVA Indemnitee arising out of or in connection with any claim, suit, demand, investigation or proceeding brought by a Third Party or an ALNYLAM Affiliate based on (a) the Development, use, manufacture, distribution or sale of any Licensed Product covered by PROTIVA Patent Rights by ALNYLAM or any of its Affiliates or Sublicensees, including, but not limited to, any claims made against PROTIVA by Third Parties or an ALNYLAM Affiliate alleging infringement, injury, damage, death or other consequence occurring to any person claimed to result, directly or indirectly, from the possession, use or consumption of, or treatment with, any Licensed Product covered by PROTIVA Patent Rights, whether claimed by reason of breach of warranty, negligence, product defect or otherwise, and regardless of the form or forum in which any such claim is made, (b) any breach of any representation, warranty or covenant of ALNYLAM in this Agreement or any Other Agreement, and (c) actions taken or omitted to be taken by ALNYLAM or its Affiliates, subcontractors or Sublicensees, or the employees, agents or representatives of any of them in performing ALNYLAM's obligations under this Agreement.

The above indemnification shall not apply to the extent that any Losses are due to a material breach of any of PROTIVA's representations, warranties, covenants and/or obligations under this Agreement.

10.3 Tender of Defense; Counsel. The obligation to indemnify pursuant to this Article shall be contingent upon timely notification by the indemnitee to the indemnitor of any claims, suits or service of process; the tender by the indemnitee to the indemnitor of full control over the conduct and disposition of any claim, demand or suit; and reasonable cooperation by the indemnitee in the defense of the claim, demand or suit. No indemnitor will be bound by or liable with respect to any settlement or admission entered or made by any indemnitee without the prior written consent of the indemnitor. The indemnitee will have the right to retain its own counsel to participate in its defense in any proceeding hereunder. The indemnitee shall pay for its own

counsel except to the extent it is determined that (i) one or more legal defenses may be available to it which are different from or additional to those available to the indemnitor, or (ii) representation of both Parties by the same counsel would be inappropriate due to actual or potential differing interests between them. In any such case and to such extent, the indemnitor shall be responsible to pay for the reasonable costs and expenses of the separate counsel retained to participate in the defense of the indemnitee, provided that such expenses are otherwise among those covered by the indemnitor's indemnity agreement hereunder. Notwithstanding the foregoing, if the indemnitor believes that any of the exceptions to its obligation of indemnification of the indemnitee set forth in Sections 10.1 or 10.2 may apply, the indemnitor shall promptly notify the indemnitee, which shall then have the right to be represented in any such action or proceeding by separate counsel at their expense; provided, that the indemnitor shall be responsible for payment of such expenses if the indemnitee is ultimately determined to be entitled to indemnification from the indemnitor.

10.4 PROTIVA Insurance. With respect to its activities under this Agreement, PROTIVA will secure and maintain in full force and effect throughout the PLK Term and the term of the license set out in Section 3.4, as the case may be (and for at least six (6) years thereafter for claims-made coverage), the following types and amounts of insurance coverage with carriers having a minimum AM Best rating of A, with per claim deductibles that do not exceed **[*]**:

Comprehensive General Liability and Personal Injury, including coverage for contractual liability assumed by PROTIVA and coverage for PROTIVA independent contractor(s), with limits of at least **[*]** per occurrence and a general aggregate limit of **[*]**.

Prior to, at, and following the dosing of the first patient in a Phase I Clinical Trial of any Licensed Product by PROTIVA or its Affiliates or Sublicensees, Umbrella Liability, exclusive of the coverage provided by the policies listed above, with a limit of at least **[*]**.

Prior to, at, and following the First Commercial Sale of any Licensed Product by PROTIVA or its Affiliates or Sublicensees, Products/Clinical/Professional Liability, exclusive of the coverage provided by the Comprehensive General Liability policy, with limits of at least **[*]** per occurrence and an aggregate limit of at least **[*]**, with ALNYLAM to be named as an additional insured party with respect to each RNAi Product or miRNA Product under such coverage.

10.5 ALNYLAM Insurance. With respect to its activities under this Agreement, ALNYLAM will secure and maintain in full force and effect throughout the term of the license set out in Section 4.3 (and for at least six (6) years thereafter for claims-made coverage), the following types and amounts of insurance coverage with carriers having a minimum AM Best rating of A, with per claim deductibles that do not exceed **[*]**:

Comprehensive General Liability and Personal Injury, including coverage for contractual liability assumed by ALNYLAM and coverage for ALNYLAM independent contractor(s), with limits of at least **[*]** per occurrence and a general aggregate limit of **[*]**.

Prior to, at, and following the dosing of the first patient in a Phase I Clinical Trial of any Licensed Product by ALNYLAM or its Affiliates or Sublicensees, Umbrella Liability, exclusive of the coverage provided by the policies listed above, with a limit of at least **[*]**.

Prior to, at, and following the First Commercial Sale of any Licensed Product by ALNYLAM or its Affiliates or Sublicensees, Products/Clinical Liability, exclusive of the coverage provided by the Comprehensive General Liability policy, with limits of at least **[*]** per occurrence and an aggregate limit of at least **[*]**, with PROTIVA to be named as an additional insured party with respect to each Licensed Product under such coverage.

ARTICLE XI – EXPORT

11.1 General. The Parties acknowledge that the exportation from the United States of materials, products and related technical data (and the re-export from elsewhere of United States origin items) may be subject to compliance with United States export laws, including without limitation the United States Bureau of Export Administration's Export Administration Regulations, the Act and regulations of the FDA issued thereunder, and the United States Department of State's International Traffic and Arms Regulations which restrict export, re-export, and release of materials, products and their related technical data, and the direct products of such technical data. The Parties agree, under this Agreement, to comply with all applicable exports laws and to commit no act that, directly or indirectly, would violate any United States law, regulation, or treaty, or any other international treaty or agreement, relating to the export, re-export, or release of any materials, products or their related technical data to which the United States adheres or with which the United States complies.

11.2 Delays. The Parties acknowledge that they cannot be responsible for any delays attributable to export controls which are beyond the reasonable control of either Party.

11.3 Assistance. The Parties agree to provide assistance to one another in connection with each Party's efforts to fulfill its obligations under this Article XI.

ARTICLE XII – EFFECTIVE DATE, TERM AND TERMINATION

12.1 Effective Date; Term; Expiration. The "Effective Date" shall be the date upon which this Agreement and the ALNYLAM-TEKMIRA License Agreement are released from escrow and delivered to the appropriate parties in accordance with the terms of the Escrow Agreement. Unless and until the foregoing condition is met, the Original Cross-License Agreement shall remain in full force and effect and the terms and conditions of the Original Cross-License Agreement shall govern the Parties without any regard being given to this Agreement or its terms and conditions. On and as of the Effective Date, this Agreement will supersede and replace the Original Cross-License Agreement and, unless terminated earlier as provided herein, the licenses granted under this Agreement will expire at the end of the periods described in Section 2.12, 3.4 or 4.3, as applicable to each of such licenses.

12.2 Material Breach.

(a) ALNYLAM, as the licensor under Articles II and III, will have the right to terminate the licenses granted under such Articles, upon written notice to PROTIVA, in the event

PROTIVA materially breaches its obligations under this Agreement related to the license granted under Articles II or III and does not remedy such breach within ninety (90) days after receipt of written notice from ALNYLAM specifically identifying the breach and stating that ALNYLAM intends to terminate such licenses if PROTIVA fails to remedy the breach within the ninety (90)-day time period; provided, however, that if PROTIVA disputes in good faith that the claimed breach exists, such 90-day period will not start to run until such dispute has been resolved or can no longer be maintained in good faith.

(b) PROTIVA, as the licensor under Article IV, will have the right to terminate the licenses granted under such Article, upon written notice to ALNYLAM, in the event ALNYLAM materially breaches its obligations under this Agreement related to the license granted under Article IV and does not remedy such breach within ninety (90) days after receipt of written notice from PROTIVA specifically identifying the breach and stating that PROTIVA intends to terminate such licenses if ALNYLAM fails to remedy the breach within the ninety (90)-day time period; provided, however, that if ALNYLAM disputes in good faith that the claimed breach exists, such 90-day period will not start to run until such dispute has been resolved or can no longer be maintained in good faith.

(c) In the event that ALNYLAM materially breaches its obligations under this Agreement as referenced below, and does not remedy such breach within ninety (90) days after receipt of written notice from PROTIVA specifically identifying the breach, PROTIVA will, in addition to its rights under Section 12.2(b), have the following rights: (i) if ALNYLAM's material breach is in respect of its obligations arising under Articles II or III of this Agreement, PROTIVA may (A) suspend any obligation to make payments to ALNYLAM due under Articles II or III of this Agreement until such time as the breach is cured and (B) suspend the performance of its obligations under the PLK Research Plan; and/or (C) terminate its obligations under the PLK Research Plan; or (ii) if ALNYLAM's material breach is in respect of its obligations arising under Articles IV or V of this Agreement, PROTIVA may (A) suspend the performance of its obligations under the R&D Research Plan; and/or (B) terminate its obligations under the R&D Research Plan; provided, however, that if ALNYLAM disputes in good faith that the claimed breach exists, PROTIVA will not exercise its right of termination under clauses (i)(C) or (ii)(B) above until such dispute has been resolved or can no longer be maintained in good faith. Within sixty (60) days after cure of the breach, PROTIVA will pay to ALNYLAM all amounts previously due, but not paid as a result of any suspension of payments.

(d) In the event that PROTIVA materially breaches its obligations under this Agreement as described below, and does not remedy such breach within ninety (90) days after receipt of written notice from ALNYLAM specifically identifying the breach, ALNYLAM will, in addition to its rights under Section 12.2(a), have the following rights: (i) if PROTIVA's material breach is in respect of its obligations arising under Articles IV or V of this Agreement, ALNYLAM may suspend any obligation to make payments to PROTIVA due under Articles IV and V of this Agreement until such time as the breach is cured; and/or (ii) if PROTIVA's material breach is in respect of its obligations under Articles II or III, ALNYLAM suspend its obligations under Section 3.2 with respect to Targets proposed by PROTIVA. Within sixty (60) days after cure of the breach, ALNYLAM will pay to PROTIVA all amounts previously due, but not paid as a result of any suspension of payments.

(e) In the event that TEKMIRA is in breach of any of its material obligations under any "Transaction Document" (defined below) to which it is a party (other than the Supply Agreement or any Quality Agreement (as such terms are defined in the ALNYLAM-TEKMIRA License Agreement)), by causes and reasons within the control of TEKMIRA, and if the breach is capable of being cured, TEKMIRA has not cured such breach within the period provided for cure under the applicable Transaction Document or, if greater, ninety (90) days after receiving notice of such breach from the non-breaching Party, and if, and to the extent that ALNYLAM exercises its rights to terminate any licenses under the ALNYLAM-TEKMIRA License Agreement with respect to Exclusively Licensed Tekmira IP, then ALNYLAM may, in its sole discretion, also and concurrently (and to the same extent, e.g., with respect to the same "Region" as defined in the ALNYLAM-TEKMIRA License Agreement) terminate the licenses under this Agreement to PROTIVA with respect to Exclusively Licensed Tekmira IP; provided, however, that, in the event of a good faith dispute with respect to the existence of a material breach, the applicable cure period shall be tolled until such time as the dispute is resolved pursuant to the dispute resolution provisions of the applicable Transaction Document, or in the absence of any dispute resolution provisions in the applicable Transaction Document, Section 12.6 of the ALNYLAM-TEKMIRA License Agreement. "Transaction Documents" means the ALNYLAM Subscription Agreement, the ALNYLAM-TEKMIRA License Agreement, the Tekmira-UBC License Agreement, the UBC Sublicense Documents, the Loan Agreement (all as defined in the ALNYLAM-TEKMIRA License Agreement), all letter agreements and other documents executed by TEKMIRA in connection with the Original ALNYLAM-TEKMIRA License Agreement and any other documents or agreements that are executed by the Parties and/or TEKMIRA after the Original Effective Date as contemplated by this Agreement or the ALNYLAM-TEKMIRA License Agreement.

12.3 Challenges of ALNYLAM Patent Rights. In the event that PROTIVA, TEKMIRA or any of their Affiliates shall (a) commence or participate in any action or proceeding (including, without limitation, any patent opposition or re-examination proceeding), or otherwise assert in writing any claim, challenging or denying the validity of any of the ALNYLAM Patent Rights licensed hereunder, or any claim thereof or (b) actively assist any other person or entity in bringing or prosecuting any action or proceeding (including, without limitation, any patent opposition or re-examination proceeding) challenging or denying the validity of any of such ALNYLAM Patent Rights or any claim thereof, ALNYLAM will have the right to give notice to PROTIVA (which notice must be given, if at all, within sixty (60) days after ALNYLAM first learns of the foregoing) that the licenses granted by ALNYLAM to such ALNYLAM Patent Right will terminate in thirty (30) days following such notice, and, unless PROTIVA or TEKMIRA withdraws or causes to be withdrawn all such challenge(s) within such thirty-day period, such licenses will so terminate.

12.4 Challenges of PROTIVA Patent Rights. In the event that ALNYLAM or any of its Affiliates shall (a) commence or participate in any action or proceeding (including, without limitation, any patent opposition or re-examination proceeding), or otherwise assert in writing any claim, challenging or denying the validity of any of the PROTIVA Patent Rights or any claim thereof or (b) actively assist any other person or entity in bringing or prosecuting any action or proceeding (including, without limitation, any patent opposition or re-examination proceeding) challenging or denying the validity of any of such PROTIVA Patent Rights or any claim thereof, PROTIVA will have the right to give notice to ALNYLAM (which notice must be

given, if at all, within sixty (60) days after PROTIVA first learns of the foregoing) that ALNYLAM's license under Class 1 PROTIVA Patent Rights and/or the license under Class 2 PROTIVA Patent Rights will terminate in thirty (30) days following such notice, and, unless ALNYLAM withdraws or causes to be withdrawn all such challenge(s) within such thirty-day period, such licenses will so terminate.

12.5 Consequences of Termination; Survival.

(a) In the event of termination by ALNYLAM under Section 12.2(a) above, all licenses and rights granted by ALNYLAM to PROTIVA under Article II and III and Section 5.6 of this Agreement will terminate; provided, however, that to the extent such licenses and rights are required in respect of clinical trials that are ongoing and cannot reasonably be terminated promptly due to health or safety reasons or the requirements of applicable law, such licenses and rights will continue in effect until such clinical trials are properly terminated. Moreover, any breach of the restrictions in Section 5.6(d) which PROTIVA fails to cure within ninety (90) days after receipt of written notice from ALNYLAM specifically identifying the breach, shall result in the termination of PROTIVA's license under such Section to the Alnylam Data, but it shall not, by itself, result in the termination of any other licenses to PROTIVA under this Agreement unless ALNYLAM meets the burden of demonstrating that such breach has had or is reasonably likely to have a material adverse effect on the benefits, taken as a whole, that ALNYLAM reasonably anticipates it will obtain from this Agreement and the ALNYLAM-TEKMIRA License Agreement and the activities and grants contemplated under such agreements.

(b) In the event of termination by PROTIVA under Section 12.2(b) above, all licenses and rights granted by PROTIVA to ALNYLAM under Article IV of this Agreement will terminate; provided, however, that to the extent such licenses and rights are required in respect of clinical trials that are ongoing and cannot reasonably be terminated promptly due to health or safety reasons or the requirements of applicable law, such licenses and rights will continue in effect until such clinical trials are properly terminated.

(c) Expiration or termination of this Agreement shall not relieve the Parties of any obligation accruing prior to such expiration or termination. Any expiration or termination of this Agreement shall be without prejudice to the rights of either Party against the other accrued or accruing under this Agreement prior to expiration or termination, including without limitation the obligation to pay royalties for Licensed Product sold prior to such expiration or termination. The provisions of Article VIII shall survive the expiration or termination of this Agreement. In addition, to the extent applicable under their terms, the provisions of Sections 4.14, 5.6(b), 5.6(d) (subject to the provisions of Section 12.2(a)), 7.1, 7.3, 7.4, 7.7, 11.1, and 13.4, and Articles I, IX, X, XII, and XIV shall survive any expiration or termination of this Agreement.

12.6 License upon Termination.

(a) Upon any termination of this Agreement, ALNYLAM shall enter into an agreement containing substantially the same provisions as this Agreement with any Sublicensees of PROTIVA existing at the time of such termination, covering the RNAi Products that had been licensed to such Sublicensee by PROTIVA in compliance with this Agreement, provided that at the time of any termination of this Agreement, such Sublicensees are in full compliance with the

terms and conditions of the sublicense agreement. ALNYLAM acknowledges that such Sublicensees of PROTIVA that are then in full compliance with the terms and conditions of their respective sublicense agreement are third party beneficiaries of this Agreement, including this Section 12.6(a).

(b) Upon any termination of this Agreement, PROTIVA shall enter into an agreement containing substantially the same provisions as this Agreement with any Sublicensees of ALNYLAM existing at the time of such termination, covering the RNAi Products and miRNA Products that had been licensed to such Sublicensee by ALNYLAM in compliance with this Agreement, provided that at the time of any termination of this Agreement, such Sublicensees are in full compliance with the terms and conditions of the sublicense agreement. PROTIVA acknowledges that such Sublicensees of ALNYLAM that are then in full compliance with the terms and conditions of their respective sublicense agreement are third party beneficiaries of this Agreement, including this Section 12.6(b).

ARTICLE XIII – SEPARATE CONDUCT OF CERTAIN PROTIVA AND TEKMIRA ACTIVITIES

13.1 Separate Conduct. Immediately upon the effective date of the Purchase Agreement and through **[*]** (the "Restriction Period"), PROTIVA has taken and will take all steps necessary to ensure, to the maximum extent practicable, that there was and is no collaboration between, or joint inventive work conducted by, PROTIVA and TEKMIRA under the Second Target Research Plan or under the PLK Research Plan or the R&D Research Plan, or under the Research Plan or Manufacturing Plan (as each such term is defined in the ALNYLAM-TEKMIRA License Agreement), or any activities contemplated thereunder, with the goal of preventing any and all of certain intellectual property from becoming licensed to Merck & Co. under the Merck Settlement Agreement. Such steps shall include, without limitation, the requirement that during the Restriction Period, PROTIVA has maintained and shall maintain research and manufacturing operations that are separate from the research and manufacturing operations of TEKMIRA for all activities under the Research Plan, the Manufacturing Plan (as each such term is defined in the ALNYLAM-TEKMIRA License Agreement), the Second Target Research Plan, the PLK Research Plan and the R&D Research Plan, and has ensured and shall ensure that the PROTIVA personnel who work on the Second Target Research Plan or the PLK Research Plan or the R&D Research Plan did not and do not undertake research activities with or for TEKMIRA under the Research Plan or the Manufacturing Plan.

13.2 Common Management; TEKMIRA Facilities Option. Notwithstanding the requirements of Section 13.1, during the Restriction Period (a) PROTIVA and TEKMIRA may (i) have common management in the form of one person who serves as CEO of both companies, (ii) have interlocking boards of directors, and (iii) share with each other or loan to each other specific items of equipment and/or other tangible and intangible assets (but not human resources, other than administrative personnel not involved in Research or Development activities); and (b) PROTIVA may use TEKMIRA's physical facilities solely to manufacture (x) at ALNYLAM's sole discretion, a product formulation developed by PROTIVA for ALNYLAM under this Agreement; or (y) upon mutual written agreement of ALNYLAM, TEKMIRA and PROTIVA, an RNAi Product directed to the PLK Target ("TEKMIRA Facilities Option").

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13.3 Notification. During the period from the Effective Date through December 31, 2008, PROTIVA shall notify ALNYLAM in writing within thirty (30) days after conception of any intellectual property conceived by PROTIVA or TEKMIRA (or their employees or consultants) on or prior to **[*]**, with respect to which ALNYLAM has a license under this Agreement, the ALNYLAM-TEKMIRA License Agreement or the UBC Sublicense (as defined in the ALNYLAM-TEKMIRA License Agreement), it being understood that such notice as to the period from the end of the Restriction Period through **[*]** will be for informational purposes only.

13.4 Violations, Penalties. In the event that any joint invention is made (i) by inventor(s) who are employees or consultants of PROTIVA and inventor(s) who are employees or consultants of TEKMIRA during the Restriction Period, (ii) due to or in respect of the conduct of PROTIVA and/or TEKMIRA during the Restriction Period and (iii) without any inventive contribution from ALNYLAM or communication by or through ALNYLAM of any information or materials from TEKMIRA or PROTIVA to the other in a manner that is material to the determination of inventorship (any such joint invention is hereinafter referred to as a "Restricted Joint Invention"), with the result that any rights to such Restricted Joint Invention are licensed to Merck Entities under the Merck Settlement Agreement (or would have been so licensed to Merck Entities under the terms of the Merck Settlement Agreement as they existed on the Effective Date), then, except and solely to the extent that any such Restricted Joint Invention arises from manufacturing performed by PROTIVA at a TEKMIRA facility as a result of the exercise of the Tekmira Facilities Option:

(a) PROTIVA shall pay to ALNYLAM any and all royalties and milestone payments received from Merck Entities under the Merck Settlement Agreement with respect to the development or commercialization of any product as to which the Merck Entities owed such royalties or milestones due to the coverage of such product by any claims (whether issued or pending) covering such Restricted Joint Invention (or that would have been so received from Merck Entities under the terms of the Merck Settlement Agreement as they existed on the Effective Date);

(b) ALNYLAM shall have a fully-paid, perpetual, milestone-free, royalty-free, and exclusive (except as to the Merck Entities' rights under the Merck Settlement Agreement) license to PROTIVA's right, title and interest in the Restricted Joint Invention; and

(c) any and all royalties required to be paid by ALNYLAM to PROTIVA under this Agreement with respect to ALNYLAM Development Products that are Licensed Products the identification, characterization, validation, synthesis, development, use, formulation, manufacture, production or sale of which, where and when occurring, would, but for the grant of a license or sublicense from Tekmira, infringe a Valid Claim of the Exclusively Licensed Tekmira IP shall be reduced by fifty percent (50%).

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ARTICLE XIV – MISCELLANEOUS

14.1 Representations and Warranties.

(a) Mutual Representations and Warranties by PROTIVA and ALNYLAM.

(i) Each Party hereby represents and warrants to the other Party as of the Effective Date:

(1) It is a corporation duly organized under the laws of the state of its incorporation, and has all necessary power and authority to conduct its business in the manner in which it is currently being conducted, to own and use its assets in the manner in which its assets are currently owned and used, and to enter into and perform its obligations under this Agreement.

(2) The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of such Party and its Board of Directors and no consent, approval, order or authorization of, or registration, declaration or filing with any Third Party or governmental authority is necessary for the execution, delivery or performance of this Agreement.

(3) This Agreement constitutes the legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms, subject to (A) laws of general application relating to bankruptcy, insolvency and the relief of debtors, and (B) rules of law governing specific performance, injunctive relief and other equitable remedies.

(4) Neither it nor any of its Affiliates has been found in breach of any laws or regulations governing the production of medicinal products in the United States or any other jurisdiction within the Territory.

(5) Neither it nor any of its Affiliates or employees has been debarred (nor is it or any of its Affiliates or employees using in any capacity in connection with its activities under this Agreement any person who has been debarred) by the FDA from working for or providing services to any pharmaceutical or biotechnology company under Section 306 of the United States Food, Drug and Cosmetic Act. Each Party agrees to inform the other Party in writing immediately if it or any person that is performing activities under this Agreement is debarred or is the subject of a conviction described in Section 306, or if any action, suit, claim, investigation or legal or administrative proceeding is pending or, to the best of the notifying Party's knowledge, is threatened, relating to the debarment or conviction of the notifying Party or any person or entity used in any capacity by such Party or any of its Affiliates.

(6) It has never approved or commenced any proceeding, or made any election contemplating, the winding up or cessation of its business or affairs or the assignment of material assets for the benefit of creditors. To such Party's knowledge, no such proceeding is pending or threatened.

(ii) Each Party will notify the other Party promptly in writing if any proceeding described in Section 14.1(a)(i)(6) is approved, commenced or, to such Party's knowledge, becomes pending or threatened, against it. Each Party will promptly provide copies to the other Party of all documents filed with the court with respect to such proceedings and will consult with such other Party in a timely manner concerning the progress and/or disposition of such proceedings.

(iii) Each Party acknowledges and agrees that the other Party has not made any representation or warranty that it has or can provide all the rights that are necessary or useful to Research, Develop or Commercialize (as applicable) an RNAi Product (and/or miRNA Product in the case of ALNYLAM).

(iv) Each Party represents and warrants to the other Party that as of the Effective Date it has the right to grant to such other Party, its Affiliates and Sublicensees the licenses granted hereunder and has not granted any conflicting rights to any other person or entity. Each Party shall maintain any applicable in-licenses in effect and shall not amend any such in-licenses in a manner that is detrimental to the rights of the other Party under this Agreement without the prior written consent of such other Party.

(b) ALNYLAM Representations and Warranties. ALNYLAM hereby represents and warrants to PROTIVA that:

(i) except for the Exclusively Licensed Tekmira IP, as to which ALNYLAM makes no representations or warranties, to ALNYLAM's knowledge, the conception, development and reduction to practice of the ALNYLAM Patent Rights licensed to PROTIVA under this Agreement did not constitute or involve the misappropriation of trade secrets or other rights or property of any person or entity; and

(ii) except as set forth in Appendix V, it has not assigned, transferred, conveyed or otherwise encumbered its right, title and interest in the ALNYLAM Patent Rights in a manner that conflicts with any rights granted to PROTIVA hereunder.

(c) PROTIVA Representations and Warranties. PROTIVA hereby represents and warrants to PROTIVA that:

(i) the patents and patent applications listed on Appendices A-2 and A-3 are all the PROTIVA Patent Rights existing on the Effective Date, and include, without limitation, all the patent rights licensed by PROTIVA to the Merck Entities. To PROTIVA's knowledge, the conception, development and reduction to practice of the PROTIVA Patent Rights and Know-How licensed to ALNYLAM under this Agreement do not constitute or involve the misappropriation of trade secrets or other rights or property of any person or entity;

(ii) except as set forth herein this Agreement, it has not assigned, transferred, conveyed or otherwise encumbered its right, title and interest in the PROTIVA Patent Rights in a manner that conflicts with any rights granted to ALNYLAM hereunder; and

(iii) the Merck Settlement Agreement does not provide that any payments, other than milestone and royalty payments, will be owed or would be owed by the Merck Entities to PROTIVA or its Affiliates with respect to the development or commercialization of any product due to the coverage of such product by any claims (whether issued or pending) covering any Restricted Joint Invention.

(d) Warranty Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATION OR EXTENDS ANY WARRANTY OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, TO THE OTHER PARTY WITH RESPECT TO ANY INTELLECTUAL PROPERTY, LICENSED PRODUCTS, GOODS, THE COLLABORATION, RIGHTS OR OTHER SUBJECT MATTER OF THIS AGREEMENT AND HEREBY DISCLAIMS ALL IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OR VALIDITY OF PATENT RIGHTS WITH RESPECT TO ANY AND ALL OF THE FOREGOING. EACH PARTY HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE DEVELOPMENT, MANUFACTURE OR COMMERCIALIZATION OF ANY LICENSED PRODUCT PURSUANT TO THIS AGREEMENT WILL BE SUCCESSFUL OR THAT ANY PARTICULAR SALES LEVEL WITH RESPECT TO SUCH LICENSED PRODUCTS WILL BE ACHIEVED.

14.2 Dispute Resolution; Arbitration Procedures.

(a) In the event of any dispute, controversy or claim arising out of or relating to this Agreement, or the breach thereof, the Parties will try to settle such dispute, controversy or claim amicably between themselves, including referring such dispute, controversy or claim to the Chief Operating Officer of ALNYLAM or his designee, and the Chief Executive Officer of PROTIVA, or any other officer designated by such Chief Executive Officer. In the event that after forty-five (45) days the designated officers of both Parties fail to resolve the matter, either Party may submit such dispute, controversy or claim that is not an “Excluded Claim” for resolution by binding arbitration under the Rules of Arbitration of the International Chamber of Commerce. Judgment on the arbitration award may be entered in any court of competent jurisdiction. The arbitration will be conducted in New York, New York and the language of all communications and proceedings relating to the arbitration will be English.

(b) The arbitration shall be conducted by a panel of three persons experienced in the pharmaceutical business. Within thirty (30) days after initiation of arbitration, each Party shall select one person to act as arbitrator and the two Party-selected arbitrators shall select a third arbitrator within thirty (30) days of their appointment. If the arbitrators selected by the Parties are unable or fail to agree upon the third arbitrator, the Parties shall select two replacement arbitrators to replace the arbitrators originally selected, which replacement arbitrators shall select a third arbitrator within thirty (30) days of their appointment. The Parties agree (a) to meet with the arbitrator(s) within thirty (30) days of selection and (b) to agree at that meeting or before upon procedures for discovery and as to the conduct of the hearing which will result in the hearing being concluded within no more than six (6) months after selection of the arbitrator(s) and in the award being rendered within thirty (30) days of any post-hearing briefing, which briefing will be completed by both sides within thirty (30) days after the conclusion of the hearings, or within sixty (60) days of the conclusion of the hearings if there is no post-hearing briefing. In the event the Parties cannot agree upon procedures for discovery as set forth in (a) above, the arbitrator(s) shall provide that discovery be limited so that the schedule may be met without difficulty and so that neither side obtains more than a total of twenty-five (25) hours of deposition testimony from all witnesses, including both fact and expert witnesses, or serves more

than ten (10) individual requests for documents or ten (10) individual requests for admission or interrogatories. In no event will the arbitrator(s), absent agreement of the Parties, allow more than three (3) days per side for the hearing or more than a total of six (6) days for the hearing. Multiple hearing days will be scheduled consecutively to the greatest extent possible.

(c) Either Party may apply to the arbitrators for interim injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either Party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any injunctive or provisional relief necessary to protect the rights or property of that Party pending the arbitration award. The arbitrators shall have no authority to award punitive or any other type of damages not measured by a Party's compensatory damages. Each Party shall bear its own costs and expenses and attorneys' fees and an equal share of the arbitrators' fees and any administrative fees of arbitration.

(d) Except to the extent necessary to confirm an award or as may be required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of an arbitration without the prior written consent of both Parties. In no event shall an arbitration be initiated after the date when commencement of a legal or equitable proceeding based on the dispute, controversy or claim would be barred by the applicable New York statute of limitations.

(e) The Parties agree that, in the event of a dispute over the nature or quality of performance under this Agreement, neither Party may terminate this Agreement until final resolution of the dispute through arbitration or other judicial determination. The Parties further agree that any payments made pursuant to this Agreement pending resolution of the dispute shall be refunded if an arbitrator or court determines that such payments are not due.

(f) As used in this Section 14.2, the term "Excluded Claim" shall mean a dispute, controversy or claim that concerns (a) the validity or infringement of a patent, trade secret, trademark or copyright; or (b) any antitrust, anti-monopoly or competition law or regulation, whether or not statutory. Excluded Claims shall be resolved in a court of competent jurisdiction.

14.3 Publicity. No disclosure of the existence of, or the terms of, this Agreement may be made by either Party or its Affiliates, and no Party or its Affiliate shall use the name, trademark, trade name or logo of the other Party or its employees in any publicity, news release or disclosure relating to this Agreement or its subject matter, without the prior express written permission of the other Party, except as may be required by law or as set forth in this Section 14.3. The Parties expect that upon the Effective Date of this Agreement TEKMIRA will, and ALNYLAM may, issue separate press releases publicizing the execution of this Agreement and the ALNYLAM-TEKMIRA License Agreement, and that prior to the execution of this Agreement, ALNYLAM and TEKMIRA shall agree in writing upon any such press releases. The Parties agree to consult with each other reasonably and in good faith with respect to the text and timing of any proposed press releases prior to the issuance thereof. Either Party may issue such press releases or otherwise make such public statements or disclosures (such as in annual reports to stockholders or filings with the Securities and Exchange Commission) as it determines, based on advice of counsel and with reasonable prior written notice to the other Party, are reasonably necessary to comply with applicable laws and regulations. In addition, following any press release(s) announcing this Agreement or the Original Cross-License Agreement or any other

public disclosure approved by both Parties, either Party shall be free to disclose, without the other Party's prior written consent, the existence of this Agreement, the identity of the other Party and those terms of the Agreement which have already been publicly disclosed in accordance herewith.

14.4 Force Majeure. No failure or omission by the Parties in the performance of any obligation of this Agreement will be deemed a breach of this Agreement or create any liability if the same will arise from any cause or causes beyond the control of the Parties, including, but not limited to, the following: acts of God; acts or omissions of any government; any rules, regulations or orders issued by any governmental authority or by any officer, department, agency or instrumentality thereof; fire; flood; storm; earthquake; accident; war; rebellion; insurrection; riot; and invasion. The affected Party shall notify the other Party of such force majeure circumstances as soon as reasonably practical, and shall promptly undertake all reasonable efforts necessary to cure such force majeure circumstances.

14.5 Consequential Damages. NEITHER PARTY (INCLUDING ITS AFFILIATES AND SUBLICENSEES) SHALL BE LIABLE UNDER THIS AGREEMENT FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR FOR LOSS OF PROFIT OR LOST REVENUE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS SECTION 14.5 IS INTENDED TO OR SHALL LIMIT OR RESTRICT THE INDEMNIFICATION RIGHTS OF A PARTY OR DAMAGES AVAILABLE FOR A PARTY'S BREACH OF CONFIDENTIALITY OR NON-SOLICITATION OBLIGATIONS IN SECTION 8.3.

14.6 Assignment. (a) This Agreement, and any of its rights and obligations, may not be assigned or otherwise transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, that subject to Section 14.7, either Party may assign this entire Agreement, without the consent of the other Party, to an Affiliate or in connection with such Party's merger, consolidation or transfer or sale of all or substantially all of the assets of such Party; and provided further that the successor, surviving entity, purchaser of assets, or transferee, as applicable, expressly assumes in writing such Party's obligations under this Agreement, if any. Notwithstanding the foregoing, PROTIVA may not assign (i) this Agreement or its rights and obligations hereunder to TEKMIRA without ALNYLAM's prior written consent, except that PROTIVA may, upon prior written notice to ALNYLAM, transfer or assign its rights and obligations with respect to any PROTIVA Development Targets, any PROTIVA Development Products and /or any Licensed Products for the PLK Target (subject to the terms and conditions of Article II) to TEKMIRA; provided that, (x) any such transfer shall be subject in all respects to the Merck Restriction and the terms of Article XIII, and (y) TEKMIRA expressly assumes in writing PROTIVA's obligations with respect to such PROTIVA Development Target(s), PROTIVA Development Product(s) and/or Licensed Product(s) for the PLK Target; or (ii) its rights under this Agreement to perform the PLK Research Plan or the R&D Research Plan to any PROTIVA Affiliate of which **[*]** or more of the outstanding voting securities are owned, controlled or held by a pharmaceutical company, biotechnology company, or group of such companies acting in concert, with annual sales of human pharmaceutical products greater than **[*]** of control of the management and policies of PROTIVA ("Significant Pharmaceutical Company") or by any investment entity affiliated with any such Significant Pharmaceutical Company.

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(b) Any purported transfer or assignment in contravention of this Section 14.6 shall, at the option of the non-assigning Party, be null and void and of no effect.

(c) This Agreement will be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

(d) The above notwithstanding: (i) PROTIVA agrees not to assign or transfer this Agreement to any Third Party who is not also the assignee or transferee of all ownership rights in the Class 1 PROTIVA Patent Rights and the Class 2 PROTIVA Patent Rights or otherwise in a manner that would be inconsistent with ALNYLAM's rights under this Agreement; and (ii) ALNYLAM agrees not to assign this Agreement to any Third Party who is not also the assignee or transferee of all ownership rights in the ALNYLAM Patent Rights or otherwise in a manner that would be inconsistent with PROTIVA's rights under this Agreement.

14.7 License, Provision of Information and other Rights Upon Material Breach, Bankruptcy or Change of Control. In the event PROTIVA materially breaches its obligations under Article V of this Agreement and does not remedy such breach within ninety (90) days after receipt of written notice from ALNYLAM specifically identifying the breach, or in the event a proceeding is initiated with respect to PROTIVA's insolvency, bankruptcy reorganization, liquidation or receivership, that is not withdrawn within sixty (60) days or upon an assignment of a substantial portion of the assets for the benefit of creditors by PROTIVA or upon any "Change of Control" of PROTIVA, (i) the licenses granted to ALNYLAM under this Agreement will remain in full force and effect in accordance with their terms; and (ii) PROTIVA will promptly provide to ALNYLAM all then-existing Licensed Information with respect to all Formulations identified or developed under this Agreement, to the extent such Licensed Information has not previously been provided to ALNYLAM and (iii) the conduct of activities in respect of the PLK Research Plan and R&D Research Plan, including funding from ALNYLAM, will be terminated immediately at ALNYLAM's discretion.

For purposes of this Section 14.7, "Change of Control" means a Change of Control under and as defined in the ALNYLAM-TEKMIRA License Agreement, or any other transaction, or series of related transactions, whereby (a) PROTIVA merges, reorganizes, amalgamates or consolidates with another entity, and the shareholders of PROTIVA owning at least fifty percent (50%) of the outstanding voting securities of PROTIVA immediately prior to such transaction(s) own less than fifty percent (50%) of the outstanding voting securities of PROTIVA or the surviving entity as a result of such transaction(s); (b) PROTIVA sells, transfers or otherwise disposes of all or substantially all of its assets to which this Agreement relates; or (c) PROTIVA issues securities to any Third Party, TEKMIRA sells, transfers or otherwise disposes of any PROTIVA securities, or PROTIVA permits or otherwise consents to the sale, transfer or other disposition of any PROTIVA securities, if and only if, in any of these circumstances, such transaction or series of transactions results in a new Affiliate of PROTIVA; provided, however, that (i) the merger, reorganization, amalgamation or consolidation of PROTIVA with TEKMIRA after the end of the Restriction Period, and (ii) the sale or transfer of all or substantially all of the assets to which this Agreement relates to TEKMIRA after the end the Restriction Period, shall not be deemed a

Change of Control for purposes of this Section 14.7. ALNYLAM acknowledges and agrees that the transactions under the Purchase Agreement will not constitute a "Change of Control" under either the Original Cross-License Agreement or this Agreement. Upon (1) PROTIVA receiving or otherwise becoming aware of a proposal or intention by a Third Party to take any action, whether directly or indirectly, including without limitation a non-binding letter of intent, that could lead to a Change of Control, (2) PROTIVA planning to solicit or soliciting offers relating to its voting securities or assets that could lead to a Change of Control, or (3) any Change of Control, PROTIVA shall provide prompt written notice thereof to ALNYLAM.

14.8 Notices.

Notices to ALNYLAM will be addressed to:

Alnylam Pharmaceuticals, Inc.
300 Third Street
Cambridge, Massachusetts 02142
U.S.A.
Attention: Vice President - Legal
Facsimile No.: (617) 551-8101

With copy to:

Faber Daeufer & Rosenberg PC
950 Winter Street, Suite 4500
Waltham, Massachusetts 02451
Attention: Sumy C. Daeufer, Esq.
Facsimile No.: (781) 795-4747

Notices to PROTIVA will be addressed to:

PROTIVA Biotherapeutics Inc.
100-3480 Gilmore Way
Burnaby, B.C., Canada
Attention: President & CEO
Facsimile No.: (604) 630-5103

With copy to:

Fenwick & West LLP
1191 Second Avenue
Seattle, WA 98101
Attention: Roger M. Tolbert, Esq.
Facsimile No.: (206) 389-4511

Any Party may change its address by giving notice to the other Party in the manner provided in this Section 14.8. Any notice required or provided for by the terms of this Agreement will be in writing and will be (a) sent by certified mail, return receipt requested, postage prepaid, (b) sent

via a reputable international express courier service, or (c) sent by facsimile transmission, with a copy by regular mail. The effective date of the notice will be the actual date of receipt by the receiving Party.

14.9 Independent Contractors. It is understood and agreed that the relationship between the Parties is that of independent contractors and that nothing in this Agreement will be construed as authorization for either Party to act as the agent for the other Party.

14.10 Governing Law; Jurisdiction. This Agreement will be governed and interpreted in accordance with the substantive laws of the State of Delaware, U.S.A., notwithstanding the provisions governing conflict of laws under such law of the State of Delaware to the contrary, provided that (i) matters of intellectual property law will be determined in accordance with the national intellectual property laws relevant to the intellectual property in question, and (ii) the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods is expressly excluded from this Agreement.

14.11 Severability. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any law of the relevant jurisdiction, the validity of the remaining provisions will not be affected and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular provisions held to be unenforceable, provided that the Parties will negotiate in good faith a modification of this Agreement with a view to revising this Agreement in a manner which reflects, as closely as is reasonably practicable, the commercial terms of this Agreement as originally signed.

14.12 No Implied Waivers. The waiver by either Party of a breach or default of any provision of this Agreement by the other Party will not be construed as a waiver of any succeeding breach of the same or any other provision, nor will any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any right, power or privilege by such Party.

14.13 Headings. The headings of articles and sections contained this Agreement are intended solely for convenience and ease of reference and do not constitute any part of this Agreement, or have any effect on its interpretation or construction.

14.14 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all previous written or oral representations, agreements and understandings between the Parties including, without limitation, the Original Cross-License Agreement. This Agreement (including the attachments hereto) may be amended only by a writing signed by both Parties.

14.15 Waiver of Rule of Construction. Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this Agreement. Accordingly, the rule of construction that any ambiguity in this Agreement shall be construed against the drafting Party shall not apply.

14.16 No Third Party Beneficiaries. Except as expressly contemplated herein, no Third Party, including any employee of any Party to this Agreement, shall have or acquire any rights by reason of this Agreement.

14.17 Further Assurances. The Parties will with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each Party will provide such further documents or instruments required by the other Party as may be reasonably necessary or desirable to give effect to the purpose of this Agreement and carry out its provisions.

14.18 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have set their hand to this Agreement as of the date first written above.

ALNYLAM PHARMACEUTICALS, INC.

By: /s/ John Maraganore
Name: John Maraganore
Title: CEO

PROTIVA BIOTHERAPEUTICS INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President and CEO

EXHIBIT A-1

ALNYLAM Patent Rights

CaseNumber	AppTitle	Ctry	AppNumber	FilDate	PubNumber	PubDate	PatNumber	IssDate	Application Status
[*]	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**

***Confidential Treatment Requested.**

EXHIBIT A-1-A

CERTAIN ALNYLAM PATENTS RIGHTS RELATING TO THE APOB TARGET

[*]

Docket	Country	Parent PCT Number	Parent PCT Date	Application Number	Filing Date	Publication Number	Publication Date
[*]	[*]	[*]	[*]	[*]	[*]	[*]	[*]

***Confidential Treatment Requested.**

EXHIBIT A-2

Class 1 PROTIVA Patent Rights

[*]

***Confidential Treatment Requested.**

CONFIDENTIAL

PATENT PROPERTY STATUS REPORT

PREPARED FOR

Protiva Biotherapeutics Inc.
100-3480 Gilmore Way
Burnaby, British Columbia V5G 4Y1

PREPARED BY

TOWNSEND AND TOWNSEND AND CREW LLP

San Francisco Office
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111
(415) 576-0200 voice
(415) 576-0300 facsimile

Palo Alto Office
379 LYTTON AVENUE
PALO ALTO, CA 94301-1431
(650) 326-2400 voice
(650) 326-2422 facsimile

Seattle Office
1420 FIFTH AVENUE
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SEATTLE, WA 98101-2325
(206) 467-9600 voice
(206) 623-6793 facsimile

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SUITE 2700
DENVER, CO 80202
(303) 571-4000 voice
(303) 571-4321 facsimile

Walnut Creek Office
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SUITE 600
WALNUT CREEK, CA 94596
(925) 472-5000 voice
(925) 472-8895 facsimile

San Diego Office
12730 HIGH BLUFF DRIVE
SUITE 400
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(858) 350-6100 voice
(858) 350-6111 facsimile

Tokyo Office
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Washington, D.C. 20005
+(202) 481-9900 voice
+(202) 481-3972 facsimile

May 20, 2008

CLASS I

Please contact us for explanations or limitation of this report.

TTC Ref Country	Title	Inventor	Application No. Filing Date	Patent No. Issue Date	Status Remarks
[*]	[*]	[*]	[*]	[*]	[*]

***Confidential Treatment Requested.**

EXHIBIT A-3

Class 2 PROTIVA Patent Rights

[*]

***Confidential Treatment Requested.**

CONFIDENTIAL

PATENT PROPERTY STATUS REPORT

PREPARED FOR

Protiva Biotherapeutics Inc.
100-3480 Gilmore Way
Burnaby, British Columbia V5G 4Y1

PREPARED BY

TOWNSEND AND TOWNSEND AND CREW LLP

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+(202) 481-3972 facsimile

May 20, 2008

CLASS II

Please contact us for explanations or limitation of this report.

TTC Ref Country	Title	Inventor	Application No. Filing Date	Patent No. Issue Date	Status Remarks
[*]	[*]	[*]	[*]	[*]	[*]

***Confidential Treatment Requested.**

EXHIBIT B

IN-LICENSES COVERING ALNYLAM PATENT RIGHTS

[*]

***Confidential Treatment Requested.**

EXHIBIT C

PLK RESEARCH PLAN

[*]

***Confidential Treatment Requested.**

EXHIBIT D

R&D RESEARCH PLAN

[*]

***Confidential Treatment Requested.**

EXHIBIT E

[*]

***Confidential Treatment Requested.**

APPENDIX I

PLK TARGET

[*]

***Confidential Treatment Requested.**

APPENDIX II

DESCRIPTION OF LICENSED INFORMATION TO BE DISCLOSED BY PROTIVA

[*]

***Confidential Treatment Requested.**

APPENDIX III

[Intentionally omitted]

APPENDIX IV

Terms and Conditions of Co-Development Agreement

[*]

***Confidential Treatment Requested.**

APPENDIX V

EXCEPTIONS TO REPRESENTATIONS AND WARRANTIES

[*]

***Confidential Treatment Requested.**

* Confidential Treatment has been requested for the marked portions of this exhibit pursuant to Rule 24B-2 of the Securities Exchange Act of 1934, as amended.

LICENSE AGREEMENT

BETWEEN

INEX PHARMACEUTICALS CORPORATION

AND

ARADIGM CORPORATION

License Agreement

Table of Contents

License Agreement

This LICENSE AGREEMENT dated as of the 8th day of December, 2004 between **INEX PHARMACEUTICALS CORPORATION**, a corporation duly incorporated pursuant to the laws of British Columbia, CANADA, having its principal place of business at 100 – 8900 Glenlyon Parkway, Burnaby, B.C. Canada V5J 5J8 (hereinafter referred to as "INEX"), and **ARADIGM CORPORATION**, a corporation duly incorporated pursuant to the laws of the State of California, USA, having its principal place of business at 3929 Point Eden Way, Hayward, CA 94545 USA. (hereinafter referred to as "Aradigm").

INTRODUCTION

A. The Canadian Department of National Defence has identified a requirement for the development of countermeasures for protection from, and/or treatment of personnel exposed to certain biological warfare infectious agents such as inhalation anthrax. Defence Research and Development Canada (DRDC), an agency of the Canadian Department of National Defence, has a requirement for industry to formulate liposome-encapsulated Ciprofloxacin into a stable product for delivery by a portable aerosol inhaler device.

B. The end product of the work for the DRDC will be a pre-clinical data package capable of supporting the submission of a Clinical Trials Application (CTA) package or its equivalent i.e. Investigational New Drug submission, to the appropriate Regulatory Authorities.

C. Aradigm is a drug delivery company and the owner of certain patents and know-how related to the AERx Device (as further defined in this Agreement);

D. INEX is a pharmaceutical company and the owner of certain patents and know-how related to liposomal drug delivery systems;

E. INEX and Aradigm desire to set out in this Agreement the terms which will govern the development and licensing of the INEX Liposome Technology (as further defined in this Agreement) for delivering Ciprofloxacin (as further defined in this Agreement) with the AERx Device, meeting the requirements of the DRDC, and the making, use and sale of product by Aradigm in Field in the Territory (as further defined in this Agreement);

In consideration of the mutual covenants and promises contained in this Agreement and other good and valuable consideration, and intending to be legally bound, INEX and Aradigm agree as follows:

Article 1 Interpretation

1.1 Definitions

As used in this Agreement, the following terms, whether used in the singular or plural, shall have the following meanings:

1.1.1 "AERx Device" means the durable hand-held device developed by Aradigm for the delivery of Ciprofloxacin by inhalation and known as the "AERx Device", as such device may be modified pursuant to the Agreement.

1.1.2 “Affiliate” means any corporation, company, partnership, joint venture or other person or entity which controls, is controlled by or is under common control with a Party. For purposes of this Section 1.1.2, “control” shall mean (a) in the case of corporate entities, direct or indirect ownership of at least 50% of the stock or shares (or such lesser percentage which is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction) entitled to vote for the election of directors or otherwise having the power to vote on or direct the affairs of such Party; and (b) in the case of non-corporate entities, direct or indirect ownership of at least 50% of the equity interest or the power to direct the management and policies of such non-corporate entities.

1.1.3 “Agreement” means this License Agreement including all exhibits attached to this Agreement.

1.1.4 “Aradigm Invention” has the meaning set out in Article 8.

1.1.5 “Business Day” means any day other than a day which is a Saturday, a Sunday or a statutory holiday in British Columbia or California.

1.1.6 “Ciprofloxacin” means the chemical compound known as ciprofloxacin, whose more specified chemical name is 1-cyclopropyl-6-fluoro-1,4-dihydro-4-oxo-7-(1-piperazinyl)-3-quinolinecarboxylic acid and all pharmaceutically active salts thereof.

1.1.7 “Commercially Reasonable Efforts” means reasonable efforts, and in any event efforts which are not less than those efforts a Party makes with respect to other pharmaceutical products of comparable commercial potential, stage of development, medical/scientific, technical and regulatory profile, and patent protection.

1.1.8 “Confidential Information” means:

(a) all proprietary information and materials, patentable or otherwise, of a Party which is disclosed in writing by or on behalf of such Party to the other Party and marked as confidential or proprietary, including DNA sequences, vectors, cells, substances, formulations, techniques, methodology, equipment, data, reports, know-how (including the Know-How), preclinical and clinical trials and the results thereof, sources of supply, patent positioning and business plans, including any negative developments, and

(b) any other information, oral or written, designated in writing by the disclosing Party to the other Party as confidential or proprietary within ten (10) days after such disclosure, whether or not related to the making, use, importing or selling of Licensed Product.

provided that Confidential Information shall not include such information which:

(c) was known or used by the receiving Party or its Affiliates prior to its date of disclosure to the receiving Party, as evidenced by the prior written records of the receiving Party or its Affiliates; or

(d) either before or after the date of the disclosure to the receiving Party is lawfully disclosed to the receiving Party or its Affiliates by an independent, unaffiliated Third Party rightfully in possession of the Confidential Information; or

(e) either before or after the date of the disclosure to the receiving Party becomes published or generally known to the public through no fault or omission on the part of the receiving Party or its Affiliates; or

(f) the receiving Party can verify by written documentation results from research and development by the receiving Party or any of its Affiliates independent and in advance of disclosure by the other Party thereof; or

(g) is disclosed by the receiving Party to its attorneys, accountants or other advisors, actual or potential lenders, investors or purchasers, each of whom shall be subject to a confidentiality restriction; or

(h) is required to be disclosed by the receiving Party to comply with applicable laws, to defend or prosecute litigation or to comply with governmental regulations, provided that the receiving Party provides prior written notice of such disclosure to the other Party and takes reasonable and lawful actions to avoid and/or minimize the degree of such disclosure.

1.1.9 "Crown Identified Patents" means the Patents identified in Exhibit 1.1.9.

1.1.10 "Dollar" and "$" means United States Dollars.

1.1.11 "DRDC" means Defence Research and Development Canada, an agency of the Canadian Department of National Defence.

1.1.12 "Effective Date" means the date shown on page one of this Agreement.

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

1.1.14 "Field" means the pulmonary delivery of Ciprofloxacin.

1.1.15 "IND" means an Investigational New Drug application in accordance with the rules and regulations of the FDA.

1.1.16 "Indication" means an indication pursued by Aradigm in a clinical program for the use of a Licensed Product.

1.1.17 "INEX Invention" has the meaning set out in Article 8.

1.1.18 "INEX Liposome Technology" means INEX's proprietary liposomal drug delivery system that encapsulates drugs in sphingomyelin/cholesterol liposomes using a proton gradient generated by either an ionophore or methylammonium sulfate.

1.1.19 "Intellectual Property Rights" means rights to any patent, copyright, trademark, trade name or domain name rights, registrations and applications for registration of all of the foregoing rights, and rights in trade secrets, confidential information, moral rights and goodwill.

1.1.20 “Know-How” means all technical information and know-how owned or controlled by INEX which relates to Licensed Product as of the Effective Date, to the extent that INEX is legally able to grant Aradigm the license rights outlined in Section 2.1, which are necessary or useful for the development and commercialization of Licensed Product and shall include, without limitation, all biological, chemical, pharmacological, toxicological, clinical, assay, control and manufacturing data and any other information necessary or useful for the development and commercialization of Licensed Product.

1.1.21 “Licensed Patents” means the Loading Patents and the Sphingosome Patents.

1.1.22 “Licensed Product” means Ciprofloxacin encapsulated in the INEX Liposome Technology and which is intended for pulmonary delivery.

1.1.23 “Loading Patents” means the patents owned by UBC and exclusively licensed to INEX and set out in Exhibit 1.1.23.

1.1.24 “Major European Countries” means the United Kingdom, France, Germany, Italy and Spain.

1.1.25 “NDA” means a New Drug Application in accordance with the rules and regulations of the FDA.

1.1.26 “Net Sales” means the aggregate United States dollar equivalent of gross revenues invoiced by Aradigm and its Affiliates and its Sublicensees from or on account of the sale of Licensed Product to Third Parties, less deductions actually allowed or specifically allocated and actually incurred to Licensed Product by Aradigm using generally accepted accounting standards and reasonable practices with respect to sales of all Aradigm’s products, consistently applied, for the following:

(a) trade, cash, and quantity discounts off the invoiced price and similar promotional discounts or rebates (such as management fees required by hospital buying groups or granted to managed care organizations) off the invoiced price,

(b) credits or allowances, if any, actually granted for spoiled, damaged, out-dated and returned or recalled Licensed Product,

(c) excise taxes, sales taxes, value added taxes, consumption taxes, customs and other duties or other taxes or other governmental charges imposed upon and paid or allowed with respect to the production, importation, use or sale of Licensed Product (excluding income or franchise taxes of any kind), and

(d) if separately itemized in Aradigm’s invoice for Licensed Product, insurance, freight or other transportation costs incurred in shipping such Licensed Product to such Third Parties,

(collectively, the “Permitted Deductions”), all of the foregoing to the extent consistent with the normal practice in the industry, and provided that any and all of the foregoing are calculated in accordance with USA Generally Accepted Accounting Principles consistently applied. The foregoing definition is subject to the following:

(e) No deduction shall be made for any item of cost incurred by Aradigm, its Affiliates or Sublicensees in preparing, manufacturing, shipping or selling Licensed Product except as permitted pursuant to Sections 1.1.26(a) through 1.1.26(d) inclusive.

(f) Net Sales shall not include any transfer among any of Aradigm, its Affiliates and Sublicensees for resale, but Net Sales shall include the subsequent final sales to Third Parties by such Affiliates or Sublicensees.

(g) Notwithstanding the foregoing, in the event that a governmental agency requires a sublicense of the INEX Liposome Technology as a condition of sales of Licensed Product by Aradigm to such agency, then sales of Licensed Product to such agency shall be deemed to be sales to a Third Party for the purposes of calculating Net Sales. If such governmental agency makes or has made Licensed Product for its own use and such manufacture or use does not generate direct or indirect remuneration for Aradigm, then such Licensed Product so manufactured and used shall not be included in Net Sales for the purposes of calculating remuneration to INEX under this Agreement.

(h) Fair market value shall be assigned to any and all non-cash consideration such as but not limited to any credit, barter, benefit, advantage or concession received by Aradigm or its Affiliates or Sublicensees in payment for sale of Licensed Product.

(i) As used in this definition, a "sale" shall have occurred when Licensed Products are billed out or invoiced.

(j) Notwithstanding anything herein to the contrary, the following shall not be considered a sale of a Licensed Product under this Agreement: (i) the transfer of a Licensed Product to a Third Party without consideration to Aradigm in connection with the development or testing of a Licensed Product; or (ii) the transfer of a Licensed Product to a Third Party without consideration in connection with the marketing or promotion of the Licensed Product (e.g., pharmaceutical samples).

1.1.27 "Party" means INEX or Aradigm and "Parties" means INEX and Aradigm.

1.1.28 "Patent" means (a) all patent applications filed or having legal force in any country owned or controlled by INEX as of the Effective Date; (b) all patents that have issued or in the future issue therefrom owned or controlled by INEX as of the Effective Date, including without limitation utility, model and design patents and certificates of invention; and (c) all divisionals, continuations, continuations-in-part, reissues, renewals, extensions (including supplemental protection certificates), additions, registrations or confirmations to or of any such patent applications and patents.

1.1.29 "Person" means and includes any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, government body, and any other form of entity or organization.

1.1.30 "Phase II Trial" means that portion of the clinical development program that provides for additional assessment of safety and preliminary assessment of efficacy at

particular dosage levels of a Licensed Product in human volunteers or patients, which is intended to gather information to support the pivotal human clinical trials using the Licensed Product, performed in accordance with the *U.S.A. Federal Food, Drug and Cosmetic Act* and applicable regulations promulgated thereunder (including without limitation 21 CFR Part 312), as amended from time to time.

1.1.31 "Phase III Trial" means that portion of the clinical development program that provides for human clinical trials, performed after preliminary evidence suggesting dose and effectiveness of a Licensed Product has been obtained, which is intended to gather the additional information about the effectiveness and safety that is needed to evaluate the overall benefit-risk relationship of the Licensed Product and to provide adequate basis for labeling, performed in accordance with the *U.S.A. Federal Food, Drug and Cosmetic Act* and applicable regulations promulgated thereunder (including without limitation 21 CFR Part 312), as amended from time to time.

1.1.32 "Prime Rate" means the prime or equivalent rate quoted by Citibank, N.A. from time to time.

1.1.33 "Project Bioshield" means any program pursuant to which the FDA or any other Regulatory Authority may make medical treatments quickly available, including the program contemplated by the *Project Bioshield Act of 2004*, and any counterpart, successor or alternative to such legislation, or any legislation of similar effect.

1.1.34 "Regulatory Approval" means, with respect to a country, all approvals (including price and reimbursement approvals), licenses, registrations, or authorizations of any federal, state or local regulatory agency, department, bureau or other government entity, necessary for the use, storage, import, transport, marketing and sale of Licensed Product, in such country for use in the Field.

1.1.35 "Representatives" means, in respect of a Person, that Person's Affiliates and their respective directors, officers, employees, consultants, subcontractors, Sublicensees, agents, representatives and other persons acting under their authority.

1.1.36 "Sphingosome Patents" means the Patents owned by INEX and set out in Exhibit 1.1.36.

1.1.37 "Sublicensee" means a Third Party to whom Aradigm has granted a sublicense to make, have made, use, import, offer for sale or sell Licensed Product in one or more countries of the Territory. Without limiting the generality of the foregoing, a Sublicensee shall be deemed to include any Third Party who is granted a sublicense hereunder by Aradigm pursuant to the terms of the outcome or settlement of any infringement or threatened infringement action.

1.1.38 "Territory" means all of the countries and territories of the world.

1.1.39 "Third Party(ies)" means any Person other than INEX or Aradigm or an Affiliate of either of them.

1.1.40 "UBC" means the University of British Columbia, a corporation continued under the University Act of British Columbia and having its administrative offices at 2075 Wesbrook Mall, in the City of Vancouver, in the Province of British Columbia.

1.1.41 “UBC License Agreement” means the license agreement between INEX and UBC executed July 30, 2001 and effective July 1, 1998 that grants INEX rights to the Loading Patents.

1.1.42 “USA” means the United States of America, including its territories, possessions and the Commonwealth of Puerto Rico.

1.1.43 “Valid Claim” means either:

(a) a claim of an issued and unexpired patent which has not been held unenforceable, unpatentable or invalid by a court or other governmental agency of competent jurisdiction, and which has not been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise; or

(b) a claim in a patent application, provided that if such pending claim has not issued as a claim of an issued patent within seven (7) years after the filing date of such patent application, such pending claim shall not be a Valid Claim for purposes of this Agreement.

In the event that a claim of an issued patent is held by a court or other governmental agency of competent jurisdiction to be unenforceable, unpatentable or invalid, and such holding is reversed on appeal by a higher court or agency of competition jurisdiction, such claim shall be reinstated as a Valid Claim hereunder.

1.2 Entire Agreement

This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof.

1.3 Governing Law

This Agreement shall be deemed to have been made in the Province of British Columbia and its form, execution, validity, construction and effect shall be determined in accordance with the laws thereof.

1.4 Headings

The headings contained in this Agreement are for convenience of reference only and shall not be considered in construing this Agreement. References to Articles are references to Articles of this Agreement and the Sections contained therein, and references to Sections are references to Sections of this Agreement.

1.5 Severability

If a court or other tribunal of competent jurisdiction should hold any term or provision of this agreement to be excessive, or invalid, void or unenforceable, the offending term or provision shall be deemed inoperative to the extent that they may conflict therewith and shall be deemed to be modified to the extent necessary to conform with such statute or rule of law, while still preserving, to the extent practicable, the legitimate aims of the Parties, provided that the remaining portions hereof shall remain in full force and effect. In the event that the terms and conditions of this Agreement are materially altered as a result of the above, the Parties will renegotiate the terms and conditions of this Agreement to resolve any inequities.

Article 2 Patent and Know-How Licenses

2.1 Licenses

Subject to the reservation set forth in Section 2.3, INEX hereby grants to Aradigm:

2.1.1 an exclusive license for the Field in the Territory under the Licensed Patents; and

2.1.2 an exclusive license for the Field in the Territory under the Know-How;

for the sole purpose of developing, making, having made, importing, using, offering for sale and selling Licensed Product in the Territory, including the right to grant sublicenses under these rights as set out in Section 2.4.

2.2 Exclusive License Term

In respect of each Licensed Product, on a country-by-country basis, the licenses granted pursuant to:

2.2.1 Section 2.1.1 shall continue in effect until the expiration of the last Valid Claim of the Licensed Patents which covers such Licensed Product licensed to Aradigm hereunder; and

2.2.2 Section 2.1.2 shall continue in effect until the expiry of ten years from the first commercial sale of such Licensed Product;

unless earlier terminated in accordance with this Agreement.

2.3 Reservation of Rights

INEX retains the right under the Licensed Patents and the Know-How to practice the inventions in the Field solely for internal research purposes and for any purpose outside the Field. Aradigm and INEX acknowledge and agree that UBC may use the Loading Patents and associated Know-How without charge in any manner whatsoever solely for non-commercial research, scholarly publication, educational or other non-commercial use.

2.4 Sublicenses

2.4.1 Aradigm shall have the right to sublicense rights granted in Section 2.1 to its Affiliates, subject to the following:

(a) Aradigm hereby unconditionally guarantees the performance of any such Affiliates hereunder as if they were signatories to this Agreement.

(b) Such sublicenses shall terminate upon the termination of Aradigm’s rights granted herein.

(c) Each sublicense shall contain covenants by the Affiliate for the benefit of INEX and Aradigm to observe and perform similar terms and conditions to those in the UBC License Agreement and in this Agreement.

(d) A breach by any such Affiliate of any such obligation shall constitute a breach by Aradigm of this Agreement and shall entitle INEX to exercise its rights hereunder, in addition to any other rights and remedies to which INEX may be entitled.

2.4.2 Aradigm shall also have the right to sublicense rights granted in Section 2.1 to Third Parties, subject to the following:

(a) Within ten (10) calendar days after execution of a sublicensing agreement, Aradigm shall provide INEX with a copy thereof (provided that Aradigm shall be permitted to redact the financial terms of such agreement).

(b) Such sublicenses shall terminate upon the termination of Aradigm's rights granted herein unless events of default are cured by Aradigm or Sublicensee within the period for the cure of default after notification by INEX as provided by the terms of this Agreement.

(c) Each sublicense shall contain covenants by the Sublicensee for the benefit of INEX and Aradigm to observe and perform similar terms and conditions to those in the UBC License Agreement and in this Agreement.

(d) In the event that Aradigm becomes aware of a material breach of any such sublicense by the Sublicensee, Aradigm shall promptly notify INEX of the particulars of same and take all reasonable steps to enforce the terms of such sublicense. Upon the request of INEX, Aradigm shall act reasonably in considering any request of INEX for Aradigm to terminate such sublicense.

2.4.3 In the event Aradigm grants sublicenses to others to make or sell Licensed Product, such sublicenses shall include an obligation for the Sublicensee to account for and report its Net Sales of such Licensed Product on the same basis as if such sales were Net Sales by Aradigm, and INEX shall receive royalties in the same amounts as if the Net Sales of the Sublicensee were Net Sales of Aradigm.

Article 3 Milestone Payments and Sublicense Fees

3.1 License Fee

Upon execution of this Agreement by both Parties, Aradigm shall forthwith pay to INEX **[*]**.

3.2 Milestone Payments

In consideration of the licenses granted by INEX to Aradigm under this Agreement, Aradigm shall make the following milestone payments to INEX:

Milestones Per Indication (each payable twice)	
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**
[*]	**[*]**

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Provided that:

3.2.1 Each milestone payment shall be made no more than **[*]** per Indication, regardless of how many times such milestone is achieved for such Indication. Each milestone payment shall be made no more than **[*]** in the aggregate, regardless of how many Indications are pursued.

3.2.2 The Parties anticipate that the first Indication to be pursued by Aradigm for the Licensed Product shall be **[*]** and the second Indication will be **[*]**. Notwithstanding the foregoing, Aradigm may pursue any Indication in priority to either or both of these Indications.

3.2.3 In respect of any Indication, if Aradigm is able to achieve any milestone set out in this Section without first achieving one or more of the earlier milestones for such Indication, including, without limitation, if such an occurrence is facilitated as a result of Project Bioshield, then the milestone payments corresponding to the unachieved milestone(s) shall be payable upon occurrence of any subsequent milestone.

3.2.4 Aradigm shall make the milestone payments to INEX within **[*]** days after achievement of each milestone. Aradigm shall make the milestone payments to INEX whether the milestone is achieved by Aradigm itself, or by an Affiliate or a Sublicensee.

3.2.5 Subject to Section 3.2.3, payment shall not be owed for a milestone which is not reached.

3.2.6 **[*]**

3.2.7 **[*]**

3.2.8 **[*]**

3.3 Independent Consideration

The amounts payable to INEX pursuant to Sections 3.1 and 3.2 are non-refundable and shall be in addition to, and not in lieu of, the royalties payable to INEX pursuant to Article 4.

Article 4 Patent and Know-How Royalties

4.1 Royalty Rate

Subject to the rest of this Article 4, Aradigm shall pay to INEX earned royalties on all Net Sales in the Territory of Licensed Product by Aradigm, its Affiliates and Sublicensees at the following rates, on a country-by-country basis:

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	Royalty	
[*]		**[*]**
[*]		**[*]**

4.2 Royalty Term and Rate Modification

4.2.1 The royalty obligations set forth in Section 4.1 with respect to any Licensed Product in any country in the Territory shall continue until the expiry of the licenses respecting same in accordance with Section 2.2.

4.2.2 In respect of any country in the Territory, upon expiry of the last Valid Claim of the Licensed Patents which covers the Licensed Product, or in the event that there is no Valid Claim of the Licensed Patents which covers such Licensed Product, Aradigm shall pay to INEX **[*]** of the earned royalty specified in Section 4.1 until the license in Section 2.1.2 is no longer in effect in accordance with Section 2.2.

4.2.3 Upon the expiration in accordance with Section 2.2 of the last to expire of the licenses granted under Section 2.1 with respect to Licensed Product in a country in the Territory, such license shall become a fully paid, non-exclusive license with respect to Know-How for such Licensed Product in such country of the Territory.

4.3 Combination Products

4.3.1 In the event a Licensed Product is sold in combination with one or more other elements, including with **[*]** or related accessories intended for use with such **[*]**, the Net Sales from the Licensed Product, for the purposes of determining royalty payments under this Agreement, shall be determined by **[*]** the Net Sales of such combination (as if the combination were the Licensed Product for the purposes of the definition of Net Sales), during the applicable royalty reporting period, by **[*]** excluding the Licensed Product when sold separately in the country in which the combination is sold, in each case during the applicable royalty reporting period or, if sales of the Licensed Product alone did not occur in such period, then in the most recent royalty reporting period in which arms length fair market sales of such Licensed Product occurred. In the event that such average sale price cannot be determined for both the Licensed Product and all other elements of such combination, Net Sales for the purposes of determining royalty payments shall be mutually agreed upon by the Parties acting reasonably, based on the relative value contributed by each component.

4.3.2 If the parties are unable to come to agreement on any disputes arising out of the determinations to be made under this Article, the issue will be determined pursuant to Article 13.

4.4 Stacking

If, in respect of any country in the Territory:

4.4.1 if it is necessary to seek a license from any Third Party in order to avoid infringement by elements of the Licensed Product other than the **[*]** or dosage forms; or

4.4.2 if a court of competent jurisdiction determines that such a license is required;

then **[*]** of any royalties or other fees paid to such Third Party under such license in respect of such country may be credited against payments otherwise due INEX under Section 4.1 in respect of such country, provided that in no event shall such credits, together with the royalty reduction contemplated by Section 4.2.1 cause the payments set forth in Section 4.1 in respect of such country to be reduced to less than **[*]** of the applicable payments set forth in Section 4.1, and any such royalties or other fees paid to such Third Party and not deducted in any calendar year may not be deducted in any subsequent year. Nothing in this Section 4.4 shall reduce Aradigm's obligation to pay milestones in accordance with Section 3.2. This Section shall not relieve any Party of its obligations arising for breach of a warranty contained in Article 7, and therefore this Section shall not be applied in respect of any infringement which would not have arisen if the warranties in Article 7 were true. Notwithstanding the foregoing, Aradigm shall have no right to deduct any royalties or other fees paid or otherwise have the advantage of this Section 4.4 in respect of the Crown Identified Patents.

4.5 Reports and Payment

Aradigm shall deliver to INEX within sixty (60) days after the end of each calendar quarter a written report showing its computation of royalties due under this Agreement upon Net Sales by Aradigm and its Affiliates and its Sublicensees during such calendar quarter. All Net Sales shall be segmented in each such report according to sales by Aradigm, each Affiliate and each Sublicensee, as well as on a country-by-country basis, including the rates of exchange used to convert such royalties to United States dollars from the currency in which such sales were made. For the purposes hereof, the rates of exchange to be used for converting royalties hereunder to United States dollars shall be those in effect for the purchase of dollars as certified by CitiBank, N.A., New York, New York, U.S.A., on the last Business Day of the quarter with respect to which the payment is due. Aradigm, simultaneously with the delivery of each such report, shall tender payment in United States dollars of all royalties shown to be due thereon.

4.6 Withholding Taxes

Any tax which Aradigm is required to pay or withhold with respect of license fees, royalty payments and milestone payments to be made to INEX hereunder shall be deducted from the amount otherwise due provided that, in regard to any such deduction, Aradigm shall give INEX such assistance, which shall include the provision of such documentation as may be required by the US Internal Revenue Service and other revenue services, as may reasonably be necessary to enable INEX to evidence such payment, claim exemption therefrom or obtain a repayment thereof or a reduction thereof and shall upon request provide such additional documentation from time to time as is needed to confirm the payment of tax. The Parties agree that:

4.6.1 Aradigm shall be deemed to be the sole payor of payments owed to INEX under this Agreement and shall not have the right to substitute any domestic or foreign Affiliate for that purpose, and

4.6.2 in the event that Aradigm takes any action, including, without limitation, the assignment of this Agreement, any sublicensing permitted hereby, any change of jurisdiction of residence or any reorganization or change in its business or structure so that, after such action, the withholding tax on the payments under this Agreement would be substantially more than those in effect on the Effective Date, Aradigm shall either:

(a) with the co-operation of INEX, arrange its affairs so that the withholding tax consequences to INEX are not materially worse than those in effect prior to such action; or

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(b) gross up the payments otherwise owed to INEX so that INEX receives net of withholding taxes the amount INEX would have received but for such action.

4.7 Late Payments

Any payment by Aradigm that is not paid on or before the date such payment is due under this Agreement shall bear interest at a rate equal to the lesser of (i) **[*]**, or (ii) the maximum rate permitted by law, calculated based on the number of days that payment is delinquent.

4.8 Foreign Royalties

Where royalties are due INEX hereunder for sales of Licensed Product in a country in the Territory where, by reason of currency regulations or taxes of any kind, it is impossible or illegal for Aradigm, any Affiliate or Sublicensee to transfer royalty payments to INEX for Net Sales in that country in the Territory, such royalties shall be deposited in whatever currency is allowable by the Person not able to make the transfer for the benefit or credit of INEX in an accredited bank in that country in the Territory that is reasonably acceptable to INEX.

4.9 Records, Audit

Aradigm shall keep, and shall require all Affiliates and Sublicensees to keep, full, true and accurate books of accounts and other records containing all information and data which may be necessary to ascertain and verify the royalties payable hereunder for a period of three (3) years after the date such royalties became payable. During the term of this Agreement after the first commercial sale of Licensed Product and for a period of one year following termination of this Agreement, INEX shall have the right from time to time (not to exceed once during each calendar year) to have either its internal financial audit personnel or an independent firm of accountants (i.e., a certified public accountant or like person reasonably acceptable to Aradigm) inspect such books, records and supporting data, provided such shall not cover such records for more than the preceding five years. Such independent firm of accountants shall perform these audits at INEX's expense upon reasonable prior notice and during Aradigm's regular business hours, and shall agree as a condition to such audit to maintain the confidentiality of all information of Aradigm disclosed or observed in connection with such audit and to disclose to INEX only whether Aradigm has complied with its obligations under this Agreement with respect to the accuracy of the royalty statements and payments. If the result of such audit demonstrates an underpayment to INEX of 5% or more, Aradigm shall pay for the reasonable costs of such audit.

Article 5 Technology Transfer

5.1 Initial Technology Transfer

INEX shall, upon Aradigm's request, for a period of six months from the Effective Date, transfer to or make available to Aradigm the then most-current version of all relevant Know-How to enable Aradigm's reasonably capable Representatives to understand such Know-How as reasonably necessary to encapsulate Ciprofloxacin using the INEX Liposome Technology, with a goal of delivering the resulting Licensed Product with the AERx Device.

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5.2 Subsequent Consultations

After the first six months from the Effective Date, INEX shall provide to Aradigm technical advice and consultation by phone and by meetings in person respecting the Know-How as reasonably requested by Aradigm, provided that, in providing such advice and consultation, INEX shall not be obliged:

5.2.1 to provide INEX Representatives for travel away from Vancouver more than once per calendar quarter; and

5.2.2 in addition to the travel contemplated in Section 5.2.1, to make available to Aradigm INEX Representatives for more than 12 hours per calendar quarter.

5.3 Cost Recovery for Technology Transfer Services

Aradigm shall pay to INEX all INEX's reasonable, documented out-of-pocket costs of providing technology transfer services pursuant to this Article 5, including travel and associated accommodation expenses of INEX Representatives who, at Aradigm's request, travel to provide technology transfer services pursuant to this Article 5.

Article 6 Diligence and Annual Reports

6.1 Aradigm's Diligence

In respect of each Licensed Product, Aradigm shall use Commercially Reasonable Efforts to:

6.1.1 conduct the necessary and appropriate preclinical and clinical trials and prepare, file and prosecute the governmental applications necessary to obtain Regulatory Approval for the Licensed Product in the Territory where appropriate to do so, and in any event in all of the following countries: USA, each of the Major European Countries and Japan;

6.1.2 market the Licensed Product in the Territory; and

6.1.3 launch sales of such Licensed Product and sell such Licensed Product in each such country where Regulatory Approval has been granted.

6.2 Subcontractors

Aradigm may subcontract to any of its Representatives any of its obligations in respect of the development of the Licensed Product without the consent of INEX; provided however, that:

6.2.1 each Representative must enter into an agreement with Aradigm which shall contain covenants by the Representative respecting Intellectual Property Rights (Article 8) and Confidential Information (Article 10) for the benefit of INEX and Aradigm to observe and perform similar terms and conditions to those set out in this Agreement; and

6.2.2 Aradigm shall be responsible to INEX for the performance of each of Aradigm's Representative's obligations under such agreement and all activities undertaken by its Representatives as contemplated by this Agreement.

6.3 Consequence of No Sales

In addition to the terms of Section 6.1, Aradigm shall be deemed to have breached its obligation to use Commercially Reasonable Efforts in conducting marketing of a Licensed Product in the USA, the Major European Countries and Japan if, for a continuous period of one hundred and eighty (180) days at any time following launch of commercial sales of such Licensed Product in any such country, no sales of the Licensed Product are made in the ordinary course of business in such country, unless Aradigm is prevented, restricted, interfered with or delayed in making such sales by reason of a cause beyond Aradigm's reasonable control and can demonstrate same to INEX, in which event such period shall be extended by the period of Aradigm's inability, provided that Aradigm uses Commercially Reasonable Efforts to avoid or remove the cause of such inability.

6.4 Reports

Aradigm shall report to INEX on the status and progress of Aradigm's efforts to develop and commercialize Licensed Product as follows:

6.4.1 Aradigm shall make annual reports, due on each anniversary of the Effective Date, to INEX setting forth in general terms, reasonably sufficient for evaluation of the diligence obligations contained herein, the efforts it made to develop and commercialize all Licensed Products during the previous year, including the achievement of any milestone, the planning, starting, completing or stopping of any trials, the preparation of an application for, or the submission or obtaining of any regulatory approval, any significant adverse developments, and any plans for or occurrences of any commercial sales of Licensed Product in any jurisdiction and, manufacturing and process development efforts as well as a summary of the efforts it intends to make in the upcoming year(s) on these matters. Aradigm agrees to appropriately consider any INEX input and comments related to Aradigm's plan for the upcoming year(s), provided that it is understood that Aradigm shall have final decision making responsibility for such plans.

6.4.2 To the extent that such could not be appropriately communicated to INEX in accordance with Section 6.4.1, Aradigm shall keep INEX informed in a timely manner of significant developments in Aradigm's (and its Affiliates and Sublicensees where relevant) progress of its efforts to develop and commercialize Licensed Product, including without limitation, the achievement of any milestone, the planning, starting, completing or stopping of any trials, the preparation of an application for, or the submission or obtaining of any regulatory approval, any significant adverse developments, and any plans for or occurrences of any commercial sales of Licensed Product in any jurisdiction.

Article 7 Representations and Warranties

7.1 By Aradigm

Aradigm hereby represents and warrants to INEX that, as of the Effective Date:

7.1.1 Aradigm has full legal right, power and authority to execute, deliver and perform its obligations under this Agreement;

7.1.2 the execution, delivery and performance by Aradigm of this Agreement do not contravene or constitute a default under any provision of applicable law or its articles or by-laws (or equivalent documents) or of any judgment, injunction, order, decree or other instrument binding upon Aradigm;

7.1.3 all consents, authorizations and approvals, if any, required by a governmental authority for the execution, delivery and performance by Aradigm of this Agreement have been obtained and are in full force and effect and all conditions thereof have been complied with, and no other action by or with respect to, or filing with, any governmental authority or any other person or entity is required in connection with the execution, delivery and performance by Aradigm of this Agreement;

7.1.4 this Agreement constitutes a valid and binding agreement of Aradigm, enforceable against Aradigm in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or creditors' rights generally;

7.1.5 the execution, delivery and performance by Aradigm of this Agreement do not and will not conflict with or result in a material breach of any of the terms and provisions of any Third Party agreement of Aradigm entered into as of the Effective Date;

7.1.6 except for the Crown Identified Patents, to the knowledge of Aradigm (without further duty of inquiry), the exploitation by Aradigm of the rights granted to Aradigm hereunder in pursuit of the developing, making, having made, importing, using, offering for sale and selling of the Licensed Product does not infringe the Intellectual Property Rights of any Third Party;

7.1.7 Aradigm is not aware of any impediment, including without limitation any Third Party agreement of Aradigm, which would prevent Aradigm from performing its obligations under this Agreement; and

7.1.8 Aradigm will not enter into any Third Party agreement after the Effective Date which, in any way, will limit its ability to perform all of the obligations undertaken by Aradigm hereunder.

7.2 By INEX

INEX hereby represents and warrants to Aradigm that, as of the Effective Date:

7.2.1 INEX has full legal right, power and authority to execute, deliver and perform its obligations under this Agreement;

7.2.2 the execution, delivery and performance by INEX of this Agreement do not contravene or constitute a default under any provision of applicable law or its articles or by-laws (or equivalent documents) or of any judgment, injunction, order, decree or other instrument binding upon INEX;

7.2.3 except for the consent of UBC, all consents, authorizations and approvals, if any, required by a governmental authority for the execution, delivery and performance by

INEX of this Agreement have been obtained and are in full force and effect and all conditions thereof have been complied with, and no other action by or with respect to, or filing with, any governmental authority or any other person or entity is required in connection with the execution, delivery and performance by INEX of this Agreement;

7.2.4 except for UBC's reserved rights and rights granted by INEX outside the Field, INEX is the exclusive licensee of all legal and beneficial right, title and interest in and to the **[*]**;

7.2.5 except for rights granted by INEX outside the Field, INEX is the exclusive owner of all legal and beneficial right, title and interest in and to the **[*]**;

7.2.6 except for UBC's reserved rights and rights granted by INEX outside the Field, INEX is the sole and exclusive owner or licensee of the Know-How, free and clear of any lien, claim or encumbrance or rights of any other person or entity;

7.2.7 the UBC License Agreement is in full force and effect and has not been breached by INEX or, to the knowledge of INEX (without further duty of inquiry), UBC, and the representations and warranties made by INEX and, to the knowledge of INEX (without further duty of inquiry), UBC in the UBC License Agreement are sufficient to permit the granting by INEX of the license in Section 2.1 on the Effective Date;

7.2.8 this Agreement constitutes a valid and binding agreement of INEX, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or creditors' rights generally;

7.2.9 the execution, delivery and performance by INEX of this Agreement do not and will not conflict with or result in a material breach of any of the terms and provisions of any Third Party agreement of INEX entered into as of the Effective Date;

7.2.10 INEX is not aware of any impediment, including without limitation any Third Party agreement of INEX, which would prevent INEX from performing its obligations under this Agreement or that would conflict with or prevent the grant of the licenses and other rights in this Agreement to Aradigm; and

7.2.11 INEX will not enter into any Third Party agreement after the Effective Date which, in any way, will limit its ability to perform all of the obligations undertaken by INEX hereunder or that would conflict with or prevent the grant of the licenses and other rights in this Agreement to Aradigm.

7.3 Survival of Representations and Warranties

The representations and warranties contained herein shall survive the execution, delivery and performance of this Agreement by the Parties, notwithstanding any investigation at any time made by or on behalf of any Party or Parties, subject to any necessary changes which do not affect the enjoyment by the Parties of the rights granted in this Agreement.

7.4 DISCLAIMER

EXCEPT FOR THE EXPRESS WARRANTIES AND REPRESENTATIONS CONTAINED IN THIS AGREEMENT, NEITHER INEX NOR ARADIGM MAKES, AND EACH HEREBY EXPRESSLY

DISCLAIMS, ANY WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, WHETHER IN FACT OR IN LAW, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.

Article 8 Intellectual Property Rights

8.1 Ownership of Pre-Existing Intellectual Property Rights

Any Intellectual Property Rights owned by either Party prior to the Effective Date shall remain solely owned by such Party.

8.2 Ownership of Intellectual Property Rights from Development

Intellectual Property Rights arising from the development of Licensed Product or the activities of Aradigm or its Representatives contemplated by this Agreement relating to:

8.2.1 liposomal drug delivery systems and all improvements, modifications and derivatives thereof (but not related to the AERx Device, dosage forms or formulations of drugs for use with such AERx Device) shall be solely owned by INEX regardless of which Party or Party's Representatives created or invented such intellectual property (hereinafter "INEX Invention"); and

8.2.2 the AERx Device, dosage forms or formulations of drugs for use with such AERx Device and/or anything else other than an INEX Invention, shall be solely owned by Aradigm regardless of which Party or Party's Representatives created or invented such intellectual property (hereinafter "Aradigm Invention").

8.3 INEX Inventions and Aradigm Inventions

8.3.1 Each Party will report to the other Party in a timely manner any INEX Inventions or Aradigm Inventions that belong to the other Party pursuant to Section 8.2.

8.3.2 INEX shall have the right and responsibility to decide whether or not to seek or continue to seek or maintain patent protection on any INEX Invention in any country, and shall have the right to file for, prosecute and maintain patents on any INEX Invention in any country.

8.3.3 Aradigm shall have the right and responsibility to decide whether or not to seek or continue to seek or maintain patent protection on any Aradigm Invention in any country, and shall have the right to file for, procure and maintain patents on any Aradigm Invention in any country.

8.4 Incorporation of INEX Inventions into License

All INEX Inventions shall be licensed to Aradigm on the terms hereof as if such INEX Inventions were Licensed Patents and Know-How hereunder.

8.5 Prosecution and Maintenance of Licensed Patents

INEX shall be responsible for and pay all future costs of prosecuting and maintaining the Licensed Patents.

8.6 Co-operation

Each Party agrees to obtain the co-operation of its Representatives in the assignment of any Intellectual Property Rights addressed by this Agreement and the preparation, filing, and prosecution of any applications for registration of same which may arise under this Agreement. Such co-operation shall include:

8.6.1 making available to the other Party or such other Party's Representatives whom the other Party in its reasonable judgment deems necessary in order to assist it in obtaining patent protection of the Licensed Patents, INEX Inventions and Aradigm Inventions and any applications therefor; and

8.6.2 executing and causing its Representatives to execute all legal documents reasonably necessary to support the assignment, filing, prosecution and maintenance of said Patents.

8.6.3 Aradigm shall, at the request of INEX and, in the case of the Loading Patents, UBC, enter into such further agreements and execute any and all documents as may reasonably be required to ensure that ownership of the Licensed Patents remains with the legal owner.

8.7 Trademarks

Aradigm, at its expense, shall be responsible for the selection, registration and maintenance of all trademarks which it employs in connection with Licensed Product in the Territory and shall own and control such trademarks during the term of this Agreement and following its termination or expiration. Nothing in this Agreement shall be construed as a grant of rights, by license or otherwise, to INEX to use such trademarks for any purpose.

8.8 Labeling and Patent Marking

The Licensed Product shall be packaged by Aradigm and labeled consistent with the requirements of the regulatory authorities in the country in which it will be sold, and where legally permissible, shall identify any applicable Licensed Patents consistent with any patent marking requirements.

Article 9 Allocation of Risk

9.1 Limits

Except as expressly set out in this Agreement, nothing in this Agreement shall be construed as:

9.1.1 a warranty or representation by UBC or INEX as to title to the Licensed Patents and Know-How or that anything made, used, sold or otherwise disposed of under the license granted in this Agreement is or will be free from infringement of patents, copyrights, trade-marks, industrial design or other intellectual property rights;

9.1.2 a warranty or representation by UBC or INEX that any patents covered by this Agreement are valid or enforceable;

9.1.3 an obligation by UBC or INEX to bring or prosecute or defend actions or suits against Third Parties for infringement of patents, copyrights, trade-marks, industrial designs or other intellectual property or contractual rights; or

9.1.4 the conferring by UBC or INEX of the right to use in advertising or publicity the name of INEX or UBC or their respective trade marks.

9.2 Conduct of Infringement Proceedings

Notwithstanding Section 9.1, in the event of:

9.2.1 an alleged infringement by a Third Party of the Licensed Patents or Know-How or any right with respect to the Licensed Patents or Know-How by the manufacture, sale or use of products or services in the Field; or

9.2.2 any complaint by Aradigm alleging any infringement by a Third Party with respect to the Licensed Patents or Know-How or any right with respect to the Licensed Patents or Know-How by the manufacture, sale or use of products or services in the Field;

subject to the consent of UBC under the UBC License Agreement granting INEX the right to prosecute such litigation, the following shall apply:

9.2.3 INEX shall have the first right, in its sole discretion, and at its sole expense, to prosecute or defend such litigation;

9.2.4 if INEX does not take steps to prosecute or defend such litigation within 90 days after receipt of notice thereof, Aradigm may take such legally permissible action as it deems necessary or appropriate to prosecute such litigation in the Field or defend such litigation at its own expense, but shall not be obligated to do so;

9.2.5 the Party prosecuting or defending such litigation (in this Article, the "Litigating Party") shall have the right to control such litigation and shall bear all legal expenses (including court costs and legal fees), including settlement thereof provided however that no settlement or consent judgment or other voluntary final disposition of any suit defended or action brought by a Party pursuant to this Section 9.2 may be entered into without the consent of the other Party if such settlement would require the other Party to be subject to an injunction or to make a monetary payment or would restrict the claims in or admit any invalidity of any Licensed Patent(s) or significantly adversely affect the rights of the other Party to this Agreement (the "Non-litigating Party"). By way of example and not by way of limitation, there shall be no right of the Litigating Party to stipulate or admit to the invalidity or unenforceability of any Licensed Patent. Before any action is taken by the Litigating Party which could abridge the rights of the Non-litigating Party hereunder, the Parties agree to, in good faith, consult with a goal of adopting a mutually satisfactory position;

9.2.6 the Parties further acknowledge that solely to the extent that any final disposition of the litigation that will restrict the claims in or admit any invalidity of any Loading Patent(s) or significantly adversely affect UBC's rights, any such disposition of the litigation requires the full consultation with and approval by UBC under the UBC License Agreement;

9.2.7 the Non-litigating Party agrees to co-operate reasonably in any such litigation to the extent of executing all necessary documents, supplying essential documentary evidence and making essential witnesses then in its employment available and to vest in the Litigating Party the right to institute any such suits, so long as all the direct or indirect costs and expenses of bringing and conducting any such litigation or settlement shall be borne by the Litigating Party, provided that INEX and Aradigm shall recover their respective actual out-of-pocket expenses, or equitable proportions thereof, associated with any litigation or settlement thereof from any recovery made by any Party. Any excess amount shall be shared equally between Aradigm and INEX.

9.2.8 the Litigating Party shall keep the Non-litigating Party fully informed of the actions and positions taken or proposed to be taken by the Litigating Party (on behalf of itself or a sublicensee) and actions and positions taken by all other parties to such litigation;

9.2.9 in the event that INEX prosecutes or defends such litigation, Aradigm may elect to participate formally in the litigation to the extent that the court may permit, but any additional expenses generated by such formal participation shall be paid by Aradigm (subject to the possibility of recovery of some or all of such additional expenses from such other parties to the litigation); and

9.2.10 in the event that Aradigm prosecutes or defends such litigation, Aradigm acknowledges that UBC may elect to participate formally in the litigation to the extent that the court may permit, but any additional expenses generated by such formal participation shall be paid by UBC (subject to the possibility of recovery of some or all of such additional expenses from such other parties to the litigation).

9.3 Breach of Confidence Proceedings

In the event of an alleged breach of confidentiality respecting Confidential Information or any Third Party use of Confidential Information, Aradigm and INEX agree that they shall reasonably cooperate to enjoin such Third Party's use of such Confidential Information.

9.4 Defense of Infringement Proceedings

9.4.1 If any complaint alleging infringement or violation of any patent or other proprietary rights is made against Aradigm, its Affiliate or a Sublicensee with respect to the manufacture, use or sale of a Licensed Product, the following procedure shall be adopted:

(a) Aradigm shall promptly notify INEX upon receipt of any such complaint and shall keep INEX fully informed of the actions and positions taken by the complainant and taken or proposed to be taken by Aradigm (on behalf of itself, its Affiliate or a Sublicensee), provided that it is understood that Aradigm shall have the right but not the obligation to defend such suit, and

(b) all costs and expenses incurred by Aradigm (its Affiliate or any Sublicensee) in investigating, resisting, litigating and settling such a complaint, including the payment of any award of damages and/or costs to any Third Party, shall be paid by Aradigm (its Affiliate or any Sublicensee, as the case may be).

(c) In any event, INEX and Aradigm shall assist one another and cooperate in any such litigation at the other's request at the expense of the requesting Party.

9.4.2 If any complaint alleging infringement or violation of any patent or other proprietary rights is made against INEX or its Affiliate with respect to the manufacture, use or sale of a Licensed Product, the following procedure shall be adopted:

(a) INEX shall promptly notify Aradigm in writing. INEX shall have the right but not the obligation to defend such suit at its own expense.

(b) In any event, INEX and Aradigm shall assist one another and cooperate in any such litigation at the other's request at the expense of the requesting Party.

9.4.3 In the event a complaint is made under either of Sections 9.4.1 or 9.4.2, no settlement or consent judgment or other voluntary final disposition may be entered into without the consent of the other Party if such settlement would require the other Party to be subject to an injunction or to make a monetary payment or would restrict the claims in or admit any invalidity of any Licensed Patent(s) or significantly adversely affect the rights of the other Party. The Parties further acknowledge that solely to the extent that any final disposition of the litigation that will restrict the claims in or admit any invalidity of any Loading Patent(s) or significantly adversely affect UBC's rights, any such disposition of the litigation requires the full consultation with and approval by UBC under the UBC License Agreement.

9.5 Co-operation with Other Licensees

Aradigm acknowledges that INEX has granted rights in respect of fields outside the Field, and may grant to its other sublicensees in respect of fields outside of the Field rights similar to those granted to Aradigm under Sections 9.2, 9.3, 9.4 and this Section 9.5. If INEX grants such rights to its other sublicensees, in the event of any litigation in respect of:

9.5.1 fields outside of the Field of the kind described in Sections 9.2, 9.3 and 9.4 that may reasonably affect Aradigm's use of the Licensed Patents or Know-How in the Field or the manufacture, use or sale of Licensed Product by Aradigm; or

9.5.2 the Field that may reasonably affect INEX or one or more of INEX's sublicensee's use of the Licensed Patents or Know-How outside the Field or the manufacture, use or sale of products outside the Field by INEX or one or more other such sublicensee(s);

then INEX, Aradigm and such other sublicensees will use good faith efforts to determine jointly the course of action, if any, necessary or appropriate to prosecute or defend the litigation. INEX will use reasonable efforts to include in its sublicense agreements, provisions that allow the participation of Aradigm as contemplated herein.

Article 10 Confidential Information and Publication

10.1 Treatment of Confidential Information

Each Party hereto shall maintain the Confidential Information of the other Party in confidence, and shall not disclose, divulge or otherwise communicate such Confidential Information to others, or use it for any purpose, except pursuant to, and in order to carry out, the terms and objectives of this Agreement, and hereby agrees to exercise every reasonable precaution to prevent and restrain the unauthorized disclosure of such Confidential Information by any of its Representatives.

10.2 Permitted Disclosures

Either Party may disclose the Confidential Information of the other Party to Third Party contractors or collaborators to facilitate or carry out research activities under this Agreement provided that such Third Parties enter into an agreement with such Party which contains confidentiality provisions substantially the same as those set forth herein.

10.3 Publications Generally

The following restrictions shall apply with respect to the disclosure in scientific journals or publications by any Party or Representative of any Party relating to the inventions contained in the Licensed Patents and the Know-How or to the activities or results of the development of Licensed Product:

10.3.1 a Party (the “Publishing Party”) shall provide the other Party with an advance copy of any proposed publication before any other disclosure of same and such other Party shall have a reasonable opportunity to recommend any changes it reasonably believes are necessary to preserve Intellectual Property Rights or Confidential Information belonging in whole or in part to INEX or Aradigm, and the incorporation of such recommended changes shall not be unreasonably refused; and

10.3.2 if such other Party informs the Publishing Party, within thirty (30) days after receipt of an advance copy of a proposed publication, that such publication in its reasonable judgment could be expected to have a material adverse effect on any Intellectual Property Rights or Confidential Information belonging in whole or in part to INEX or Aradigm, the Publishing Party shall delay or prevent such publication as proposed. In the case of inventions, the delay shall be sufficiently long to permit the timely preparation and filing of a patent application(s) or application(s) for a certificate of invention on the information involved but not less than ninety (90) days.

10.3.3 Nothing in this Agreement shall be construed as preventing or in any way inhibiting Aradigm from complying with statutory and regulatory requirements governing the development, manufacture, use and sale or other distribution of Licensed Product in the Territory in any manner which it reasonably deems appropriate, including, for example, by disclosing to regulatory authorities confidential or other information received from INEX.

10.4 Publication by UBC

Aradigm acknowledges that the policies of UBC require that the results of UBC’s research be publishable, subject to the UBC License Agreement. INEX and Aradigm therefore agree that the inventors of the Loading Patents or associated Know-How shall not be restricted from presenting at

symposia, national, or regional professional meetings, or from publishing in abstracts, journals, theses, or dissertations, or otherwise, whether in printed or in electronic media, methods and results of UBC's research, provided however that:

10.4.1 INEX provides to Aradigm within five (5) days after receipt from UBC, copies of any proposed publication or presentation provided to it by UBC; and

10.4.2 Aradigm has not, within 21 days after receipt of said copies, objected to INEX in writing to such proposed presentation or proposed publication in accordance with Section 10.5 of this Agreement.

10.5 Objection to UBC Publication

Aradigm may object to a proposed presentation or proposed publication by UBC on the grounds that:

10.5.1 it contains Confidential Information that was disclosed to UBC by INEX or Aradigm; or

10.5.2 it discloses patentable subject matter which needs protection.

10.6 Removal of Objectionable Material

If Aradigm makes an objection under Section 10.5.1, Aradigm shall specify the portions of the presentation or publication considered objectionable (the "Objectionable Material"). INEX shall forward Aradigm's objections to UBC within four (4) days after receipt thereof. Upon receipt of notification from Aradigm that any proposed publication or disclosure contains Objectionable Material, UBC and INEX shall work together to revise the proposed publication or presentation to remove or alter the Objectionable Material in a manner acceptable to Aradigm, in which case Aradigm shall withdraw its objection. INEX shall co-operate in all reasonable respects in making revisions to any proposed disclosures if considered by Aradigm to contain Objectionable Material. Aradigm acknowledges that UBC shall not be restricted from publishing or presenting the proposed disclosure as long as the Objectionable Material has been removed. In respect of any disclosures by UBC pursuant to Section 9.7 of the UBC License Agreement, upon Aradigm's request, INEX shall request that Aradigm's Confidential Information shall be deleted therefrom prior to disclosure by UBC.

10.7 Protecting Objectionable Material

If Aradigm makes an objection under Section 10.5.2, thereafter INEX and/or Aradigm may file a patent application in accordance with Article 8 and the Parties acknowledge that UBC is obligated under the UBC License Agreement to ensure that its researchers refrain from making such publication or presentation until one or more patent applications have been filed with one or more patent offices directed to such patentable subject matter, or until three (3) months have elapsed from date of receipt of the written objection by UBC, whichever is sooner, after which UBC and its researchers may proceed with said presentation or publication. For greater certainty, a provisional patent application shall be considered to be a patent application in the USA for the purposes of this Agreement.

Article 11 Termination

11.1 Term

This Agreement shall expire, on a country-by-country basis, upon the expiration of Aradigm's royalty obligations in each country in accordance with Section 4.2.

11.2 Voluntary Termination

Aradigm may terminate the licenses under this Agreement at any time by providing thirty (30) days prior written notice to INEX.

11.3 Termination for Breach

Each Party shall be entitled to terminate this Agreement and the licenses granted hereunder to the other Party by written notice to the other Party in the event that the other Party shall be in material default of any of its obligations hereunder, and shall fail to remedy any such default within sixty (60) days after notice thereof by the non-breaching Party. Any such notice shall specifically state that the non-breaching Party intends to terminate this Agreement in the event that the breaching Party shall fail to remedy the default. Any such notice shall set out expressly the actions required of the breaching Party to remedy the default. If such default is not corrected, the non-breaching Party shall have the right to terminate this Agreement by giving written notice to the Party in default provided the notice of termination is given within six (6) months of the default and prior to correction of the default.

11.4 Termination upon Bankruptcy

11.4.1 This Agreement shall automatically and immediately terminate without notice to Aradigm upon (a) the bankruptcy, liquidation or dissolution of Aradigm; (b) the filing of any voluntary petition for bankruptcy, dissolution, liquidation or winding-up of the affairs of Aradigm; or (c) the filing of any involuntary petition for bankruptcy, dissolution, liquidation or winding-up of the affairs of Aradigm which is not dismissed within one hundred twenty (120) days after the date on which it is filed or commenced.

11.4.2 This Agreement may be terminated by Aradigm by providing written notice to INEX upon (a) the bankruptcy, liquidation or dissolution of INEX; (b) the filing of any voluntary petition for bankruptcy, dissolution, liquidation or winding-up of the affairs of INEX; or (c) the filing of any involuntary petition for bankruptcy, dissolution, liquidation or winding-up of the affairs of INEX which is not dismissed within one hundred twenty (120) days after the date on which it is filed or commenced. Notwithstanding the bankruptcy of INEX, or the impairment of performance by INEX of its obligations under this Agreement as a result of bankruptcy of INEX, to the extent that INEX retains the rights necessary to grant the licenses granted in this Agreement, Aradigm shall be entitled to retain the licenses granted herein, subject to INEX's rights to terminate this Agreement as provided in this Agreement. Nothing in this Section shall limit Aradigm's rights arising under the consent by UBC to this Agreement.

11.5 Continuing Obligations/No Limitation on Remedies

Upon any termination of this Agreement pursuant to this Article 11, neither Party shall be relieved of any obligations incurred prior to such termination. Termination of the Agreement in accordance with the provisions hereof shall not limit remedies that may be otherwise available in law or equity.

11.6 Disposition of Licensed Product

Upon any termination of this Agreement pursuant to Sections 11.1, 11.2, 11.3 or 11.4, Aradigm shall within thirty (30) days after the effective date of such termination notify INEX in writing of the amount of Licensed Product which Aradigm, its Affiliates and Sublicensees then have completed on hand, the sale of which would, but for the termination, be subject to royalty, and Aradigm, its Affiliates and Sublicensees shall thereupon be permitted during the one (1) year following such termination to sell that amount of Licensed Product, provided that Aradigm shall pay the aggregate royalty thereon at the conclusion of the earlier of the last such sale or such one (1) year period. Except as otherwise agreed between the Parties in writing, all sublicenses granted by Aradigm shall forthwith terminate upon the termination of this Agreement.

11.7 Survival of Obligations; Return of Confidential Information

Notwithstanding any termination of this Agreement, the obligations of the Parties under Article 1, Sections 2.4.1(a), 2.4.2(b), 2.4.2(c), 2.4.2(d), 2.4.3, Article 7, Article 8, Article 9, Article 10, Article 11, Article 12, Article 13 and Article 14, as well as under any other provisions which by their nature are intended to survive any such termination, shall survive and continue to be enforceable. Upon any termination of this Agreement pursuant to Article 11, except as contemplated hereby, each Party shall promptly return to the other Party all written Confidential Information, and all copies thereof (except for one archival copy to be retained by a person designated by such Party (who shall not make such Confidential Information generally available to Representatives of such Party) for the purpose of confirming which information to hold in confidence hereunder), of the other Party which is not covered by a license surviving such termination. Aradigm shall deliver to INEX patent prosecution records related to the Licensed Patents in Aradigm's possession or control, if any.

11.8 Delivery of Data and Materials and License

Upon termination of this Agreement under Section 11.2, Section 11.3 by INEX for Aradigm's uncured material default, or Section 11.4.1:

11.8.1 Provided that INEX shall be responsible for any reasonable associated out-of-pocket costs associated with the following activities, Aradigm shall deliver to INEX a copy of the animal and human data and such other information, materials (including biological materials but excluding any AERx Devices or dosage forms) and documents in Aradigm's possession or control arising from the development of Licensed Product under this Agreement that INEX may reasonably require in order to obtain approval of applicable government regulatory agencies to market Licensed Product, except to the extent that such are related to the AERx Device or dosage forms. INEX may, directly or through a licensee, exploit such data, other information, materials (including biological materials) and documents to develop, make, have made, import, use, offer for sale and sell Licensed Product.

11.8.2 Aradigm shall also, within thirty (30) days after the effective date of such termination, use all reasonable endeavors to take all steps and execute all documents reasonably

necessary to assign and/or transfer or permit reference to (to the extent legally permissible in the relevant country) all regulatory filings and approvals arising from the development of Licensed Product under this Agreement in Aradigm's name or in the name of Aradigm's Representatives to INEX or its designee except to the extent that such regulatory filings are related to the AERx Device or dosage forms, provided that INEX shall be responsible for any reasonable associated out-of-pocket costs of transfer.

11.8.3 In the event that no such assignment and/or transfer and/or reference pursuant to 11.8.2 may legally be made, then Aradigm shall forthwith surrender such regulatory filings and approvals for cancellation.

11.8.4 Upon INEX's request, Aradigm shall within thirty (30) days after the effective date of such termination, deliver to INEX or its designee any and all documents relating to applications, regulatory filings and approvals in its possession or control arising from the development of Licensed Product that are reasonably required in order to obtain approval of applicable government regulatory agencies to market Licensed Product, except to the extent that such are related to the AERx Device or dosage forms, provided that INEX shall be responsible for any reasonable associated out-of-pocket costs of transfer.

11.8.5 Except to the extent set out in the last sentence of Section 11.8.1, Aradigm's transfer to INEX of any data, other information, materials (including biological materials) or documents shall not grant INEX any license or right (whether express, implied or by estoppel) in any Intellectual Property Rights owned or controlled by Aradigm.

Article 12 Indemnification and Liability Limitations

12.1 Indemnification by Aradigm

Aradigm hereby agrees that it shall be responsible for, indemnify, hold harmless and defend INEX and its Affiliates, and their respective Representatives, invitees, shareholders, partners, attorneys and accountants and their respective heirs, successors and assigns (collectively, the "INEX Indemnitees"), and UBC and its Affiliates and their respective Representatives, Board of Governors, faculty, students, invitees, managing members, partners, attorneys and accountants and their respective heirs, successors and assigns (collectively, the "UBC Indemnitees") from and against any and all claims, demands, losses, liabilities, damages, costs and expenses (including reasonable legal fees) (collectively, "Losses") suffered or incurred by any INEX Indemnitee or UBC Indemnitee arising out of, relating to, resulting from or in connection with any Third Party claims arising out of or relating to:

12.1.1 the breach of any representation or warranty made by Aradigm herein;

12.1.2 the default by Aradigm in the performance or observance of any of its obligations to be performed or observed hereunder;

12.1.3 the breach by Aradigm, its Affiliates or Sublicensees of any applicable laws, regulations and guidelines in connection with any Licensed Product or in the performance or observance of any of its obligations to be performed or observed hereunder;

12.1.4 the infringement of the Crown Identified Patents or any Intellectual Property Rights of any Third Party; and

12.1.5 any injury or death to any person or damage to any property caused by any Licensed Product provided by Aradigm, its Affiliates or Sublicensees, whether claimed by reason of breach of warranty, negligence, product defect or otherwise, and regardless of the form in which any such claim is made.

The foregoing shall not apply to the extent that such Losses are due to:

12.1.6 the breach of any representation or warranty made by INEX herein;

12.1.7 the default by INEX in the performance or observance of any of its obligations to be performed or observed hereunder; and

12.1.8 the breach by INEX of any applicable laws, regulations and guidelines in connection with any Licensed Product or in the performance or observance of any of its obligations to be performed or observed hereunder.

12.2 Indemnification by INEX

INEX hereby agrees that it shall be responsible for, indemnify, hold harmless and defend Aradigm and Aradigm's Affiliates, and their respective Representatives, invitees, shareholders, partners, attorneys and accountants and their respective heirs, successors and assigns (collectively, the "Aradigm Indemnitees"), and the UBC Indemnitees from and against any and all Losses suffered or incurred by any Aradigm Indemnitee or UBC Indemnitee arising out of, relating to, resulting from or in connection with any Third Party claims arising out of or relating to:

12.2.1 the breach of any representation or warranty made by INEX herein;

12.2.2 the default by INEX in the performance or observance of any of its obligations to be performed or observed hereunder; and

12.2.3 the breach by INEX of any applicable laws, regulations and guidelines in connection with any Licensed Product or in the performance or observance of any of its obligations to be performed or observed hereunder.

The foregoing shall not apply to the extent that such Losses are due to:

12.2.4 the breach of any representation or warranty made by Aradigm herein;

12.2.5 the default by Aradigm in the performance or observance of any of its obligations to be performed or observed hereunder;

12.2.6 the breach by Aradigm, its Affiliates or Sublicensees of any applicable laws, regulations and guidelines in connection with any Licensed Product or in the performance or observance of any of its obligations to be performed or observed hereunder; and

12.2.7 any injury or death to any person or damage to any property caused by any Licensed Product provided by Aradigm, its Affiliates or Sublicensees, whether claimed by reason of breach of warranty, negligence, product defect or otherwise, and regardless of the form in which any such claim is made.

12.3 Notice of Claims

In the event that a claim is made pursuant to Section 12.1 or 12.2 above against any person or entity which seeks indemnification hereunder (the "Indemnitee"), the Indemnitee shall give the indemnifying Party (the "Indemnitor") prompt notice of any claim or lawsuit or other action for which it seeks to be indemnified under this Agreement and agrees that the Indemnitor shall not have any obligation under the relevant Section unless:

12.3.1 the Indemnitor is granted, subject to the provisions of this Section 12.3 and the relevant provisions of Article 9, full authority and control over the defense, including settlement, against such claim or law suit or other action, and

12.3.2 the Indemnitee cooperates fully with the Indemnitor and its agents in defense of the claims or law suit or other action.

The Indemnitee shall have the right to participate in the defense of any such claim, complaint, suit, proceeding or cause of action referred to in this Section utilizing attorneys of its choice, at its own expense, provided however, that the Indemnitor shall, subject to the provisions of this Section 12.3 and the relevant provisions of Article 9, have full authority and control to handle any such claim, complaint, suit proceeding, or cause of action, including any settlement or other disposition thereof, for which the Indemnitee seeks indemnification under this Section, provided however, subject to the following sentence, that no settlement or consent judgment or other voluntary final disposition may be entered into without the consent of the Indemnitee if such settlement would require the Indemnitee to be subject to an injunction or to make a monetary payment or would restrict the claims in or admit any invalidity of any Licensed Patent(s) or significantly adversely affect the rights of the Indemnitee. The Parties further acknowledge that, where any final disposition of the litigation that will restrict the claims in or admit any invalidity of any Licensed Patent(s), any such disposition of the litigation requires the full consultation with and approval of UBC under the UBC License Agreement solely in respect of the Loading Patent(s).

12.4 Consequential Losses

EXCEPT FOR LIABILITY FOR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR BREACH OF THE OBLIGATIONS RESPECTING CONFIDENTIAL INFORMATION, NO PARTY WILL BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY NATURE ARISING FROM SUCH PARTY'S ACTIVITIES UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT THIS LIMITATION SHALL NOT LIMIT THE INDEMNIFICATION OBLIGATION OF SUCH PARTY UNDER SECTIONS 12.1 OR 12.2 FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES RECOVERED BY A THIRD PARTY.

12.5 Actions Between the Parties

For the avoidance of doubt, in connection with actions brought by one Party hereto against the other (whether for breach of any provisions hereof, any representation or warranty made herein or otherwise), each Party expressly reserves all of its rights and remedies under applicable law, including, without limitation, the right to sue for breach of contract.

12.6 Insurance

12.6.1 Prior to or immediately upon the start of any human clinical trials or other Licensed Product testing involving human subjects by Aradigm, its Affiliates or any Sublicensee ("Human Clinical Trials") and for a period of five (5) years after the expiration of this Agreement or the earlier termination thereof, Aradigm shall obtain and/or maintain, respectively, at its sole cost and expense, public liability, product liability and errors and omissions insurance in reasonable amounts, with a reputable and financially secure insurance carrier. Such product liability insurance shall insure against all liability, including personal injury, physical injury, or property damage arising out of the manufacture, sale, distribution, or marketing of Licensed Product in the Territory. Aradigm shall use reasonable efforts to ensure that any and all such policies of insurance required pursuant to this Section 12.6.1 shall contain a waiver of subrogation against the UBC Indemnitees. Aradigm shall provide written proof of the existence of such insurance to INEX upon request.

12.6.2 Aradigm shall require that each Sublicensee under this Agreement shall either:

(a) demonstrate to Aradigm's reasonable satisfaction that such Sublicensee has a program of self insurance no less adequate than that which a reasonable and prudent businessperson carrying on a similar line of business would require; or

(b) sixty (60) days prior to the earlier of the start of Human Clinical Trials or the first sale of any Licensed Product by such Sublicensee, procure and maintain public liability, product liability and errors and omissions insurance in reasonable amounts, with a reputable and financially secure insurance carrier. Aradigm shall use reasonable efforts to ensure that any and all such policies of insurance required pursuant to this Section 12.6.2(b) shall contain a waiver of subrogation against the UBC Indemnitees.

Article 13 Dispute Resolution

13.1 Negotiation

If a dispute or controversy regarding any right or obligation under this Agreement arises between the Parties, the Parties will seek to resolve such dispute or controversy or failure to agree by good faith negotiation between senior management representatives of the Parties, to be commenced promptly after such dispute or controversy or failure to agree arises. If such dispute or controversy or failure to agree is not resolved by such negotiation within thirty (30) days after written notice by one Party to the other, and at least one Party requires such resolution, then the Parties shall proceed as follows. Any unresolved dispute, controversy, action, claim or proceeding initiated by either Party (other than a Third Party action, claim or other proceeding in a bona fide action, claim or other proceeding initiated by a Third Party against a Party) relating to, arising out of or resulting from this Agreement, or the performance by either Party of its obligations hereunder, or any alleged breach, termination or invalidity of this Agreement, whether before or after termination or expiration of this Agreement, shall be finally resolved by binding arbitration pursuant to Section 13.2.

13.2 Arbitration

In the event of any unresolvable dispute, difference, or question arising between the Parties in connection with this Agreement or any clause or the construction thereof, or the rights, duties or liabilities of either Party, or the scope or validity of any patent licensed hereunder, the matter shall be submitted for arbitration in accordance with the rules of the American Arbitration Association. Arbitration shall take place in Seattle, Washington or as otherwise agreed by the Parties. A single arbitrator shall be appointed by agreement of the Parties to resolve all such disputes, differences or questions. The arbitrator shall be guided by the contents of this Agreement in arriving at a decision to resolve the dispute, but may rely on extrinsic evidence where appropriate and/or necessary. The Parties shall share the cost of the arbitration unless, in the arbitrator's opinion, the position advanced by one of the Parties, or the nature or manner of presenting it, is such that it would be unfair to so apportion such expenses, in which case the arbitrator may apportion such expenses differently. In cases where validity or scope of a patent is in issue, either Party shall have the right to elect to have the arbitration conducted by three arbitrators, each Party selecting one and those arbitrators selecting the third.

Article 14 Miscellaneous

14.1 Assignment

This Agreement and the licenses herein granted shall be binding upon and inure to the benefit of the successors in interest of the respective parties. Except as otherwise provided in this Agreement, neither this Agreement nor any of the rights or obligations hereunder may be assigned by either Party without the prior written consent of the other Party, except either Party may assign this Agreement or any of the rights or obligations hereunder to an Affiliate or to a Third Party with which a Party may merge or consolidate, or to which it may transfer all or substantially all of its assets to which this Agreement relates, without obtaining the prior written consent of the other Party.

14.2 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

14.3 Force Majeure

In the event that either Party is prevented from performing or is unable to perform any of its obligations under this Agreement due to any act of God; fire; casualty; flood; war; strike; lockout; failure of public utilities; injunction or any act, exercise, assertion or requirement of governmental authority; epidemic; destruction of production facilities; riots; insurrection; inability to procure or use materials, labor, equipment, transportation or energy; or any other cause beyond the reasonable control of the Party invoking this Section 14.3 if such Party shall have used its reasonable efforts to avoid such occurrence, such Party shall give notice to the other Party in writing promptly, and thereupon the affected Party's performance shall be excused and the time for performance shall be extended for the period of delay or inability to perform due to such occurrence.

14.4 Further Assurances

Each Party hereto agrees to execute, acknowledge and deliver such further instruments and do all such further acts as may be necessary or appropriate to carry out the purposes and intent of this Agreement.

14.5 International Sale of Goods Act

The Parties acknowledge and agree that the International Sale of Goods Act and the United Nations Convention on Contracts for the International Sale of Goods have no application to this Agreement.

14.6 Modification

No waiver, alteration or modification of any of the provisions hereof shall be binding unless made in writing and signed by the Parties by their respective officers thereunto duly authorized.

14.7 No Agency

Nothing herein shall be deemed to constitute either Party as the agent or representative of the other Party, or both Parties as joint venturers or partners for any purpose. INEX shall be an independent contractor, not an employee or partner of Aradigm, and the manner in which INEX renders its services under this Agreement shall be within INEX's sole discretion. Neither Party shall be responsible for the acts or omissions of the other Party, and neither Party will have authority to speak for, represent or obligate the other Party in any way without prior written authority from the other Party.

14.8 Non-Use of Names

Neither Party shall use the name of the other Party, nor any adaptation thereof, in any advertising, promotional or sales literature without prior written consent obtained from such other Party in each case (which consent shall not be unreasonably withheld or delayed).

14.9 Notices

Any notice or other communication in connection with this Agreement must be in writing and if by mail, by registered mail, return receipt requested, and shall be effective when delivered to the addressee at the address listed below or such other address as the addressee shall have specified in a notice actually received by the addressor.

If to INEX:

INEX Pharmaceuticals Corporation
100-8900 Glenlyon Parkway
Burnaby, B.C. V5J 5J8
Canada

Fax: (604) 419-3202
Attention: Director, Business Development

If to Aradigm:

Aradigm Corporation
3929 Point Eden Way
Hayward, CA 94545
USA

Fax: (510) 265-9217
Attention: Chief Financial Officer

14.10 Publicity

Except as required by law, stock exchange or regulatory authority:

14.10. 1 neither Party, nor any of its Affiliates, shall originate any publicity, news release or other public announcement, written or oral, relating to this Agreement or the existence of an arrangement between the Parties, without the prior written approval of the other Party and agreement upon the nature and text of such announcement or disclosure, which approval shall not be unreasonably withheld; and

14.10. 2 the Party desiring to make any such public announcement or other disclosure shall inform the other Party of the proposed announcement or disclosure in reasonably sufficient time prior to public release, and shall provide the other Party with a written copy thereof, in order to allow such other Party to comment upon such announcement or disclosure.

14.11 Third Parties

None of the provisions of this Agreement shall be for the benefit of or enforceable by any Third Party.

14.12 Waiver

The waiver by either Party of a breach or a default of any provision of this Agreement by the other Party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any right, power or privilege by such Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as a sealed instrument in their names by their properly and duly authorized officers or representatives.

INEX PHARMACEUTICALS CORPORATION

By: /s/ D.J. Main
Name: D.J. Main
Title: CEO

ARADIGM CORPORATION

By: /s/ V. Bryan Lawlis
Name: V. Bryan Lawlis
Title: President & CEO

Exhibit 1.1.9: Crown Identified Patents

Country	*Patent No.*	*Title*
[*]	**[*]**	**[*]**

***Confidential Treatment Requested.**

Exhibit 1.1.23: Loading Patents

Issued Patents

Country	*Patent No.*	*Filing Date*	*Title*	*Issue Date*	*Status*
[*]	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**

Pending Patents

Country	*Serial No.*	*Filing Date*	*Title*	*Status*
[*]	**[*]**	**[*]**	**[*]**	**[*]**

***Confidential Treatment Requested.**

Exhibit 1.1.36: Sphingosome Patents

Issued Patents

Country	*Patent No.*	*Filing Date*	*Title*	*Issue Date*	*Status*
[*]	**[*]**	**[*]**	**[*]**	**[*]**	**[*]**

Pending Patents

Country	*Serial No.*	*Filing Date*	*Title*	*Status*
[*]	**[*]**	**[*]**	**[*]**	**[*]**

***Confidential Treatment Requested.**

* Confidential Treatment has been requested for the marked portions of this exhibit pursuant to Rule 24B-2 of the Securities Exchange Act of 1934, as amended.

SETTLEMENT AGREEMENT

This Settlement Agreement ("Settlement Agreement" or "Agreement") sets forth the terms upon which Sirna Therapeutics, Inc. (SIRNA) and Merck & Co., Inc. ("MERCK & CO") and Protiva Biotherapeutics Inc. and Protiva Biotherapeutics (USA), Inc. (collectively "PROTIVA") agree to settle the litigations pending both before the Superior Court of California, San Francisco County, captioned *Protiva Biotherapeutics, Inc. et. al. v. Sirna Therapeutics, Inc., Case No. CGC-06-450694* and before the United States District Court For The Northern District of California, captioned *Sirna Therapeutics, Inc. v. Protiva Biotherapeutics, Inc. and Mark J. Murray, Case No. C-06-1361 (MMC)* (collectively the "Litigation"). SIRNA, MERCK & CO and PROTIVA are individually referred to in this Agreement as a "Party" and collectively as the "Parties". This Agreement shall be effective as of October 9, 2007 ("Effective Date").

BACKGROUND

SIRNA and PROTIVA entered into a Strategic Alliance Agreement ("SAA") dated February 1, 2005 and a Materials Transfer Agreement dated April 6, 2004 which was modified in an Amended and Restated Materials Transfer Agreement ("MTA") dated October 1, 2004 (collectively the "Prior Agreements"). The disputes that resulted in the Litigation arose from the relationships established and the activities undertaken by the Parties since the inception of these agreements. The Parties wish to completely settle their disputes and the Litigation with this Settlement Agreement.

In consideration of the mutual promises contained herein and any other good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereto agree:

1. DEFINITIONS

1.1 "**Additional Contested Claims**" shall have the meaning set forth in Section 6.4.3.

1.2 "**Affiliate**" shall mean (i) any corporation or business entity of which fifty percent (50%) or more of the securities or other ownership interests representing the equity, the voting stock or general partnership interest are owned, controlled or held, directly or indirectly, by a Party; or (ii) any corporation or business entity which, directly or indirectly, owns, controls or holds fifty percent (50%) (or the maximum ownership interest permitted by law) or more of the securities or other ownership interests representing the equity, the voting stock or, if applicable, the general partnership interest, of a Party; or (iii) any corporation or business entity of which fifty percent (50%) or more of the securities or other ownership interests representing the equity, the voting stock or general partnership interest are owned, controlled or held, directly or indirectly, by a corporation or business entity described in (i) or (ii).

1.3 "**Anniversary Date**" shall mean the date that is one year after the Effective Date.

1.4 **[*]**.

1.5 "**Collaboration Patent Rights**" shall mean any claims of any patents and patent applications that as a result of the inventorship determination in Section 6 become either PROTIVA Patent Rights, PROTIVA Designated Patent Rights or Joint Patent Rights.

1.6 "**Compound**" shall mean a nucleic acid molecule whether now known or hereafter discovered or created including but not limited to short interfering nucleic acid (siNA), short interfering RNA (siRNA), double-stranded RNA (dsRNA), micro-RNA (miRNA), and short hairpin RNA (shRNA) molecules.

1.7 "**Contested Claims**" shall mean the Additional Contested Claims, Initial Contested Claims and the Other Contested Claims.

1.8 "**Control**", "**Controls**" or "**Controlled by**" shall mean with respect to any item of or right under PROTIVA Patent Rights or PROTIVA Know-How, the possession of (whether by ownership or license, other than pursuant to this Agreement) or the ability of PROTIVA to grant access to, or a license or sublicense of, such items or right as provided for herein without violating the terms of any agreement or other arrangement with any third party existing at the time PROTIVA would be required hereunder to grant to MERCK such access or license or sublicense.

1.9 "**Covered Product**" shall mean a Product which the manufacture, use or sale of would infringe a Valid Patent Claim in the country where the use or sale occurs but for (i) the licenses granted herein, (ii) their being conducted by a co-owner of the relevant patent in such country, and/or (iii) any statutory exemptions from infringement such as 35 USC § 271 (e).

1.10 "**Disputed Applications**" shall mean the **[*]**.

1.11 "**Field**" shall mean any therapeutic, diagnostic, prophylactic or other commercial use or commercial application of any LNP Formulation, Compound or Product that is directed against any target outside of the Restricted Field; provided however, that Field shall not include any therapeutic, diagnostic, prophylactic or other commercial use or commercial application of LNP Formulations to deliver **[*]**.

1.12 "**IND**" shall mean shall mean an Investigational New Drug application for approval to conduct human clinical investigations filed with or submitted to the US Food and Drug Administration ("FDA"), or any equivalent filing or application made with the European Medicines Evaluation Agency or any successor agency or any similar regulatory authority in a Major Market Country.

1.13 "**INEX Litigation**" shall mean the case pending before the Supreme Court of British Columbia filed on or about March 24, 2006 and captioned *Protiva Biotherapeutics Inc. v. Inex Pharmaceuticals Corporation, Timothy Ruane, David Main, Dr. Pieter Cullis and Darrell Elliot (No. S061992 Vancouver Registry)* and any litigation in any other forum at anytime based on the same or similar legal grounds.

1.14 "**Initial Contested Claims**" shall mean any patent claims identified by PROTIVA under Section 6.1.6 in the Disputed Applications.

1.15 "**Joint Patent Rights**" shall have the meaning set forth in Section 6.2.3 herein.

1.16 "**LNP Formulation**" shall mean a delivery formulation that has one or more lipid components.

1.17 "**Major Market Country**" shall mean any of the United Kingdom, France, Germany, Italy, Spain or Japan.

1.18 "**MERCK**" shall mean MERCK & CO and SIRNA collectively.

1.19 "**MERCK Patent Rights**" shall mean any patents or patent applications to the extent containing Initial Contested Claims and/or Other Contested Claims that:

(i) are determined in accordance with Sections 6.1.1 through 6.1.12 to be invented solely by persons obligated to assign inventions to MERCK and/or its Affiliates; and

(ii) relate solely to delivery vehicles or formulations, whether or not such claims relate to delivery vehicles or formulations in the general context of delivering compounds.

For avoidance of doubt, MERCK Patent Rights shall not include:

(x) any patents or patent applications to the extent containing any Additional Contested Claims; or

(y) any patents or patent applications to the extent containing Initial Contested Claims and/or Other Contested Claims so determined to be invented solely by persons who were, at the time such invention was made, obligated to assign inventions to MERCK and/or its Affiliates which are directed to nucleic acids alone and/or delivery vehicles or formulations together with nucleic acids other than in the general context of delivering compounds.

1.20 "**NDA**" shall mean a New Drug Application or Biologics License Application filing pursuant to the United States Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., and/or the Public Health Service Act, 42 U.S.C. §§ 262 et seq., as such may be amended from time to time, or any equivalent filing or application seeking marketing approval for a Product made with the European Medicines Evaluation Agency or any successor agency or any similar regulatory authority in a Major Market Country.

1.21 "**Net Sales**" shall mean the gross invoice price (not including value added taxes, sales taxes, or similar taxes) of Product sold by MERCK or its Affiliates to the first third party after deducting, if not previously deducted, from the amount invoiced or received:

1.21.1 trade and quantity discounts other than early payment cash discounts;

1.21.2 returns, rebates, chargebacks and other allowances;

1.21.3 retroactive price reductions that are actually allowed or granted;

1.21.4 sales commissions paid to third party distributors and/or selling agents;

1.21.5 a fixed amount equal to **[*]** of the amount invoiced to cover bad debt, early payment cash discounts, transportation and insurance and custom duties; and

1.21.6 the standard inventory cost of delivery devices used for dispensing or administering Product.

1.22 "**Other Contested Claims**" shall have the meaning set forth in Section 6.4.2.

1.23 "**Phase II Clinical Trial**" shall mean a human clinical trial in any country intended to satisfy standards that would meet the requirements of 21 CFR 312.21(b).

1.24 "**Phase III Clinical Trial**" shall mean a human clinical trial in any country intended to satisfy standards that would meet the requirements of 21 CFR 312.21(c).

1.25 "**Product**" shall mean a pharmaceutical composition containing Compound, or containing Compound and a LNP Formulation; whether or not including any other active ingredients or excipients.

1.26 "**PROTIVA Designated Patent Rights**" shall mean any and all claims in patents and patent applications in PROTIVA Patent Rights but specifically excluding any claims in those patents or patent applications that meet any one or more of the following criteria:

(i) such claim requires as an element of the claim a cationic lipid described in Schedule 1.26(i);

(ii) such claim requires as an element of the claim a PEG-lipid described in Schedule 1.26(ii);

(iii) such claim requires a specific Compound against a PROTIVA Reserved Target; or

(iv) the subject matter of such claim was first contained in an application with a filing date after the Effective Date.

1.27 "**PROTIVA IP**" shall mean PROTIVA Patent Rights and PROTIVA Know-how.

***Confidential Treatment Requested.**

1.28 "**PROTIVA Know-how**" shall mean all information and material which is or ever was Controlled by PROTIVA up to the Effective Date including but not limited to, discoveries, improvements, processes, methods, protocols, formulas, data, inventions, know-how and trade secrets, patentable or otherwise and specifically including but not limited to the alleged trade secrets and information at issue in the Litigation.

1.29 "**PROTIVA Patent Rights**" shall mean any and all claims in patents and patent applications (which for the purpose of this Agreement shall be deemed to include certificates of invention and applications for certificates of invention) in the Territory which claims meet all of the following criteria:

(i) they are Controlled by PROTIVA; and

(ii) they are in patents or patent applications which were filed on or before, or claim priority back to a date on or before, the Anniversary Date, including divisionals, continuations, continuations-in-part, reissues, renewals, substitutions, registrations, re-examinations, revalidations, extensions, supplementary protection certificates, and the like of any such patents and patent applications, and foreign equivalents of the foregoing,

including, but not limited to, those listed on Schedule 1.29; provided, however, that the PROTIVA Patent Rights will not include any claims in patents or patent applications, or rights with respect thereto, that are:

(x) both (a) not listed on Schedule 1.29 and (b) Controlled by PROTIVA by reason of a license or other right granted to PROTIVA by Alnylam Pharmaceuticals, Inc., under any agreement or agreements, whether dated prior to, on, or following the Effective Date or by reason of a license or other right granted to PROTIVA by Tekmira Pharmaceutical Corporation after the Effective Date; or

(y) to a specific Compound against a target and the subject matter of the claim(s) was first contained in an application with a filing date after the Effective Date; or

(z) claims that were first contained in, or that are derived from and claim priority to **[*]**.

1.30 "**PROTIVA Reserved Target**" shall mean **[*]** and any PROTIVA Potential Reserved Target chosen in accordance with Section 4.4. More detailed information about the respective genes is attached as Schedule 1.30.

1.31 "**PROTIVA Potential Reserved Target**" shall mean **[*]**. More detailed information about the respective genes is attached as Schedule 1.31.

1.32 "**Retained Litigation Documents**" shall mean and include: (i) any deposition testimony taken in the Litigation and any documents marked as exhibits in such depositions; and (ii) any testimony by declaration or sworn affidavit including any documents identified as exhibits to such declarations or affidavits.

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1.33 "**Restricted Field**" shall mean any therapeutic, diagnostic, prophylactic or other commercial use or commercial application of any LNP Formulation, Compound or Product that is specifically directed against any PROTIVA Reserved Target; provided however, that Restricted Field shall not include any therapeutic, diagnostic, prophylactic or other commercial use or commercial application of LNP Formulations to deliver **[*]**.

1.34 "**SIRNA Patent Rights**" shall mean any patent or patent application in the Territory that claims a right of priority to a Disputed Application.

1.35 "**Territory**" shall mean all countries of the world.

1.36 "**Valid Patent Claim**" shall mean any claim in an issued and unexpired patent within the PROTIVA Patent Rights or Collaboration Patent Rights, which has not been held unenforceable, unpatentable or invalid by a decision of a court or other governmental agency of competent jurisdiction, which decision is unappealable or unappealed within the time allowed for appeal, and which has not been abandoned, disclaimed, dedicated to the public or otherwise been admitted by the holder of the patent to be invalid or no longer enforceable through reissue, reexamination, or disclaimer or otherwise.

2. DISMISSAL

PROTIVA, with the intention of binding itself, its successors, assigns, and Affiliates does hereby irrevocably release MERCK from any obligation to comply with the preliminary injunction order issued by the Superior Court of California, San Francisco County on March 20, 2007 and shall take immediate steps to have the injunction order dissolved. Within three (3) business days of the Effective Date of this Settlement Agreement and simultaneously with receipt of payment from MERCK & CO under Section 5.1, the Parties shall file with the respective courts a Request For Dismissal with prejudice of all claims and counterclaims in the Litigation by filing a Stipulation And Order Of Dismissal in the form attached hereto as Schedules 2-A and 2-B. Each Party will appear in court, perform all acts, sign all necessary documents and cooperate with each other as necessary to facilitate such dismissal of the claims.

3. RELEASES

3.1 PROTIVA, with the intention of binding itself, its successors, assigns and Affiliates, does hereby irrevocably release and forever discharge, and agrees not to assert or to assist any third party in asserting any action, claim, liability or demand against, MERCK and its Affiliates, successors, predecessors, directors, officers, partners, employees, customers, agents, and all those acting in privity or concert with any of them, from and with respect to any and all claims PROTIVA had or may have had against MERCK, on or before the Effective Date, whether those causes of action are known or unknown to PROTIVA, arising out of or relating to the receipt, use or disclosure of PROTIVA IP or MERCK's representations, warranties or performance under, or breach of, the Prior Agreements, including any and all claims and counterclaims that were or could have been asserted by PROTIVA in the Litigation or that could have been asserted by PROTIVA based upon the allegations of the Complaints and Amended Complaints or Counterclaims of PROTIVA in the Litigation.

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3.2 MERCK, with the intention of binding itself, its successors, assigns and its majority-owned Affiliates does hereby irrevocably release and forever discharge, and agrees not to assert or to assist any third party in asserting any action, claim, liability or demand against, PROTIVA and its Affiliates, successors, predecessors, directors, officers, partners, employees, customers, agents all those acting in privity or concert with any of them, from and with respect to any and all claims that MERCK had or may have had on or before the Effective Date arising out of or relating to PROTIVA's representations, warranties or performance under, or breach of, the Prior Agreements, including any and all claims and counterclaims that were or could have been asserted by MERCK in the Litigation or that could have been asserted by MERCK based upon the allegations of the Complaints and Amended Complaints or Counterclaims of MERCK in the Litigation.

3.3 With respect to PROTIVA Know-how, PROTIVA covenants not to sue MERCK, its Affiliates, successors, predecessors, directors, officers, partners, employees, customers, agents, and all those acting in privity or concert with any of them for any past or future use of PROTIVA Know-how for any purpose.

3.4 With respect to PROTIVA Patent Rights, PROTIVA covenants not to sue MERCK, its Affiliates (or any of their bona fide collaborators, with respect only to research and/or development within the scope of such collaboration) for any research and/or development activity in the Territory after the Effective Date.

3.5 For the avoidance of doubt, subject to Section 6.1.1, the Parties acknowledge that none of them intend hereby to waive any existing protective order issued in connection with the Litigation or to release any right (i) to raise any matter, fact, theory, or argument on inventorship to the Patent Expert in connection with the process described in Section 6 or (ii) to claim or assert in any forum that any patent claim Controlled by the other Party is invalid or unenforceable.

3.6 The Parties hereto specifically understand, acknowledge, and agree that this is a full and final release of all claims described herein, whether known or unknown, and whether or not included in the pleadings of the Litigation. Each Party therefore hereby expressly and voluntarily waives all rights or benefits which such Party might otherwise have under California Civil Code Section 1542, which provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected the settlement with the debtor."

Each of the Parties further expressly and voluntarily waive any substantially similar or equivalent statutory, common law, or equitable rights or benefits arising under the laws of any other jurisdiction.

4. LICENSES

4.1 PROTIVA grants MERCK a non-exclusive license in the Territory under PROTIVA Patent Rights and Collaboration Patent Rights for any and all purposes in the Field, including but not limited to: to make, have made, use, offer to sell, sell or import LNP

Formulations, Compound and Product(s) (subject to the exclusions stated in Section 1.11 with respect to **[*]**. MERCK shall have the right to grant sublicenses under the license in this Section 4.1 to MERCK's Affiliates but not otherwise.

4.2 PROTIVA grants MERCK a non-exclusive license in the Territory under PROTIVA Designated Patent Rights and Collaboration Patent Rights for any and all purposes in the Restricted Field, including but not limited to: to make, have made, use, offer to sell, sell or import LNP Formulations, Compound and Product(s) (subject to the exclusions stated in Section 1.33 with respect to **[*]**. MERCK shall have the right to grant sublicenses under the license in this Section 4.2 to MERCK's Affiliates but not otherwise.

4.3 With respect to PROTIVA Patent Rights which PROTIVA either (i) first obtains Control over during the period between the Effective Date and the Anniversary Date or (ii) is a patent application that was filed during the period between the Effective Date and the Anniversary Date and does not claim priority to an application filed before the Effective Date, PROTIVA will promptly disclose such patent or patent application to MERCK in writing following the publication of such patent or patent applications in the Territory and MERCK shall have the option to decline a license under such PROTIVA Patent Rights. MERCK shall notify PROTIVA in writing of its election within sixty (60) days of receipt of PROTIVA's notice.

4.4 At any time or times during the period between the Effective Date and the Anniversary Date, PROTIVA may designate, by written notice to MERCK, a PROTIVA Potential Reserved Target to be a PROTIVA Reserved Target, provided however, that PROTIVA may designate no more than a total of **[*]** PROTIVA Potential Reserved Targets during this Agreement.

4.5 MERCK grants to PROTIVA a non-exclusive, perpetual, royalty-free, paid-up license, with right to grant sublicenses in one or more tiers, in the Territory under MERCK Patent Rights to make, have made, use, offer to sell, sell or import LNP Formulations, alone or combined with one or more active ingredients and/or inert ingredients.

4.6 No Party is granting rights by implication or otherwise to any other patents owned or Controlled by that Party. Each Party reserves the right to enforce against the other Parties any patents not expressly included in the license grants under this Section 4.

5. PAYMENTS

5.1 Payments in Settlement. In consideration of PROTIVA's agreement to grant the releases provided for in this Agreement and other valuable consideration, MERCK shall pay up to **[*]** to Protiva Biotherapeutics Inc., as follows:

(i) MERCK will, within **[*]** of the Effective Date of this Settlement Agreement, pay Protiva Biotherapeutics Inc. on a **[*]** (the "Initial Payment"), and

(ii) contingent on the occurrence of the events described in Section 5.1.1 and 5.1.2, MERCK will be obligated to pay Protiva Biotherapeutics Inc. up to an additional **[*]**.

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5.1.1 Conditional Payments. Subject to the terms and conditions of this Agreement and Section 5.4 below, MERCK shall pay to Protiva Biotherapeutics Inc. the following conditional payments:

(a) **[*]**; and

(b) **[*]**.

5.1.2 Each of the conditional payments set forth in Sections 5.1.1(a) and (b) shall be paid, if ever, only once under this Settlement Agreement. MERCK shall notify PROTIVA in writing within **[*]** days following the satisfaction of the respective event described, and shall make the appropriate conditional payment within **[*]** days after the occurrence of such event.

5.2 License Payments. In consideration of PROTIVA's agreement to grant the licenses provided for in Section 4 and subject to the terms and conditions of this Agreement, MERCK will pay Protiva Biotherapeutics Inc. the following milestone payments and the royalties provided for in Section 5.5:

5.2.1 **[*]**;

5.2.2 **[*]**;

5.2.3 **[*]**;

5.2.4 Each of the Milestones under this Section 5.2 shall be payable only once for any particular Covered Product. MERCK shall notify PROTIVA in writing within **[*]** days following the achievement of each milestone, and shall make the appropriate milestone payment within **[*]** days after the achievement of such milestone.

5.3 In the event that a Product activity does not trigger a conditional payment or a milestone payment under Section 5.1.1 or 5.2 because at the time the activity occurred such Product did not meet the definition of a "Covered Product," but, at a later date, (i) due to the issuance of a patent, such Product does meet the definition of a "Covered Product," and (ii) MERCK is continuing the clinical development of or is selling the Product, then MERCK shall pay the corresponding conditional payment or milestone payment within thirty (30) days of notice by PROTIVA that the patent has issued.

5.4 For the purposes of Sections 5.1.1 and 5.2, any activity or event anywhere in the world with respect to a Product shall be deemed to be such an activity or event with respect to a Covered Product if such Product is then (or thereafter becomes, as described in Section 5.3) a Covered Product in the United States.

5.5 Royalties.

5.5.1 Royalties Payable By MERCK. Subject to the terms and conditions of this Agreement, MERCK shall pay Protiva Biotherapeutics Inc. royalties, calculated on a Product-by-Product basis, as set forth in this Section 5.5.

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MERCK shall pay Protiva Biotherapeutics Inc. royalties in an amount equal to **[*]** of Net Sales of Covered Products by MERCK or its Affiliates.

All royalties are subject to the following conditions:

(i) that only one royalty shall be due with respect to the same unit of Covered Product;

(ii) that no royalties shall be due upon the sale or other transfer among MERCK or its Affiliates, but in such cases the royalty shall be due and calculated upon MERCK's or its Affiliate's Net Sales to the first independent third party;

(iii) no royalties shall accrue on the sale or other disposition of Covered Product by MERCK or its Affiliates for use in a clinical trial; and

(iv) no royalties shall accrue on the disposition of Covered Product in reasonable quantities by MERCK or its Affiliates as samples (promotional or otherwise) or as donations (for example, to non-profit institutions or government agencies for a non-commercial purpose).

5.5.2 Change in Sales Practices. The Parties acknowledge that during the term of this Agreement, MERCK's sales practices for the marketing and distribution of its products generally may change to the extent that the calculation of the payment for royalties on Net Sales may become impractical or even impossible. In such event the Parties agree to meet and discuss in good faith new ways of compensating PROTIVA to the extent currently contemplated under Section 5.5.1.

5.5.3 Royalties for Bulk Goods. In those cases in which MERCK sells bulk LNP Formulation containing a Compound rather than Covered Product in packaged form to an independent third party, the royalty obligations of this Section 5.5 shall be applicable to the bulk LNP Formulation containing Compound.

5.6 Reports; Payment of Royalty. During the term of this Agreement following the first commercial sale of a Product, MERCK shall furnish to PROTIVA a quarterly written report for the calendar quarter showing the Net Sales of all Products subject to royalty payments sold by MERCK and its Affiliates in the Territory during the reporting period and the royalties payable under this Agreement. Reports shall be due on the **[*]** day following the close of each calendar quarter. Royalties shown to have accrued by each royalty report shall be due and payable on the date such royalty report is due. MERCK shall keep complete and accurate records in sufficient detail to enable the royalties payable hereunder to be determined.

5.7 Late Payments. MERCK will be liable to Protiva Biotherapeutics Inc. for interest on overdue royalties or other amounts payable hereunder, commencing on the date such amounts become due and ending upon payment of such amounts, at an annual rate of **[*]** as quoted from time to time during such period by the head office of the Royal Bank of Canada, or the maximum legal rate, whichever is less.

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5.8 Audits.

5.8.1 Upon the written request of PROTIVA and not more than once in each calendar year, MERCK shall permit, and shall cause its sublicensed Affiliates to permit, an independent certified public accounting firm of nationally recognized standing selected by PROTIVA and reasonably acceptable to MERCK, at PROTIVA's expense, to have access during normal business hours to such of the records of MERCK and its sublicensed Affiliates as may be reasonably necessary to verify the accuracy of the royalty reports hereunder for any calendar year ending not more than **[*]** months prior to the date of such request. The accounting firm shall disclose to PROTIVA only whether the royalty reports are correct or incorrect and the amount of any discrepancy. No other information shall be provided to PROTIVA.

5.8.2 If such accounting firm correctly identifies a discrepancy made during such period, the appropriate Party shall pay the other Party the amount of the discrepancy within **[*]** days of the date PROTIVA delivers to MERCK such accounting firm's written report so correctly concluding, or as otherwise agreed upon by the Parties. The fees and expenses charged by such accounting firm shall be paid by PROTIVA, unless there was a discrepancy in MERCK's favor of more than **[*]**, in which case MERCK shall pay, or reimburse PROTIVA for, all such fees and expenses.

5.8.3 MERCK shall include in each sublicense granted by it pursuant to this Agreement a provision requiring the sublicensee to make reports to MERCK, to keep and maintain records of sales made pursuant to such sublicense and to grant access to such records by PROTIVA's independent accountant to the same extent required of MERCK under this Agreement.

5.8.4 Upon the expiration of **[*]** months following the end of any calendar year, the calculation of royalties payable with respect to such calendar year shall be binding and conclusive upon PROTIVA, and MERCK and its Affiliates shall be released from any liability or accountability with respect to royalties for such calendar year, unless PROTIVA shall have, prior to that time, made a timely request for an audit of such calculations for that period pursuant to this Section 5.8.

5.8.5 PROTIVA shall treat all financial information subject to review under this Section 5.8 or under any sublicense agreement in accordance with the confidentiality and non-use provisions of this Agreement, and shall cause its accounting firm to enter into an acceptable confidentiality agreement with MERCK and/or its Affiliates obligating it to retain all such information in confidence pursuant to such confidentiality agreement.

***Confidential Treatment Requested.**

5.9 Payment Method and Exchange Rate. All payments to be made by MERCK to PROTIVA under this Agreement shall be made in United States dollars and unless otherwise directed by Protiva Biotherapeutics Inc. in writing, all payments under this Section 5 shall be made by wire transfer using the following payment information:

[*]

All payments made under this Section 5 shall be made in the amounts specified herein without any deduction for bank fees or other bank charges. In the case of sales outside the United States, the rate of exchange to be used in computing the monthly amount of currency equivalent in United States dollars due PROTIVA shall be made at the monthly rate of exchange utilized by MERCK in its worldwide accounting system, prevailing on the third to the last business day of the month preceding the month in which such sales are recorded by MERCK.

5.10 Income Tax Withholding. If applicable laws, rules or regulations require withholding of income or other taxes imposed upon any payments made by MERCK to PROTIVA under Section 5 of the Settlement Agreement, MERCK shall make such withholding payments as may be required and shall subtract such withholding payments from such payments. MERCK shall submit appropriate proof of payment of the withholding taxes to PROTIVA within a reasonable period of time. MERCK shall promptly provide PROTIVA with the official receipts. MERCK shall render PROTIVA reasonable assistance in order to allow PROTIVA to obtain the benefit of any present or future treaty against double taxation which may apply to such payments. If MERCK had a duty to withhold taxes in connection with any payment it made to PROTIVA under the Agreement but MERCK failed to withhold, and such taxes were assessed against and paid by MERCK, then PROTIVA will reimburse MERCK for such taxes (including interest). If MERCK makes a claim under this section, it will comply with the obligations imposed by this section as if MERCK had withheld taxes from a payment to PROTIVA.

5.11 Certain Defaults. If MERCK is at any time in default of any of MERCK's payment or reporting obligations under this Section 5 and MERCK fails to cure all of such defaults within **[*]** days after notice from PROTIVA specifying the default, PROTIVA will be entitled to sue MERCK in any court of competent jurisdiction for PROTIVA's damages and interest, and, should PROTIVA prevail, to seek from the court its costs and expenses of collection (including reasonable attorneys' and experts' fees and other expenses of litigation or preparation) to which it may be entitled, but, in such situations, except where MERCK has failed to pay the Initial Payment as and when required in Section 5.1. PROTIVA's remedy shall be limited to monetary compensation and/or specific performance and, subject to Section 5.12, shall in no event include termination of any of MERCK's license rights under Section 4.

5.12 Patent Challenges. PROTIVA shall have the right, upon written notice to MERCK, to terminate MERCK's license under Sections 4.1 and 4.2 to the extent applicable to any PROTIVA Patent Right, PROTIVA Designated Patent Right, or Collaboration Patent Right if MERCK or any of its Affiliates shall (a) commence or participate in any action

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or proceeding (including, without limitation, any patent opposition or re-examination proceeding), or otherwise assert in writing any claim, challenging or denying the validity of such PROTIVA Patent Right, PROTIVA Designated Patent Right, or Collaboration Patent Right or any claim thereof or (b) actively assist any other person or entity in bringing or prosecuting any action or proceeding (including, without limitation, any patent opposition or re-examination proceeding) challenging or denying the validity of any of such PROTIVA Patent Right, PROTIVA Designated Patent Right, or Collaboration Patent Right or any claim thereof.

6. INVENTORSHIP DETERMINATION

6.1 **[*]** The Parties will submit to the following procedure for the determination of proper inventorship:

6.1.1 **[*]** The Parties will meet and confer as needed within the sixty (60) day period following the Effective Date to attempt to resolve the inventorship of the Disputed Applications. MERCK shall undertake a good faith review of the Disputed Applications and other SIRNA Patent Rights and may abandon an application(s) or amend the specification(s) and/or amend, delete and/or introduce new claims in such applications. Prior to the meeting, MERCK shall provide PROTIVA with copies of the then existing claims of the Disputed Applications and at its discretion a description of any other relevant changes that MERCK has made in other relevant MERCK patents or patent applications including identifying any subject matter it proposes not to pursue in future patent claims. Any agreed resolution of the inventorship of claims in either or both of the Disputed Applications shall be in a writing signed by the Parties as an addendum to this Agreement.

6.1.2 In the event that after the sixty (60) day period, the Parties do not agree on resolution of the inventorship of the then existing claims of the Disputed Applications then either Party may provide the other Party with written notice (“Trigger Notice”) that it will submit those claims to a Patent Expert (“PE”) for an inventorship determination under this Section 6.

6.1.3 Within sixty (60) days of the Trigger Notice the Parties shall either agree on the appointment of a mutually acceptable experienced patent expert or if no agreement can be reached, the Parties shall, within ten (10) days thereafter, simultaneously exchange nominations of patent experts in groups of five until a common nominee is encountered. Where multiple such exchanges of nominations are required, each such exchange shall occur within ten days after the preceding exchange. If multiple common nominees are encountered in the same exchange, and the parties are not able to agree within five (5) days thereafter upon a single nominee from such common nominees, the nominee will be selected within a further five days by the drawing of lots in a manner mutually acceptable to the Parties. The nominee shall be referred to herein as the Patent Expert or “PE”. Any submission under Section 6 by a Party to the PE shall be simultaneously served on all other opposing Parties. In the event, as described

above, that multiple common nominees are encountered in an exchange, those of such common nominees that are not initially selected as the Patent Expert shall be designated as alternate(s), to become the Patent Expert if the selected Patent Expert is unable or unwilling to serve or to continue to serve. In all other cases in which the Patent Expert is unable or unwilling to serve or to continue to serve, a replacement Patent Expert shall be selected as described in this Section 6.1.3 with respect to the initial Patent Expert.

6.1.4 Within ten (10) days of the appointment of the PE, MERCK shall provide both the PE and PROTIVA with copies of the Disputed Applications and a copy of Section 6 of this Agreement.

6.1.5 Within fifteen (15) days of receipt of the applications referred to in Section 6.1.4, the PE will conduct a meeting with the Parties to establish a schedule and terms of reference for conducting the inventorship determination. An appropriate confidentiality agreement will govern the PE's access to the Retained Litigation Documents and any other documents submitted by a Party to the PE. Unless otherwise agreed between the Parties and the PE as part of the terms of reference, following the exchange of information described in Sections 6.1.6 and 6.1.7, each Party shall simultaneously serve on the other Parties and the PE, a briefing document for each Disputed Application not to exceed 20 pages (not including supporting attachments) describing the facts and law supporting its position on who is an appropriate inventor of each claim of the Disputed Applications. The Parties and the PE shall agree and execute an appropriate engagement agreement including customary confidentiality provisions. It is the Parties' express desire to conduct the proceedings in a focused, efficient and timely manner. The Parties and the PE shall conduct the proceedings in accordance with the procedures set forth in this Section 6, provided however, the Parties may alter such proceedings by mutual agreement in writing. To the extent that it does not conflict with the procedures set forth herein, the PE shall have the discretion to request additional proceedings or information from the Parties as necessary, by way of example and not limitation, the PE may request additional briefing and/or argument from the Parties. No Party may require document production, written or oral discovery of any other Party except on mutual consent.

6.1.6 Within thirty (30) days of receipt of the applications referred to in Section 6.1.4, PROTIVA shall identify to MERCK and the PE **[*]**. At the same time, PROTIVA shall provide the PE and MERCK with any documents or information supporting its proposed inventorship.

6.1.7 Within ten (10) days of receiving PROTIVA's list of claims, MERCK shall provide to PROTIVA and the PE the **[*]** any documents or information supporting its proposed inventorship.

6.1.8 **[*]**

6.1.9 Each Party shall make available to the PE for personal interview, those individuals it identified as potential inventors or who may corroborate the inventive contributions of the potential inventors. Each Party shall have the opportunity to attend any such interviews. The Parties shall promptly respond to any requests for information or testimony as may be requested by the PE.

6.1.10 The PE will determine the proper inventors of each of the Initial Contested Claims in accordance with US law on inventorship. The PE shall provide the Parties with a written determination of inventorship for each Initial Contested Claims including supporting reasons for that determination.

6.1.11 **[*]**

6.1.12 MERCK shall pay the expenses and fees of the PE for the inventorship determination of the Initial Contested Claims. The Parties shall bear the expenses for presenting their information and their proposed inventors to the Patent Expert for the inventorship determination proceeding in accordance with this Section 6, provided however, **[*]**.

6.2 The ownership of an invention represented by a Contested Claim shall follow from the inventorship determination by the PE.

6.2.1 Contested Claims determined to be invented solely by persons obligated at the time the invention was made, to assign inventions to PROTIVA shall be owned by PROTIVA and patents and patent applications containing them shall be part of PROTIVA Patent Rights.

6.2.2 Contested Claims determined to be invented solely by persons obligated at the time the invention was made, to assign inventions to MERCK shall be owned by MERCK.

6.2.3 Contested Claims determined to be invented by persons obligated at the time the invention was made, to assign to PROTIVA jointly with persons obligated at the time the invention was made, to assign inventions to MERCK shall be jointly owned by PROTIVA and MERCK (“Joint Patent Rights”).

6.3 Prosecution and Maintenance of patent applications containing Contested Claims.

6.3.1 In any country in the Territory where possible the Parties shall pursue separate patent applications with Contested Claims in a manner that all claims in a single application are owned by either a single party or both parties jointly.

6.3.2 Each Party shall have the right to prosecute patent applications containing only Contested Claims for which it is determined to be the sole owner in accordance with Section 6.2 without consulting with the other Parties.

6.3.3 The Parties will cooperate on the prosecution and maintenance of any Joint Patent Rights and will share equally the costs and expenses related to the prosecution

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and maintenance of the Joint Patent Rights in the Territory and agree to hold each other harmless for any activity in the prosecution or maintenance of Joint Patent Rights by a Party or a third party handling such matters on their behalf.

6.4 Other **[*]** Applications.

6.4.1 In the event that the PE determines that PROTIVA is either a sole or joint inventor of any Initial Contested Claim, MERCK shall conduct a review all **[*]** Patent Rights in light of the PE's reasoning in the decision and make a good faith determination of whether person(s) obligated, at the time the invention was made, to assign inventions to PROTIVA is/were either sole or joint inventor(s) of any claim in any other **[*]** Patent Rights. **[*]**.

6.4.2 **[*]**, PROTIVA shall have the right, at its election, to bring this to the attention of MERCK for determination of inventorship under this Section 6. PROTIVA shall pursue an inventorship determination of claims in **[*]** Patent Rights in accordance with the procedures of this Section 6 and in no other forum. In that event, PROTIVA and MERCK shall have good faith discussions regarding such claims. If after such good faith discussions the Parties do not agree as to proper inventorship, PROTIVA shall have the right to refer all such claims (which, together with any claims identified by MERCK pursuant to Section 6.4.1 as being invented either solely or jointly by person(s) obligated, at the time the invention was made, to assign inventions to PROTIVA, are referred to herein as the "Other Contested Claims") to the PE for determination of inventorship in accordance with the procedures established in Sections 6.1.3 to 6.1.11 *mutatis mutandis*, provided however, each Party shall bear its own costs in any inventorship determination in accordance with this Section 6.4.2 and PROTIVA and MERCK shall share equally the PE's fees and expenses.

6.4.3 **[*]** that is not a SIRNA Patent Rights, **[*]**.

6.5 The Parties do hereby release, and intend that their releases under Section 3 shall apply to, any claim or assertion of invalidity or unenforceability that is based in whole or in part upon a claim of inventorship that is contrary to a determination of inventorship of the same patent claim made by the Patent Expert(s) in accordance with this Section 6.

7. CONFIDENTIALITY

7.1 All the terms of this Agreement, including the amount of the payment made or to be made pursuant to Section 4 hereof and the fact that payment has been made, is being made, or is to be made, shall be maintained by the Parties and their counsel in strict confidence and shall not be disclosed to any third party or to the public without the written consent of all of the Parties; provided, however, that the foregoing will not apply to the subject matter of any license right granted herein; and provided further, however, that the Parties shall have the right to disclose the terms of this Agreement to the extent required by law subject to Section 7.2. The Parties may disclose in confidence, without consent of all other Parties, the terms of the Agreement to its current and prospective

shareholders, investors, lenders, or acquirers; provided, however, that the specific amount paid or payable under Sections 5.1, 5.1.1 and 5.1.2, may be disclosed to such Party's shareholders to extent required under applicable law. The Parties agree that a press release with mutually agreed text of the form attached as Schedule 7.1 may be issued by PROTIVA within ten (10) business days of the Effective Date.

7.2 Should the terms of this Agreement be requested in discovery in any litigation or other proceeding now pending or that the Parties may become involved in after the Effective Date, the Parties shall not reveal the terms of this Agreement unless (i) so ordered by the Court or other tribunal presiding over that litigation; and (ii) every effort is made to make the disclosure subject to a Confidentiality Order limiting disclosure of the terms of this Agreement to the parties, their attorneys and the Court or other tribunal in that litigation.

7.3 Any Party receiving a demand to reveal the terms of the Agreement in any such litigation shall promptly inform the other Party to this Agreement.

8. REPRESENTATIONS AND WARRANTIES

8.1 Each Party represents and warrants to the other Party that as of the Effective Date:

8.1.1 it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder; provided, however, that MERCK acknowledges that it is aware of claims to the contrary made in the INEX Litigation; and

8.1.2 this Agreement has been duly executed by it and is legally binding upon it, enforceable in accordance with its terms, and does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any material law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it.

8.2 PROTIVA represents and warrants that Schedule 1.29 identifies all of the PROTIVA Patent Rights that exist as of the Effective Date.

8.3 PROTIVA covenants, represents and warrants that it will not settle any disputes with Tekmira Pharmaceuticals Corporation or its successors-in-interest including but not limited to the INEX Litigation in any manner that will compromise or reduce the licenses, rights and releases granted to MERCK in this Settlement Agreement.

8.4 PROTIVA represents and warrants to the best of its knowledge that other than SIRNA it has had no interaction with any MERCK Affiliate that would have given rise to a cause of action described in Section 3.2.

8.5 MERCK represents and warrants to the best of its knowledge that other than SIRNA, no MERCK Affiliate has any claims described in Section 3.2 against PROTIVA.

8.6 NO PARTY MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY TO ANY OTHER PARTY THAT ANY PATENTS REFERENCED

HEREIN WILL ISSUE OR THAT ANY OF THE SAME ARE VALID WHETHER DUE TO A PARTY'S ACTIONS OR INACTIONS OR THAT ANY OF THE RIGHTS LICENSED OR TO BE LICENSED HEREUNDER WILL BE USEFUL OR VALUABLE. EACH PARTY SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

9. INDEMNIFICATION

9.1 PROTIVA agrees to indemnify and hold harmless MERCK and its Affiliates, and their respective agents, directors, officers and employees and their respective successors and assigns (the "MERCK Indemnitees") from and against any and all losses, costs, damages, fees or expenses ("Losses") incurred by a MERCK Indemnitee arising out of or in connection with any claim, suit, demand, investigation or proceeding brought by a third party based on (a) the development, use, manufacture, distribution or sale of any product by PROTIVA or any of its Affiliates, under or pursuant to the licenses granted by MERCK under this Agreement, including, but not limited to, any claims made against MERCK by third parties or a PROTIVA Affiliate alleging infringement, injury, damage, death or other consequence occurring to any person claimed to result, directly or indirectly, from the possession, use or consumption of, or treatment with, any such product, whether claimed by reason of breach of warranty, negligence, product defect or otherwise, and regardless of the form or forum in which any such claim is made, or (b) any breach of any representation, warranty or covenant of PROTIVA in this Agreement.

9.2 The above indemnification shall not apply to the extent that any Losses are due to a material breach of any of MERCK's representations, warranties, covenants and/or obligations under this Agreement.

9.3 MERCK agrees to indemnify and hold harmless PROTIVA and its Affiliates and sublicensees, and their respective agents, directors, officers and employees and their respective successors and assigns (the "PROTIVA Indemnitees") from and against any and all losses, costs, damages, fees or expenses ("Losses") incurred by a PROTIVA Indemnitee arising out of or in connection with any claim, suit, demand, investigation or proceeding brought by a third party or a MERCK Affiliate ("Claim") based on (a) the development, use, manufacture, distribution or sale of any product by MERCK or any of its Affiliates, under or pursuant to the licenses granted by PROTIVA under this Agreement, including, but not limited to, any claims made against PROTIVA by third parties or a MERCK Affiliate alleging infringement, injury, damage, death or other consequence occurring to any person claimed to result, directly or indirectly, from the possession, use or consumption of, or treatment with, any such product, whether claimed by reason of breach of warranty, negligence, product defect or otherwise, and regardless of the form or forum in which any such claim is made, or (b) any breach of any representation, warranty or covenant of MERCK in this Agreement.

9.4 The above indemnification shall not apply to the extent that any Losses are due to a material breach of any of PROTIVA's representations, warranties, covenants and/or obligations under this Agreement.

9.5 The obligation to indemnify pursuant to this Section 9 shall be contingent upon timely notification by the indemnitee to the indemnitor of any claims, suits or service of process; the tender by the indemnitee to the indemnitor of full control over the conduct and disposition of any claim, demand or suit; and reasonable cooperation by the indemnitee in the defense of the claim, demand or suit. No indemnitor will be bound by or liable with respect to any settlement or admission entered or made by any indemnitee without the prior written consent of the indemnitor. The indemnitee will have the right to retain its own counsel to participate in its defense in any proceeding hereunder. The indemnitee shall pay for its own counsel except to the extent it is determined that (i) one or more legal defenses may be available to it which are different from or additional to those available to the indemnitor, or (ii) representation of two Parties by the same counsel would be inappropriate due to actual or potential differing interests between them. In any such case and to such extent, the indemnitor shall be responsible to pay for the reasonable costs and expenses of the separate counsel retained to participate in the defense of the indemnitee, provided that such expenses are otherwise among those covered by the indemnitor's indemnity agreement hereunder.

10. MISCELLANEOUS

10.1 Notices

All notices which are required or permitted hereunder shall be in writing and sufficient if delivered personally, sent by facsimile (and promptly confirmed by personal delivery, registered or certified mail or overnight courier), sent by nationally-recognized overnight courier or sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

Notices to PROTIVA will be addressed to:
PROTIVA Biotherapeutics Inc.
100-3480 Gilmore Way
Burnaby, B.C., Canada
Attention: President & CEO
Facsimile No.: (604) 630-5103

With copy to:
Orrick, Herrington & Sutcliffe LLP
719 Second Ave., Suite 900
Seattle, WA 98104
Attention: Roger M. Tolbert, Esq.
Facsimile No.: (206) 839-4301

Notices to MERCK will be addressed to:
Merck & Co., Inc.
One Merck Drive
P.O. Box 100, WS3A-65
Whitehouse Station, NJ 08889-0100
Attention: Office of Secretary
Facsimile No.: (908) 735-1246

With copy to:
Merck & Co., Inc.
One Merck Drive
Attention: Chief Licensing Officer
P.O. Box 100, WS2A-30
Whitehouse Station, NJ 08889-0100
Facsimile: (908) 735-1214

10.2 Governing Law

This Agreement will be construed in accordance with and governed in all respects by the laws of the State of New York without regard to any conflicts of law principles which would result in application of laws of any other jurisdiction.

10.3 Costs and Attorney's fees

The Parties agree to bear their own costs and attorney's fees in connection with the Litigation and the negotiation of this Settlement Agreement.

10.4 Entire Agreement

This Settlement Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements, whether written or oral. This Settlement Agreement may not be altered or amended except by an instrument in writing executed by both Parties.

10.5 Termination of Prior Agreements

The Parties agree that the Prior Agreements have been terminated or are terminated as of the Effective Date of this Settlement Agreement and that no rights or obligations of the Prior Agreements have survived or survive termination.

10.6 Severability

If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

10.7 Assignment

Except as provided in this Section 10.7, this Agreement may not be assigned or otherwise transferred, nor may any right or obligation hereunder be assigned or transferred, by any Party without the consent of the other Parties; provided, however, that a Party may, without such consent, assign this Agreement and its rights and obligations hereunder to an Affiliate or in connection with the transfer or sale of all or substantially all of its assets related to the subject matter of this Agreement, or in the event of its merger or consolidation or change in control or similar transaction. Any attempted assignment not in accordance with this Section 10.7 shall be void. Any permitted assignee shall assume all assigned obligations of its assignor under this Agreement.

10.8 Non-Solicitation

Each Party agrees that from the Effective Date until the fifth anniversary of the Effective Date, neither such Party nor any of its Affiliates will, except upon the express prior written consent of the other Party in each instance, directly or indirectly solicit for employment in any capacity (whether as a full or part time employee or as a consultant or contractor) any person who is then employed by such other Party or its Affiliates in any capacity related to this Agreement. This provision will not apply to or prohibit general solicitations such as job postings through public media, not focused on or directed specifically to the personnel of the other Party.

10.9 Compromise

The parties expressly deny any liability with respect to the claims and counterclaims made against them in the Litigation. It is expressly understood and agreed between the Parties that this Agreement is a compromise and shall not be interpreted to be an admission of liability or non-liability or an acknowledgement of the validity or invalidity of any claims, counterclaims or defenses that were asserted in the Litigation.

10.10 Schedules

The appended Schedules form an integral part of this Settlement Agreement.

10.11 Construction

The Parties agree they have had ample opportunity to influence the choice of language and terms in this Settlement Agreement. No provision of this Settlement Agreement shall be presumed to be construed against its drafter.

10.12 Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be considered and shall have the force and effect of an original and all of which together shall constitute one and the same document.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, each Party has executed this Settlement Agreement as of the date indicated below by its authorized representative.

PROTIVA BIOTHERAPEUTICS INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President & CEO

Date: October 9, 2007

PROTIVA BIOTHERAPEUTICS (USA), INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President & CEO

Date: October 9, 2007

MERCK & CO., INC.

By: /s/ Paul Matukaitis
Name: Paul Matukaitis
Title: Vice President & Assistant General Counsel

Date: October 9, 2007

SIRNA THERAPEUTICS, INC.

By: /s/ Debra A. Bollwage
Name: Debra A. Bollwage
Title: Assistant Secretary

Date: October 9, 2007

SCHEDULE 1.26(i)

[*]

***Confidential Treatment Requested.**

SCHEDULE 1.26(ii)

[*]

***Confidential Treatment Requested.**

SCHEDULE 1.29

PROTIVA Patent Rights

TTC Ref Country ATTY(s) Handling	Title	Inventor	Application No. Filing Date	Status Remarks
[*]	[*]	[*]	[*]	[*]

***Confidential Treatment Requested.**

SCHEDULE 1.30
PROTIVA Reserved Targets

[*]

***Confidential Treatment Requested.**

SCHEDULE 1.31
PROTIVA Potential Reserved Targets

[*]

***Confidential Treatment Requested.**

SCHEDULE 2-A
Form of Dismissal – State Action

[Execution Copy contains one page form]

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name and Address)*:
Elizabeth A. Howard (SB# 173185)
Sean A. Lincoln (SB# 136387)
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, California 94025
TELEPHONE NO.: (650) 614-7400
ATTORNEY FOR (*Name*): Protiva Biotherapeutics Inc.; Protiva Biotherapeutics Inc. (USA)

FOR COURT USE ONLY

Insert name of court and name of judicial district and branch court, it any:
SAN FRANCISCO SUPERIOR COURT

PLAINTIFF/PETITIONER: Protiva Biotherapeutics Inc. and Protiva Biotherapeutics Inc. (USA)
DEFENDANT/RESPONDENT: Sirna Therapeutics, Inc.

CASE NUMBER:
CGC 06-450694

REQUEST FOR DISMISSAL

- ☐ **Personal Injury, Property Damage, or Wrongful Death**
  - ☐ **Motor Vehicle** ☐ **Other**
- ☐ **Family Law**
- ☐ **Eminent Domain**
- ☒ **Other *(specify) :*** Breach of Contract; Trade Secret Misappropriation

- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -

1. TO THE CLERK: Please **dismiss** this action as follows:
   a. (1) ☒ With Prejudice (2) ☐ Without prejudice
   b. (1) ☒ Complaint (2) ☐ Petition
   (3) ☐ Cross-complaint filed by *(name):* on *(date):*
   (4) ☐ Cross-complaint filed by *(name):* on *(date):*
   (5) ☐ Entire action of all parties and all causes of action
   (6) ☐ Other *(specify)*:*

Date: October _____, 2007
Elizabeth A. Howard u _____
(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY) (SIGNATURE)

*** If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.**

Attorney or party without attorney for:
☒ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross - complainant

2. **TO THE CLERK:** Consent to the above dismissal is hereby given.**
   Date: October _____, 2007

Meredith N. Landy u _____
(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY) (SIGNATURE)

****If a cross-complaint-or Response (Family Law) seeking affirmative relief -is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).**

Attorney or party without attorney for:
☐ Plaintiff/Petitioner ☒ Defendant/Respondent
☐ Cross - complainant

(To be completed by clerk)
3. ☐ Dismissal entered as requested on *(date):*
4. ☐ Dismissal entered on *(date):* as to only *(name):*
5. ☐ Dismissal **not entered** as requested for the following reasons *(specify):*
6. ☐ a. Attorney or party without attorney notified on *(date):*
   b. Attorney or party without attorney not notified. Filing party failed to provide
   ☐ a copy to conformed ☐ means to return conformed copy

Date: Clerk, by _____, Deputy

Form Adopted for Mandatory use
Judicial Council of California
CIV-110[Rev. January 1, 2007]

REQUEST FOR DISMISSAL

Code of Civil Procedure, § 581 et seq.;
Cal. Rules of Court, rule 3.1390
www.courtinfo.ca.gov

American LegalNet, Inc.
www.Forms*Workflow*.com

SCHEDULE 2-B
Form of Dismissal – Federal Action

[Execution Copy contains four page form]

MEREDITH N. LANDY (State Bar No. 136489)
DHAIVAT H. SHAH (State Bar No. 196382)
ROBERTA L. HARTING (State Bar No. 225067)
O'MELVENY & MYERS LLP
2765 Sand Hill Road
Menlo Park, California 94025-7019
Telephone: (650) 473-2600
Facsimile: (650) 473-2601
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dshah@omm.com
rharting@omm.com

Attorneys for Plaintiff
SIRNA THERAPEUTICS, INC.

ELIZABETH A. HOWARD (State Bar No. 173185)
JAN E. ELLARD (State Bar No. 171947)
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Menlo Park, California 94025-1015
Telephone: (650) 614-7400
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E-Mail: ehoward@orrick.com
jellard@orrick.com

Attorneys for Defendants
PROTIVA BIOTHERAPEUTICS, INC.
and MARK J. MURRAY

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SIRNA THERAPEUTICS, INC., Plaintiff, v. PROTIVA BIOTHERAPEUTICS, INC., and MARK J. MURRAY, Defendants.	Case No. C 06-01361 MMC **STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE**

The parties herein, by and through their counsel of record, hereby stipulate and agree as follows:

WHEREAS, the Plaintiff and Defendants have entered into a Settlement Agreement and General Release which fully settles all contested issues in this case;

IT IS HEREBY STIPULATED, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), that all claims asserted in this case by Plaintiff are hereby dismissed with prejudice and, further, that all parties shall bear their own costs and fees.

SO STIPULATED.

Dated: October , 2007

O'MELVENY & MYERS LLP

By: _____
Meredith N. Landy

Attorneys for Plaintiff
SIRNA THERAPEUTICS, INC.

Dated: October , 2007

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: _____
Elizabeth A. Howard

Attorneys for Defendants
PROTIVA BIOTHERAPEUTICS, INC.
and MARK J. MURRAY

CERTIFICATE OF CONCURRENCE

I hereby attest that concurrence in the filing of this document has been obtained from counsel for defendants, Elizabeth A. Howard.

Dated: October , 2007

O'MELVENY & MYERS LLP

By: _____
Meredith N. Landy

Attorneys for Plaintiff
SIRNA THERAPEUTICS, INC.

ORDER

IT IS SO ORDERED.

Dated: October , 2007

The Honorable Maxine M. Chesney
United States District Judge

SCHEDULE 7.1
Form of Press Release

FOR IMMEDIATE RELEASE

MERCK & CO., INC. LICENSES SNALP TECHNOLOGY FROM PROTIVA

— Protiva to Receive One-Time Payment with Potential Milestone and Royalty Payments as Part of Broader Agreement —

Vancouver, BC, October xx, 2007 – Protiva Biotherapeutics Inc. today reported that it has granted Merck & Co., Inc. a non-exclusive license to Protiva's SNALP (Stable Nucleic Acid-Lipid Particles) technology for ongoing research and development of therapeutics in the emerging field of RNA interference (RNAi).

Under the terms of the agreement Protiva will receive a one-time payment from Merck with the potential for milestone and royalty payments based upon the developmental progress of future RNAi-based product candidates. In addition, Protiva has agreed to cease all litigation between Protiva and Sirna Therapeutics Inc, a wholly owned subsidiary of Merck, including the removal of a preliminary injunction granted by the Superior Court of California in March 2007. Financial details were not disclosed

Protiva's President and CEO Dr. Mark Murray said, "Merck's licensing of our 'SNALP' technology is an important validation of the skill of our scientific team and our leadership position in the siRNA delivery space. Protiva is moving forward with financial strength and a continued focus on the development of new therapeutic products and business alliances."

"We are pleased to have licensed Protiva's SNALP technology," said Alan Sachs M.D. Ph.D., vice president of RNA Therapeutics for Merck. "This technology can now be used to advance Merck's RNAi-based therapeutic development programs."

RNAi, which relies on the use of specifically designed short interfering RNA (siRNA) molecules, is a technology with the potential to fundamentally change how we treat serious human diseases such as cancer, HIV, influenza, Ebola virus infections and metabolic conditions such as high cholesterol. Dr. Andrew Fire and Dr. Craig Mello, the pioneers of RNAi, were awarded the Nobel Prize for Physiology or Medicine in 2006 for their discovery about how genes are controlled within living cells. Today, RNAi represents one of the most promising and rapidly advancing fields in biology and drug development.

About Protiva

Founded in 2001, Protiva Biotherapeutics Inc. is focused on the development of nucleic acid based pharmaceutical products to fight serious human diseases, such as cancer, influenza (including H5N1), Ebola, inflammatory diseases and other chronic viral infections. Protiva's proprietary Stable Nucleic-Acid Lipid Particle (SNALP) technology is an encapsulation and delivery system for nucleic acid payloads, such as short interfering RNA (siRNA), to target cells. It represents a breakthrough in the field of RNA interference.

Protiva is headquartered in Vancouver, B.C. with offices in Seattle, Washington. For more information, visit www.protivabio.com.

For more information about Protiva, contact:

Mark J. Murray, Ph.D.
President and Chief Executive Officer
Protiva Biotherapeutics Inc.
Vancouver: (604) 630-5063

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AGREEMENT TO EXTEND TIME PERIOD

Sirna Therapeutics, Inc. and Merck & Co., Inc. (collectively "MERCK") and Protiva Biotherapeutics Inc. and Protiva Biotherapeutics (USA), Inc. (collectively "PROTIVA") are parties to that certain Settlement Agreement ("Settlement Agreement") dated as of October 9, 2007 (the "Effective Date"). MERCK and PROTIVA hereby agree that the sixty (60) day period referred to in Sections 6.1.1 and 6.1.2 of the Settlement Agreement shall be extended for an additional sixty (60) days, such that such period will extend through and including February 6, 2008. Except as agreed in this instrument, the remainder of the Settlement Agreement remains in full force and effect in accordance with its terms.

PROTIVA BIOTHERAPEUTICS INC.

By: /s/ Mark Murray
Name: Mark Murray
Title: President & CEO

Date: December 4, 2007

MERCK & CO., INC.

By: /s/ Paul Matukaitis
Name: Paul Matukaitis
Title: Vice President & Assistant General Counsel

Date: December 6, 2007

PROTIVA BIOTHERAPEUTICS (USA), INC.

By: /s/ Mark Murray
Name: Mark Murray
Title: President & CEO

Date: December 4, 2007

SIRNA THERAPEUTICS, INC.

By: /s/ Debra A. Bollwage
Name: Debra A. Bollwage
Title: Assistant Secretary

Date: December 6, 2007

AGREEMENT TO EXTEND TIME PERIOD

Sirna Therapeutics, Inc. and Merck & Co., Inc. (collectively "MERCK") and Protiva Biotherapeutics Inc. and Protiva Biotherapeutics (USA), Inc. (collectively "PROTIVA") are parties to that certain Settlement Agreement ("Settlement Agreement") dated as of October 9, 2007 (the "Effective Date"). MERCK and PROTIVA hereby agree that the sixty (60) day period referred to in Sections 6.1.1 and 6.1.2 of the Settlement Agreement, which has been previously extended through and including February 6, 2008, shall be further extended for an additional sixty (60) days, such that such period will extend through and including April 6, 2008. Except as agreed in this instrument, the remainder of the Settlement Agreement remains in full force and effect in accordance with its terms.

PROTIVA BIOTHERAPEUTICS INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President & CEO

Date: February 7, 2008

MERCK & CO., INC.

By: /s/ Paul Matukaitis
Name: Paul Matukaitis
Title: Vice President & Assistant General Counsel

Date: February 7, 2008

PROTIVA BIOTHERAPEUTICS (USA), INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President & CEO

Date: February 7, 2008

SIRNA THERAPEUTICS, INC.

By: /s/ Debra A. Bollwage
Name: Debra A. Bollwage
Title: Assistant Secretary

Date: February , 2008

AGREEMENT TO EXTEND TIME PERIOD

Sirna Therapeutics, Inc. and Merck & Co., Inc. (collectively "MERCK") and Protiva Biotherapeutics Inc. and Protiva Biotherapeutics (USA), Inc. (collectively "PROTIVA") are parties to that certain Settlement Agreement ("Settlement Agreement") dated as of October 9, 2007 (the "Effective Date"). MERCK and PROTIVA hereby agree that the sixty (60) day period referred to in Sections 6.1.1 and 6.1.2 of the Settlement Agreement, which has been previously extended through and including April 6, 2008, shall be further extended for an additional sixty (60) days, such that such period will extend through and including June 6, 2008. Except as agreed in this instrument, the remainder of the Settlement Agreement remains in full force and effect in accordance with its terms.

PROTIVA BIOTHERAPEUTICS INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President & CEO

Date: March 28, 2008

MERCK & CO., INC.

By: /s/ Paul D. Matukaitis
Name: Paul D. Matukaitis
Title: Vice President & Assistant General Counsel

Date: March 24, 2008

PROTIVA BIOTHERAPEUTICS (USA), INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President & CEO

Date: March 28, 2008

SIRNA THERAPEUTICS, INC.

By: /s/ Debra A. Bollwage
Name: Debra A. Bollwage
Title: Assistant Secretary

Date: March 24, 2008

AGREEMENT TO EXTEND TIME PERIOD

Sirna Therapeutics, Inc. and Merck & Co., Inc. (collectively "MERCK") and Protiva Biotherapeutics Inc. and Protiva Biotherapeutics (USA), Inc. (collectively "PROTIVA") are parties to that certain Settlement Agreement ("Settlement Agreement") dated as of October 9, 2007 (the "Effective Date"). MERCK and PROTIVA hereby agree that the sixty (60) day period referred to in Sections 6.1.1 and 6.1.2 of the Settlement Agreement, which has been previously extended through and including July 31, 2008, shall be further extended to last through and including August 31, 2008. Except as agreed in this instrument, the remainder of the Settlement Agreement remains in full force and effect in accordance with its terms.

PROTIVA BIOTHERAPEUTICS INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President & CEO

Date: July 31, 2008

MERCK & CO., INC.

By: /s/ Paul D. Matukaitis
Name: Paul D. Matukaitis
Title: Vice President & Assistant General Counsel

Date: July 29, 2008

PROTIVA BIOTHERAPEUTICS (USA), INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President & CEO

Date: July 31, 2008

SIRNA THERAPEUTICS, INC.

By: /s/ Jon Filderman
Name: Jon Filderman
Title: Secretary

Date: July 29, 2008

AGREEMENT TO EXTEND TIME PERIOD

Sirna Therapeutics, Inc. and Merck & Co., Inc. (collectively "MERCK") and Protiva Biotherapeutics Inc. and Protiva Biotherapeutics (USA), Inc. (collectively "PROTIVA") are parties to that certain Settlement Agreement ("Settlement Agreement") dated as of October 9, 2007 (the "Effective Date"). MERCK and PROTIVA hereby agree that the sixty (60) day period referred to in Sections 6.1.1 and 6.1.2 of the Settlement Agreement, which has been previously extended through and including August 31, 2008, shall be further extended (effective as of September 1, 2008) to last through and including October 31, 2008. Except as agreed in this instrument, the remainder of the Settlement Agreement remains in full force and effect in accordance with its terms.

PROTIVA BIOTHERAPEUTICS INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President & CEO

Date: September 3, 2008

MERCK & CO., INC.

By: /s/ Paul D. Matukaitis
Name: Paul D. Matukaitis
Title: Vice President & Assistant General Counsel

Date: September 3, 2008

PROTIVA BIOTHERAPEUTICS (USA), INC.

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President & CEO

Date: September 3, 2008

SIRNA THERAPEUTICS, INC.

By: /s/ Jon Filderman
Name: Jon Filderman
Title: Counsel

Date: September 3, 2008

* Confidential Treatment has been requested for the marked portions of this exhibit pursuant to Rule 24B-2 of the Securities Exchange Act of 1934, as amended.

DEVELOPMENT, MANUFACTURING AND SUPPLY AGREEMENT

This Development, Manufacturing and Supply Agreement (the "**Agreement**") is entered into as of January 2, 2009 (the "**Effective Date**"), by and between **Alnylam Pharmaceuticals, Inc.**, a corporation duly incorporated and existing under the laws of the State of Delaware, U.S.A, ("**Alnylam**"), and **Tekmira Pharmaceuticals Corporation**, a corporation duly organized and existing under the laws of the Province of British Columbia, Canada ("**Tekmira**").

Recitals:

A. Alnylam and Tekmira are parties to an Amended and Restated License and Collaboration Agreement between Alnylam and Tekmira dated effective May 30, 2008 (the "**Restated Tekmira LCA**") pursuant to which Alnylam and Tekmira have agreed to collaborate on the formulation and development of, among other things, Alnylam Royalty Products.

B. Alnylam and Protiva Biotherapeutics Inc. ("**Protiva**") are parties to an Amended and Restated Cross-License Agreement between Alnylam and Protiva Biotherapeutics Inc. dated effective May 30, 2008 (the "**Restated Protiva CLA**") pursuant to which Alnylam and Protiva have agreed to collaborate on the formulation and development of R&D Program Products (as defined in the Restated Protiva CLA) and pursuant to which Alnylam has obtained certain license rights with respect to Alnylam Licensed Products.

C. Alnylam and Tekmira are parties to a Manufacturing and Supply Agreement dated effective February 7, 2007 (the "**MSA**") that governs Tekmira's supply of Alnylam Royalty Products to Alnylam pursuant to the terms and conditions of Article 5 of the Restated Tekmira LCA.

D. Alnylam and Tekmira now wish to replace the MSA with this Agreement and to include the Manufacture (as hereinafter defined) of Alnylam Royalty Products and Alnylam Licensed Products by Tekmira on the terms and conditions described herein.

NOW, THEREFORE, in consideration of the mutual rights and obligations set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Article 1

Definitions and Interpretation

1.1 Definitions

For purposes of this Agreement, the following terms will have the meanings set forth below:

1.1.1 "**Additional Third Party Costs** has the meaning set forth in Section 4.1.5.

1.1.2 **"Adjusted GMP Batch Work Order Estimated Price**" has the meaning set forth in Section 3.4.5.

1.1.3 **"Affiliate**" means with respect to a Party, (a) any corporation or business entity of which fifty percent (50%) or more of the securities or other ownership interests representing the equity, the voting stock or general partnership interest are owned, controlled or held, directly or indirectly, by such Party; (b) any corporation or business entity, which, directly or indirectly, owns, controls or holds fifty percent (50%) (or the maximum ownership interest permitted by law) or more of the securities or other ownership interests representing the equity, the voting stock or,

if applicable, the general partnership interest, of such Party; or (c) any corporation or business entity, fifty percent (50%) or more of the securities or other ownership interests representing the equity of which is directly or indirectly owned, controlled or held by the same corporation, business entity or security holders, or holders of ownership interests, that own, control or hold fifty percent (50%) or more of the securities or other ownership interests representing the equity or the voting stock of such Party. Solely for purposes of this Agreement and without amending or altering the effect of the contrary provision in the definition of "Affiliate" in the Restated Tekmira LCA, all references to Tekmira in this Agreement shall (unless expressly stated otherwise in connection with such reference) include Tekmira and its Affiliate, Protiva. Notwithstanding the foregoing, Regulus Therapeutics LLC and its successors and assigns are not considered Affiliates of Alnylam for purposes of this Agreement.

1.1.4 **"Aggregate FTE Estimate"** means, with respect to any Calendar Quarter, the sum of the Quarterly FTE Estimates applicable to all Work Orders in effect during such Calendar Quarter.

1.1.5 "**Alnylam Equipment**" has the meaning set forth in Section 6.4.1.

1.1.6 "**Alnylam Licensed Product**" shall have the meaning set forth in clause (b) of Section 1.30 of the Restated Protiva CLA.

1.1.7 "**Alnylam Materials**" means all animal models, cell lines, tissue samples, genes, plasmids, siRNAs, miRNA constructs, vectors, receptors and other proteins, peptides, lipids, and other biological materials related to the Products, that in each case are provided by Alnylam to Tekmira for use in the performance of the Supply Services, including without limitation, the siRNA or miRNA composition incorporated into a Product.

1.1.8 "**Alnylam Royalty Product**" shall have the meaning set forth in Section 1.12 of the Restated Tekmira LCA.

1.1.9 **"Annual FTE Estimate"** has the meaning set forth in Section 5.4.

1.1.10 "**Appendix II Information**" means the information, materials and data described in Appendix II hereof.

1.1.11 "**Applicable Laws**" means all applicable ordinances, rules, regulations, laws, guidelines, guidances, requirements and court orders of any kind whatsoever of any Regulatory Authority, as amended from time to time, including without limitation, cGLP and cGMP (if applicable).

1.1.12 "**At-Risk Batch**" means either (i) a **[*]** Batch that is the **[*]** Batch for a particular Product attempted to be produced by Tekmira at the target production scale for such **[*]** Batch or (ii) a **[*]** Batch that is the [*] Batch for a particular Product attempted to be produced by Tekmira at the target production scale for such **[*]** Batch. In order to avoid confusion, any Batch (whether **[*]**) which is proposed to be an At-Risk Batch will be clearly so designated in the Work Order for such Batch. For purposes of clarity, Batches manufactured to replace failed At-Risk Batches will count in determining whether a **[*]** Batch or a **[*]** Batch, respectively, is the **[*]** Batch or the **[*]** Batch for a particular Product attempted to be produced by Tekmira at the target production scale for such Batch. For example, the **[*]** Batch for a particular Product attempted to be produced by Tekmira at the target production scale for such **[*]** Batch is an At-Risk Batch, and if such At-Risk Batch fails, the replacement for such At-Risk **[*]** Batch would also be an At-Risk Batch as it would be the **[*]** Batch for that particular Product attempted to be produced by Tekmira at the target production scale for such Batch. However, if that **[*]** At-Risk Batch fails, the next attempt would not be an At-Risk Batch as that would be the **[*]** Batch for that particular Product attempted to be produced by Tekmira at the target production scale for such **[*]** Batch.

1.1.13 "**Back-Up Manufacturer**" has the meaning set forth in Section 11.1.2.

1.1.14 "**Batch**" means a specific quantity of Product set forth in a Work Order that is intended to be of uniform character and quality, within specified limits, and is produced during the same cycle of Manufacture and which is intended to meet the Product Specifications.

1.1.15 "**Batch Documentation**" means, with respect to each non-GMP and GMP Batch delivered hereunder, the batch documentation described in Sections 8.1.1 and 8.1.2, respectively; provided, however, that (i) in no event (and notwithstanding anything to the contrary elsewhere in this Agreement) shall Tekmira be required to provide any Formulation Design Know-How and (ii) subject to the provisions of Sections 11.2 and 11.3 all Batch Documentation, and the provision thereof hereunder shall be subject to the restrictions set forth in the Restated Tekmira LCA and Restated Protiva CLA with respect to the use and sublicensing of Tekmira Technology, Protiva Patent Rights and Licensed Information (as defined in such agreements).

1.1.16 "**Bulk Product**" means Product that has been Manufactured through completion of all Manufacturing stages other than sterile filtration (unless applicable Work Order specifies that a particular Batch of Bulk Product will have undergone sterile filtration), filling, finishing, and packaging.

1.1.17 "**Business Day**" means a day other than Saturday, Sunday or a statutory holiday in the Province of British Columbia, Canada or the Commonwealth of Massachusetts, U.S.A.

1.1.18 "**Calendar Quarter**" means each of the three-month periods ending on each of March 31, June 30, September 30 or December 31.

1.1.19 "**Certificate of Analysis**" or "**CoA**" means a document signed by an authorized representative of (a) Tekmira, or of a Third Party utilized by Tekmira in its performance of the Supply Services, as the case may be, describing, with respect to a particular Batch (i) the characteristics of such Batch, measured on the basis of the Product Specifications for, and testing methods applied to, the Product, (ii) the characteristics of the Tekmira Materials incorporated into such Batch, measured on the basis of the Raw Materials Specifications for, and testing methods applied to, such raw materials; or (b) Alnylam or its designee describing, with respect to a particular batch or other delivery unit of Alnylam Materials, the characteristics of such Alnylam Materials, measured on the basis of the Raw Materials Specifications for, and testing methods applied to, Alnylam Materials.

1.1.20 "**Certificate of Compliance**" has the meaning set forth in Section 8.1.2(g).

1.1.21 "**cGLP"** means the current good laboratory practices regulations applicable to the Manufacture of a Product that are promulgated by the Regulatory Authorities in the United States, or any other Regulatory Authorities designated in the applicable Work Order as the applicable Regulatory Authorities.

1.1.22 "**cGMP**" means the current good manufacturing practices regulations applicable to the Manufacture of a Product that are promulgated by the Regulatory Authorities in the United States, or any other Regulatory Authorities designated in the applicable Work Order as the applicable Regulatory Authorities.

1.1.23 "**Confidential Information**" means all proprietary or confidential information and materials, patentable or otherwise, of a Party which are disclosed by or on behalf of such Party to the other Party hereunder, including, without limitation, chemical substances, formulations, techniques, methodology, equipment, data, reports, know how, sources of supply, patent positioning, business plans, and also including without limitation proprietary and confidential information of Third Parties in possession of such Party under an obligation of confidentiality, whether or not related to making, using or selling Products.

1.1.24 "**Damages**" means any and all costs, losses, claims, liabilities, fines, penalties, damages and expenses, court costs, and reasonable fees and disbursements of counsel, consultants and expert witnesses incurred by a Party hereto (including interest which may be imposed in connection therewith).

1.1.25 "**Dispute**" has the meaning set forth in Section 16.6.1.

1.1.26 "**Disputed Batch**" has the meaning set forth in Section 8.4.1.

1.1.27 "**Executed Batch Record**" means the batch record generated by Tekmira in its Manufacture of a specific GMP Batch, which GMP Batch record shall contain the information set forth in the MBR for such Product at such scale and such quality of manufacture

1.1.28 **"Executive Officers"** means the Chief Executive Officer or the President of Alnylam (or another executive officer of Alnylam designated by such Chief Executive Officer) and the Chief Executive Officer of Tekmira (or an executive officer of Tekmira designated by such Chief Executive Officer).

1.1.29 "**Facilities**" means Tekmira Facilities located at 100-8900 Glenlyon Parkway, Burnaby, BC V5J 5J8, Canada, and such other facilities of Tekmira or its Affiliates as may be specified in an applicable Work Order or as may be otherwise mutually agreed in writing in advance between the Parties from time to time. For purposes of clarity, if Alnylam enters into a direct relationship with a Third Party, including a Facility, such Third Party shall not be deemed a "Facility" hereunder to the extent that they are performing work for Alnylam directly.

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

1.1.31 "**FDCA**" means the United States Food, Drug and Cosmetic Act of 1938, as amended from time to time, and the regulations and guidelines promulgated thereunder.

1.1.32 "**Finished Product**" means Product that has been Manufactured through completion of all Manufacturing stages, including filling, finishing, and packaging.

1.1.33 **"Formulation Design Know-How"** means, other than Appendix II Information, Know-How bearing on methods, procedures and/or criteria involved in the design, formulation, selection, evaluation, or validation of one or more formulations for lipid-based siRNA or miRNA products, where such methods, procedures and/or criteria include parameters bearing on one or more desired or anticipated behaviors of such product when used for therapeutic purposes and may also include parameters bearing on the manufacturability, stability, consistency, yield, toxicity, or cost-effectiveness of such product, as well as or other factors relevant to whether such product may be desirable as a commercially marketed therapeutic. For clarity, the Formulation Design Know-How does not include **[*]**. For example, if Tekmira is required to perform Technical Transfer with respect to a Product in accordance with Article 11 hereof, Tekmira will transfer all information and intellectual property necessary for the Manufacture of that Product in the same way that Tekmira Manufactured such Product at the time of Technical Transfer such that the transferee of such Technical Transfer can reproduce the Manufacturing Process of Tekmira for such Product, and it is understood that Formulation Design Know-How shall not be required to complete such Technical Transfer.

1.1.34 **"FTE**" means with respect to Tekmira, the equivalent of the work of one (1) full time employee or contractor for **[*]**, for or on behalf of Tekmira, which equates to a total of **[*]** hours per year of work performed in connection with this Agreement, and the direct management thereof. Unless otherwise approved in particular instances by the Joint Development and Manufacturing Committee, the Supply Services work of one individual person under this Agreement will not account for more than one (1) FTE per year.

***Confidential Treatment Requested.**

1.1.35 "**FTE Portion**" means, with respect to any Calendar Quarter, that portion of the Price of Supply Services that equals the sum of the number of FTEs of work actually performed in the provision of Supply Services in such Calendar Quarter, multiplied by the then-current FTE Rate. For the avoidance of doubt, it is agreed that the cost of Supplies will be deemed to be represented in the FTE Portion and thus will not be separately chargeable as part of the Price. For further clarity, Tekmira will include in the FTE Portion FTEs for Third Party Management Work.

1.1.36 "**FTE Rate**" means **[*]** per annum; provided, however, that beginning on January 1, 2012 (i.e., the first such adjustment will be made as of such date, to reflect CPI changes since the Effective Date, and subsequent such adjustments will be made as of each January 1 thereafter, to reflect CPI changes in the then-preceding year), the then-current FTE Rate shall be adjusted by the percent change year to year in the Consumer Price index (All items) for the Province of British Columbia, Canada as published by Statistics Canada for each year during the term of this Agreement.

1.1.37 "**GMP Batch**" means a Batch that is intended to meet cGMP requirements.

1.1.38 "**GMP Batch Forecast**" means a non-binding, good faith, rolling forecast of Alnylam's estimated requirements for GMP Batches during the eight (8) Calendar Quarters covered by such GMP Batch Forecast.

1.1.39 **"GMP Batch Work Order Estimated Price"** has the meaning set forth in Section 3.2.5.

1.1.40 "**Indemnified Party**" has the meaning set forth in Section 15.5.

1.1.41 "**Indemnifying Party**" has the meaning set forth in Section 15.5.

1.1.42 "**Intellectual Property**" means patents, patent applications, including without limitation utility, model and design patents and certificates of invention and all divisionals, continuations, continuations-in-part, reissues, renewals, extensions (including supplemental protection certificates), additions, registrations or confirmations to or of any such patent applications and patents, trade names, trademarks, copyrights, trade dress, industrial and other designs, trade secrets or Know-How, and other forms of intellectual property, all whether or not registered or capable of registration.

1.1.43 **"Joint Development and Manufacturing Committee"** means the committee formed by the Parties under Article 2.

1.1.44 "**Know-How**" means any and all technical information and know-how owned or controlled by a Party and its Affiliates, including without limitation, data, instructions, processes, formulae, trade secrets, expert opinions and other information (in written or other tangible form) including, without limitation, any chemical, pharmacological, toxicological, clinical, assay, control and manufacturing data, biological materials, manufacturing or related technology, analytical methodology, chemical and quality control procedures, protocols, techniques, improvements and results of experimentation and testing.

1.1.45 "**Manufacturing**" or "**Manufacture**" means, with respect to a Product, all or a portion of the activities associated with the production, manufacture and processing of such Product, and the filling, finishing, testing, packaging, labelling, shipping, and storage of such Product, including without limitation, formulation process scale-up for toxicology and clinical study use, stability testing, analytical development, quality assurance and quality control, and in the case of the Manufacturing of Product by Tekmira, the production of Bulk Product or Finished Product using the Alnylam Materials.

***Confidential Treatment Requested.**

1.1.46 "**Manufacturing Process**" means any and all processes (or any step in any process) used or planned to be used by Tekmira to Manufacture Product, which, for GMP Batches, shall be as evidenced in the Batch Documentation and/or the Master Batch Record.

1.1.47 "**Master Batch Record**" or "**MBR**" means the Parties' jointly approved manufacturing and control instructions for the Manufacture of a specific Batch.

1.1.48 "**Materials**" means Alnylam Materials and Tekmira Materials.

1.1.49 "**Materials Costs**" means the actual costs incurred by Tekmira for the procurement, qualification, purchase, in-bound shipping and freight insurance, testing, validation, and storage of any and all Tekmira Materials for a Product, other than Supplies.

1.1.50 "**Method**" means any compendial and non-compendial analytical method and all approved revisions thereto, as updated from time to time.

1.1.51 "**Minimum FTE Portion**" means, with respect to any Calendar Quarter in a given calendar year, the then-current FTE Rate multiplied by the Year-Specific FTE Minimum for such year and divided by four (4); provided, however, that if any at time during such year, the actual aggregate FTE Portion for all of the then-elapsed Calendar Quarters in such year is equal to or more than the FTE Rate multiplied by the Year-Specific FTE Minimum for such year, then the Minimum FTE Portion for the remaining Calendar Quarter(s), if any, in such year will be zero; and provided, further, however, that if in any Calendar Quarter, the actual FTEs devoted to the Supply Services is less than twenty five percent (25%) of the applicable Year-Specific FTE Minimum due to the failure of Tekmira to fulfill its obligations under one or more approved Work Orders, then the Minimum FTE Portion for such Calendar Quarter shall be zero.

1.1.52 "**miRNA**" has the meaning set forth in the Restated Tekmira LCA

1.1.53 "**Monthly Interim Reimbursement**" has the meaning set forth in Section 4.1.2.

1.1.54 **[*]**

1.1.55 **[*]**

1.1.56 "**non-GMP Batch**" means any Batch intended for non-clinical use, including those intended to meet the requirement for pre-clinical use pursuant to cGLP requirements, such as, for example, a batch intended for use in GLP toxicology studies.

1.1.57 "**OOS**" has the meaning set forth in Section 7.9.1.

1.1.58 "**Party**" means Alnylam or Tekmira and "**Parties**" means Alnylam and Tekmira.

1.1.59 "**Person**" means a natural person, a corporation, a partnership, a trust, a joint venture, a limited liability company, any Regulatory Authority or any other entity or organization.

1.1.60 "**Phase II Study**" means (a) a dose exploration, dose response, duration of effect, kinetics, dynamic relationship or preliminary efficacy and safety study of a Product in the target patient population or (b) a controlled dose-ranging clinical trial to evaluate further the efficacy and safety of a Product in the target patient population and to define the optimal dosing regimen.

1.1.61 "**Phase III Study"** means a controlled pivotal clinical study of a Product that is prospectively designed to demonstrate statistically whether such Product is effective and safe for use in a particular indication in a manner sufficient to obtain Regulatory Approval to market such Product

1.1.62 **"Price**" means the amount, measured in Canadian dollars, to be paid by Alnylam to Tekmira for the Supply Services with respect to each Product and otherwise as provided in an applicable Work Order, which amount shall equal the sum of (i) the FTE Portion, (ii) **[*]** of the applicable

Materials Costs, and (iii) [*] of the applicable Third Party Costs. For the avoidance of doubt, Price shall not include any additional charges for use of the Tekmira Facilities in connection with the Supply Services performed hereunder. To the extent that new equipment is required for the performance of Supply Services, the Parties shall (x) discuss at time of entering into the relevant Work Order whether and to what extent it would be appropriate for Alnylam to bear a portion of the costs of such equipment and what rights each Party would have in such equipment were Alnylam to bear some or all of the costs of such equipment and (y) include in the Price for such Work Order any portion of the costs for such equipment for which Alnylam has agreed to be responsible.

1.1.63 "**Product**" means any Alnylam Royalty Products or Alnylam Licensed Products. For the avoidance of doubt, **[*]**.

1.1.64 "**Quality Agreement**" means the new Quality Agreement to be entered into between Alnylam and Tekmira pursuant to Section 10.1.

1.1.65 **"Quarterly Advance Payment"** has the meaning set forth in Section 4.1.1

1.1.66 **"Quarterly FTE Estimate"** has the meaning set forth in Section 3.3.

1.1.67 "**Records**" has the meaning set forth in Section 9.2.

1.1.68 "**Regulatory Authority**" means the FDA, the EMEA, Health Canada, and any other comparable governmental authorities, whether federal, provincial, state or municipal, regulating the manufacture, importation, distribution, marketing and/or sale of therapeutic substances in the Territory.

1.1.69 "**Representatives**" means, with respect to a Person, that Person's Affiliate and their respective directors, officers, employees, contractors, agents, representatives and any other Person(s) to the extent acting under their authority.

1.1.70 "**Restated Protiva CLA**" has the meaning set forth in paragraph B of the Recitals.

1.1.71 "**Restated Tekmira LCA**" has the meaning set forth in paragraph A of the Recitals.

1.1.72 "**siRNA**" means a double-stranded ribonucleic acid (RNA) composition designed to act primarily through an RNA interference mechanism that consists of either (a) two separate oligomers of native or chemically modified RNA that are hybridized to one another along a substantial portion of their lengths, or (b) a single oligomer of native or chemically modified RNA that is hybridized to itself by self-complementary base-pairing along a substantial portion of its length to form a hairpin.

1.1.73 "**SOP**" means the duly authorized and documented standard operating procedure practised by each of Alnylam and Tekmira in the performance of a specified process.

1.1.74 "**Specifications**" means the list of tests, references to any analytical procedures, and appropriate acceptance criteria (a) to which Product at any stage of Manufacture should conform to be considered acceptable for its intended use, or (b) to which raw materials (including, but not limited to, Materials) should conform to be considered acceptable for their intended use, in each case that are mutually approved by the Parties, as such Specifications are amended or supplemented from time to time by mutual agreement of the Parties in writing, it being understood, however, that references herein to "Specifications" in the context of non-GMP Batches will not imply that such Specifications conform with the standards of GMP, and, as such, Specifications for non-GMP Batches will be considered for regulatory and quality control purposes to be draft Specifications. As used in this Agreement, "**Product Specifications**" means the Specifications applicable to a particular Product, and "**Raw Materials Specifications**" means the Specifications applicable to a particular raw material.

1.1.75 "**Supplies**" means, unless otherwise defined in a Work Order (which Work Order definition shall apply only to the Products to be manufactured under such Work Order), Tekmira Materials (other than lipids and large items such as HPLC columns, filters, batch buffers, and solvents) and consumables routinely used or consumed in the course of Tekmira's operations generally and that are not in any way specific to the Products or any Work Order, such as, by way of illustration: gloves, lab chemicals, lab buffers, lab reagents, lab solvents, paper towels, pipette tips, and test tubes.

1.1.76 "**Supply Services**" has the meaning set forth in Section 3.1.

1.1.77 "**Technical Transfer**" means the transfer, in accordance with Article 11, of Confidential Information and Intellectual Property of Tekmira and its Affiliates (including without limitation, Methods comprising Confidential Information or Intellectual Property of Tekmira and its Affiliates) to Third Parties and Back-Up Manufacturers to the extent necessary to allow such Third Parties and Back-Up Manufacturers to Manufacture a specific Product. For clarity, it is agreed that Technical Transfer will include the provision of the Appendix II Information but will not include the provision of any Formulation Design Know-How.

1.1.78 "**Tekmira Equipment**" has the meaning set forth in Section 6.4.1.

1.1.79 "**Tekmira Facilities**" means, subject to Section 6.2, Tekmira's manufacturing facilities located at 8900 Glenlyon Parkway, Burnaby, B.C. V5J 5J8, Canada.

1.1.80 "**Tekmira Materials**" means all materials (including but not limited to Supplies) to be used by Tekmira in the performance of Supply Services other than the Alnylam Materials listed in the applicable Work Order.

1.1.81 "**Term**" means the term of this Agreement, as described in Article 15.

1.1.82 "**Territory**" means all of the countries in the world and their territories and possessions.

1.1.83 "**Third Party**" means any Person other than a Party to this Agreement or an Affiliate of a Party to this Agreement.

1.1.84 "**Third Party Costs**" means the actual costs incurred by Tekmira for the procurement, qualification, monitoring, and purchase of any and all services, facilities, or personnel provided by Third Parties with respect to the manufacture or supply of Products under this Agreement, including, without limitation, the costs, charges and fees described in Section 4.1.5.

1.1.85 "**Third Party Management Work**" means work performed by Tekmira in the initiation, maintenance, and management of Third Parties engaged by Tekmira for the procurement, qualification, monitoring, testing, and purchase of any and all Supply Services, Facilities, equipment, or personnel provided by such Third Parties with respect to the Manufacture of Products under this Agreement for which Alnylam is reimbursing Third Party Costs. For purposes of clarity, Third Party Management Work will include typical program management functions, including without limitation legal and business development and all work devoted to interfacing with Alnylam or its personnel with respect to such initiation, maintenance, or management of such relationships with Third Parties.

1.1.86 "**Work Order**" means a written work order mutually approved by the Parties as described in Section 3.3, as such Work Order is modified by approved Change Orders. No more than one Batch may be ordered in each individual Work Order.

1.1.87 **"Year-Specific FTE Minimum"** means:

(a) with respect to 2009, **[*]** FTEs;

(b) with respect to 2010, **[*]** FTEs; and

(c) with respect to 2011, **[*]** FTEs.

1.2 Work Order Definitions

Unless otherwise expressly defined in a Work Order, the capitalized terms used in such Work Order will have the respective meanings set forth in this Agreement.

1.3 Conflicts

In the event of a conflict between this Agreement, the Quality Agreement, a Work Order or an attachment thereto, the terms and conditions of this Agreement shall control.

1.4 Currency

Unless otherwise explicitly stated, all references to money or "$" in this Agreement will mean the lawful money of Canada.

Article 2

Joint Development and Manufacturing Committee

2.1 Manufacturing Activities Committee.

The Manufacturing Activities Committee provided for in Section 4.1 of the Restated Tekmira LCA shall be permanently disbanded and be of no further effect as of the Effective Date. In the event that such Manufacturing Activities Committee has not been formed, the Parties agree that no such Manufacturing Activities Committee will be formed on or after the Effective Date.

2.2 Joint Development and Manufacturing Committee Established

The Parties hereby establish a Joint Development and Manufacturing Committee that shall monitor and coordinate communication regarding the Parties' activities under this Agreement, as more fully described through this Agreement by reference to the Joint Development and Manufacturing Committee. The Joint Development and Manufacturing Committee shall facilitate the exchange of information between the Parties with respect to the activities hereunder, shall establish procedures for the efficient sharing of information and materials necessary for each Party's exercise of its rights and performance of its tasks hereunder, and shall perform such other functions as appropriate to further the purposes of this Agreement, as determined by the Parties.

2.3 Powers

2.3.1 Subject to the more specific provisions of this Agreement, the Joint Development and Manufacturing Committee shall have general responsibility for determining the form of Work Orders and scheduling and planning manufacturing campaigns and other Supply Services to be conducted under this Agreement. The Parties have adopted an initial Supply Services Plan, as attached hereto as Appendix I, to act as a guide for the Joint Development and Manufacturing Committee in this respect.

2.3.2 The Joint Development and Manufacturing Committee shall have only the powers assigned expressly to it in this Article 2 and elsewhere in this Agreement, and the Joint Development and Manufacturing Committee shall not have any power to amend, modify or waive compliance with this Agreement.

2.4 Membership

Each Party shall have an equal number of representatives on the Joint Development and Manufacturing Committee. The Joint Development and Manufacturing Committee will initially have four (4) members, as follows: [*] from Tekmira, and [*] from Alnylam. Either Party may designate substitutes for its representatives if one (1) or more of such Party's designated representatives are unable to be present at a meeting. From time to time each Party may replace its representatives by written notice to the other Party specifying the prior representative(s) and their replacement(s).

2.5 Meetings

Meetings of the Joint Development and Manufacturing Committee shall be effective only if at least one representative of each Party is present or participating. With the prior consent of both Parties' representatives (such consent not to be unreasonably withheld or delayed), other representatives of each Party or Third Parties involved with the Supply Services may attend meetings as nonvoting participants or observers.

2.6 Decision Making

2.6.1 Actions to be taken by the Joint Development and Manufacturing Committee shall be taken only following unanimous vote, with each Party having one (1) vote.

2.6.2 If the Joint Development and Manufacturing Committee cannot reach a unanimous decision for a period in excess of ten (10) days from the discussion at the Joint Development and Manufacturing Committee, unless the Parties agree to prolong such time period, the matter may be referred to the Executive Officers by any member of the Joint Development and Manufacturing Committee. In that event, the Executive Officers shall attempt resolution by good faith negotiations for at least ten (10) days after such referral. If the Executive Officers are not able to resolve such dispute within such ten (10) day period, then such dispute shall be finally decided by arbitration in accordance with the terms described in Section 16.6.

Article 3

Scope of Supply Services and Work Orders

3.1 Scope of Supply Services

Tekmira will provide services for Alnylam in respect of the Manufacture of Product as Bulk Product or Finished Product, as non-GMP Batches or GMP Batches, and such other services, including without limitation, project management, Technical Transfer, scale-up and process development, analytical method development, stability testing, release testing, quality control, quality assurance, Third Party Management Work, and regulatory support, as may be specified in each Work Order ("**Supply Services**"). Subject to the provisions of Article 11, Alnylam agrees to obtain, and Tekmira agrees to supply, all of Alnylam's requirements during the Term for Bulk Product and for Finished Product for non-GMP Batches and other non-clinical studies and for Bulk Product for clinical development, through the completion of all Phase II Studies of such Product that are initiated prior to the initiation of the first Phase III Study of such Product, in each case through the provision of the Supply Services by Tekmira under this Agreement. Alnylam further agrees, in recognition of Tekmira's commitments and anticipated scale-up and other efforts hereunder, to pay Tekmira for at least the Minimum FTE Portion applicable to each Calendar Quarter only during the first three years of the Term.

3.2 Contents and Effectiveness of Work Orders

3.2.1 Each request for the Manufacture of a specific Batch will be set forth in a Work Order, which may also specify Supply Services incidental to or otherwise directly related to the Manufacture and supply of such Batch.

3.2.2 While a single Work Order may cover the Manufacture of more than one Batch of a particular Product, no Work Order may cover (i) the Manufacture of Batches of different Products or (ii) the Manufacture of one or more non-GMP Batches and one or more GMP Batches of the same Product.

3.2.3 Each request for Supply Services other than the Manufacture of a specific Batch ("**Other Supply Services Work Orders**"), such as, for example, scale up and process development activities, will (except as stated in Section 3.2.1) be set forth in a separate Work Order that specifically provides for such Supply Services. Either Party may prepare a draft of any such Other Supply Services Work Order and provide it to the other Party, and, if it does so, such other Party will accept, reject, or suggest changes to such draft Work Order in writing within ten (10) Business Days of its receipt of such draft Work Order. No Other Supply Services Work Order will be effective unless and until it has been agreed to and signed by authorized representatives of both Parties. Neither Party will be obligated to enter into any Other Supply Services Work Order, but each Party hereby agrees to be reasonable and to use good faith in its considerations of draft Other Supply Services Work Orders submitted by the other Party.

3.2.4 Unless otherwise determined in individual situations by the Joint Development and Manufacturing Committee, Work Orders covering the Manufacture of a non-GMP Batch and related Supply Services ("**non-GMP Batch Work Orders**") will contain or refer to the following elements as applicable: scope of Supply Services, an estimate of the total Price for all Supply Services under such Work Order (the **"non-GMP Batch Work Order Estimated Price**") (each such estimate providing details regarding the projected amount of Third Party Management work and Third Party Costs contained in such estimated Price), Specifications (it being understood that the Specifications for a non-GMP Batch will be agreed upon by the Joint Development and Manufacturing Committee using good faith estimates of what is reasonably achievable for such non-GMP Batch and which Specifications may include "run-and-report" data for which Tekmira will not be held responsible), date or dates of Alnylam's delivery of Alnylam Materials and associated documentation, timeframe for commencement and completion of Supply Services, deliverables, designation of the additional Applicable Laws and Regulatory Authority(ies) that will be applicable to the Product to be produced (it being understood that the standard for Product produced in non-GMP Batches will be based on industry standards and norms agreed to by the Joint Development and Manufacturing Committee), location of Facilities, reference to Tekmira Materials and Alnylam Materials, and deviations, if any, from the terms of this Agreement. Each Party's representatives on the Joint Development and Manufacturing Committee shall have the authority to sign, on behalf of their respective Parties, a non-GMP Batch Work Order, subject to any financial limits to the signing authority of the members of the Joint Development and Manufacturing Committee based on such Party's internal controls.

In the event the Parties cannot agree upon the content of any non-GMP Batch Work Order or cannot agree upon a Change Order related to any non-GMP Batch Work Order, then the Joint Development and Manufacturing Committee shall be authorized to attempt to resolve such disagreement. If the Joint Development and Manufacturing Committee cannot resolve such disagreement, the matter shall be resolved in accordance with the provisions of Section 2.6.2.

3.2.5 Work Orders covering the Manufacture of a GMP Batch and related Supply Services ("**GMP Batch Work Orders**") shall contain or refer to the following elements as applicable: scope of Supply Services, an estimate of the total Price for all Supply Services under such Work Order (the "**GMP Batch Work Order Estimated Price**") (each such estimate providing details regarding the projected amount of Third Party Management Work and Third Party Costs contained in such estimated Price), Methods, Specifications, SOPs (and other documentation such as development or qualification of methods and/or analytics, to the extent designated by the Joint Development and Manufacturing Committee as relevant), date or dates of Alnylam's delivery of Alnylam Materials and its associated documentation, timeframe for commencement and completion of Supply Services, deliverables, designation of the additional Applicable Laws and Regulatory Authority(ies) that will be applicable to the Product to be produced, location of Facilities, reference to Tekmira Materials and Alnylam Materials, and deviations, if any, from the terms of this Agreement.

3.2.6 With respect to GMP Batch Work Orders, Alnylam will, reasonably and in good faith, prepare a draft of each such Work Order and provide it to Tekmira for its consideration, and Tekmira will accept or suggest changes to such draft Work Order in writing within ten (10) Business Days of Tekmira's receipt of such draft Work Order. Tekmira shall be reasonable and use good faith in its considerations of draft GMP Batch Work Orders from Alnylam. No GMP Batch Work Order will be effective unless and until it has been agreed to and signed by authorized representatives of both Parties; provided, however, that (i) Tekmira may suggest changes to, but may not decline to accept, a GMP Batch Work Order to be effected in the following two Calendar Quarters for a GMP Batch that was reflected in the most recent GMP Batch Forecast for such Calendar Quarters and (ii) nothing contained herein shall require Tekmira to accept any Work Order which contains provisions which are contrary to the terms of this Agreement. Documents relating to the relevant project, including, without limitation, Specifications, and any other relevant documentation, will be attachments to the applicable GMP Batch Work Order and/or incorporated in the Work Order by reference.

3.2.7 Each fully signed or otherwise mutually-approved Work Order will be subject to the terms of this Agreement and will be incorporated herein and form a part of this Agreement.

3.3 Quarterly FTE Estimates

At least ten (10) Business Days prior to the first day of each Calendar Quarter, the Joint Development and Manufacturing Committee will determine, based on good faith input from both Tekmira and Alnylam, a reasonable estimate of the number of FTEs that will be required to perform the Supply Services called for in each of the Work Orders that is, or is to be, effective as to that upcoming Calendar Quarter (each is the "**Quarterly FTE Estimate**" for that Work Order).

3.4 Change Orders

3.4.1 Neither Party will make any changes to the Specifications, Methods, procedures, processes, Materials or Alnylam Equipment used under this Agreement or set forth in a Work Order, without the other Party's prior written approval, such approval not to be unreasonably withheld or delayed.

3.4.2 Either Party may upon written notice to other Party, request a change to a Work Order (a "**Change Order**").

3.4.3 Change Orders with respect to Other Supply Services Work Orders may be proposed and adopted from time to time in the same manner as described in Section 3.2.3 for the proposal and adoption of Other Supply Services Work Orders.

3.4.4 Change Orders with respect to non-GMP Batch Work Orders ("**non-GMP Batch Change Orders"**), consistently with Section 3.2.4, may take the form, may be adopted, and shall include the elements, determined to be appropriate from time to time by the Joint Development and Manufacturing Committee, subject to any financial limits on the signing authority of the Parties' representatives on the Joint Development and Manufacturing Committee based on such Party's internal controls.

3.4.5 For each proposed Change Order with respect to GMP Batch Work Order (a "**GMP Batch Change Order")** submitted by Alnylam**,** Tekmira will, within the longer of (a) four (4) Business Days of written notice of such Change Order from Alnylam, or (b) such time as may be required for Tekmira to obtain necessary information from Third Party suppliers with respect to such proposed Change Order, but not in excess of twelve (12) Business Days, indicate in writing to Alnylam (i) whether such GMP Batch Change Order is necessary or feasible, (ii) to what extent, if any, such GMP Batch Change Order alters the time frame, or any other parameters of Tekmira's performance of the Supply Services, and (iii) what effect, if any, Tekmira believes the implementation of such GMP Batch Change Order would have on the Price of the affected Supply Services, expressed as a revised GMP Batch Work Order Estimated Price for such Work Order (the "**Adjusted GMP Batch Work Order Estimated Price**"). For each GMP Batch Change Order initiated by Tekmira, Tekmira will indicate the information described in clauses (i) through (iii) above as part of its written notice to Alnylam of the proposed Change Order. If Alnylam accepts the terms of such GMP Batch Change Order in writing, then the relevant GMP Batch Work Order will be deemed amended to reflect those changes set forth in such Change Order. No GMP Batch Change Order will be effective unless and until it has been agreed to and signed by authorized representatives of both Parties. Neither Party will be obligated to enter into any GMP Batch Change Order, but each Party hereby agrees to be reasonable and to use good faith in its considerations of draft GMP Batch Change Orders submitted by the other Party; provided, however, that nothing contained herein shall require either Party to accept any Change Order which contains provisions which are contrary to the terms of this Agreement.

3.4.6 Each fully signed or otherwise mutually-approved Change Order will be subject to the terms of this Agreement and will be incorporated herein and form a part of this Agreement.

Article 4

Invoicing and Payment

4.1 Price of Supply Services

4.1.1 On or before the first Business Day of each Calendar Quarter, Alnylam shall deliver to Tekmira the "**Quarterly Advance Payment**," which shall equal the greater of (i) the Minimum FTE Portion for such Calendar Quarter and (ii) the Aggregate FTE Estimate for such Calendar Quarter, multiplied by the FTE Rate.

4.1.2 Within thirty (30) days after the end of each of the first two calendar months in each Calendar Quarter, Tekmira shall send Alnylam an accounting of any Materials Costs or Third Party Costs paid or payable by Tekmira during the month preceding the delivery of such accounting in accordance with Work Orders, including specific references to the Work Orders under which such Materials Costs or Third Party Costs were incurred. Within thirty (30) days after such accounting from Tekmira, Alnylam will pay or reimburse Tekmira for all such Materials Costs and Third Party Costs (the "**Monthly Interim Reimbursement(s)**").

4.1.3 Within thirty (30) days after the end of each Calendar Quarter, Tekmira shall send Alnylam an accounting of the actual aggregate Price for the Supply Services actually provided by Tekmira during such Calendar Quarter, including an itemization (by job category and whether or not for Third Party Management Work) of the applicable FTEs devoted to such Supply Services, the Materials Costs and Third Party Costs incurred, in each case including specific references to the Work Orders under which such FTEs, Materials Costs and Third Party Costs were incurred; it being understood and agreed that, unless otherwise specified in the applicable Work Order (in which case the terms of the Work Order shall prevail):

(a) except with respect to activities involved in investigations of deviations from Specifications, Tekmira will not be entitled to bill, and Alnylam shall not be required to pay, an aggregate Price for all Supply Services under any given non-GMP Batch Work Order (other than for the first or the second non-GMP Batch for a particular Product attempted to be produced by Tekmira at the target production scale for such non-GMP Batch) in excess of the lesser of:

(i) the sum of:

(1) any applicable Additional Third Party Costs, plus

(2) the lesser of (w) **[*]** of the amount estimated for such Supply Services in such non-GMP Batch Work Order for all costs other than Third Party Costs and Third Party Management Work and (x) the actual Price for such Supply Services in such non-GMP Batch Work Order for all costs other than Third Party Costs and Third Party Management Work, plus

(3) the lesser of (y) **[*]** of the amount estimated for Third Party Costs and Third Party Management Work in such non-GMP Batch Work Order and (z) the actual Price for such Third Party Costs and Third Party Management Work in such non-GMP Batch Work Order

or

(ii) the sum of (1) any applicable Additional Third Party Costs plus (2) **[*]** in excess of the amount estimated for such Supply Services in such non-GMP Batch Work Order.

(b) except with respect to activities involved in OOS investigations, Tekmira will not be entitled to bill, and Alnylam shall not be required to pay, an aggregate Price for all Supply Services under any given GMP Batch Work Order in excess of the lesser of:

(i) the sum of:

(1) any applicable Additional Third Party Costs, plus

(2) the lesser of (w) **[*]** of the amount estimated for such Supply Services in such GMP Batch Work Order for all costs other than Third Party Costs and Third Party Management Work and (x) the actual Price for such Supply Services performed pursuant to such GMP Batch Work Order for all costs other than Third Party Costs and Third Party Management Work, plus

(3) the lesser of (y) **[*]** of the amount estimated for Third Party Costs and Third Party Management Work in such GMP Batch Work Order and (z) the actual Price for such Third Party Costs and Third Party Management Work performed pursuant to such GMP Batch Work Order,

or

(ii) the sum of (1) any applicable Additional Third Party Costs plus (2) **[*]** in excess of the amount of estimated for such Supply Services in such GMP Batch Work Order.

4.1.4 Within fifteen (15) days after such notice from Tekmira, either, as the case may be: (i) Alnylam shall pay Tekmira the amount by which such actual aggregate Price exceeds the sum of the Quarterly Advance Payment and all Monthly Interim Reimbursements paid by Alnylam with respect to such Calendar Quarter pursuant to Section 4.1.1 and 4.1.2, or (ii) Tekmira shall notify Alnylam that Alnylam has a credit (towards the next Quarterly Advance Payment payable by Alnylam pursuant to Section 4.1.1) equal to the amount by which, if any, the sum of the Quarterly Advance Payment and all Monthly Interim Reimbursements paid by Alnylam with respect to such Calendar Quarter exceeds such actual aggregate Price.

4.1.5 Alnylam acknowledges that Tekmira may incur non-refundable Third Party Costs in connection with its performance of Work Orders, including reservation fees, change fees and cancellation fees associated with each reservation, change and cancellation of Manufacturing time slots reserved exclusively for Tekmira. All of such Third Party Costs incurred by Tekmira will be reimbursed by Alnylam to the extent (i) a reasonable estimate of the same was included in the non-GMP Batch Work Order Estimated Price or the GMP Batch Work Order Estimated Price applicable to such Work Order (as adjusted to reflect any applicable approved Change Orders),or (ii) they were incurred by Tekmira due to Alnylam's delay in delivery of Alnylam Materials and/or associated documentation or any other action, delay or failure of Alnylam; provided that, in each case, (x) such Third Party agreements under which Tekmira committed to pay such reservation, change or cancellation fees, are attached to such Work Order at the time such Work Order is agreed, and (y) Tekmira shall take reasonable steps to mitigate the out-of-pocket expenses incurred in connection therewith. Any such Third Party Costs described in clauses (ii) above are referred to herein as the "**Additional Third Party Costs.**" If so requested by Alnylam, Tekmira shall provide Alnylam with copies of receipts and/or invoices evidencing all Third Party Costs actually incurred by Tekmira in connection with the Supply Services under each Work Order.

4.2 Method of Payment

Alnylam will make all payments for Supply Services in Canadian Dollars by cheque or wire transfer to the account specified by Tekmira. All undisputed balances remaining unpaid thirty (30) days after the date due for payment will bear interest at the rate of the greater of one percent (1%) per month or the prime rate plus 1%, compounded annually.

4.3 Audit

4.3.1 **Access.** Upon the written request of Alnylam and not more than once in each Calendar Year, Tekmira shall permit an independent certified public accounting firm of nationally recognized standing selected by Alnylam and reasonably acceptable to Tekmira, at Alnylam's expense except as set forth below, to have access during normal business hours to such of the records of Tekmira as may be reasonably necessary to verify the accuracy of the amounts billed to Alnylam by Tekmira pursuant hereto, including FTEs (including Third Party Management Work), Materials Costs and Third Party Costs, for any Calendar Year ending not more than thirty-six (36) months prior to the date of such request, for the sole purpose of verifying the basis and accuracy of payments made under this Article 4.

4.3.2 **Discrepancies; Default Interest**. If such accounting firm identifies a discrepancy made during such period, the appropriate Party shall pay the other Party the amount of the discrepancy within twenty (20) Business Days of the date Alnylam delivers to Tekmira such accounting firm's

written report so concluding, or as otherwise agreed by the Parties in writing. Such written report shall be binding upon the Parties. The fees charged by such accounting firm shall be paid by Alnylam, unless such discrepancy represents an overpayment by Alnylam of more than the lesser of **[*]** or **[*]** of the total amounts due hereunder in any Calendar Year, in which case such fees shall be paid by Tekmira. Unless an audit for such Calendar Year has been commenced upon the expiration of thirty-six (36) months following the end of such Calendar Year, the calculation of payments payable with respect to such Calendar Year shall be binding and conclusive upon both Parties, and each Party shall be released from any further liability or accountability with respect to royalties and other payments for such Calendar Year.

4.3.3 **Confidentiality**. Alnylam shall treat all financial information subject to review under this Section 4.3 in accordance with the confidentiality and non-use provisions of Article 14 of this Agreement, and shall cause its accounting firm to enter into an acceptable confidentiality agreement with Tekmira obligating it to retain all such information in confidence pursuant to such confidentiality agreement.

Article 5
Work Order Lead Times and GMP Batch Forecasts

5.1 GMP Batch Forecasts

No later than the first Business Day of each Calendar Quarter, Alnylam shall provide Tekmira with a GMP Batch Forecast of Alnylam's anticipated requirements for GMP Batch production under this Agreement, covering the Calendar Quarter in which such GMP Batch Forecast is so delivered and the following seven (7) Calendar Quarters. Such GMP Batch Forecast shall not constitute a Work Order for any Supply Services, but the requirements stated in each GMP Batch Forecast for the first two Calendar Quarters covered by such GMP Batch Forecast shall: (a) constitute Alnylam's binding commitment to place GMP Batch Work Orders for Supply Services to produce such volumes for delivery during such two Calendar Quarters (it being understood that Alnylam will have submitted GMP Batch Work Orders for the first of such Calendar Quarter during the preceding Calendar Quarter, consistent with Section 5.2.1); and (b) constitute Tekmira's binding commitment to provide such Supply Services under mutually-agreed GMP Batch Work Orders; *provided, however*, that Tekmira will use its commercially reasonable efforts to meet Alnylam's needs.

5.2 Lead Time for Work Orders

5.2.1 Alnylam will provide Tekmira a draft GMP Batch Work Order with sufficient lead time to enable both Parties to have clarified the terms of and have duly executed such GMP Batch Work Order at least ninety (90) days before the first date of Supply Services scheduled under such GMP Batch Work Order, or such shorter amount of time as the Parties may agree, working through the Joint Development and Manufacturing Committee or otherwise, it being agreed that both Parties will exert commercially reasonable efforts to shorten lead times where practicable. Alnylam will provide Tekmira draft non-GMP Batch Work Orders and Other Supply Services Work Orders allowing for reasonable lead times deemed to be sufficient by action of the Joint Development and Manufacturing Committee.

5.2.2 Each Work Order will be governed by the terms of this Agreement and none of the terms or conditions of either Party's acknowledgement forms or any other forms will be applicable, except those specifying the matters set forth in Sections 3.2 or 3.4.

5.2.3 Notwithstanding the foregoing, Alnylam reserves the right, on one (1) week's prior written notice to Tekmira, to suspend a Work Order in the event of a Serious Adverse Drug Event as defined under Applicable Laws or a modification of Alnylam's Product development schedule. If such suspension occurs, Alnylam will reimburse Tekmira for any non-cancellable costs incurred up to and including the date of such suspension and will pay Tekmira for that portion of the Price that

is allocable (on the basis of percentage of completion) to the Supply Services conducted under the affected Work Order to the date of the suspension, upon presentation of satisfactory evidence that such Supply Services were conducted, all in accordance with Article 4.

5.3 Scheduling and Capacity

5.3.1 Alnylam acknowledges that the late delivery of sufficient quantity and quality of any Alnylam Materials and/or documentation by Alnylam to Tekmira may result in a delay in the provision of Supply Services. In the event of the late delivery of any Alnylam Materials and/or documentation for which Tekmira is not responsible, (a) Tekmira will use commercially reasonable efforts to maintain the schedule set forth in the affected Work Order(s) and will notify Alnylam of any necessary change to such schedule, and (b) the Parties will enter into a Change Order to revise such schedule on mutually agreed terms. In no event shall Tekmira's entitlement to compensation or status as exclusive manufacturer be prejudiced by Alnylam's late delivery of Alnylam Materials and/or documentation.

5.3.2 Tekmira will maintain sufficient capacity in the Facilities to enable it to provide Supply Services under GMP Batch Work Orders during the first two Calendar Quarters covered by Alnylam's most recent GMP Batch Forecast. Tekmira will give Alnylam reasonable prior written notice of any shutdown of Facilities (that is not a regularly scheduled occurrence of which Alnylam is already aware) or of any event that may prevent Tekmira from or delay Tekmira in providing such Supply Services to Alnylam.

5.4 Post-2011 Annual FTE Estimates

5.4.1 On or before December 1, 2011, the Joint Development and Manufacturing Committee will determine an estimated number of FTEs (the "**Annual FTE Estimate**") anticipated to be required for Supply Services under this Agreement during 2012, based on the then most-current GMP Batch Forecast for each of the Calendar Quarters in 2012, and the Parties' then most-current available information with respect to other Supply Services (whether with respect to non-GMP Batches or otherwise) anticipated to be required by Alnylam and to be supplied by Tekmira during 2012 under this Agreement. For clarity, such estimate is for planning purposes only and shall not constitute a binding obligation of either Party.

5.4.2 Similarly, the Joint Development and Manufacturing Committee will determine an Annual FTE Estimate for each subsequent calendar year during the Term, and will do so on or before December 1 of the preceding year.

Article 6

Standards, Personnel and Equipment

6.1 Compliance

Tekmira will provide Supply Services in accordance with this Agreement, each Work Order, Applicable Laws, the applicable Specifications, and the relevant Quality Agreement.

6.2 Work Location

To the extent one or more Facilities are expressly identified in a Work Order, Tekmira will perform the applicable Supply Services only at the applicable Facilities. Tekmira shall be responsible for ensuring that all of the Facilities meet the agreed upon regulatory standards indicated in each GMP Batch Work Order at all relevant times. Tekmira will not change the location of any of the Facilities or use any additional facility for the performance of Supply Services under any GMP Batch Work Order without at least one hundred and fifty (150) days' prior written notice to, and prior written consent from, Alnylam or such shorter notice as is otherwise mutually agreed between the Parties. Such consent will not be

unreasonably withheld or delayed (it being understood and agreed that Alnylam may withhold consent pending satisfactory completion of a quality assurance audit and/or regulatory impact assessment of the new location or additional facility, as the case may be). In addition, Alnylam may elect to permit Tekmira to proceed with use of such changed or additional facility prior to completion of an audit, but such use will be subject to Alnylam's right to require Tekmira to cease use of any such facility if such facility does not pass Alnylam's audit.

6.3 Personnel

6.3.1 Unless otherwise set forth in this Article or in a Work Order, Tekmira will furnish all personnel, Tekmira Material and supervision necessary to perform the Supply Services. Tekmira will arrange for qualified personnel necessary and desirable to support Tekmira's obligations under this Agreement, and will take all reasonable steps to ensure that such personnel are properly trained and proficient in the Specifications, Methods, the Manufacturing Process and in handling the Materials and Products.

6.3.2 Communications and coordination between the Parties with respect to the Manufacturing activities under this Agreement shall be conducted through the Joint Development and Manufacturing Committee.

6.4 Equipment

6.4.1 Tekmira will, at its own expense, supply, qualify, calibrate and maintain all equipment necessary for the Manufacture of Product, including any equipment used by Third Party Facilities ("**Tekmira Equipment**"). If certain Tekmira Equipment is not deemed suitable by Alnylam, Alnylam shall have the option of providing substitute or supplementary equipment approved by Tekmira (which approval shall not be unreasonably withheld), in which case such equipment supplied by Alnylam shall be deemed "**Alnylam Equipment**" for the purposes of this Agreement.

6.4.2 All Alnylam Equipment placed in Tekmira's possession will at all times remain the property of Alnylam, will be visibly marked as the property of Alnylam, and will be used exclusively for the performance of Supply Services pursuant to this Agreement. Tekmira shall ensure that such Alnylam Equipment remains free and clear of any liens or encumbrances. Upon termination of this Agreement or upon Alnylam's written request, Tekmira will forthwith return to Alnylam all Alnylam Equipment or permit Alnylam to enter onto Tekmira's premises to retrieve all Alnylam Equipment.

6.4.3 Alnylam will be responsible for the cost of the initial calibration of such Alnylam Equipment upon delivery of same to Tekmira, and the cost of any maintenance, qualification, and calibration, as applicable, of Alnylam Equipment will be apportioned between the Parties in Work Orders. Tekmira shall not be required to provide or pay for spare parts for Alnylam Equipment. To the extent Alnylam provides spare parts for Alnylam Equipment, such spare parts will remain the property of Alnylam and will be used by Tekmira only for maintenance of Alnylam Equipment. Tekmira will immediately notify Alnylam if at any time it believes any Alnylam Equipment has been damaged, lost or stolen.

6.5 Validation

Tekmira will be responsible for performing appropriate qualification and/or validation of the Facilities, Tekmira Equipment and cleaning and maintenance processes employed in the Manufacturing Process at the Facilities in accordance with cGLP and cGMP (as applicable), Tekmira's SOPs, the Quality Agreement, Applicable Laws, and in accordance with any other validation procedures established by the Joint Development and Manufacturing Committee. Tekmira will also be responsible for ensuring that all

such qualifications and/or validations have been performed in the case of all other Facilities or equipment, to the extent involved in the Manufacture of any GMP Batch. Tekmira will also be responsible for ensuring that all such validated processes to the extent involved in the Manufacture of any GMP Batch are carried out in accordance with their terms.

6.6 Licenses and Permits

Tekmira will be responsible for obtaining, at its expense, the Facilities and any licenses or permits and regulatory and government approvals necessary for the operation and use of the Facilities as pharmaceutical manufacturing facilities generally (i.e., without specific regard to the Products or the performance of Supply Services by Tekmira under this Agreement). Where any such licenses, permits or approvals are required specifically for the performance of Supply Services by Tekmira under this Agreement which would not otherwise be required by Tekmira, the expense thereof shall be treated as part of Tekmira's Third Party Costs for purposes of determining the Price.

Article 7

Manufacture

7.1 Material Sourcing

7.1.1 Tekmira acknowledges and agrees that Alnylam Materials are the property of Alnylam and that Alnylam will retain all right, title and interest in and to Alnylam Materials, including all proprietary rights thereto at each stage of Manufacture. Alnylam acknowledges and agrees that, except for the Tekmira Materials incorporated into Product delivered to Alnylam, Tekmira Materials are the property of Tekmira and that Tekmira will retain all right, title and interest in and to Tekmira Materials, including all proprietary rights thereto.

7.1.2 Alnylam shall at its sole cost and expense (a) source, purchase and provide such quantities of Alnylam Materials as are reasonably required for each Work Order, (b) qualify, monitor and audit the suppliers or vendors of Alnylam Materials, and (c) notify Tekmira of any changes to qualification procedures for such vendors or suppliers or to any raw material release or specification procedures applicable to any Alnylam Materials.

7.1.3 Tekmira will pursuant to each Work Order (a) source Tekmira Materials for Products in accordance with the Specifications, (b) qualify, monitor and audit the suppliers or vendors of Tekmira Materials, and (c) notify Alnylam of any changes to qualification procedures for such vendors or suppliers or to any raw material release or specification procedures applicable to any Tekmira Materials.

7.1.4 Alnylam will at all times retain title to and ownership of the Alnylam Materials at each and every stage of Manufacture. Tekmira will provide within the Facilities an area or areas where the Alnylam Materials, Product, any intermediates (and components thereof), and any work in process are segregated and stored in accordance with the Specifications and cGMP or cGLP, as applicable, and in such a way as to be able at all times to clearly distinguish such Alnylam Materials from products and materials belonging to Tekmira, or held by it for a Third Party's account. Tekmira will at all times take such measures as are required to protect the Alnylam Materials, Product, any intermediates (and components thereof), and any work in process from risk of loss or damage at all stages of Manufacture. Tekmira will ensure that the Alnylam Materials, Product, any intermediates (and components thereof), and any work in process remain free and clear of any liens or encumbrances. Tekmira will immediately notify Alnylam if at any time it believes any Product or Alnylam Materials have been damaged, lost or stolen.

7.2 Receipt and Release Testing of Raw Material

7.2.1 Tekmira will receive Alnylam Materials in accordance with Tekmira SOPs and will visually examine the packaging integrity of Alnylam Materials and ensure that damage has not occurred during transport. If Tekmira visually detects any defect or damage in any Alnylam Materials or the packaging thereof, Tekmira will notify Alnylam immediately or by the next Business Day with detailed information concerning the nature of the damage and seek instructions from Alnylam.

7.2.2 Alnylam shall ensure that all Alnylam Materials to be delivered to Tekmira for use in non-GMP Batches have been released in accordance with the Raw Material Specifications for such Alnylam Materials. In respect of GMP Batches, Alnylam shall provide all Alnylam Materials and associated documentation to Tekmira not less than thirty (30) days prior to the initiation of each Manufacturing campaign to enable Tekmira to perform raw material release testing on Alnylam Materials, it being agreed that both Parties will exert commercially reasonable efforts to shorten this lead time where practicable.

7.2.3 If Tekmira is to conduct full release testing of Alnylam Materials in accordance with the Specifications prior to introducing each batch of Alnylam Materials into the Manufacture of Product, Alnylam shall supply reasonably sufficient quantities of Alnylam Materials for the purposes of raw material testing and Batch Manufacturing. Tekmira will provide Alnylam with copies of the analytical reports, raw data and any other relevant documentation in respect of each lot of Alnylam Materials tested, and notify Alnylam of any deficiencies in respect of any lot of Alnylam Materials tested.

7.3 Use of Materials and Product

Tekmira covenants and agrees with Alnylam that it will (a) use all Materials in compliance with all Applicable Laws, (b) not use the Alnylam Materials for any reason other than the performance of the Supply Services including, without limitation, not to analyze, characterize, modify or reverse engineer any Alnylam Materials or take any action to determine the structure or composition of any Alnylam Materials unless required pursuant to a signed Work Order, (c) not distribute or release any Alnylam Materials or Product or any derivative thereof to any person other than employees of Tekmira, Alnylam, or Third Parties approved for such purpose in any Work Order or otherwise by Alnylam or the Joint Development and Manufacturing Committee, who require access to the Alnylam Materials or Product in the performance of the Supply Services, (d) ensure that no Person will take or send any Alnylam Materials or Product or any part thereof to any location, other than within the Facilities at which the Supply Services are to be performed, and (e) ensure that all of Tekmira's employees having access to the Alnylam Materials and Product are made aware of and comply with the terms of this Agreement, including the obligations of confidentiality respecting the same contained herein.

7.4 Responsibility for Safe Use

Tekmira shall be responsible in accordance with Applicable Laws for implementing and maintaining health and safety procedures for the performance of Supply Services and for the handling of any Materials or hazardous waste used in or generated by the Supply Services. Tekmria, in consultation with Alnylam, will develop safety and handling procedures for Materials and Products. Provided Alnylam has delivered a Material Safety Data Sheet ("**MSDS**") for each of the Alnylam Materials supplied to Tekmira, Alnylam shall have no responsibility for Tekmira's health and safety program.

7.5 Test Parameters

All test parameters will be as specified in the Specifications included in each Work Order.

7.6 Manufacture of Bulk Product

7.6.1 Prior to Manufacturing the first GMP Batch of a Product, Tekmira shall generate and deliver to Alnylam, an MBR for such GMP Batch to be Manufactured and each GMP Batch shall be Manufactured in accordance with the MBR.

7.7 Bulk Product Release Testing

7.7.1 If Alnylam in writing requests Supply Services in respect of Bulk Product release testing, and unless otherwise stated in the Work Order for the Manufacture of Product, Tekmira will perform release testing of the applicable Batch in accordance with the Specifications within four (4) weeks of completion of a Manufacturing campaign.

7.7.2 If at any time during the Manufacture of Product, Tekmira discovers that the whole or part of a Batch does not meet the acceptance criteria set forth in the Specifications for Product, Tekmira will notify Alnylam in accordance with Section 7.9 and provide sufficient details to enable Alnylam to order replacement shipments of relevant Alnylam Material and provide instructions for the disposition of the affected Product.

7.8 Stability Testing

If Alnylam in writing requests Supply Services in respect of stability testing, Tekmira will design and Alnylam will approve a study protocol and applicable SOPs to be used by Tekmira. Such study protocols will be prepared as part of the Supply Services set forth in such Work Order.

7.9 Testing Generally

7.9.1 Tekmira will contact Alnylam within two (2) Business Days, either verbally or in written form, of Tekmira's discovery of any actual or suspected Out-Of-Specification ("**OOS**") data with respect to work done under or in connection with a GMP Batch Work Order, and Tekmira will recommend the course of action to be undertaken to confirm and/or remedy such OOS, if any. Tekmira will forward to Alnylam for Alnylam's approval, any and all OOS reports concerning the Product which do not stem from an assignable laboratory cause.

7.9.2 Tekmira will obtain Alnylam's approval prior to necessary re-testing or re-sampling as part of an OOS investigation with respect to work done under or in connection with a GMP Batch Work Order. Recommendation and approval for such action will be contained in the relevant OOS report that will be copied to Alnylam. Charges for re-testing will not apply where re-testing stems from flawed testing done by Tekmira.

7.10 Sample Retention – Raw Materials and Bulk Product

For each GMP Batch Manufactured by Tekmira, Tekmira will, as part of the Supply Services, retain sufficient quantities of raw materials and Bulk Product, in appropriate material composition container-closure systems until the later of (a) a period equal to the shelf life of the Product into which the raw material has been incorporated plus two (2) years, or (b) such longer period as may be required or advisable in accordance with Applicable Laws and mutually agreed by the Parties, after which time, Tekmira will (i) obtain Alnylam's prior approval for the destruction or disposal of the raw material, (ii) upon receiving such approval, destroy or dispose of such raw material in accordance with Section 7.12; and (iii) document the destruction or disposal of all such raw material.

7.11 Storage

7.11.1 Tekmira will maintain at all times adequate facilities for the storage of Materials and will exercise due care in handling and storing all Materials in accordance with Applicable Laws, applicable Specifications, the Quality Agreement and this Agreement.

7.11.2 Alnylam's Representatives will, upon prior written notice to Tekmira and subject to the limitations and restrictions described in Section 9.3, have reasonable access to the Materials, and will have the right to obtain original raw data and supporting documentation respecting same.

7.11.3 Tekmira will use its reasonable efforts to visibly mark any Materials that are used exclusively for the Manufacture of Product for Alnylam to distinguish them from other materials.

7.11.4 Tekmira shall store Product and Materials for up to one (1) week after Alnylam's acceptance of the Product pending Alnylam's shipper or courier pick up, provided, however, that Alnylam is reasonably prompt in effecting its acceptance of the Product. If Alnylam's courier or shipper is unable to take delivery of Product within this one (1) week period following Alnylam's acceptance of the Product, or if Alnylam is not reasonably prompt in effecting such acceptance, Tekmira shall be entitled to charge Alnylam for its reasonable storage costs.

7.12 Waste Disposal

If requested by Alnylam in writing, used and unused Materials and Product will be destroyed or disposed by Tekmira in accordance with Applicable Laws, and Alnylam shall pay Tekmira (in accordance with Article 4) Tekmira's actual costs incurred in or otherwise attributable to such destruction or disposal. Tekmira will not destroy or dispose of any retained samples relating to regulatory compliance or quality control without giving Alnylam two (2) months prior written notice and a reasonable opportunity to take possession of such samples.

Article 8
Delivery of Product

8.1 Release and Batch Documentation

8.1.1 For each non-GMP Batch Manufactured, within six (6) weeks following the completed processing of the Bulk Product or such other period as the Joint Development and Manufacturing Committee may determine to be reasonable, Tekmira will deliver to Alnylam's designated quality assurance representative, a copy of the CoA for such Batch and all underlying and supporting raw data and such other data or information (other than Formulation Design Know-How) that is reasonably available to Tekmira and that is determined by the Joint Development and Manufacturing Committee to be appropriately deliverable to Alnylam (together, the "**non-GMP Batch Documentation**"). In addition, to the extent reasonably requested by Alnylam, Tekmira will also supply Alnylam with samples of the applicable non-GMP Batch in an amount sufficient for Alnylam to conduct necessary testing of such non-GMP Batch.

8.1.2 For each GMP Batch Manufactured, Tekmira will deliver to Alnylam's designated quality assurance representative, the following samples and documentation duly reviewed by Tekmira's quality assurance representative, within six (6) weeks following the completed processing of the Bulk Product, as applicable:

(a) a copy of the Executed Batch Record for the applicable GMP Batch and all underlying or supporting raw data;

(b) a copy of the CoA and all underlying or supporting raw data (including, without limitation, any applicable associated method qualification and validation reports required by cGMP);

(c) a copy of the analytical reports for raw materials;

(d) a copy of any investigation reports concerning the Manufacture of the applicable GMP Batch;

(e) all records of any relevant Third Party equivalent to (a) through (d) above;

(f) documentation, signed by an authorized representative of Tekmira, identifying and certifying to the country of origin for raw materials used in a particular Batch and, if requested by Alnylam, a statement, in the form reasonably requested by Alnylam, certifying that all raw materials used in a particular Batch are free of bovine spongeform encephalitis and total spongeform encephalitis; *provided however*, that all Alnylam Materials will be provided with the documentation and certifications set forth in this subsection such that Tekmira will be able to rely on Alnylam's documentation and certifications with respect to the Alnylam Materials on which it is required to document pursuant to this subsection; and

(g) a certificate signed by an authorized representative of Tekmira confirming that the GMP Batch was Manufactured in accordance with cGMP; and, based on the release testing required to be performed by Tekmira under the Specifications, such GMP Batch meets the applicable Specifications and is compliant with Applicable Laws ("**Certificate of Compliance**");

(h) and any other data (other than Formulation Design Know-How) reasonably requested by Alnylam that is either required by cGMP or that is otherwise reasonably available to Tekmira

(together, the "**GMP Batch Documentation**", and with the non-GMP Batch Documentation, the "**Batch Documentation**"). In addition, to the extent reasonably requested by Alnylam, Tekmira will also supply Alnylam with samples of the applicable GMP Batch in an amount sufficient for Alnylam to conduct necessary testing of such GMP Batch.

8.1.3 Notwithstanding the foregoing Section 8.1.2, if the quality assurance process is halted or delayed after completion of Manufacture of a GMP Batch for any reason, Tekmira will immediately notify Alnylam of such delay and the reason(s) therefor and provide Alnylam with a new estimated date for delivery of complete Batch Documentation for the applicable GMP Batch. The period stipulated in Section 8.1.2 will be extended by the length of time to be mutually agreed upon and recorded in writing.

8.1.4 If Tekmira determines that a Batch does not meet the relevant Specifications, Tekmira shall promptly notify Alnylam of such determination, and the Parties shall discuss the appropriate next steps.

8.2 Shipment

8.2.1 Tekmira will make Product available for pick-up by Alnylam's shipper or courier only after all aspects of Manufacturing are complete and all applicable documentation is complete, including sign-off and release authorization by Alnylam and, where applicable, Tekmira's quality assurance personnel, and forwarded to Alnylam as set forth in Section 8.1, except as authorized in writing by Alnylam's head of quality assurance or as otherwise determined by the Joint Development and Manufacturing Committee. For purposes of clarity, Tekmira will release Product to Alnylam or its designees under quarantine prior to finalization of the deliverables described in Section 8.1.2.

8.2.2 If a Work Order requires Tekmira to Manufacture only Bulk Product, risk of loss or damage to Alnylam Materials and Product will remain with Tekmira while the same are at the Facilities until Alnylam has taken delivery of the Product. All deliveries shall be FCA the Facilities (Incoterms 2000). A bill of lading will be furnished to Alnylam with respect to each delivery. Tekmira shall not be responsible for any early or late delivery caused directly or indirectly by any national or international security, transport, customs or other measures enacted by relevant governmental entities, in which case Alnylam shall have the option of arranging alternative delivery methods.

8.3 Testing and Rejection of Delivered Product

8.3.1 After Alnylam or its designee(s)' receipt of the Product and its associated documentation, if Alnylam or its designee discovers through visual inspection any shortage of Product comprising the delivery, any damage to the Product or packaging or shipping container or any obvious defect detectable by the naked eye, Alnylam will notify Tekmira within five (5) Business Days of Alnylam or its designee(s)' receipt of the Product.

8.3.2 Alnylam will be entitled, at its cost and expense, to inspect the Batch Documentation provided under Section 8.1 to ensure compliance with applicable Specifications, and to test (using Methods set forth in the Specifications) each Batch and the documentation applicable to such Batch to determine whether the Product complies with the CoA, and, with respect to GMP Batches, with the MBR, Specifications, cGMP and Applicable Laws

8.4 Sharing Batch Risk

8.4.1 If Alnylam does not accept a Batch within fifteen (15) Business Days of the later of (a) receipt of the Product as described in Section 8.3 or (b) Alnylam's receipt and review of the applicable Batch Documentation and samples for such Batch in accordance with Section 8.1, and if the Parties cannot agree on a course of action, either through the Joint Development and Manufacturing Committee or otherwise, an independent laboratory in the United States which is acceptable to both Parties will test the Batch in dispute (the "**Disputed Batch**") to determine whether the Disputed Batch meets Specifications, and both Parties hereby agree to accept and be bound by the findings of such independent laboratory absent manifest error, false documentation or wilful misconduct by such laboratory. The Parties will provide such independent laboratory will the Specifications, Batch Documentation, and other information required to conduct such tests and analysis necessary to make the requested findings.

8.4.2 If such laboratory finds, or the Parties otherwise agree, that the Disputed Batch meets the Specifications **[*]**, or if Alnylam makes any use of the Disputed Batch in pre-clinical or clinical testing, Alnylam will be deemed to have accepted such Batch and Alnylam shall, in addition, pay the fees for such independent laboratory testing and will promptly authorize the release of such Product and make payment to Tekmira for such Batch pursuant to Article 4.

8.4.3 If the Disputed Batch is an At-Risk Batch, and such independent laboratory finds, or the Parties otherwise agree, that such At-Risk Batch failed to meet Specifications **[*]**, Tekmira shall provide a replacement Batch, which will be treated for purposes of Article 4 as if it were a new Batch called for under the applicable Work Order, and the aggregate Price for the Supply Services provided with respect to the failed At-Risk Batch and with respect to such replacement Batch will equal the sum of the amounts called for under Article 4 for both such Batches; provided, however, that in the event that **[*]**, then such At-Risk Batch will (a) be subject to Section 8.4.4., and will be treated as a Disputed Batch which is not an At-Risk Batch for purposes of Section 8.4.4 and (b) be an At-Risk Batch for all other purposes.

8.4.4 If such independent laboratory finds, or the Parties otherwise agree, that a Disputed Batch (other than an At-Risk Batch) failed to meet Specifications when delivered to Alnylam or its designee, whether or not due to Tekmira's negligence or a breach by Tekmira of its obligations under this Agreement, and Alnylam makes no use of the Disputed Batch in pre-clinical or clinical testing, Tekmira shall provide a replacement Batch, and the aggregate Price for the Supply Services provided with respect to the failed Batch and to be provided with respect to such replacement Batch shall equal the Price for the failed Batch plus the Materials Cost and Third Party Costs attributable to the replacement Batch, it being understood and agreed that Alnylam will supply and bear the costs of all Alnylam Materials to be incorporated into the replacement Batch and Tekmira will bear the other costs incurred as a result of having to run such replacement Batch,

and, in addition, Tekmira shall, pay the fees and costs incurred in connection with the testing conducted by the independent laboratory; provided, however, that Alnylam shall pay the costs of the independent laboratory with respect to the testing of any non-GMP Batch regardless of the findings of such independent laboratory .

8.4.5 If such independent laboratory finds, or the Parties otherwise agree, that the Disputed Batch failed to meet Specifications due to handling, events or other causes following delivery of such Batch to Alnylam or its designee, Tekmira shall provide a replacement Batch, which will be treated for purposes of Article 4 as if it were a new Batch called for under the applicable Batch Work Order, and the aggregate Price for the Supply Services provided with respect to the failed Batch and with respect to such replacement Batch will equal the sum of the amounts called for under Article 4 for both such Batches.

Article 9
Inspections and Inquiries

9.1 Quality Assurance Audits of Suppliers

Tekmira will, at its expense and with reasonable frequency in accordance with current industry standards, conduct quality assurance audits of the facilities and operations of Third Parties and the suppliers of Tekmira Materials related to Manufacture of Product and Alnylam may, upon reasonable prior written notice to Tekmira, review and inspect at Tekmira's Facilities copies of Tekmira's audit reports, redacted as appropriate. Tekmira will give Alnylam notice at least thirty (30) days in advance of any such audit and allow Alnylam personnel to accompany Tekmira during such audit.

9.2 Records

Subject to Section 11.3, Tekmira shall provide Alnylam with the Appendix II Information and, in addition, agrees to the following:

9.2.1 Tekmira will disclose to Alnylam, records, policies and procedures (including without limitation, reports, accounts, notes, data, SOPs, and records of all information and results) that Tekmira generates or utilizes in the Manufacture of a particular Product only to the extent that, in Alnylam's reasonable judgment, such records, policies and procedures are necessary or useful for submission to a Regulatory Authority directly in connection with the testing or approval of such Product (collectively, the "**Records**");

9.2.2 to the extent such Records relate exclusively to Products or certain Confidential Information of Alnylam, Tekmira will not transfer, deliver or otherwise provide any such Records to any party other than Alnylam without the prior written approval of Alnylam, except to Regulatory Authorities as required by Applicable Law;

9.2.3 Records will be available at reasonable times for inspection, examination and copying by or on behalf of Alnylam;

9.2.4 all original Records of the Manufacture of Product under this Agreement will be retained and archived by Tekmira in accordance with cGMP (if applicable) and Applicable Law, but in no case for less than a period of five (5) years following completion of the applicable Work Order;

9.2.5 upon Alnylam's written request, Tekmira will promptly provide Alnylam with copies of such Records at a reasonable cost. Tekmira will notify Alnylam in writing prior to destroying any Records and will cooperate with Alnylam at Alnylam's cost, should Alnylam wish to have such Records transferred to Alnylam or a designee.

9.3 Access to Facilities, Personnel and Records

Subject to the restrictions set forth in the Restated Tekmira LCA and Restated Protiva CLA with respect to the use and sublicensing of Tekmira Technology, Protiva Patent Rights and Licensed Information (as defined in such agreements) and provided that in no event shall Tekmira be required to provide any Formulation Design Know-How, Alnylam and its Representatives will have the right:

9.3.1 to inspect those sections of Tekmira's Facilities used in the Manufacture of the Product or its components and to interview all relevant personnel to review and make such copies of such Records reasonably necessary to verify Tekmira's compliance under this Agreement, the Specifications, cGMP, the FDCA, and any other Applicable Laws:

(a) twice per year during the first and annually thereafter, on ten (10) Business Days prior notice and during regular business hours, or

(b) without notice, in the event that Alnylam has reasonable doubt that Product has been Manufactured by Tekmira in accordance with the terms of this Agreement; and

9.3.2 to be present at Tekmira's Facilities during any inspection of Tekmira or Tekmira's Facilities by any Regulatory Authorities, to be consulted when Product specific questions are posed by Regulatory Authorities and, upon the written request of Tekmira, to observe or participate in such inspection to the extent it relates directly to the Manufacturing of the Product. Tekmira will notify Alnylam promptly after learning that any such inspection is being conducted or will be conducted, and in any event within one Business Day of learning of same.

9.4 Inspections and Investigations by Regulatory Authorities

Tekmira agrees to notify Alnylam as soon as practicable of any unannounced regulatory inspection, and to notify Alnylam within one (1) Business Day following receipt of any notice of inspections or other similar notifications by Regulatory Authorities which notice pertains to the Product being Manufactured for supply to Alnylam pursuant to this Agreement, other matters within the scope of this Agreement, or the Facilities to the extent it relates to the Product being Manufactured for supply to Alnylam pursuant to this Agreement, and will provide to Alnylam within three (3) Business Days after receipt of the above notification(s) copies of all correspondence, reports, notices, findings and other material pertinent to such inspections, as they are received or produced by Tekmira. Tekmira will allow, and will provide Alnylam with any required authorization to allow Regulatory Authorities to inspect, audit and review the Facilities to the extent it relates to the Product being Manufactured for supply to Alnylam pursuant to this Agreement, and all procedures, practices, books, Records, and documents to the extent requested by Regulatory Authorities. Within one (1) Business Day following Tekmira's receipt of FDA Forms 482, 483, or warning letters in respect of the Product, or upon receipt of similar notifications from Regulatory Authorities other than the FDA, Tekmira will notify Alnylam thereof and will provide Alnylam copies of same upon Alnylam's written request. Tekmira and Alnylam agree to cooperate with each other during any inspection, investigation or other inquiry by Regulatory Authorities, including providing information and documentation as requested by such Regulatory Authorities. Tekmira and Alnylam also agree to discuss any response to observations or notifications received and to give the other Party an opportunity to comment on any proposed response before it is made. In the event of any disagreement concerning the form or content of such response, however, Alnylam will be responsible, acting reasonably and in good faith, for deciding the appropriate form and content of any response relating to the Product. Tekmira will permit Alnylam Representatives to be present during such inspections.

9.5 Regulatory Responsibilities

9.5.1 Tekmira will be responsible for maintaining and fulfilling all Applicable Laws with respect to the Product that are imposed upon Tekmira as the manufacturer thereof. Alnylam and its designees will only refer to or identify Tekmira in Alnylam's Product labelling as may be required by

Applicable Laws. Tekmira will, on a timely basis, provide Alnylam with all information that Tekmira has that is reasonably necessary and relevant to Alnylam's obligations to fulfill such requirements.

9.5.2 Alnylam will be responsible for obtaining, at its sole expense, all regulatory and governmental approvals and permits necessary for Alnylam's use of any Product Manufactured under this Agreement, including, without limitation, any IND submissions and any analogous submissions filed with appropriate Regulatory Authorities in the Territory.

9.5.3 Subject to the restrictions set forth in the Restated Tekmira LCA and Restated Protiva CLA with respect to the use and sublicensing of Tekmira Technology, Protiva Patent Rights and Licensed Information (as defined in such agreements) and provided that in no event shall Tekmira be required to provide any Formulation Design Know-How, Tekmira will provide Alnylam with all supporting data and information relating to the Manufacture of Product necessary for obtaining such approvals, including, without limitation, all Records, raw data, reports, authorizations, certificates, methodologies, Batch Documentation, Raw Material Specifications, SOPs, standard Methods, CoAs, Certificates of Compliance and other documentation in the possession or control of Tekmira relating to the Manufacture of Product (or any component thereof).

Article 10

Regulatory, Quality and Safety Issues

10.1 Adherence to Quality Agreement

On or before January 31, 2009, the Parties shall execute a new Quality Agreement to reflect the terms of this Agreement. Tekmira will perform all Supply Services in compliance with the terms of the Quality Agreement.

10.2 Withdrawals and Recalls of Product from Clinical Trials

If Alnylam is required or requested by any Regulatory Authority to recall any Product for any reason, or should Alnylam decide voluntarily to withdraw any Product, Alnylam will be responsible for co-ordinating such recall or withdrawal. Both Parties will cooperate fully with one another in connection with any such recall or withdrawal.

Article 11

Back-up Manufacturer and Technical Transfer

The terms and conditions of Article 5 of the Restated Tekmira LCA shall remain in effect, but, where there is any conflict between such terms and conditions and the terms and conditions set forth in this Article 11, the terms of this Article 11 will take precedence during the Term with respect to this Agreement and the Supply Services under this Agreement.

11.1 Exclusive Manufacturing Obligations

11.1.1 Alnylam hereby retains Tekmira as Alnylam's exclusive manufacturer to Manufacture and supply Alnylam's requirements of the Bulk Product for each Product, in each case for toxicology and other non-clinical studies and clinical development, through the completion of all Phase II Studies of such Product, as the case may be, that are initiated prior to the initiation of the first Phase III Study of such Alnylam Royalty Product or Alnylam Licensed Product, as the case may be; provided, however, that such exclusive supply engagement shall only apply during the Term and shall not apply to any Product (on a Product-by-Product basis):

(a) that Tekmira cannot or will not Manufacture (or is not or will not be able to Manufacture), to Alnylam's reasonable satisfaction, (w) at the requisite scale, in sufficient quantities, within requisite timelines as set forth in the first two Calendar Quarters contained in the most recent GMP Batch Forecast or, with respect to non-GMP Batches, based on the agreed Work Order, and in accordance with the applicable MBR, Specifications and other quality requirements for such Product, (x) **[*]** consecutive Batches (other than At-Risk Batches) of such Product meeting the requirements of this Agreement, (y) in accordance with all applicable laws and regulations (including without limitation the requirements of cGMP, if applicable), and (z) using a facility with respect to which Tekmira or its permitted subcontractor has obtained approval from the applicable Regulatory Authorities to Manufacture and supply such Product; or

(b) with respect to which Alnylam would be required to pay Tekmira an amount per Batch that is **[*]** greater than the cost per GMP Batch as quoted in a bona fide offer received by Alnylam from a Third Party (other than a Back-Up Manufacturer); provided, that the Specifications for such Bulk Product, and the batch size, quantity, and quality of Product would be at least reasonably comparable. In the event that Alnylam would be entitled under this clause (b) to obtain its requirements of the Bulk Product from a Third Party, then prior to Alnylam engaging such Third Party for such services, Tekmira may submit a revised per GMP Batch price quote for such Bulk Product and if Tekmira's revised per GMP Batch price quote is the same or better than the Third Party's quote, Alnylam shall continue to obtain its supply of such Bulk Product from Tekmira in accordance with this Agreement.

For purposes of clarity, Tekmira's obligations to qualify a Back-Up Manufacturer and to perform Technical Transfer will be performed in a reasonable timeframe that is consistent with the timeframes established by the Joint Development and Manufacturing Committee for the product development program for such Product, taking into account the need to qualify a Back-Up Manufacturer and Manufacture Product for such first Phase III Study sufficiently in advance of the initiation of such Phase III Study with respect to such Product in order that Alnylam will have sufficient supplies of such Product for commencement of such Phase III Study without delay.

11.1.2 Alnylam and Tekmira shall agree from time to time on one or more additional suppliers of Bulk Product (each a "**Back-Up Manufacturer**"), such that at all times, there is at least one primary manufacturer and at least one Back-Up Manufacturer. Initially, if qualified, **[*]** shall serve as a Back-Up Manufacturer acceptable to both Parties. Alnylam shall have the right to propose such Back-Up Manufacturer(s) and Tekmira shall have the right to consent to such Back-Up Manufacturer(s), which consent shall not be unreasonably withheld or delayed. **[*]**.

11.1.3 Subject to Section 11.3, Tekmira shall promptly provide Technical Transfer to all such Back-Up Manufacturer(s) to the extent required to accomplish the timely qualification of such Back-Up Manufacturer(s). Within thirty (30) days after the Effective Date, Tekmira shall deliver to Alnylam, for review and approval, a Work Order containing a project overview for establishing and qualifying **[*]** as the initial Back-Up Manufacturer. This project overview will include contract manufacturing organization targets, timelines, equipment requirements, and both FTE and out-of-pocket expense estimates. As part of the qualification of such Back-Up Manufacturer, Alnylam shall have the right to have such Back-Up Manufacturer Manufacture Products in such amounts as may be necessary to ensure successful qualification of such Back-Up Manufacturer and as may be necessary to maintain such qualification. For clarity, qualification shall be deemed to have occurred if the Back-Up Manufacturer's facility is successfully audited (no critical deficiencies observed) by a Qualified Person (as such term is defined by the relevant Regulatory

Authorities) in the applicable countries within the European Union. In addition, any manufacturing campaigns in excess of the minimum number of Batches required to maintain such Back-Up Manufacturer for Bulk Product shall be performed by Tekmira under Work Orders and this Agreement. In order to monitor Alnylam's compliance with this provision, Alnylam will provide Tekmira with an annual forecast and a written report, certified by an officer of Alnylam, of the quantities of finished dosage form obtained by Alnylam from all Back-Up Manufacturers.

11.2 Methods Transfer

Subject to Section 11.3, Tekmira will provide to each of the Third Parties utilized by Tekmira in the performance of the Supply Services, and to each Back-Up Manufacturer, the necessary training to enable each of them to perform the Methods each of them is entrusted or expected to perform. Tekmira will require each such Third Party and such Back-Up Manufacturer to provide Tekmira with documentary evidence to confirm their incorporation of each Method into their respective change control system and their successful performance of the new or revised Method. Such Method transfers from Tekmira will be completed in accordance with protocols to be established between Tekmira and each transferee.

11.3 Technical Transfer

11.3.1 Alnylam acknowledges and agrees that the transfer of Confidential Information and Intellectual Property owned or controlled by Tekmira and necessary for the Manufacture of a specific Product shall be used by the recipient of such Confidential Information and Intellectual Property (be it Alnylam or a Back-Up Manufacturer, or otherwise) solely for the purpose of Manufacturing the specific Product for which the Technical Transfer was conducted. For avoidance of doubt Alnylam acknowledges and agrees that:

(a) the Confidential Information and Intellectual Property owned or controlled by Tekmira and necessary for the Manufacture of a specific Product encompassed in any Technical Transfer by Tekmira can only be used: (i) by the recipient of the Technical Transfer, (ii) solely for the Manufacture or regulatory approval of the specific Product which formed the subject of the Technical Transfer and not for any other product (or Product), and (iii) where Alnylam is the recipient of any such Confidential Information and Intellectual Property, **[*]**;

(b) the transfer by Tekmira of Tekmira Confidential Information and Tekmira Intellectual Property for the Manufacture of a specific Product does not grant to the recipient of such Technical Transfer any right or license of any kind to conduct further transfer of Tekmira Confidential Information and Tekmira Intellectual Property to any Person, for any purpose; and

(c) prior to the provision of any Methods under Section 11.2 or of any Technical Transfer or any other Tekmira Confidential Information and Tekmira Intellectual Property to any Third Party, including without limitation an alternate supplier, such Third Party shall be required to execute and deliver to Tekmira the written agreement(s) of such Third Party to be bound by the foregoing provisions of this Section 11.3.1 and by Article 14 of this Agreement, explicitly for the benefit of Tekmira, which agreement(s) must be in form and substance reasonably acceptable to Tekmira.

11.3.2 Tekmira will perform each Technical Transfer in accordance with Technical Transfer protocols to be established between Tekmira and each Back-Up Manufacturer, with Alnylam's approval, which approval shall not unreasonably withheld or delayed, all of which protocols and other documentation arising from the performance Technical Transfer activities shall constitute the Confidential Information of Tekmira.

11.4 The Parties agree to negotiate in good faith at the appropriate time Tekmira's Manufacture of Alnylam's requirements of the Bulk Product for Phase III Studies and commercial sale if Tekmira or its Affiliate is qualified and capable of performing this Manufacture in the appropriate timeframe; provided, however, that nothing in this Agreement shall be deemed to be a binding obligation of either Party to enter into such a transaction.

11.5 As of the Effective Date, the Manufacturing Plan will terminate and be replaced by Work Orders under this Supply Agreement.

Article 12

Representations, Warranties and Covenants of the Parties

12.1 Mutual Representations and Warranties.

Each Party represents and warrants to the other Party that as of the Effective Date of this Agreement:

12.1.1 It is duly organized and validly existing under the laws of its jurisdiction of incorporation or formation, and has full corporate or other power and authority to enter into this Agreement and to carry out the provisions hereof. Further, except for any approvals from Regulatory Authorities, pricing and/or reimbursement approvals, manufacturing approvals and/or similar approvals necessary for the Manufacture of Products, all necessary consents, approvals and authorizations of all Regulatory Authorities required to be obtained by such Party as of the Effective Date in connection with the execution, delivery and performance of this Agreement to which it is a party have been obtained by the Effective Date.

12.1.2 It is duly authorized to execute and deliver this Agreement, and to perform its obligations hereunder, and the person or persons executing this Agreement on its behalf has been duly authorized to do so by all requisite corporate action.

12.1.3 This Agreement is legally binding upon it and enforceable in accordance with its terms. The execution, delivery and performance of this Agreement and does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party and by which it may be bound, or with its charter or by-laws.

12.1.4 It has not, and will not during the Term, grant any right to any Third Party which would conflict with the rights granted to the other Party hereunder. It has (or will have at the time performance is due) maintained and will maintain and keep in full force and effect all agreements (including license agreements) and filings (including patent filings) necessary in such Party's reasonable judgment to perform its obligations hereunder. Further, (a) the execution and delivery of this Agreement by such Party, (b) the performance of such Party's obligations hereunder, do not conflict with or violate any requirement of applicable laws or regulations existing as of the Effective Date and applicable to such Party.

12.1.5 Neither Party nor any of its Affiliates has been debarred or is subject to debarment and neither Party nor any of its Affiliates will use in any capacity, in connection with this Agreement or, in the case of Tekmira, in connection with the Supply Services, any person or entity that has been debarred pursuant to Section 306 of the United States Federal Food, Drug, and Cosmetic Act, or

that is the subject of a conviction described in such section. Each Party agrees to inform the other Party in writing immediately if it or any Person that is performing activities in connection with this Agreement is debarred or is the subject of a conviction described in Section 306, or if any action, suit, claim, investigation or legal or administrative proceeding is pending or, to the best of the notifying Party's knowledge, is threatened, relating to the debarment or conviction of the notifying Party or any person or entity used in any capacity by such Party or any of its Affiliates in connection with this Agreement or the Supply Services provided hereunder.

12.2 Tekmira Representations and Warranties.

Tekmira represents and warrants to Alnylam that:

12.2.1 The Supply Services will be performed with care, skill and diligence in accordance with Applicable Laws and industry standards, and by individuals who are appropriately trained and qualified;

12.2.2 At the time of delivery to Alnylam, the Product Manufactured under this Agreement will not be adulterated or misbranded under the FDCA or other Applicable Laws.

12.3 Compliance with Law

Alnylam and Tekmira each hereby covenants to the other that it will comply with the Specifications and Applicable Laws applicable to Manufacturing the Product, in the case of Tekmira, and use of the Product in clinical trials, in the case of Alnylam, and to the performance of its respective obligations hereunder.

12.4 Exclusions of Other Warranties

EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE 12, NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY AS TO ANY PRODUCT, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED OR STATUTORY WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTY OF NON-INFRINGEMENT.

Article 13
Term and Termination

13.1 Term and Termination

13.1.1 This Agreement will take effect as of the Effective Date and, unless earlier terminated pursuant to this Section 13, will expire upon the earlier to occur of (a) the last to occur of the expiration or termination of the "Agreement Term" as defined in the Restated Tekmira LCA or the expiration or termination of the licenses granted to Alnylam under Article IV of the Restated Protiva CLA, and (b) termination of this Agreement by Alnylam pursuant to Sections 11.4 or 11.6 of the Restated Tekmira LCA (provided, however, that the reference to "Article 5" in such Section 11.6 shall instead be deemed a reference to Article 11 of this Agreement, the reference to the "Quality Agreement" shall mean the Quality Agreement (as defined in this Agreement) and the reference to the "Supply Agreement" shall mean this Agreement).

13.1.2 Alnylam shall have the right to terminate a Work Order at any time on at least ten (10) Business Days' prior notice to Tekmira, subject to Alnylam's obligations under Section 13.2 with respect to such Work Order.

13.2 Effect of Termination

13.2.1 Orderly Termination. Tekmira will, upon termination or expiration of this Agreement or any pending Work Order, promptly cease performance of all applicable Supply Services and will take all reasonable steps to mitigate the out-of-pocket expenses incurred in connection therewith. In particular, Tekmira will:

(a) perform only those services and activities mutually agreed upon by Alnylam and Tekmira as being necessary or advisable in connection with the close-out of any affected pending Work Order(s);

(b) immediately cancel, to the greatest extent possible, any Third Party obligations applicable to any affected pending Work Order(s);

(c) promptly inform Alnylam of any irrevocable commitments made in connection with any affected pending Work Order(s), and Alnylam shall reimburse Tekmira for the Third Party Costs attributable to such irrevocable commitments;

(d) promptly return to the vendor for a refund all unused, unopened Materials in Tekmira's possession that are related to any affected pending Work Order; and

(e) promptly inform Alnylam of any remaining unused, unreturnable Tekmira Materials ordered pursuant to any affected pending Work Order(s), and Alnylam shall purchase the same and Tekmira shall deliver such Materials to Alnylam (or its designee) upon payment of **[*]** to Tekmira of the Materials Cost attributable thereto.

13.2.2 Upon any expiration or termination of this Agreement or a pending Work Order, Alnylam (a) will, with respect to any Product then in process, pay Tekmira for any non-cancellable costs incurred up to and including the date of such expiration or termination and pay Tekmira for that portion of the Price that is allocable (on the basis of percentage of completion) to the Supply Services conducted under the affected Work Order(s) to the date of the expiration or termination, upon presentation of satisfactory evidence that such Supply Services were conducted, all in accordance with Article 4, and (b) will purchase from Tekmira any existing inventories of Product acceptable in accordance with Article 8, at the price for such Product determined under Article 4.

13.2.3 The termination of this Agreement for any reason will be without prejudice to:

(a) at Alnylam's option and written request, and subject to the terms of this Agreement, Tekmira will, continue to perform its obligations hereunder in respect of any Work Orders entered into prior to the effective date of such termination, and Alnylam will pay Tekmira for Supply Services received in accordance with such Work Order(s);

(b) any other legal, equitable or administrative remedies as to which either Party may then or thereafter become entitled.

13.2.4 In the event of a termination of this Agreement by either Party, the Quality Agreement will terminate on the same effective date of termination as this Agreement, subject to any continuing or surviving obligations as set forth in each such agreement.

13.2.5 In the event of termination pursuant to Section 13.1.1(b) of this Agreement, Tekmira's obligations under Sections 11.1.2 and 11.3 shall survive termination of this Agreement; *provided*, *however*, that Alnylam may select, as the primary manufacturer or as a Back-Up Manufacturer, any entity engaged in the contract manufacturing of pharmaceutical products for unaffiliated Third Parties to

be the recipient of such Technical Transfer without regard to the requirement in Section 11.1.2 that Tekmira approve such entity; *provided*, *further, however*, that if Alnylam selects an entity that is also engaged in the research or development of pharmaceutical products, Tekmira shall only be required to complete such Technical Transfer to the division, department or portion of such entity that is engaged in the contract manufacturing of pharmaceutical products for unaffiliated Third Parties, and Alnylam shall, in addition to the requirements set forth in Section 11.3, contractually require, explicitly for the benefit of Tekmira, that such recipient of Technical Transfer not share any of the information so transferred with any members of such organization not directly involved in the contract manufacture of Products on behalf of Alnylam, or required for regulatory approval of such Product.

13.3 Continuing Obligations; Survival

13.3.1 Termination of this Agreement for any reason will not relieve the Parties of any obligation accruing prior thereto and any ongoing obligations hereunder and will be without prejudice to the rights and remedies of either Party with respect to any antecedent breach of the provisions of this Agreement.

13.3.2 The following shall survive any termination or expiration of this Agreement and continue to be enforceable: (i) the provisions of Articles 1 and 12 through 16, (ii) with respect to Supply Services conducted prior to the effectiveness of any termination or expiration or conducted pursuant to Section 13.2.1 following any such termination or expiration, the provisions of Articles 4, 6 and 8, (iii) Sections 7.10, 7.11, 7.12, 9.2, 9.5, 10.1, 10.2, 11.3, and 11.4, and (iv) any provisions which by their nature are intended to survive any termination or expiration of this Agreement.

13.4 Other Remedies

Sections 13.1 and 13.2 will not be exclusive and will not be in lieu of any other remedies available to a Party hereto for any default hereunder on the part of the other Party.

13.5 Returned Materials

13.5.1 Tekmira and Alnylam will each return to the other within thirty (30) days of the effective date of termination of this Agreement, all Confidential Information, Materials and other materials that it possesses or controls that belongs to the other, except that each Party's legal counsel may retain a copy of the Confidential Information for record keeping purposes; provided, however, that, subject to Section 11.3, Back-Up Manufacturers shall have the right to retain and continue to use any Confidential Information, Materials and other materials which such Back-Up Manufacturer was permitted to use pursuant to Article 11 hereof prior to termination.

13.5.2 Tekmira will return temperature sensitive Material in accordance with applicable Specifications or permit Alnylam to enter onto Tekmira's Facilities to retrieve such Material.

Article 14
Confidentiality and Intellectual Property

14.1 Non-Use and Non-disclosure of Confidential Information.

14.1.1 Each Party agrees that all Confidential Information of a Party that is disclosed by a Party to the other Party (a) will not be used by the receiving Party except in connection with the activities contemplated by this Agreement or in order to further the purposes of this Agreement, (b) will be maintained in confidence by the receiving Party, and (c) (without prejudice to the additional restrictions and conditions of Section 11.3, where applicable) will not be disclosed by the receiving Party to any Third Party who is not a consultant, advisor or Back-Up Manufacturer

under an obligation of confidentiality to, the receiving Party or an Affiliate of the receiving Party, without the prior written consent of the disclosing Party. Notwithstanding the foregoing, the receiving Party will be entitled to use and disclose Confidential Information of the disclosing Party which (i) was known by the receiving Party or its Affiliates prior to its date of disclosure by the disclosing Party to the receiving Party as demonstrated by legally admissible evidence available to the receiving Party or its Affiliates, (ii) either before or after the date of the disclosure such Confidential Information is lawfully disclosed to the receiving Party or its Affiliates by sources other than the disclosing Party, (iii) either before or after the date of the disclosure by the disclosing Party to the receiving Party such Confidential Information becomes published or otherwise part of the public domain through no fault or omission on the part of the receiving Party or its Affiliates, (iv) is independently developed by or for the receiving Party or its Affiliates without reference to or in reliance upon the Confidential Information as demonstrated by legally admissible evidence available to the receiving Party or its Affiliates, (v) is reasonably necessary to conduct clinical trials or to obtain regulatory approval of the Products or for the prosecution and maintenance of patent rights, (vi) is reasonably required in order for a Party to obtain financing or conduct discussions with partners so long as such Third Party recipients are bound by an obligation of confidentiality, or (vii) in the reasonable judgment of the disclosing Party is required to be disclosed by the receiving Party to comply with applicable laws or regulations or legal process, including without limitation by the rules or regulations of the United States Securities and Exchange Commission or similar regulatory agency in a country other than the United States or of any stock exchange or NASDAQ, provided that the receiving Party provides prior written notice of such disclosure to the disclosing Party and takes reasonable and lawful actions to avoid or minimize the extent of such disclosure.

If a Party is required by judicial or administrative process to disclose Confidential Information that is subject to the non-disclosure provisions of this Section 14.1.1, such Party shall promptly inform the other Party of the disclosure that is being sought in order to provide the other Party an opportunity to challenge or limit the disclosure obligations. Confidential Information that is disclosed by judicial or administrative process shall remain otherwise subject to the confidentiality and non-use provisions of this Section 14.1.1, and the Party disclosing Confidential Information pursuant to law or court order shall take all steps reasonably practical, including without limitation seeking an order of confidentiality, to ensure the continued confidential treatment of such Confidential Information. In addition to the foregoing restrictions on public disclosure, if either Party concludes that a copy of this Agreement must be filed with the United States Securities and Exchange Commission or similar regulatory agency in a country other than the United States, such Party shall seek the maximum confidential treatment available under applicable law, provide the other Party with a copy of this Agreement showing any sections as to which the Party proposes to request confidential treatment, provide the other Party with an opportunity to comment on any such proposal and to suggest additional portions of this Agreement for confidential treatment, and take such Party’s reasonable comments into consideration before filing this Agreement.

14.1.2 Each Party agrees that it will provide Confidential Information received from the other Party solely to its employees, consultants and advisors, and the employees, consultants and advisors of its Affiliates or Back-Up Manufacturers as applicable, who have a legitimate business need to know and an obligation to maintain in confidence the Confidential Information of the disclosing Party. The disclosing Party is liable for any breach of the non-disclosure obligation of its consultants, advisors, Affiliates and Back-Up Manufacturers as applicable.

14.1.3 The Parties each acknowledge and recognizes the mutual interest in protecting business interests and trade secret information. Consequently, except for disclosures permitted pursuant to Section

14.1.1 and 14.1.2, either Party, its Affiliates, or their respective employees or consultants wishing to make a publication or a disclosure to a Third Party relating to the Product shall deliver to the other Party a copy of the proposed written publication or an outline of an oral disclosure at least thirty (30) days prior to submission for publication or presentation. The reviewing Party shall have the right (a) to propose modifications to the publication or presentation for patent reasons, trade secret reasons or business reasons, or (b) to request a reasonable delay in publication or presentation in order to protect patentable information. If the reviewing Party requests a delay, the publishing Party shall delay submission or presentation for a period of thirty (30) days to enable patent applications protecting each Party's rights in such information to be filed. Upon expiration of such thirty (30) days, the publishing Party shall be free to proceed with the publication or presentation. If the reviewing Party requests modifications to the publication or presentation, the publishing Party shall edit such publication to prevent disclosure of trade secret or proprietary business information prior to submission of the publication or presentation. With respect to any proposed publications or disclosures by investigators or academic or non-profit collaborators, such materials shall be subject to review under this Section 14.1.3 to the extent that Tekmira or Alnylam, as the case may be, has the right and ability (after using reasonable efforts) to do so.

14.2 Intellectual Property Rights

Ownership and other rights relating to any Intellectual Property first identified, discovered or developed in the course of the activities conducted pursuant to this Agreement will be governed by the terms and conditions of the Restated Tekmira LCA and Restated Protiva CLA.

14.3 Injunctive Relief

Each Party acknowledges the competitive and technical value and the sensitive and confidential nature of the Confidential Information and agrees that monetary damages alone will be inadequate to protect the other Party's interests against any actual or threatened material breach of Section 14.1 of this Agreement. Accordingly, each Party consents to the granting of specific performance and injunctive or other equitable relief to the other Party in respect of any actual or threatened breach of Article 11 and Section 14.1 of this Agreement, without proof of actual Damages. These specific remedies are in addition to any other remedy to which the Parties may be entitled at law or in equity.

Article 15
Indemnification and Insurance

15.1 Indemnification by Alnylam

15.1.1 Alnylam agrees to indemnify, defend and hold Tekmira and its directors, officers, employees, consultants and agents ("**Tekmira Indemnities**") harmless from and against any Damages resulting from or arising out of:

(a) Specifications, procedures, processes, and Alnylam Materials provided by Alnylam and unmodified by Tekmira;

(b) Alnylam's use of Products;

(c) the breach by Alnylam of its representations, warranties or obligations under this Agreement; and

(d) the negligence or wilful misconduct of Alnylam, its Affiliates, licensees, or distributors, and their employees or agents;

15.1.2 Notwithstanding the foregoing Section 15.1.1, Alnylam will not be required to indemnify, defend and hold Tekmira harmless from and against any claims to the extent they arise out of or result from, directly or indirectly:

(a) the breach of or inaccuracy in any of the representations, warranties or obligations of Tekmira under this Agreement;

(b) any breach or violation of any covenant or agreement of Tekmira in or pursuant to this Agreement; or

(c) the negligence or wilful misconduct of Tekmira, its Affiliates, employees, Third Parties utilized by Tekmira in its performance of the Supply Services, or agents.

15.2 Indemnification by Tekmira

15.2.1 Tekmira agrees to indemnify, defend and hold Alnylam and its directors, officers, employees, consultants and agents ("**Alnylam Indemnities**") harmless from and against any Damages resulting from or arising out of:

(a) the breach by Tekmira of its representations, warranties or obligations under this Agreement; or

(b) the negligence or wilful misconduct of Tekmira, its Affiliates, employees, Third Parties utilized by Tekmira in its performance of the Supply Services, or its agents.

15.2.2 Notwithstanding the forgoing Section 15.2.1, Tekmira will not be required to indemnify, defend and hold Alnylam harmless from and against any claims to the extent they arise out of or result from, directly or indirectly:

(a) Alnylam's provision of Specifications, procedures, processes, or Alnylam Materials;

(b) Alnylam's use of Products;

(c) the breach or inaccuracy in any of the representations, warranties or obligations of Alnylam under this Agreement;

(d) any breach or violation of any covenant or agreement of Alnylam in or pursuant to this Agreement; or

(e) the negligence or wilful misconduct of Alnylam, its Affiliates, licensees, or distributors, and their employees or agents.

15.3 Remedy

The indemnification provided for in this Agreement will not be exclusive and will not be in lieu of any other remedies available to a Party hereto for any default hereunder on the part of the other Party.

15.4 LIMITATION OF LIABILITY

NEITHER PARTY HERETO WILL BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT OR THE EXERCISE OF ITS RIGHTS HEREUNDER OR THEREUNDER, INCLUDING LOST PROFITS ARISING FROM OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF ANY NOTICE OF SUCH DAMAGES, EXCEPT AS A RESULT OF A PARTY'S WILLFUL MISCONDUCT OR A MATERIAL BREACH OF THE CONFIDENTIALITY AND NON-USE OBLIGATIONS IN ARTICLE 14. NOTHING IN THIS SECTION 15.4 IS INTENDED TO LIMIT OR RESTRICT THE INDEMNIFICATION RIGHTS OR OBLIGATIONS OF EITHER PARTY.

15.5 Notice and Opportunity To Defend

Promptly after receipt by a Party hereto of notice of any claim which could give rise to a right to indemnification pursuant to Sections 15.1 or 15.2, such Party (the "**Indemnified Party**") will give the other Party (the "**Indemnifying Party**") written notice describing the claim in reasonable detail. The failure of an Indemnified Party to give notice in the manner provided herein will not relieve the Indemnifying Party of its obligations under this Section, except to the extent that such failure to give notice materially prejudices the Indemnifying Party's ability to defend such claim. The Indemnifying Party will have the right, at its option, to compromise or defend, at its own expense and by its own counsel, any such matter involving the asserted liability of the Party seeking such indemnification. If the Indemnifying Party will undertake to compromise or defend any such asserted liability, it will promptly (and in any event not less than ten (10) Business Days after receipt of the Indemnified Party's original notice) notify the Indemnified Party in writing of its intention to do so, and the Indemnified Party agrees to cooperate fully with the Indemnifying Party and its counsel in the compromise or defence against any such asserted liability. All reasonable costs and expenses incurred in connection with such co-operation will be borne by the Indemnifying Party. If the Indemnifying Party elects not to compromise or defend the asserted liability, fails to notify the Indemnified Party of its election to compromise or defend as herein provided, fails to admit its obligation to indemnify under this Agreement with respect to the claim, or, if in the reasonable opinion of the Indemnified Party, the claim could result in the Indemnified Party becoming subject to injunctive relief or relief other than the payment of money damages that could materially adversely affect the ongoing business of the Indemnified Party in any manner, the Indemnified Party will have the right, at its option, to pay, compromise or defend such asserted liability by its own counsel and its reasonable costs and expenses will be included as part of the indemnification obligation of the Indemnifying Party hereunder. Notwithstanding the foregoing, neither the Indemnifying Party nor the Indemnified Party may settle or compromise any claim over the objection of the other; provided however, that consent to settlement or compromise will not be unreasonably withheld. In any event, the Indemnified Party and the Indemnifying Party may participate, at their own expense, in the defence of such asserted liability. If the Indemnifying Party chooses to defend any claim, the Indemnified Party will make available to the Indemnifying Party any books, records or other documents within its control that are necessary or appropriate for such defence. Notwithstanding anything to the contrary in this Section 15.5, (i) the Party conducting the defence of a claim will (A) keep the other Party informed on a reasonable and timely basis as to the status of the defence of such claim, and (B) conduct the defence of such claim in a prudent manner, and (ii) the Indemnifying Party will not cease to defend, settle or otherwise dispose of any claim without the prior written consent of the Indemnified Party (which consent will not be unreasonably withheld).

15.6 Insurance

(a) For the term of this Agreement, any renewals thereof, and for a period of five (5) years after the expiration of this Agreement or the earlier termination thereof with a reputable, solvent insurer having a minimum AM Best rating of at least "A," Alnylam will obtain and maintain, and will cause their respective Affiliates to obtain and maintain, at their respective sole cost and expense, comprehensive general liability insurance and product liability insurance including clinical trial insurance in amounts which are reasonable and customary in the pharmaceutical industry in North America for companies of comparable size and activities; but with limits of no less than **[*]** per occurrence and **[*]** in the aggregate providing coverage on a worldwide basis for occurrences and claims made;

(b) Tekmira will obtain and maintain, and will cause their respective Affiliates to obtain and maintain, at their respective sole cost and expense, the insurance coverages specified in Section 9.8(b) of the Restated Tekmira LCA; and

(c) each of the Parties will maintain workplace safety insurance and/or workers compensation insurance coverage for each of their employees, agents (delete agents), and sub-contractors pursuant to the requirements of any applicable local, state, or federal workplace safety insurance board and any successor agency.

15.6.2 Each Party will be entitled to request the other Party to produce, from time to time, copies of current certificates of insurance in respect of the insurance policies required to be effected and maintained herein, and each Party will, within thirty (30) days following such request, provide current copies of said documentation. The insured shall endeavour to provide thirty (30) days prior written notice to the other Party in the event of cancellation.

Article 16

General

16.1 Assignment and Subcontracting

The rights and obligations covered hereunder are personal to each Party hereto and for this reason this Agreement will not be assignable by either part in whole or in part, nor will either Party subcontract any of its obligations hereunder without the prior written consent of the other Party; provided however, that the restriction contained herein will in no way limit the rights of either Party to assign or subcontract to any of its Affiliates, or to a party that acquires, by merger, sale of assets or otherwise, all or substantially all of the business of such Party to which the subject matter of this Agreement relates. . This Agreement will be binding upon and will enure to the benefit of the Parties hereto and to any permitted assignee or successor of either Party. Subject to other provisions of this Section 16.1, if one Party validly assigns or subcontracts any or all of its obligations hereunder, such assigning Party agrees to remain bound by all of its responsibilities and obligations hereunder. Any and all assignments of this Agreement or any interest herein not made in accordance with this Section 16.1 will be void *ab initio*.

16.2 Amendment

This Agreement may be modified or amended only by written agreement of the Parties hereto.

16.3 Captions

All section titles or captions contained in this Agreement and contained in any exhibit or appendix referred to herein or annexed to this Agreement are for convenience only, will not be deemed a part of this Agreement and will not affect the meaning or interpretation of this Agreement.

16.4 Construction

This Agreement will be deemed to have been drafted by both Tekmira and Alnylam after extensive negotiations and will not be construed against either Party as the draftsperson hereof.

16.5 Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed an original but all of which together will constitute a single instrument.

16.6 Dispute Resolution

16.6.1 **Disputes.** The Parties shall negotiate in good faith and use reasonable efforts to settle any dispute, controversy or claim arising from, or related to, this Agreement or to the breach hereof (collectively, "**Dispute**"). In the event that the Executive Officers cannot reach an agreement regarding a Dispute within thirty (30) days after submission to them for resolution and a Party wishes to pursue the matter, each such Dispute that is not an "**Excluded Claim**" shall be finally resolved by binding arbitration in accordance with the Commercial Arbitration Rules and Supplementary Procedures for Large Complex Disputes of the American Arbitration Association ("AAA") and Section 16.6.2 below, and judgment on

the arbitration award may be entered in any court having jurisdiction thereof. As used in this Section 16.6, the term "**Excluded Claim**" shall mean a dispute that concerns (a) the validity or infringement of a patent, trademark or copyright, or (b) any antitrust, anti-monopoly or competition law or regulation, whether or not statutory.

16.6.2 **Arbitration.** The arbitration shall be conducted by a panel of three (3) persons experienced in the pharmaceutical business who are independent of both Parties and neutral with respect to the Dispute presented for arbitration. Within thirty (30) days after initiation of arbitration, each Party shall select one person to act as arbitrator and the two Party-selected arbitrators shall select a third arbitrator within thirty (30) days of their appointment. If the arbitrators selected by the Parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be appointed by the AAA. The place of arbitration shall be Chicago, Illinois, USA, and all proceedings and communications shall be in English. Either Party may apply to the arbitrators for interim injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either Party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any injunctive or provisional relief necessary to protect the rights or property of that Party pending the arbitration award. The arbitrators shall have no authority to award punitive or any other type of damages not measured by a Party's compensatory damages. Each Party shall bear its own costs and expenses and attorneys' fees, and the Party that does not prevail in the arbitration proceeding shall pay the arbitrators' and any administrative fees of arbitration. Except to the extent necessary to confirm an award or as may be required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of an arbitration without the prior written consent of both Parties. In no event shall an arbitration be initiated after the date when commencement of a legal or equitable proceeding based on the Dispute, controversy or claim would be barred by the applicable Massachusetts statute of limitations.

(i) The Parties agree that, in the event of a Dispute over the nature or quality of performance under this Agreement, neither Party may terminate this Agreement until final resolution of the Dispute through arbitration or other judicial determination. The Parties further agree that any payments made pursuant to this Agreement pending resolution of the Dispute shall be refunded promptly if an arbitrator or court determines that such payments are not due.

(ii) The Parties hereby agree that any disputed performance or suspended performances pending the resolution of the arbitration that the arbitrator determines to be required to be performed by a Party must be completed within a reasonable time period following the final decision of the arbitrator.

(iii) The Parties agree that the decision of the arbitrator shall be the sole, exclusive and binding remedy between them regarding determination of the matters presented to the arbitrator.

16.6.3 Judgment upon the award may be entered in any court having jurisdiction, or application may be made to such court for judicial acceptance of the award and/or an order of enforcement as the case may be.

16.6.4 Either Party will be free to submit any Dispute relating to an Excluded Claim to any court having jurisdiction over the Parties and the subject matter of the Dispute and to seek such relief and remedies as are available in that court.

16.7 Entire Agreement

This Agreement and its appendices constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior agreements or understandings of the Parties relating thereto,

including without limitation the MSA, but not including (unless otherwise explicitly stated in this Agreement) the Restated Tekmira LCA or the Restated Protiva CLA. Sections 5.3(a) and 5.3(b) are hereby stricken from the Restated Tekmira LCA, and 5.3(a) thereof shall be renumbered to be 5.3 (and the heading of such section shall be "Phase III and Commercial Supply.")

16.8 Force Majeure

If either Party is prevented from complying, either totally or in part, with any of the terms or provisions set forth herein by reason of force majeure, including, by way of example and not of limitation, fire, flood, explosion, storm, riot, war, rebellion, accidents, acts of God, acts of governmental agencies or instrumentalities, or any other cause or externally induced casualty beyond its reasonable control, whether similar to the foregoing contingencies or not, said Party will provide written notice of same to the other Party. Said notice will be provided within seven (7) days of the occurrence of such event and will identify the requirements of this Agreement or such of its obligations as may be affected, and to the extent so affected, said obligations will be suspended during the period of such disability. The Party prevented from performing hereunder will use commercially reasonable efforts to remove such disability and will continue performance of the affected obligations whenever such causes are removed provided that the Party will throughout the period of disability continue performance of the non-affected obligations. The Party so affected will give to the other Party a good faith estimate of the continuing effect of the force majeure condition and the duration of the affected Party's non-performance. If any raw materials, facility systems or capacity is used for both the affected Product and any other products or purposes, any necessary allocation will be made, on a substantially pro rata basis, as between Tekmira's needs (including those of any Affiliate of Tekmira), Alnylam's needs and the needs of any other Party to whom Tekmira has firm contractual obligations. If the period of any previous actual non-performance of Tekmira because of Tekmira force majeure conditions plus the anticipated future period of Tekmira non-performance because of such conditions will exceed an aggregate of one hundred eighty (180) days within any twenty-four (24) month period, Alnylam may terminate this Agreement by notice to Tekmira and any orders for Product then outstanding will be deemed cancelled. If the period of any previous actual non-performance of Alnylam because of Alnylam force majeure conditions plus the anticipated future period of Alnylam non-performance because of such conditions will exceed an aggregate of one hundred eighty (180) days within any twenty-four (24) month period, Tekmira may terminate this Agreement by notice to Alnylam and any orders for Product then outstanding will be deemed cancelled. When such circumstances as those contemplated herein arise, the Parties will discuss in good faith, what, if any, modification of the terms set forth herein may be required in order to arrive at an equitable solution.

16.9 Further Assurances

The Parties will both execute and deliver such further instruments and do such further acts as may be required to implement the intent of this Agreement.

16.10 Governing Law

This Agreement will be governed and construed in accordance with the laws of the State of Delaware, U.S.A.; provided that (i) matters of intellectual property law concerning the existence, validity, ownership, infringement or enforcement of intellectual property shall be determined in accordance with the national intellectual property laws relevant to the intellectual property in question, and (ii) the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods is expressly excluded from this Agreement.

16.11 Independent Contractors

This Agreement will not constitute or give rise to any employer-employee, agency, partnership or joint venture relationship among or between the Parties, and each Party's performance hereunder is that of a separate, independent entity.

16.12 No Implied Rights

Except as otherwise expressly provided in this Agreement between the Parties, nothing in this Agreement will be deemed or implied to be the grant by one Party to the other of any right, title or interest in the Product, any Confidential Information, trade mark, trade dress or any other Intellectual Property or any other proprietary right of the other.

16.13 No Joint Venture

Nothing contained herein will be deemed to create any joint venture or partnership between the Parties hereto, and, except as is expressly set forth herein, neither Party will have any right by virtue of this Agreement to bind the other Party in any manner whatsoever.

16.14 No Third-Party Rights

No provision of this Agreement will be deemed or construed in any way to result in the creation of any rights or obligation in any Person not a Party to this Agreement.

16.15 No Waiver; Remedies

No delay on the part of Tekmira or Alnylam in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any waiver on the part of either Tekmira or Alnylam of any right, power or privilege hereunder operate as a waiver of any other right, power or privilege hereunder nor will any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

16.16 Notices

All notices or other communications required or permitted to be given hereunder will be in writing and will be deemed to have been duly given if delivered by hand, prepaid telex, cable, telegram or facsimile and confirmed in writing, courier service, or mailed first class, postage prepaid, by registered or certified mail, return receipt requested (mailed notices and notices sent by telex, cable, telegram or courier will be deemed to have been given on the date received) as follows:

If to Alnylam:

Alnylam Pharmaceuticals, Inc.
300 Third Street, Third Floor
Cambridge, Massachusetts 02142 U.S.A.
Telephone: 617-551-8289
Facsimile: 617-575-7315
Attn: Vice President, Legal

And to:

Faber Daeufer & Rosenberg PC
950 Winter Street, Suite 4500
Waltham, Massachusetts 02451
Telephone: 781-795-4700
Facsimile: 781-795-4747
Attention: Sumy Daeufer

If to Tekmira:

Tekmira Pharmaceuticals Corporation
8900 Glenlyon Parkway
Burnaby, B.C. V5J 5J8 Canada
Telephone: 604 419-3200
Facsimile: 604 419-3201
Attention: To the attention of VP, Pharmaceutical Development

And to:

Fenwick & West LLP
1191 Second Avenue, 10th Floor
Seattle, WA 98101
Telephone: 206 389-4510
Facsimile: 206 389-4511
Attention: Roger M. Tolbert, Esq.

or in any case to such other address or addresses as hereafter will be furnished as provided in this Section 16.16 by any Party hereto to the other Party.

16.17 Publicity and Public Statements

Tekmira and Alnylam each agree not to disclose the terms of this Agreement in any public statements, whether oral or written, including, but not limited to, shareholder reports, communications with stock market analysts, statements to other customers or prospective customers, press releases or other communications with the media, or prospectuses, without the other Party's prior written consent, which will not be unreasonably withheld or delayed, or as required by Applicable Law; provided, however, that either Party may disclose any information required by the rules and regulations of applicable securities regulatory authority or similar federal, state, provincial or foreign authorities, as determined in good faith by the disclosing Party. Where permitted by law, each Party will give the other reasonable advance written notice of a disclosure required by Applicable Law and will cooperate with the other Party with respect to seeking permitted redactions from such disclosure.

16.18 Severability

If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective while this Agreement remains in effect, the legality, validity and enforceability of the remaining provisions will not be affected thereby.

16.19 No Solicitation or Hiring of Employees

Except as otherwise agreed between the Parties, until January 1, 2012, nor at any time thereafter during the Term, neither Alnylam nor Tekmira (and neither of their respective Affiliates) will, without the prior consent of the other Party, solicit the employment of or hire any officer or employee who during the course of employment with the other Party was involved in a material manner with the Supply Services under any Work Order in the five (5) months prior to such solicitation and who when solicited or to be hired is a current employee of the other Party. For clarity, placing an advertisement in a newspaper, periodical or other publication of general availability, or other general recruitment activities not directed at a particular individual, do not constitute an "offer to hire."

[Signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

Alnylam Pharmaceuticals, Inc.

By: /s/ Barry Greene
Name: Barry Greene
Title: President and Chief Operating Officer

Date:

Tekmira Pharmaceuticals Corporation

By: /s/ Mark J. Murray
Name: Mark J. Murray
Title: President and Chief Executive Officer

Date: January 3, 2009

APPENDIX I – INITIAL SUPPLY SERVICES PLAN

[*]

***Confidential Treatment Requested.**

APPENDIX II

DESCRIPTION OF LICENSED INFORMATION TO BE DISCLOSED BY TEKMIRA

[*]

***Confidential Treatment Requested.**