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

Form 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2009

Or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to

Commission File Number: 000-50768

ACADIA PHARMACEUTICALS INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware	**06-1376651**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification Number)**
3911 Sorrento Valley Boulevard San Diego, California	**92121**
(Address of Principal Executive Offices)	**(Zip Code)**

Registrant's telephone number, including area code:
(858) 558-2871

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

Title of each class	Name of each exchange on which registered
Common Stock, par value $0.0001 per share	**The NASDAQ Global Market**

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

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

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 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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Securities Exchange Act of 1934:

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934). Yes ☐ No ☒

As of June 30, 2009, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of the registrant's common stock held by non-affiliates of the registrant was approximately $73 million, based on the closing price of the registrant's common stock on the NASDAQ Global Market on June 30, 2009 of $2.19 per share.

As of March 1, 2010, 38,332,119 shares of registrant's common stock, $0.0001 par value, were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive Proxy Statement to be filed with the Securities and Exchange Commission by April 30, 2010 are incorporated by reference into Part III of this report.

ACADIA PHARMACEUTICALS INC.

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PART I

FORWARD-LOOKING STATEMENTS

This report and the information incorporated herein by reference contain forward-looking statements that involve a number of risks and uncertainties, as well as assumptions that, if they never materialize or prove incorrect, could cause our results to differ materially from those expressed or implied by such forward-looking statements. Although our forward-looking statements reflect the good faith judgment of our management, these statements can only be based on facts and factors currently known by us. Consequently, forward-looking statements are inherently subject to risks and uncertainties, and actual results and outcomes may differ materially from results and outcomes discussed in the forward-looking statements.

Forward-looking statements can be identified by the use of forward-looking words such as “believes,” “expects,” “hopes,” “may,” “will,” “plans,” “intends,” “estimates,” “could,” “should,” “would,” “continue,” “seeks,” “aims,” “projects,” “predicts,” “pro forma,” “anticipates,” “potential” or other similar words (including their use in the negative), or by discussions of future matters such as the development of product candidates or products, technology enhancements, possible changes in legislation, and other statements that are not historical. These statements include but are not limited to statements under the captions “Business,” “Risk Factors,” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” as well as other sections in this report. You should be aware that the occurrence of any of the events discussed under the caption “Risk Factors” and elsewhere in this report could substantially harm our business, results of operations and financial condition. If any of these events occurs, the trading price of our common stock could decline and you could lose all or a part of the value of your shares of our common stock.

The cautionary statements made in this report are intended to be applicable to all related forward-looking statements wherever they may appear in this report. We urge you not to place undue reliance on these forward-looking statements, which speak only as of the date of this report.

Item 1. *Business.*

Overview

We are a biopharmaceutical company focused on the development and commercialization of small molecule drugs for the treatment of central nervous system disorders. We currently are developing a portfolio consisting of four product candidates including our most advanced compound, pimavanserin, which we are developing for three separate neurological and psychiatric indications in collaboration with Biovail Laboratories International SRL (Biovail), a subsidiary of Biovail Corp. These indications are Parkinson’s disease psychosis, which is in Phase III development, adjunctive therapy in schizophrenia, for which Biovail is planning to initiate a Phase III trial in mid-2010, and Alzheimer’s disease psychosis, for which we are planning to initiate a Phase II feasibility study in the third quarter of 2010. In addition to our pimavanserin programs, we have a product candidate in Phase II development for chronic pain and a product candidate in Phase I development for glaucoma, both in collaboration with Allergan, Inc., and a program in IND-track development in collaboration with Meiji Seika Kaisha, Ltd. All of the product candidates in our pipeline emanate from discoveries made using our proprietary drug discovery platform.

Our pipeline addresses diseases that are not well served by currently available therapies and represent large potential commercial opportunities. We believe that our product candidates offer innovative therapeutic approaches and may provide significant advantages relative to current therapies. Our most advanced product candidates are as follows:

***Pimavanserin*.** Pimavanserin is a small molecule product candidate that we discovered and, in collaboration with Biovail, are developing for three neurological and psychiatric indications, all of which are underserved by currently available antipsychotics. These indications are:

Parkinson's disease psychosis. Parkinson's disease psychosis is a debilitating psychiatric disorder that occurs in up to 40 percent of patients with Parkinson's disease and is associated with increased caregiver burden, nursing home placement, and increased mortality. Currently, there are no therapies approved to treat Parkinson's disease psychosis in the United States. We believe that pimavanserin has the potential to effectively treat Parkinson's disease psychosis without impairing motor function, thereby significantly improving the quality of life for patients with Parkinson's disease.

Adjunctive therapy for schizophrenia. Current drugs used to treat schizophrenia have substantial limitations, including severe side effects and inadequate efficacy. We believe that adjunctive therapy with pimavanserin together with a low dose of an antipsychotic drug such as risperidone may result in enhanced efficacy and fewer side effects relative to existing treatments, thereby providing an improved therapy for patients with schizophrenia and, potentially, related psychiatric disorders.

Alzheimer's disease psychosis. Alzheimer's disease psychosis is a serious psychiatric disorder that occurs in 25 to 50 percent of patients with Alzheimer's disease. The diagnosis of Alzheimer's disease psychosis is associated with more rapid cognitive and functional decline and institutionalization for Alzheimer's patients. Currently, there are no therapies approved to treat Alzheimer's disease psychosis in the United States. We believe that pimavanserin may be ideally suited to address the need for a treatment of Alzheimer's disease psychosis that is safe, effective and well tolerated.

AGN-XX/YY. In collaboration with Allergan, we have discovered and are developing a new class of small molecule product candidates for the treatment of chronic pain. Chronic pain is a common form of persistent pain that may be related to a number of medical conditions and is often resistant to treatment. Allergan has conducted several Phase II studies in this program and has reported preliminary results from its Phase II program, including positive proof-of-concept in a human visceral pain trial and efficacy signals in two chronic pain trials in the areas of fibromyalgia and irritable bowel syndrome. Allergan has announced that it is currently seeking a partner for the further development of this program and for commercialization in areas predominantly served by general practitioners.

AC-262271. We have discovered and, in collaboration with Allergan, are developing a small molecule product candidate for the treatment of glaucoma. Glaucoma is a chronic eye disease and is the second leading cause of blindness in the world. AC-262271 has demonstrated a promising preclinical profile, including robust efficacy and a long duration of action. Allergan is currently conducting Phase I development with AC-262271.

AM-831. We have discovered and, in collaboration with Meiji Seika, are currently in IND-track development with AM-831, a small molecule product candidate for the treatment of schizophrenia and related disorders. Currently prescribed treatments do not effectively address or may exacerbate cognitive disturbances associated with schizophrenia. We believe that AM-831 provides the potential for a new class of pro-cognitive antipsychotic drugs.

In addition to our four most advanced product candidates, we have used our proprietary drug discovery platform to discover additional product candidates that we may elect to develop in the future in partnerships or independently. We have demonstrated that our platform can be used to rapidly discover new compounds that may serve as potential treatments for significant unmet medical needs. Currently, we have focused our resources on our most advanced product candidates, including pimavanserin.

We have assembled a management team with significant industry experience to lead the discovery and development of our product candidates. We complement our management team with a network of scientific and

clinical advisors that includes recognized experts in the fields of Parkinson's disease psychosis, schizophrenia, and other central nervous system disorders.

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We maintain a website at *www.acadia-pharm.com*, to which we regularly post copies of our press releases as well as additional information about us. Our filings with the Securities and Exchange Commission, or SEC, are available free of charge through our website as soon as reasonably practicable after being electronically filed with or furnished to the SEC. Interested persons can subscribe on our website to email alerts that are sent automatically when we issue press releases, file our reports with the SEC or post certain other information to our website. Information contained in our website does not constitute a part of this report or our other filings with the SEC.

Our Strategy

Our goal is to become a leader in the discovery, development, and commercialization of novel small molecule drugs for the treatment of central nervous system disorders and other areas of unmet medical need. Key elements of our strategy are to:

- ***Develop our lead product candidate, pimavanserin, for multiple neurological and psychiatric disorders.*** In collaboration with Biovail, we currently are pursuing the development of pimavanserin for three separate indications: Parkinson's disease psychosis, adjunctive therapy for schizophrenia, and Alzheimer's disease psychosis. Our broad development strategy is designed to explore the clinical potential of pimavanserin in these and other potential neurological and psychiatric disorders that are underserved by currently available antipsychotics and represent large unmet medical needs.
- ***Maximize the commercial potential of pimavanserin together with strategic partners.*** We plan to commercialize pimavanserin for neurological and psychiatric indications in the United States and Canada through our collaboration with Biovail. While Biovail is responsible for commercialization, our agreement provides us with an option to co-promote pimavanserin in the United States. We may elect to exercise this option in the future and participate in the commercialization of pimavanserin in the United States by establishing a small specialty sales force that calls on a focused group of physicians. We have retained the rights to pimavanserin in the rest of the world and we plan to establish one or more strategic alliances in the future to commercialize this product candidate in markets outside of the United States and Canada.
- ***Continue to develop our other product candidates for the treatment of central nervous system and related disorders.*** We plan to continue developing our other product candidates, including our collaborative clinical programs with Allergan and our IND-track development program with Meiji Seika. While our resources are currently focused on our four most advanced product candidates, we may choose to pursue additional product candidates in the future. These may be directed at central nervous system disorders and may be developed in partnerships or independently. We believe that a diversified pipeline will mitigate the risks inherent in drug development and increase the likelihood of commercial success.
- ***Opportunistically in-license or acquire complementary product candidates.*** Although all of the product candidates currently in our pipeline emanate from discoveries made using our proprietary platform, in the future, we may elect to in-license or acquire clinical-stage product candidates or products to augment our pipeline and to leverage any sales force that we may establish in the future, including pursuant to the exercise of our option to co-promote pimavanserin in the United States.

Disease and Market Overview

Our product candidates address diseases that are not well served by currently available therapies and represent large potential commercial market opportunities. Background information on the diseases and related commercial markets that may be addressed by our product candidates is set forth below.

Parkinson's Disease Psychosis

Parkinson's disease is a chronic and progressive neurological disorder that results from the degeneration of neurons in a region of the brain that controls movement. This degeneration creates a shortage of an important brain signaling chemical, or neurotransmitter, known as dopamine, thereby rendering patients unable to initiate their movements in a normal manner. Parkinson's disease is characterized by a number of symptoms including tremors, limb stiffness, slowness of movements, and difficulties with posture and balance. The severity of Parkinson's disease symptoms tends to worsen over time.

According to the National Parkinson Foundation, over 1.5 million people in the United States suffer from this disease. Parkinson's disease is more prevalent in people over 60 years of age, and the incidence of this disease is expected to increase as the average age of the population increases. Parkinson's disease patients are currently treated with dopamine replacement therapies such as levodopa, commonly referred to as L-dopa, which is metabolized to dopamine, and dopamine agonists, which are molecules that mimic the action of dopamine.

Studies have suggested that up to 40 percent of patients with Parkinson's disease will develop psychotic symptoms, commonly consisting of visual hallucinations and delusions. The development of psychosis in patients with Parkinson's disease often disrupts their ability to perform many of the activities of daily living that keeps them independent and active. As a result, Parkinson's disease psychosis is associated with increased caregiver burden, nursing home placement, and increased mortality.

The U.S. Food and Drug Administration, or FDA, has not approved any therapy for Parkinson's disease psychosis. Physicians may attempt to address this disorder initially by decreasing the dose of the dopamine replacement drugs, which are administered to manage the motoric symptoms of Parkinson's disease. However, this approach is generally not effective in alleviating psychotic symptoms in most patients and is often associated with a significant worsening of motor function in these patients. Despite substantial limitations, currently marketed antipsychotic drugs, including Seroquel, also may be used off-label to treat patients with Parkinson's disease psychosis. Because antipsychotic drugs block dopamine receptors, and thereby may counteract the dopamine therapy used to manage the motoric symptoms of Parkinson's disease, these drugs are generally not well tolerated by patients with Parkinson's disease. Current antipsychotic drugs also are associated with a number of side effects, which can be problematic for elderly patients with Parkinson's disease. In addition, antipsychotic drugs have a black box warning for use in elderly patients with dementia-related psychosis due to increased mortality and morbidity.

The only current antipsychotic drug that has demonstrated efficacy in reducing psychosis in patients with Parkinson's disease without further impairing motor function is low-dose treatment with the generic drug clozapine. Studies suggest that this unique clinical utility of clozapine arises from its potent blocking of a key serotonin receptor, a protein that responds to the neurotransmitter serotonin, known as the 5-HT2A receptor. The use of low-dose clozapine has been approved in Europe, but not in the United States, for the treatment of psychotic disorders in Parkinson's disease. However, patients being treated with clozapine require frequent blood monitoring because clozapine treatment is associated with the occurrence of a rare blood disorder. Currently, there is a large unmet medical need for new therapies that will effectively treat psychosis in patients with Parkinson's disease without unwanted side effects, including impairment of motor function.

Schizophrenia

Schizophrenia is a chronic and debilitating mental illness characterized by disturbances in thinking, emotional reaction, and behavior. These disturbances may include positive symptoms, such as hallucinations and delusions, a

range of negative symptoms, including loss of interest and emotional withdrawal, and cognitive disturbances. Schizophrenia is associated with persistent impairment of a patient's social functioning and productivity. It is believed that cognitive disturbances prevent patients with schizophrenia from readjusting to society. As a result, patients with schizophrenia are normally required to be under medical care for their entire lives.

According to the National Institute of Mental Health, approximately one percent of the population develops schizophrenia during their lifetime and more than two million people in the United States suffer from this disease. Worldwide sales of antipsychotic drugs used to treat schizophrenia and other psychoses exceeded $18 billion in 2008. These drugs have been increasingly used by physicians to address a range of disorders in addition to schizophrenia, including bipolar disorder and a variety of psychoses in elderly patients. Despite their commercial success, current antipsychotic drugs have substantial limitations, including inadequate efficacy and severe side effects.

The first-generation, or typical, antipsychotics that were introduced in the late-1950s block dopamine receptors. While typical antipsychotics are effective against positive symptoms of schizophrenia in many patients, these drugs often induce disabling motor disturbances, and they fail to address or worsen most of the negative symptoms of schizophrenia.

Most schizophrenia patients in the United States today are treated with second-generation, or atypical, antipsychotics, which induce fewer motor disturbances than typical antipsychotics, but still fail to address most of the negative symptoms of schizophrenia. In addition, currently prescribed treatments do not effectively address or may exacerbate cognitive disturbances associated with schizophrenia. It is believed that the efficacy of atypical antipsychotics is due to their interactions with dopamine and 5-HT2A receptors. The side effects induced by the atypical agents may include weight gain, non-insulin dependent (type II) diabetes, cardiovascular side effects, and motor disturbances. We believe that these side effects arise either from non-essential receptor interactions or from excessive dopamine blockade.

The limitations of currently available antipsychotics result in poor patient compliance. A study conducted by the National Institute of Mental Health, which was published in *The New England Journal of Medicine* in September 2006, found that 74 percent of patients taking typical or atypical antipsychotics discontinued treatment within 18 months because of side effects or lack of efficacy. We believe there is a large unmet medical need for new therapies that have an improved side effect and efficacy profile.

Alzheimer's Disease Psychosis

Alzheimer's disease is a progressive neurodegenerative disorder that slowly destroys memory and thinking skills, and eventually even the ability to carry out simple tasks. Its symptoms include cognitive dysfunction, memory abnormalities, progressive impairment in activities of daily living, and a host of behavioral and neuropsychiatric symptoms. Alzheimer's disease primarily affects older people and, in most cases, symptoms first appear after age 60. Alzheimer's disease gets worse over time and is fatal.

According to the Alzheimer's Association, as many as 5.3 million people in the Unites States are living with Alzheimer's disease. While the diagnostic criteria for Alzheimer's disease mostly focus on the related cognitive deficits, it is often the behavioral and neuropsychiatric symptoms that are most troublesome for caregivers and lead to poor quality of life for patients. These symptoms include agitation, aggressive behaviors, and psychosis. Studies have suggested that approximately 25 to 50 percent of Alzheimer's disease patients may develop psychosis, commonly consisting of hallucinations and delusions. The disgnosis of Alzheimer's disease psychosis is associated with more rapid cognitive and functional decline and institutionalization.

There is no proven safe and effective therapy for Alzheimer's disease psychosis. As symptoms progress and become more severe, physicians often resort to off-label use of antipsychotic medications in these patients. Current antipsychotic drugs are associated with a number of side effects, which can be problematic for elderly

patients with Alzheimer's disease. In addition, antipsychotic drugs may exacerbate the cognitive disturbances associated with Alzheimer's disease. Current antipsychotic drugs also have a black box warning for use in elderly patients with dementia-related psychosis due to increased mortality and morbidity. There is a large unmet medical need for a safe and effective therapy to treat the psychosis in patients with Alzheimer's disease.

Chronic Pain

Chronic pain is a common form of pain that persists or progresses over a long period of time. In contrast to acute pain that usually arises suddenly in response to an identifiable injury and is transient, chronic pain persists over time and is often resistant to medical treatments. Chronic pain may be related to a number of different medical conditions, including diabetes, arthritis, migraine, fibromyalgia, irritable bowel syndrome, cancer, shingles, and previous trauma or injury.

Hypersensitivity is a common feature of many chronic pain disorders, including fibromyalgia and irritable bowel syndrome. Fibromyalgia is characterized by chronic pain, stiffness and tenderness of muscles, tendons and joints without detectable inflammation. It also is often associated with restless sleep, awakening tired, anxiety, depression and disturbances in bowel function. Fibromyalgia affects an estimated three to six million people in the United States, predominately women between the ages of 35 and 55. Irritable bowel syndrome is one of the most common ailments of the intestines and affects an estimated 15 percent of the U.S. population.

There are currently a variety of drugs used to treat patients with chronic pain, including anticonvulsants, selective serotonin and norepinephrine reuptake inhibitors, or SNRIs, tricyclic antidepressants, opioid painkillers, and non-steroidal anti-inflammatory agents. Currently, the leading drugs include Lyrica, an anticonvulsant approved for postherpetic neuralgia, diabetic neuropathic pain and fibromyalgia, and Cymbalta, an SNRI indicated for treatment of diabetic peripheral neuropathic pain, fibromyalgia, and major depressive disorder. Lyrica and Cymbalta had worldwide sales of $2.8 billion and $3.1 billion, respectively, in 2009. Lyrica is the successor to Neurontin, which was the first product to be approved by the FDA for the treatment of neuropathic pain and is now generic.

Only a portion of patients with neuropathic pain and fibromyalgia get meaningful relief from anticonvulsants and antidepressants. There are no drugs currently indicated for treatment of irritable bowel syndrome and other visceral hypersensitivity pain in the United States. Side effects of anticonvulsants may include dizziness, somnolence, dry mouth, blurred vision, weight gain, and concentration or attention difficulties. Side effects of SNRIs may include nausea, vomiting, dizziness, sleep disturbances, constipation, dry mouth, anxiety, abnormal vision, headache and sexual dysfunction. Tricyclic antidepressants have long been used to treat depression and these agents may have pain-relieving effects in some patients. Common side effects of these agents include dry mouth, blurred vision, constipation, difficulty with urination, impaired thinking and tiredness.

Drugs such as opioid painkillers and non-steroidal anti-inflammatory agents that are effective in treating inflammatory and acute pain usually are not effective in treating chronic pain. Opioid painkillers also have significant adverse side effects that limit their usefulness, and prolonged use of these drugs can lead to the need for increasing dosage and potentially to addiction.

Due to these shortcomings of current therapies, we believe that there is a large unmet medical need for new chronic pain therapies with improved efficacy and side effect profiles.

Glaucoma

Glaucoma is a chronic eye disease that, if left untreated, can lead to blindness. According to the World Health Organization, glaucoma is the second leading cause of blindness in the world. Loss of vision is caused by degeneration of the optic nerve, which is responsible for carrying images from the eye to the brain. A frequent symptom of glaucoma is increased fluid pressure within the eye, referred to as intraocular pressure. In the early

stages of the disease, there may be no symptoms. It is estimated that over 4 million people in the United States have glaucoma but only half of those know they have it. Older people are at a higher risk for glaucoma and the disease is more prevalent in people over 60 years of age. The incidence of glaucoma is expected to increase as the average age of the population increases.

Currently there are a variety of options available to treat glaucoma, including eye medications, laser procedures and surgery. These treatment options are intended to decrease intraocular pressure and, thereby, protect the optic nerve. Physicians often treat glaucoma with multiple classes of drugs to optimize therapy and minimize side effects. Drugs used to treat glaucoma include prostaglandin analogs such as Xalatan and Lumigan, beta blockers such as timolol, and alpha agonists such as Alphagan, as well as combined medications. Xalatan is the market leader for glaucoma treatment with worldwide sales of $1.7 billion in 2009. While Xalatan is an effective anti-glaucoma agent, it frequently causes increased pigmentation of the iris that may lead to a change in iris color, and may cause other side effects, including blurred vision and burning and stinging sensations in the eye. We believe there is a need for new and more effective drugs that can treat glaucoma with fewer side effects and help patients reduce the risk of losing their vision.

Our Product Candidates

We currently are focused on developing a portfolio of four product candidates, including three product candidates in clinical development and one product candidate in IND-track development, through which we seek to complete required development studies in preparation for potential future clinical trials. We believe that our product candidates offer innovative therapeutic approaches and may provide significant advantages relative to current therapies. The following table summarizes our most advanced product candidates:

Product Candidate	Indication	Stage of Development	Commercialization Rights
Pimavanserin	Parkinson's disease psychosis	Phase III	Biovail—North America (1) ACADIA—Rest of World
	Schizophrenia	Phase III	Biovail—North America (1) ACADIA—Rest of World
	Alzheimer's disease psychosis	Phase II	Biovail—North America (1) ACADIA—Rest of World
AGN-XX/YY	Chronic Pain	Phase II	Allergan
AC-262271	Glaucoma	Phase I	Allergan
AM-831	Schizophrenia	IND-track	Meiji Seika—Asia ACADIA—Rest of World

(1) ACADIA has an option to co-promote pimavanserin in the United States.

Pimavanserin

Overview

Pimavanserin is a small molecule product candidate that we discovered and, in collaboration with Biovail, are developing for neurological and psychiatric indications in the United States and Canada. We have retained the rights to pimavanserin in the rest of the world. Pimavanserin is a new chemical entity that can be taken orally as a tablet once-a-day. Pimavanserin selectively blocks the activity of the 5-HT2A receptor, a drug target that plays an important role in the treatment of various neuropsychiatric disorders.

Currently, we and Biovail are pursuing the development of pimavanserin for three separate indications. These indications are Parkinson's disease psychosis, which is in Phase III development, adjunctive therapy for schizophrenia, for which Biovail is planning to initiate a Phase III trial, and Alzheimer's disease psychosis, for

which we are planning to initiate a Phase II feasibility study. We believe that pimavanserin has the potential to effectively treat these and other central nervous system indications that are underserved by currently marketed antipsychotics.

Pimavanserin as a Treatment for Parkinson's Disease Psychosis

We are in Phase III development with pimavanserin as a treatment for Parkinson's disease psychosis. We believe that pimavanserin has the potential to effectively treat the psychosis in patients with Parkinson's disease without impairing motor function, thereby significantly improving the quality of life for these patients. As a result, we believe that pimavanserin will offer significant advantages relative to current antipsychotics used off-label for the treatment of Parkinson's disease psychosis.

In September 2009, we announced top-line results from our first Phase III trial with pimavanserin in patients with Parkinson's disease psychosis, referred to as the -012 Study. A total of 298 patients were enrolled in this multi-center, double-blind, placebo-controlled trial designed to evaluate the efficacy and safety of pimavanserin in patients with Parkinson's disease psychosis. Patients were randomized to one of three study arms, consisting of two different doses of pimavanserin (10 mg or 40 mg) and placebo. Patients received oral doses of either pimavanserin or placebo once daily for six weeks, and remained on stable doses of their existing anti-Parkinson's therapy throughout the study. The -012 Study did not meet its primary endpoint of antipsychotic efficacy as measured using the Scale for the Assessment of Positive Symptoms, or SAPS. Pimavanserin met the key secondary endpoint of motoric tolerability as measured using the Unified Parkinson's Disease Rating Scale, or UPDRS. Pimavanserin was safe and well tolerated in the study, with the frequency of adverse events generally similar in the pimavanserin and placebo arms.

While the -012 Study was adversely impacted by a larger than expected placebo response and did not meet its primary endpoint, signals of antipsychotic efficacy were consistently observed in the pimavanserin 40 mg study arm. These signals were most prominent in the United States portion of the study, which comprised nearly one-half of the patients in the study, and for which a group of independent, centralized raters were used to conduct the SAPS measurements. The signals of antipsychotic efficacy observed in the pimavanserin 40 mg arm also were supported by additional exploratory measures, including favorable outcomes in assessments of nighttime sleep and caregiver burden. Following our analyses of the -012 Study, we and Biovail decided to use the findings from the -012 Study together with those from a second Phase III Parkinson's disease psychosis trial, referred to as the -014 Study, when available, to arrive at an enhanced study design for use in a new Phase III trial. Because the -014 Study was testing 10 mg and 20 mg doses of pimavanserin, which were lower than the 40 mg dose for which we observed signals of antipsychotic efficacy in the -012 Study, we decided to conclude enrollment of the -014 Study early at a level of about 120 patients. We are continuing to prepare for the new Phase III Parkinson's disease psychosis trial, which we plan to conduct in North America. This Phase III trial will test a 40 mg dose of pimavanserin versus placebo, and will incorporate other changes related to the frequency and application of ratings and other study design elements. We expect to start this Phase III study around mid-2010. Meanwhile, we are continuing to conduct an open-label safety extension study consisting of patients who have completed either the -012 Study or the -014 Study and, in the opinion of their physician, may benefit from continued treatment with pimavanserin. Overall patient exposures in this safety extension study are equivalent to about 200 patient years and the longest individual exposure now exceeds two years in this study.

In 2006, we announced top-line results from a multi-center, double-blind, placebo-controlled Phase II clinical trial designed to evaluate the efficacy, safety, and tolerability of pimavanserin in 60 patients with Parkinson's disease psychosis. The trial met the primary endpoint, which was to demonstrate that administration of pimavanserin did not result in deterioration of the motoric function of these patients as measured by the UPDRS. Pimavanserin also showed antipsychotic effects in secondary endpoints using two different rating scales, including SAPS. Pimavanserin was safe and well tolerated in the study. In connection with this Phase II trial, we are continuing to conduct an open-label extension study, pursuant to which 24 patients with Parkinson's

disease psychosis were treated with pimavanserin for at least one year, 12 of whom were treated for at least two years, and one of whom has now been treated for over five years.

Pimavanserin as an Adjunctive Therapy for Schizophrenia

Our collaborative partner, Biovail, has initiated a Phase III development program with pimavanserin as an adjunctive therapy for schizophrenia. By adding pimavanserin to a low dose of an antipsychotic drug such as risperidone, a commonly prescribed atypical antipsychotic drug, we believe that the optimal relationship between 5-HT2A blockade and partial dopamine receptor blockade can be achieved. Therefore, we believe that adjunctive therapy with pimavanserin may result in enhanced efficacy and fewer side effects relative to existing treatments, thereby providing an improved therapy for patients with schizophrenia and, potentially, related psychiatric disorders.

Biovail has announced that its currently plans to initiate a Phase III trial with pimavanserin as an adjunctive therapy for schizophrenia in mid-2010 after discussing development plans for this program with the FDA. This Phase III trial is designed to build on the results from our Phase II schizophrenia trial, which we reported in 2007. The Phase II trial was a multi-center, double-blind, placebo-controlled Phase II clinical trial designed to evaluate pimavanserin as an adjunctive therapy in patients with schizophrenia. The trial results showed several advantages of adjunctive therapy with pimavanserin and a 2mg, or low, dose of risperidone in patients with schizophrenia. First, a 20 mg dose of pimavanserin given adjunctively with the 2 mg dose of risperidone produced enhanced efficacy, comparable to that of a 6 mg, or standard, dose of risperidone. Second, the onset of antipsychotic action was accelerated after adjunctive therapy with pimavanserin as compared to either the low dose or the standard dose of risperidone alone. Third, adjunctive therapy with pimavanserin together with a low dose of risperidone demonstrated an improved side effect profile, including significantly less weight gain, compared to the standard dose of risperidone.

Pimavanserin as a Treatment for Alzheimer's Disease Psychosis

We currently are in Phase II development with pimavanserin as a treatment for Alzheimer's disease psychosis. We plan to initiate a Phase II feasibility study in this indication in the third quarter of 2010. Patients with Alzheimer's disease psychosis and Parkinson's disease psychosis share many common characteristics. They are typically elderly and frail, and often exhibit similar psychiatric symptoms associated with their underlying neurodegenerative disease. In preclinical models of Alzheimer's disease psychosis, we have shown that pimavanserin attenuates psychotic symptoms in those models. In addition, pimavanserin has been shown to positively interact with muscarinic agonists and cholinesterase inhibitors to enhance their pro-cognitive and antipsychotic actions in preclinical models. Because of its mechanism of action and the favorable safety profile observed to date in studies conducted in elderly patients with Parkinson's disease psychosis, we believe that pimavanserin also may be ideally suited to address the need for a new treatment for Alzheimer's disease psychosis that is safe, effective and well tolerated.

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In collaboration with Allergan, we have discovered and are developing a new class of small molecule product candidates for the treatment of chronic pain. Our novel alpha adrenergic agonists provide pain relief in a range of preclinical models, without the side effects of current pain therapies, including sedation and cardiovascular and respiratory effects.

Allergan has conducted several Phase II trials in this program and has reported preliminary results from its Phase II program, including positive proof-of-concept in a visceral pain trial in patients that had hypersensitivity of the esophagus, and efficacy signals in two chronic pain trials in the areas of fibromyalgia and irritable bowel syndrome. Allergan has announced that it is currently seeking a partner for the further development of this program and for commercialization in areas predominantly served by general practitioners.

AC-262271

We have discovered and, in collaboration with Allergan, are developing AC-262271, a small molecule product candidate for the treatment of glaucoma. Using our proprietary drug discovery platform, we identified a subtype of the muscarinic receptors that controls intraocular pressure and discovered lead compounds that selectively activate this target. In preclinical models, AC-262271 has demonstrated a promising preclinical profile, including robust efficacy and a long duration of action. Allergan is currently conducting Phase I development with AC-262271.

AM-831

We have discovered and, in collaboration with Meiji Seika, are developing AM-831, a small molecule product candidate for the treatment of schizophrenia and related disorders. AM-831 was selected from a series of lead compounds that provide the potential for a new class of pro-cognitive antipsychotic drugs. These compounds combine muscarinic m1 agonism with actions on both dopamine and serotonin receptors. AM-831 has demonstrated robust effects in animal models of psychosis and pro-cognitive effects in animal models of cognition. We are in IND-track development with AM-831, where we are seeking to complete required development studies in preparation for future clinical trials. We intend to co-develop AM-831 in collaboration with Meiji Seika through completion of proof-of-concept clinical studies, at which point Meiji Seika will be solely responsible for continued development and commercialization in Asia and we plan to seek a strategic partner to pursue development and commercialization in the rest of the world.

Other Product Candidates

In addition to our four most advanced product candidates currently in development, we have used our proprietary drug discovery platform to discover additional product candidates. This includes our ER-beta program where we have discovered compounds that may possess anti-inflammatory and neuroprotective properties and may have the ability to slow down the progression of Parkinson’s disease. Our current research studies of these ER-beta compounds are supported by a grant from the Michael J. Fox Foundation. Currently, our resources are focused on our most advanced product candidates, including pimavanserin, and we are not devoting significant resources to earlier-stage programs that are not directly funded. However, we may elect to pursue the development of additional product candidates in the future in partnerships or independently.

Our Drug Discovery Platform and Capabilities

Overview

All of our product candidates that are currently in clinical trials and earlier stages of discovery and development emanate from discoveries made using our proprietary drug discovery platform. We have demonstrated that our platform can be used to rapidly identify drug-like, small molecule chemistries for a wide range of drug targets. We believe that our expertise combined with our proprietary platform has allowed us to discover product candidates more efficiently than traditional approaches.

Our Drug Discovery Approach

Our drug discovery approach is designed to introduce chemistry at an early stage in the drug discovery process and enable selection of the most attractive, drug-like chemistries for desired targets that we validate with past clinical experience. A key to our discovery approach has been our set of proprietary functional test systems, or assays, that we developed for a large number of targets predominantly in the G-protein coupled receptor and nuclear receptor gene families. We believe that these gene families represent the most relevant and feasible targets for small molecule drug discovery focused on central nervous system indications. We have used our proprietary assays in conjunction with our proprietary receptor selection and amplification technology, a cell-

based assay system which we refer to as R-SAT, to validate drug targets, and to discover novel small molecules that are specific for these targets.

Collaboration Agreements

We have established collaboration agreements with Biovail and Meiji Seika, three separate collaboration agreements with Allergan and a technology license agreement with Aventis to leverage our drug discovery platform and related assets, and to advance development of and commercialize selected product candidates. Our collaborations have typically included upfront payments at initiation of the collaboration, research support during the research term, if applicable, milestone payments upon successful completion of specified development objectives, and royalties based upon sales, if any, of drugs developed under the collaboration. Our current agreements are as follows:

Biovail

In May 2009, we entered into a collaboration agreement with Biovail to co-develop and commercialize pimavanserin for neurological and psychiatric indications in the United States and Canada. We have retained the rights to pimavanserin in the rest of the world. Under the agreement, we received an upfront cash payment of $30 million. We are eligible to receive additional payments, excluding royalties, of up to an aggregate of $365 million, including up to $160 million in potential milestone payments associated with the successful completion of clinical trials, regulatory submissions and approvals of pimavanserin for Parkinson's disease psychosis and Alzheimer's disease psychosis, subject to certain offsets for up to 50 percent of the costs of successful Parkinson's disease psychosis trials, up to $45 million in potential milestones should the parties successfully pursue a third indication, currently designated as schizophrenia, and up to $160 million in potential milestones if certain sales thresholds are met. We are also eligible to receive a 15 percent royalty on annual net sales of pimavanserin up to $100 million and a 20 percent royalty on annual net sales over $100 million. In addition to product royalties, we have the option to co-promote pimavanserin in the United States. Biovail is responsible for all future costs associated with the development, manufacturing, and commercialization of pimavanserin in all indications with the exception of specified Parkinson's disease psychosis study costs and of a planned Alzheimer's disease psychosis feasibility study, which will be funded by us. Our agreement with Biovail is subject to early termination upon specified events.

Allergan

In March 2003, we entered into a collaboration agreement with Allergan to discover, develop, and commercialize new therapeutics for ophthalmic and other indications. The agreement originally provided for a three-year research term, which has been extended by the parties through March 2010. As of December 31, 2009, we had received an aggregate of $16.4 million under the agreement, consisting of an upfront payment, and research funding and related fees. During the extended research term, Allergan is entitled to exclusively license specified chemistry and related assets for development and commercialization. If we grant Allergan such an exclusive license, we would be eligible to receive license fees and milestone payments upon the successful achievement of agreed upon clinical and regulatory objectives as well as royalties on future product sales, if any, worldwide. Assuming the license and successful development of a product in the area of eye care, we could receive up to approximately $13.5 million in aggregate license fees and milestone payments per product under the agreement, as well as royalties on future product sales worldwide, if any.

In July 1999, we entered into a collaboration agreement with Allergan to discover, develop and commercialize selective muscarinic drugs for the treatment of glaucoma based on our compounds. Under this agreement, we provided our chemistry and discovery expertise to enable Allergan to select a compound for development. We granted Allergan exclusive worldwide rights to commercialize products based on this compound for the treatment of ocular disease, which program is currently in Phase I development. As of December 31, 2009, we had received an aggregate of $9.4 million in payments under the agreement, consisting

of upfront fees, research funding and milestone payments. We are eligible to receive additional milestone payments of up to $15 million in the aggregate as well as royalties on future product sales worldwide, if any. Allergan may terminate this agreement upon 90 days' notice. However, if terminated, Allergan's rights to the selected compound would revert to us.

In September 1997, we entered into a collaboration agreement with Allergan focused primarily on the discovery and development of new therapeutics for pain, which program is currently in Phase II development, and ophthalmic indications. This agreement was amended in conjunction with the execution and subsequent amendments of the March 2003 collaboration agreement, and provides for the continued development of product candidates for one target area. We are restricted from conducting competing research in that target area. Pursuant to the agreement, we granted Allergan exclusive worldwide rights to commercialize products resulting from the collaboration. We had received an aggregate of $10.5 million in research funding and milestone payments through December 31, 2009 under this agreement. We are eligible to receive additional milestone payments of up to $10.0 million in the aggregate as well as royalties on future product sales worldwide, if any. In connection with the execution of the collaboration agreement in 1997, Allergan made a $6.0 million equity investment in us.

The general terms of our collaboration agreements with Allergan continue until the later of the expiration of the last to expire patent covering a product licensed under the collaboration and at least 10 years from the date of first commercial sale of a product. In addition, each of our Allergan collaboration agreements includes a research term that is shorter but may be renewed if agreed to by the parties.

Meiji Seika Kaisha

In March 2009, we entered into a collaboration agreement with Meiji Seika to develop and commercialize a novel class of pro-cognitive drugs to treat patients with schizophrenia and related disorders in Japan and several other Asian countries. Under the agreement, we are eligible to receive up to $25 million in aggregate payments, including $3 million in license fees and up to $22 million in potential development and regulatory milestone payments, as well as royalties on product sales, if any, in the Asian territory. Meiji Seika also is responsible for the first $15 million of development expense and we and Meiji Seika will share remaining expenses through clinical proof-of-concept, subject to possible adjustment in the event we further license the program outside of the Asian territory. Meiji Seika is responsible for all costs associated with the development, manufacturing and commercialization of the product candidate in the Asian territory, and is eligible to share a portion of any product-related revenues received by us in the rest of the world. As of December 31, 2009, we had received an aggregate of $2.1 million in payments under the agreement, including $2 million in license fees. Our agreement with Meiji Seika is subject to early termination upon specified events.

Aventis

In July 2002, we entered into an agreement with Aventis under which we have licensed a portion of our technology for their use in a specified area that we are not pursuing presently.

Intellectual Property

We currently hold 36 issued U.S. patents and 184 issued foreign patents. All of these patents originated from us. In addition, we have 27 provisional and utility U.S. patent applications and 174 foreign patent applications.

Patents or other proprietary rights are an essential element of our business. Our strategy is to file patent applications in the United States and any other country that represents an important potential commercial market to us. In addition, we seek to protect our technology, inventions and improvements to inventions that are important to the development of our business. Our patent applications claim proprietary technology, including methods of screening and chemical synthetic methods, novel drug targets and novel compounds identified using our technology.

We also rely upon trade secret rights to protect other technologies that may be used to discover and validate targets and that may be used to identify and develop novel drugs. We protect our trade secrets in part through confidentiality and proprietary information agreements. We have entered into a license agreement, dated as of November 30, 2006, for certain intellectual property rights from the Ipsen Group in order to expand and strengthen the intellectual property portfolio for our serotonin platform. We are a party to various other license agreements that give us rights to use certain technologies in our research and development.

Pimavanserin

Four U.S. patents have been issued to us that provide coverage for pimavanserin, comprising two that cover the compound generically and two that cover it specifically, including one that covers the use of pimavanserin for Parkinson's disease psychosis. The generic coverage expires in 2021. The pimavanserin specific patent and the Parkinson's disease psychosis treatment patent provide protection until at least 2026 and 2025, in each case, subject to possible extension pursuant to patent term adjustment requests. We have 32 issued foreign patents that generically cover pimavanserin, including patents in 26 European countries, Hong Kong, Mexico, New Zealand, Russia, Singapore and South Africa, which provide patent protection through 2024. We continue to prosecute patent applications directed to pimavanserin and to methods of treating various diseases using pimavanserin, either alone or in combination with other agents, worldwide.

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We have not been issued, and are not pursuing, patents covering the compounds being pursued by Allergan under this collaboration as the compounds were discovered by Allergan.

AC-262271

We have two U.S. patents that have been issued to us providing coverage for the compounds covered by our collaboration with Allergan for the treatment of glaucoma. These U.S. patents will expire in 2023. We have 36 issued foreign patents and 16 pending foreign applications that cover these compounds. The issued foreign patents for this program will expire in 2022.

AM-831

Two U.S. patents have been issued to us that provide coverage for the compounds covered by our collaboration with Meiji Seika. These patents expire in 2024 and 2026. We have 34 issued foreign patents that cover these compounds, which provide protection through 2024.

Other Product Candidates

We have 16 issued U.S. patents and 27 issued foreign patents with claims for other product candidates that are at earlier stages of development.

Our Drug Discovery Platform

Our core R-SAT technology is protected by eight issued U.S. patents and 17 foreign patents. Our U.S. patents for R-SAT will expire over the range of 2013 to 2025. The foreign patents covering R-SAT will expire over the range of 2014 to 2024.

Competition

We face, and will continue to face, intense competition from pharmaceutical and biotechnology companies, as well as numerous academic and research institutions and governmental agencies, both in the United States and

abroad. We compete or will compete, as applicable, with existing and new products being developed by our competitors. Some of these competitors are pursuing the development of pharmaceuticals that target the same diseases and conditions that our research and development programs target. In each of our clinical programs, we intend to complete clinical trials designed to evaluate the potential advantages of our product candidates as compared to the current standard of care.

Even if we and our collaborators are successful in developing our product candidates, the resulting products would compete with a variety of established drugs in the areas of Parkinson's disease psychosis, schizophrenia, chronic pain, and glaucoma. For example, our potential product for the treatment of Parkinson's disease psychosis will compete with off-label use of antipsychotic drugs, including Seroquel, marketed by Astra-Zeneca, and clozapine, a generic drug.

Our potential products for the treatment of schizophrenia would compete with Zyprexa, marketed by Eli Lilly, Risperdal, marketed by Johnson & Johnson, Abilify, marketed jointly by Bristol-Myers Squibb and Otsuka Pharmaceutical, Seroquel, and clozapine. Our potential product for Alzheimer's disease psychosis would compete with off-label use of antipsychotic drugs.

Our potential products for the treatment of chronic pain would compete with Neurontin and Lyrica, each marketed by Pfizer, and Cymbalta, marketed by Eli Lilly, as well as with a variety of generic or proprietary opioids. Currently, the leading drugs approved for chronic pain indications include Lyrica, the successor to Neurontin, and Cymbalta. Lyrica had worldwide sales of $2.8 billion in 2009. Cymbalta, indicated for treatment of diabetic peripheral neuropathic pain as well as treatment of major depressive disorder, had worldwide sales of $3.1 billion in 2009.

Our potential products for the treatment of glaucoma would compete with Xalatan, marketed by Pfizer, and Lumigan and Alphagan, marketed by Allergan. Xalatan is the leading drug for glaucoma treatment and had worldwide sales in excess of $1.7 billion in 2009.

In addition, the companies described above and other competitors may have a variety of drugs in development or awaiting FDA approval that could reach the market and become established before we have a product to sell. Our competitors may also develop alternative therapies that could further limit the market for any drugs that we may develop. Some of our competitors are using functional genomics technologies or other methods to identify and validate drug targets and to discover novel small molecule drugs. Many of our competitors and their collaborators have significantly greater experience than we do in the following:

- identifying and validating targets;
- screening compounds against targets;
- preclinical and clinical trials of potential pharmaceutical products; and
- obtaining FDA and other regulatory clearances.

In addition, many of our competitors and their collaborators have substantially greater advantages in the following areas:

- capital resources;
- research and development resources;
- manufacturing capabilities; and
- sales and marketing.

Smaller companies also may prove to be significant competitors, particularly through proprietary research discoveries and collaborative arrangements with large pharmaceutical and established biotechnology companies. Many of our competitors have products that have been approved or are in advanced development. We face

competition from other companies, academic institutions, governmental agencies and other public and private research organizations for collaborative arrangements with pharmaceutical and biotechnology companies, in recruiting and retaining highly qualified scientific and management personnel and for licenses to additional technologies. Our competitors, either alone or with their collaborators, may succeed in developing technologies or drugs that are more effective, safer, and more affordable or more easily administered than ours and may achieve patent protection or commercialize drugs sooner than us. Developments by others may render our product candidates or our technologies obsolete. Our failure to compete effectively could have a material adverse affect on our business.

Government Regulation

The manufacturing and marketing of our potential products and our ongoing research and development activities are subject to extensive regulation by numerous governmental authorities in the United States and other countries. Before marketing in the United States, any new drug developed by us must undergo rigorous preclinical testing, clinical trials and an extensive regulatory clearance process implemented by the FDA under the federal Food, Drug, and Cosmetic Act, as amended. The FDA regulates, among other things, the development, testing, manufacture, safety, efficacy, record keeping, labeling, storage, approval, advertising, promotion, sale and distribution of biopharmaceutical products. None of our product candidates has been approved for sale in the United States or any foreign market. The regulatory review and approval process, which includes preclinical testing and clinical trials of each product candidate, is lengthy, expensive and uncertain.

In the United States, product candidates are tested in animals until adequate proof of safety is established. Clinical trials for new product candidates are typically conducted in three sequential phases that may overlap. Phase I trials involve the initial introduction of the product candidate into healthy human volunteers. The emphasis of Phase I trials is on testing for safety or adverse effects, dosage, tolerance, metabolism, distribution, excretion and clinical pharmacology. Phase II involves studies in a limited patient population to determine the initial efficacy of the compound for specific targeted indications, to determine dosage tolerance and optimal dosage and to identify possible adverse side effects and safety risks. Once a compound shows evidence of effectiveness and is found to have an acceptable safety profile in Phase II evaluations, Phase III trials are undertaken to more fully evaluate clinical outcomes. Before commencing clinical investigations in humans, we or our collaborators must submit to the FDA an Investigational New Drug Application, or IND.

Regulatory authorities may require additional data before allowing the clinical studies to commence or proceed from one phase to another, and could demand that the studies be discontinued or suspended at any time if there are significant safety issues. We have in the past and may in the future rely on some of our collaborators to file INDs and generally direct the regulatory approval process for many of our potential products. Clinical testing must also meet requirements for clinical trial registration, institutional review board oversight, informed consent, health information privacy, and good clinical practices.

To establish a new product candidate’s safety and efficacy, the FDA requires companies seeking approval to market a drug product to submit extensive preclinical and clinical data, along with other information, for each indication. The data and information are submitted to the FDA in the form of a New Drug Application, or NDA. Generating the required data and information for an NDA takes many years and requires the expenditure of substantial resources. Information generated in this process is susceptible to varying interpretations that could delay, limit or prevent regulatory approval at any stage of the process. The failure to demonstrate adequately the quality, safety and efficacy of a product candidate under development would delay or prevent regulatory approval of the product candidate. We cannot assure you that, even if clinical trials are completed, either our collaborators or we will submit applications for required authorizations to manufacture and/or market potential products or that any such application will be reviewed and approved by the appropriate regulatory authorities in a timely manner, if at all. Under applicable laws and FDA regulations, each NDA submitted for FDA approval is usually given an internal administrative review within 60 days following submission of the NDA. If deemed sufficiently complete to permit a substantive review, the FDA will “file” the NDA. The FDA can refuse to file

any NDA that it deems incomplete or not properly reviewable. The FDA has established internal goals of six months for priority review for NDAs that cover product candidates that offer major advances in treatment or provide a treatment where no adequate therapy exists, and 10 months for the standard review of non-priority NDAs. However, the FDA is not legally required to complete its review within these periods and these performance goals may change over time. Moreover, the outcome of the review, even if generally favorable, may not be an actual approval but a "response letter" that describes additional work that must be done before the NDA can be approved. The FDA's review of an NDA may involve review and recommendations by an independent FDA advisory committee.

Before receiving FDA approval to market a potential product, we or our collaborators must demonstrate through adequate and well-controlled clinical studies that the potential product is safe and effective on the patient population that will be treated. If regulatory approval of a potential product is granted, this approval will be limited to those disease states and conditions for which the product is approved. Marketing or promoting a drug for an unapproved indication is generally prohibited. Furthermore, FDA approval may entail ongoing requirements for risk management, including post-marketing studies. Even if approval is obtained, a marketed product, its manufacturer and its manufacturing facilities are subject to continuing review and periodic inspections by the FDA. Discovery of previously unknown problems with a product, manufacturer or facility may result in restrictions on the product or manufacturer, including labeling changes, warning letters, costly recalls or withdrawal of the product from the market.

Any drug is likely to produce some toxicities or undesirable side effects in animals and in humans when administered at sufficiently high doses and/or for sufficiently long periods of time. Unacceptable toxicities or side effects may occur at any dose level at any time in the course of studies in animals designed to identify unacceptable effects of a product candidate, known as toxicological studies, or during clinical trials of our potential products. The appearance of any unacceptable toxicity or side effect could cause us or regulatory authorities to interrupt, limit, delay or abort the development of any of our product candidates. Further, such unacceptable toxicity or side effects could ultimately prevent a potential product's approval by the FDA or foreign regulatory authorities for any or all targeted indications or limit any labeling claims, even if the product is approved.

We and our collaborators and contract manufacturers also are required to comply with the applicable FDA current good manufacturing practice regulations. Good manufacturing practice regulations include requirements relating to quality control and quality assurance as well as the corresponding maintenance of records and documentation. Manufacturing facilities are subject to inspection by the FDA. These facilities must be approved before we can use them in commercial manufacturing of our potential products. The FDA may conclude that we or our collaborators or contract manufacturers are not in compliance with applicable good manufacturing practice requirements and other FDA regulatory requirements.

If the product is approved, we must also comply with post-marketing requirements, including, but not limited to, compliance with the Prescription Drug Marketing Act, anti-fraud and abuse laws, and post-marketing safety surveillance. In addition, we are subject to state regulation including, but not limited to, implementation of corporate compliance programs and gift reporting to healthcare professionals.

Outside of the United States, our ability to market a product is contingent upon receiving a marketing authorization from the appropriate regulatory authorities. The requirements governing the conduct of clinical trials, marketing authorization, pricing and reimbursement vary widely from country to country. At present, foreign marketing authorizations are applied for at a national level, although within the European Community, or EC, registration procedures are available to companies wishing to market a product in more than one EC member state. If the regulatory authority is satisfied that adequate evidence of safety, quality and efficacy has been presented, marketing authorization will be granted. This foreign regulatory approval process involves all of the risks associated with FDA marketing approval discussed above.

Drugs for Serious or Life-Threatening Illnesses

The Federal Food, Drug and Cosmetic Act, as amended, and FDA regulations provide certain mechanisms for the accelerated "Fast Track" approval of potential products intended to treat serious or life-threatening illnesses which have been studied for safety and effectiveness and which demonstrate the potential to address unmet medical needs. These procedures permit early consultation and commitment from the FDA regarding the preclinical and clinical studies necessary to gain marketing approval. Provisions of this regulatory framework also permit, in certain cases, NDAs to be approved on the basis of valid surrogate markers of product effectiveness, thus accelerating the normal approval process. Certain potential products employing our technology might qualify for this accelerated regulatory procedure. Even if the FDA agrees that these potential products qualify for accelerated approval procedures, the FDA may deny approval of our drugs or may require that additional studies be required before approval. The FDA may also require us to perform post-approval, or Phase IV, studies as a condition of such early approval. In addition, the FDA may impose restrictions on distribution and/or promotion in connection with any accelerated approval, and may withdraw approval if post-approval studies do not confirm the intended clinical benefit or safety of the potential product.

Other U.S. Regulatory Requirements

In the United States, the research, manufacturing, distribution, sale, and promotion of drug products are potentially subject to regulation by various federal, state and local authorities in addition to the FDA, including the Centers for Medicare & Medicaid Services (formerly the Health Care Financing Administration), other divisions of the United States Department of Health & Human Services, including, for example, the Office of Inspector General, and state and local governments. For example, if a drug product is reimbursed by Medicare, Medicaid or other federal or state health care programs, sales, marketing and scientific/educational grant programs must comply with the Medicare-Medicaid Anti-Fraud and Abuse Act, as amended, the False Claims Act, also as amended, and similar state laws. If a drug product is reimbursed by Medicare or Medicaid, pricing and rebate programs must comply with, as applicable, the Medicaid rebate requirements of the Omnibus Budget Reconciliation Act of 1990, as amended, and the Medicare Prescription Drug Improvement and Modernization Act of 2003. Additionally, future healthcare reform measures, including those currently under consideration by the federal government, could impose further controls over prescription drugs, including pricing restrictions. If drug products are made available to authorized users of the Federal Supply Schedule of the General Services Administration, additional laws and requirements apply. All of these activities are also potentially subject to federal and state consumer protection and unfair competition laws.

Marketing, Sales and Distribution

We currently have no marketing, sales or distribution capabilities. In order to commercialize any of our product candidates, we must develop these capabilities internally or through collaboration with third parties. In selected therapeutic areas where we feel that our product candidates can be commercialized by a specialty sales force that calls on a limited and focused group of physicians, we plan to participate in the commercialization of our product candidates. In therapeutic areas that require a large sales force selling to a large and diverse prescribing population, we plan to partner our product candidates for commercialization.

Manufacturing

We outsource and plan to continue to outsource manufacturing responsibilities for our existing and future product candidates for development and commercial purposes. The production of pimavanserin employs small molecule synthetic organic chemistry procedures that are standard in the pharmaceutical industry. Our collaboration agreements provide for our partners to arrange for the production of our product candidates for use in clinical trials and potential commercialization.

Employees

At December 31, 2009, we had 27 employees, of whom 13 hold Ph.D. or other advanced degrees. Of our total workforce, 16 are engaged in research and development activities and 11 are engaged in executive, finance, and administration. A small portion of our employees are located in Sweden. None of our employees is represented by a collective bargaining agreement, nor have we experienced work stoppages. We believe that our relations with our employees are good.

Research and Development Expenses

Our research and development expenses were $41.6 million in 2009, $56.8 million in 2008, and $57.9 million in 2007.

Long-Lived Assets

Information regarding long-lived assets by geographic area is as follows:

	As of December 31,		
	2009	2008	2007
		(in thousands)	
United States	$ 738	$ 1,537	$ 2090
Europe	324	566	958
Total	$ 1,062	$ 2,103	$ 3,048

Item 1A. ***Risk Factors.***

You should consider carefully the following information about the risks described below, together with the other information contained in this Annual Report and in our other public filings in evaluating our business. If any of the following risks actually occurs, our business, financial condition, results of operations and future growth prospects would likely be materially and adversely affected. In these circumstances, the market price of our common stock would likely decline.

Risks Related to Our Business

We expect our net losses to continue for at least several years and are unable to predict the extent of future losses or when we will become profitable, if ever.

We have experienced significant net losses since our inception. As of December 31, 2009, we had an accumulated deficit of approximately $339.2 million. We expect our annual net losses to continue over the next several years as we advance our programs and incur significant clinical development costs.

We have not received, and do not expect to receive for at least the next several years, any revenues from the commercialization of our product candidates. Substantially all of our revenues for the year ended December 31, 2009 were from our collaborations with Biovail and Allergan as well as our agreements with Meiji Seika and other parties. We anticipate that collaborations, which provide us with research funding and potential milestone payments and royalties, will continue to be our primary source of revenues for the next several years. We cannot be certain that the milestones required to trigger payments under our existing collaborations will be reached or that we will secure additional collaboration agreements. To obtain revenues from our product candidates, we must succeed, either alone or with others, in developing, obtaining regulatory approval for, and manufacturing and marketing drugs with significant market potential. We may never succeed in these activities, and may never generate revenues that are significant enough to achieve profitability.

We depend on collaborations with third parties to develop and commercialize selected product candidates and to provide substantially all of our revenues.

A key aspect of our strategy is to selectively enter into collaborations with third parties. We currently rely, and will continue to rely, on our collaborators for financial resources and for development, regulatory, and commercialization expertise for selected product candidates. The ongoing research term of our agreements with Allergan will end in March 2010 and, other than $1 million in licensing fees expected to be received under our agreement with Meiji Seika, additional payments (other than reimbursements) from our agreements with Biovail, Allergan, and Meiji Seika are dependent on successful advancement of our applicable product candidates. There is no guarantee that revenues from our collaborations will continue at current or past levels. Given the current economic environment, it is possible that our existing collaborators may elect to reduce their external spending.

Our collaborators may fail to develop or effectively commercialize products using our product candidates or technologies because they:

- do not have sufficient resources or decide not to devote the necessary resources due to internal constraints such as limited cash or human resources or a change in strategic focus;
- decide to pursue a competitive product developed outside of the collaboration; or
- cannot obtain the necessary regulatory approvals.

For example, Allergan has announced that it is seeking a partner for further development and commercialization of drug candidates in our chronic pain program. If Allergan is unable to successfully partner this program, it may elect to not pursue further development. In addition, any partner that Allergan does identify may devote substantially less resources than Allergan has devoted to our chronic pain program to date.

Each of Biovail, Meiji Seika and Allergan can terminate our existing collaborations under specific circumstances, including in some cases the right to terminate without cause upon prior notice. We may not be able to renew our existing collaborations on acceptable terms, if at all. We also face competition in our search for new collaborators. Given the current economic environment, it is possible that competition for new collaborators may increase. If we are unable to renew any existing collaboration of find new collaborations, we may not be able to continue advancing our partnered programs by ourself.

Our most advanced product candidates are in clinical trials, which are long, expensive and unpredictable, and there is a high risk of failure.

Preclinical testing and clinical trials are long, expensive and unpredictable processes that can be subject to delays. It may take several years to complete the preclinical testing and clinical development necessary to commercialize a drug, and delays or failure can occur at any stage. Interim results of clinical trials do not necessarily predict final results, and success in preclinical testing and early clinical trials does not ensure that later clinical trials will be successful. A number of companies in the pharmaceutical and biotechnology industries have suffered significant setbacks in advanced clinical trials even after promising results in earlier trials.

Our drug development programs are at various stages of development and the historical rate of failures for product candidates is extremely high. In fact, we recently had an unsuccessful Phase III trial with our product candidate, pimavanserin. We expect to start a new Phase III trial with pimavanserin for the treatment of Parkinson’s disease psychosis around mid-2010 and have announced plans with Biovail to pursue a trial with pimavanserin for adjunctive therapy in schizophrenia commencing in mid-2010 and a trial for Alzheimer’s disease psychosis commencing in the third quarter of 2010. An unfavorable outcome in one or more studies with pimavanserin would be a major set-back for the program, our collaboration with Biovail and for our company, generally. In particular, given the current conditions in the financial markets, an unfavorable outcome in one or more of these indications may require us to delay, reduce the scope of, or eliminate this program and could have a material adverse effect on our company and the value of our common stock. In addition, if the new Phase III

trial planned for pimavanserin in Parkinson's disease psychosis does not meet its primary endpoint, then we would be obligated to reimburse Biovail 50 percent of the costs of such trial, which could be significant. In addition to our pimavanserin programs, we also have clinical programs in collaboration with Allergan for the treatment of chronic pain and glaucoma, which are in Phase II and Phase I development, respectively.

In connection with clinical trials, we face risks that:

- a product candidate may not prove to be efficacious;
- patients may die or suffer other adverse effects for reasons that may or may not be related to the product candidate being tested;
- the results may not confirm the positive results of earlier trials; and
- the results may not meet the level of statistical significance required by the U.S. Food and Drug Administration, or FDA, or other regulatory agencies.

If we do not successfully complete preclinical and clinical development, we will be unable to market and sell products derived from our product candidates and to generate product revenues. Even if we do successfully complete clinical trials, those results are not necessarily predictive of results of additional trials that may be needed before a new drug application, or NDA, may be submitted to the FDA. Of the large number of drugs in development, only a small percentage result in the submission of an NDA to the FDA and even fewer are approved for commercialization.

Delays, suspensions and terminations in our clinical trials could result in increased costs to us and delay our ability to generate product revenues.

The commencement of clinical trials can be delayed for a variety of reasons, including delays in:

- demonstrating sufficient safety and efficacy to obtain regulatory approval to commence a clinical trial;
- reaching agreement on acceptable terms with prospective contract research organizations and clinical trial sites;
- manufacturing sufficient quantities of a product candidate;
- obtaining approval of an Investigational New Drug Application, or IND, from the FDA;
- obtaining institutional review board approval to conduct a clinical trial at a prospective clinical trial site; and
- patient enrollment, which is a function of many factors, including the size of the patient population, the nature of the protocol, the proximity of patients to clinical trial sites, the availability of effective treatments for the relevant disease and the eligibility criteria for the clinical trial.

Once a clinical trial has begun, it may be delayed, suspended or terminated due to a number of factors, including:

- ongoing discussions with regulatory authorities regarding the scope or design of our clinical trials or requests by them for supplemental information with respect to our clinical trial results;
- failure to conduct clinical trials in accordance with regulatory requirements;
- lower than anticipated retention rate of patients in clinical trials;
- serious adverse events or side effects experienced by participants; and
- insufficient supply or deficient quality of product candidates or other materials necessary for the conduct of our clinical trials.

Many of these factors may also ultimately lead to denial of regulatory approval of a current or potential product candidate. If we experience delays, suspensions or terminations in a clinical trial, the commercial prospects for the related product candidate will be harmed, and our ability to generate product revenues will be delayed.

If we fail to obtain the capital necessary to fund our operations, we will be unable to successfully develop products.

We have consumed substantial amounts of capital since our inception. Our cash and investment securities totaled approximately $47.1 million at December 31, 2009. We believe our existing cash resources and anticipated payments from our collaborations will be sufficient to fund our cash requirements through December 31, 2011. However, we will require significant additional financing in the future to continue to fund our operations. Our future capital requirements will depend on, and could increase significantly as a result of, many factors including:

- progress in, and the costs of, our preclinical studies and clinical trials and other research and development programs;
- the scope, prioritization and number of our research and development programs;
- the ability of our collaborators and us to reach the milestones, and other events or developments, triggering payments under our collaboration agreements or to otherwise make payments under these agreements;
- the extent to which we are obligated to reimburse our collaborators or our collaborators are obligated to reimburse us for clinical trial costs under our collaboration agreements;
- the costs involved in filing, prosecuting, enforcing and defending patent claims and other intellectual property rights;
- the costs of securing manufacturing arrangements for clinical or commercial production;
- the costs of establishing or contracting for sales and marketing capabilities if we obtain regulatory clearances to market our product candidates; and
- the costs associated with litigation.

Until we can generate significant continuing revenues, we expect to satisfy our future cash needs through our existing cash, cash equivalents and investment securities, strategic collaborations, private or public sales of our securities, debt financings, or by licensing all or a portion of our product candidates or technology. Turmoil in the financial markets has adversely affected the market capitalizations of many biotechnology companies, including us, and generally made equity and debt financing more difficult to obtain. This, coupled with other factors, may limit our access to additional financing over the near-term future. This could have a material adverse effect on our ability to access sufficient funding, including pursuant to our Committed Equity Financing Facility, or CEFF, or from other sources. Specifically, we will not be able to raise money under the CEFF if the average price of our common stock is below the minimum share price of $1.50. We cannot be certain that additional funding will be available to us on acceptable terms, if at all. If funds are not available, we may be required to delay, reduce the scope of, or eliminate one or more of our research or development programs or our commercialization efforts. Additional funding, if obtained, may significantly dilute existing stockholders, including any funds that may be raised under the CEFF.

Our Committed Equity Financing Facility may not be available to us if we elect to make a draw down, may require us to make additional "blackout" or other payments to Kingsbridge Capital Limited and may result in dilution to our stockholders.

Pursuant to the CEFF, Kingsbridge committed to purchase up to the lesser of $60 million or up to approximately 7 million shares of our common stock over a three-year period. To date, we have sold

approximately 785,000 shares of our common stock for proceeds of $1.2 million under the CEFF. Kingsbridge will not be obligated to purchase shares under the CEFF unless specified conditions are met, which include a minimum price of $1.50 for our common stock, the effectiveness of a registration statement registering for resale the shares of common stock to be issued in connection with the CEFF, and customary other conditions, such as accuracy of representations and warranties and compliance with applicable laws. Kingsbridge is permitted to terminate the CEFF under certain circumstances. If we are unable to access funds through the CEFF or Kingsbridge terminates the CEFF, we may be unable to access capital on favorable terms or at all.

In connection with the CEFF, we filed a registration statement with the SEC to register the resale of shares of our common stock that may be issued pursuant to the CEFF or upon exercise of the warrant we issued to Kingsbridge in connection with establishing the CEFF. This registration statement was declared effective by the SEC on September 23, 2008. We are entitled, in certain circumstances, to deliver a "blackout" notice to Kingsbridge to suspend the use of the prospectus, which is a part of such registration statement, and prohibit Kingsbridge from selling shares under that prospectus for a certain period of time. If we deliver a blackout notice in the 15 trading days following the settlement of a draw down, or if the registration statement covering the resale of the shares of common stock to be issued in connection with the CEFF is not effective in circumstances not permitted by our registration rights agreement with Kingsbridge, then we must make a payment to Kingsbridge, or issue Kingsbridge additional shares in lieu of this payment, calculated on the basis of a specified number of shares held by Kingsbridge immediately prior to the blackout period and the change in the market price of our common stock during the period in which the use of the resale registration statement is suspended. If the trading price of our common stock declines during a suspension of the resale registration statement, the blackout or other payment could be significant.

If we sell shares to Kingsbridge under the CEFF, or issue shares in lieu of any blackout payment, it will have a dilutive effect on the holdings of our current stockholders, and may result in downward pressure on the price of our common stock. If we draw down amounts under the CEFF, we will issue shares to Kingsbridge at a discount of up to 12% from the volume weighted average price of our common stock. If we draw down amounts under the CEFF when our share price is decreasing, we will need to issue more shares to raise the same amount than if our stock price was higher. Issuances in the face of a declining share price will have an even greater dilutive effect than if our share price were stable or increasing and may further decrease our share price.

If we do not realize the expected benefits from the restructuring that we announced in October 2009, our operating results and financial conditions would be negatively impacted.

In October 2009, we implemented a restructuring designed to streamline our operations, reduce our internal operating expenses, and extend our cash runway. If we are unable to realize the expected operational efficiencies from our restructuring, our operating results and financial condition would be adversely affected. We cannot guarantee that we will not have to undertake additional restructuring activities, that any of our restructuring efforts will be successful, or that we will be able to realize the cost savings and other anticipated benefits from this restructuring.

If conflicts arise with our collaborators, they may act in their self interests, which may be adverse to our interests.

Conflicts may arise in our collaborations due to one or more of the following:

- disputes or breaches with respect to payments that we believe are due under the applicable agreements, particularly in the current economic environment when companies, including large established ones, may be seeking to reduce external payments;
- disputes on strategy as to what development or commercialization activities should be pursued under the applicable agreements;

- disputes as to the responsibility for conducting development and commercialization activities pursuant to the applicable collaboration, including the payment of costs related thereto;
- disagreements with respect to ownership of intellectual property rights;
- unwillingness on the part of a collaborator to keep us informed regarding the progress of its development and commercialization activities, or to permit public disclosure of these activities;
- delay of a collaborator's development or commercialization efforts with respect to our product candidates; or
- termination or non-renewal of the collaboration.

Conflicts arising with our collaborators could impair the progress of our product candidates, harm our reputation, result in a loss of revenues, reduce our cash position, and cause a decline in our stock price.

In addition, in our collaborations, we generally have agreed not to conduct independently, or with any third party, any research that is directly competitive with the research conducted under the applicable program. Our collaborations may have the effect of limiting the areas of research that we may pursue, either alone or with others. Our collaborators, however, may develop, either alone or with others, products in related fields that are competitive with the products or potential products that are the subject of these collaborations. Competing products, either developed by our collaborators or to which our collaborators have rights, may result in the allocation of resources by our competitors to competing products and their withdrawal of support for our product candidates or may otherwise result in lower demand for our potential products.

We have collaborations with Allergan for the development of product candidates related to chronic pain and ophthalmic diseases, including glaucoma. Allergan currently markets therapeutic products to treat glaucoma and is engaged in other research programs related to glaucoma and other ophthalmic products that are independent from our development program in this therapeutic area. Allergan is also pursuing other research programs related to pain management that are independent from our collaboration in this therapeutic area.

Our collaboration with Meiji Seika is initially focused on the advancement of precognitive drugs, or PCAPs, as a treatment for schizophrenia and related disorders. While Meiji Seika has rights to the PCAPs in the Asian territory, we have the right to pursue them, alone or with a partner, in the rest of the world. Under our collaboration for pimavanserin, Biovail has licensed the rights to Canada and the United States for the treatment of Parkinson's disease psychosis, Alzheimer's disease psychosis and other neurological and psychiatric conditions, which include schizophrenia. We have retained the rights to pimavanserin for the rest of the world. It is possible that the product candidates being developed under these programs could compete with each other. In addition, Biovail's strategy is to pursue the commercialization of product candidates for central nervous system indications that are independent of our efforts to develop and commercialize pimavanserin.

We rely on third parties to conduct our clinical trials and perform data collection and analysis, which may result in costs and delays that prevent us from successfully commercializing product candidates.

Although we design and manage our current preclinical studies and clinical trials, we currently do not have the ability to conduct clinical trials for our product candidates on our own. In addition to our collaborators, we rely on contract research organizations, medical institutions, clinical investigators, and contract laboratories to perform data collection and analysis and other aspects of our clinical trials. In addition, we also rely on third parties to assist with our preclinical studies, including studies regarding biological activity, safety, absorption, metabolism, and excretion of product candidates.

Our preclinical activities or clinical trials may be delayed, suspended, or terminated if:

- these third parties do not successfully carry out their contractual duties or fail to meet regulatory obligations or expected deadlines;

- these third parties need to be replaced; or
- the quality or accuracy of the data obtained by these third parties is compromised due to their failure to adhere to our clinical protocols or regulatory requirements or for other reasons.

Failure to perform by these third parties may increase our development costs, delay our ability to obtain regulatory approval, and delay or prevent the commercialization of our product candidates. We currently use several contract research organizations to perform services for our preclinical studies and clinical trials. While we believe that there are numerous alternative sources to provide these services, in the event that we seek such alternative sources, we may not be able to enter into replacement arrangements without delays or additional expenditures.

Even if we or our collaborators successfully complete the clinical trials of product candidates, the product candidates may fail for other reasons.

Even if we or our collaborators successfully complete the clinical trials of product candidates, the product candidates may fail for other reasons, including the possibility that the product candidates will:

- fail to receive the regulatory clearances required to market them as drugs;
- be subject to proprietary rights held by others requiring the negotiation of a license agreement prior to marketing;
- be difficult or expensive to manufacture on a commercial scale;
- have adverse side effects that make their use less desirable; or
- fail to compete with product candidates or other treatments commercialized by competitors.

Our product candidates may not gain acceptance among physicians, patients, and the medical community, thereby limiting our potential to generate revenues.

Even if our product candidates are approved for commercial sale by the FDA or other regulatory authorities, the degree of market acceptance of any approved product candidate by physicians, healthcare professionals and third-party payors, and our profitability and growth will depend on a number of factors, including:

- the ability to provide acceptable evidence of safety and efficacy;
- relative convenience and ease of administration;
- the prevalence and severity of any adverse side effects;
- availability of alternative treatments;
- pricing and cost effectiveness, which may be subject to regulatory control;
- effectiveness of our or our collaborators' sales and marketing strategy; and
- our ability to obtain sufficient third-party insurance coverage or reimbursement.

If any product candidate that we discover and/or develop does not provide a treatment regimen that is as beneficial as the current standard of care or otherwise does not provide patient benefit, that product will not achieve market acceptance and we will not generate sufficient revenues to achieve or maintain profitability.

If we are unable to attract, retain, and motivate key management and scientific staff, our drug development programs and our research and discovery efforts may be delayed and we may be unable to successfully develop or commercialize our product candidates.

Our success depends on our ability to attract, retain, and motivate highly qualified management and scientific personnel. In particular, our development programs depend on our ability to attract and retain highly

skilled development personnel, especially in the fields of central nervous system disorders, including neuropsychiatric and related disorders. In the future, we may need to hire additional personnel if we expand our research and development efforts from our current levels. We face competition for experienced scientists, clinical operations personnel, and other technical personnel from numerous companies and academic and other research institutions. Competition for qualified personnel is particularly intense in the San Diego, California area. If we are unable to attract and retain the necessary personnel, this will significantly impede the achievement of our research and development objectives and our ability to meet the demands of our collaborators in a timely fashion.

All of our U.S. employees are "at will" employees, which means that any employee may quit at any time and we may terminate any employee at any time. We do not carry "key person" insurance covering members of senior management.

We do not know whether our drug discovery platform will lead to the discovery or development of commercially viable product candidates.

Our drug discovery platform uses new and unproven methods to identify and develop product candidates. We have never successfully completed clinical development of any of our product candidates, and there are no drugs on the market that have been discovered using our drug discovery platform.

Our research and development focuses on small molecule drugs for the treatment of central nervous system disorders. Due to our limited resources, we may have to forego potential opportunities with respect to discovering product candidates to treat diseases or conditions in other therapeutic areas. If we are not able to use our technologies to discover and develop product candidates that can be commercialized, we may not achieve profitability. In the future, we may find it necessary to license the technology of others or acquire additional product candidates to augment the results of our internal discovery activities. If we are unable to identify new product candidates using our drug discovery platform, we may be unable to establish or maintain a clinical development pipeline or generate product revenues.

We may not be able to continue or fully exploit our collaborations with outside scientific and clinical advisors, which could impair the progress of our clinical trials and our research and development efforts.

We work with scientific and clinical advisors at academic and other institutions who are experts in the field of central nervous system disorders. They assist us in our research and development efforts and advise us with respect to our clinical trials. These advisors are not our employees and may have other commitments that would limit their future availability to us. Although our scientific and clinical advisors generally agree not to engage in competing work, if a conflict of interest arises between their work for us and their work for another entity, we may lose their services, which may impair our reputation in the industry and delay the development or commercialization of our product candidates.

We will need to transition our organization in connection with our most recent restructuring, and we may encounter difficulties managing this transition, which could adversely affect our results of operations.

We will need to effectively manage our operations and facilities in order to advance our drug development programs, including those covered by our collaborations with Biovail and Meiji Seika, achieve milestones under our collaboration agreements, facilitate additional collaborations, and pursue other development activities. Following our most recent restructuring, it is possible that our infrastructure may be inadequate to support our future efforts and growth. To manage our transition, we will be required to continue to improve our operational, financial and management controls, and reporting systems and procedures. In addition, we may have to develop internal sales, marketing, and distribution capabilities if we decide to market any drug that we may successfully develop. We may not successfully manage the transition of our operations and, accordingly, may not achieve our research, development, and commercialization goals.

We face financial and administrative challenges in coordinating the operations of our European activities with our activities in California, which could have an adverse impact on our operations.

Our principal executive offices are located in San Diego and we also have a subsidiary, ACADIA Pharmaceuticals AB, located in Malmö, Sweden that employed a small percentage of our total personnel as of December 31, 2009. The additional administrative expense required to coordinate activities in both Europe and California could divert management resources from other important endeavors and, in turn, delay our development and commercialization efforts. In addition, currency fluctuations involving our Swedish operations may cause foreign currency gains and losses. These exchange-rate fluctuations could have a negative effect on our operations. We do not engage in currency hedging transactions.

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

Our quarterly operating results have fluctuated in the past and are likely to do so in the future. Some of the factors that could cause our operating results to fluctuate from period to period include:

- the status of development of pimavanserin and our other product candidates, including compounds being developed under our collaborations;
- whether we generate revenues or reimbursements by achieving specified research, development or commercialization milestones under any agreements or otherwise receive potential payments under these agreements;
- whether we are required to make payments due to achieving specified milestones under any licensing or similar agreements or otherwise make potential payments under these agreements;
- the incurrence of preclinical or clinical expenses that could fluctuate significantly from period to period, including reimbursement obligations pursuant to our collaboration agreements;
- the initiation, termination, or reduction in the scope of our collaborations or any disputes regarding these collaborations;
- the timing of our satisfaction of applicable regulatory requirements;
- the rate of expansion of our clinical development and other internal research and development efforts;
- the effect of competing technologies and products and market developments;
- the costs and benefits associated with our restructuring;
- the costs associated with litigation; and
- general and industry-specific economic conditions.

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

Relying on third-party manufacturers may result in delays in our clinical trials and product introductions.

We have no manufacturing facilities and have no experience in the manufacturing of drugs or in designing drug-manufacturing processes. We have contracted with third-party manufacturers to produce, in collaboration with us, our product candidates for clinical trials. If any of our product candidates are approved by the FDA or other regulatory agencies for commercial sale, we may need to contract with a third party to manufacture them in larger quantities. We currently use third-party manufacturers to produce clinical supplies of our compounds for us, including pimavanserin. While we believe that there are alternative sources available to manufacture our product candidates, in the event that we seek such alternative sources, we may not be able to enter into replacement arrangements without delays or additional expenditures. We cannot estimate these delays or costs

with certainty but, if they were to occur, they could cause a delay in our development and commercialization efforts.

The manufacturers of our product candidates are obliged to operate in accordance with FDA-mandated current good manufacturing practices, or cGMPs. A failure of any of our contract manufacturers to establish and follow cGMPs and to document their adherence to such practices may lead to significant delays in clinical trials or in obtaining regulatory approval of product candidates or the ultimate launch of products based on our product candidates into the market. Failure by our third-party manufacturers or us to comply with applicable regulations could result in sanctions being imposed on us, including fines, injunctions, civil penalties, failure of the government to grant pre-market approval of drugs, delays, suspension or withdrawal of approvals, seizures or recalls of products, operating restrictions, and criminal prosecutions.

Our management has broad discretion over the use of our cash and we may not use our cash effectively, which could adversely affect our results of operations.

Our management has significant flexibility in applying our cash resources and could use these resources for corporate purposes that do not increase our market value, or in ways with which our stockholders may not agree. We may use our cash resources for corporate purposes that do not yield a significant return or any return at all for our stockholders, which may cause our stock price to decline.

We have incurred, and expect to continue to incur, significant costs as a result of laws and regulations relating to corporate governance and other matters.

Laws and regulations affecting public companies, including the provisions of the Sarbanes-Oxley Act of 2002, or SOX, and rules adopted or proposed by the SEC and by The Nasdaq Global Market, have resulted in, and will continue to result in, significant costs to us as we evaluate the implications of these rules and respond to their requirements. We issued an evaluation of our internal control over financial reporting under Section 404 of SOX with our Annual Report. In the future, if we are not able to issue an evaluation of our internal control over financial reporting as required or we or our independent registered public accounting firm determine that our internal control over financial reporting is not effective, this shortcoming could have an adverse effect on our business and financial results and the price of our common stock could be negatively affected. New rules could make it more difficult or more costly for us to obtain certain types of insurance, including director and officer liability insurance, and we may be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the coverage that is the same or similar to our current coverage. The impact of these events could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors and board committees, and as our executive officers. We cannot predict or estimate the total amount of the costs we may incur or the timing of such costs to comply with these rules and regulations.

If we are unable to establish sales and marketing capabilities or enter into agreements with third parties to sell and market any products we may develop, we may not be able to generate product revenue.

We do not currently have an organization for the sales, marketing and distribution of pharmaceutical products. In order to market any products that may be approved by the FDA, we must build our sales, marketing, managerial, and related capabilities or make arrangements with third parties to perform these services. If we are unable to establish adequate sales, marketing, and distribution capabilities, whether independently or with third parties, we may not be able to generate product revenue and may not become profitable.

If we engage in any acquisition, we will incur a variety of costs and may never realize the anticipated benefits of the acquisition.

We may attempt to acquire businesses, technologies, services, or products or license in technologies that we believe are a strategic fit with our business. We have limited experience in identifying acquisition targets,

successfully completing proposed acquisitions and integrating any acquired businesses, technologies, services or products into our current infrastructure. The process of integrating any acquired business, technology, service, or product may result in unforeseen operating difficulties and expenditures and may divert significant management attention from our ongoing business operations. As a result, we will incur a variety of costs in connection with an acquisition and may never realize its anticipated benefits.

Earthquake or fire damage to our facilities could delay our research and development efforts and adversely affect our business.

Our headquarters and research and development facilities in San Diego are located in a seismic zone, and there is the possibility of an earthquake, which could be disruptive to our operations and result in delays in our research and development efforts. In addition, while our facilities have not been adversely impacted by local wildfires, there is the possibility of future fires in the area. In the event of an earthquake or fire, if our facilities or the equipment in our facilities is significantly damaged or destroyed for any reason, we may not be able to rebuild or relocate our facilities or replace any damaged equipment in a timely manner and our business, financial condition, and results of operations could be materially and adversely affected. We do not have insurance for damages resulting from earthquakes. While we do have fire insurance for our property and equipment located in San Diego, any damage sustained in a fire could cause a delay in our research and development efforts and our results of operations could be materially and adversely affected.

Risks Related to Our Intellectual Property

Our ability to compete may decline if we do not adequately protect our proprietary rights.

Our commercial success depends on obtaining and maintaining proprietary rights to our product candidates and technologies and their uses, as well as successfully defending these rights against third-party challenges. We will only be able to protect our product candidates, proprietary technologies, and their uses from unauthorized use by third parties to the extent that valid and enforceable patents, or effectively protected trade secrets, cover them. Although we have filed numerous patent applications worldwide with respect to pimavanserin, we have been issued only a limited number of patents with respect to these filings.

Our ability to obtain patent protection for our product candidates and technologies is uncertain due to a number of factors, including:

- we may not have been the first to make the inventions covered by our pending patent applications or issued patents;
- we may not have been the first to file patent applications for our product candidates or the technologies we rely upon;
- others may independently develop similar or alternative technologies or duplicate any of our technologies;
- our disclosures in patent applications may not be sufficient to meet the statutory requirements for patentability;
- any or all of our pending patent applications may not result in issued patents;
- we may not seek or obtain patent protection in all countries that will eventually provide a significant business opportunity;
- any patents issued to us or our collaborators may not provide a basis for commercially viable products, may not provide us with any competitive advantages or may be challenged by third parties;
- our proprietary technologies may not be patentable;

- others may design around our patent claims to produce competitive products which fall outside of the scope of our patents; or
- others may identify prior art which could invalidate our patents.

Even if we have or obtain patents covering our product candidates or technologies, we may still be barred from making, using and selling our product candidates or technologies because of the patent rights of others. Others have or may have filed, and in the future are likely to file, patent applications covering compounds, assays, genes, gene products or therapeutic products that are similar or identical to ours. There are many issued U.S. and foreign patents relating to genes, nucleic acids, polypeptides, chemical compounds or therapeutic products, and some of these may encompass reagents utilized in the identification of candidate drug compounds or compounds that we desire to commercialize. Numerous U.S. and foreign issued patents and pending patent applications owned by others exist in the area of central nervous system disorders and the other fields in which we are developing products. These could materially affect our ability to develop our product candidates or sell our products. Because patent applications can take many years to issue, there may be currently pending applications, unknown to us, that may later result in issued patents that our product candidates or technologies may infringe. These patent applications may have priority over patent applications filed by us.

We regularly conduct searches to identify patents or patent applications that may prevent us from obtaining patent protection for our proprietary compounds or that could limit the rights we have claimed in our patents and patent applications. Disputes may arise regarding the ownership or inventorship of our inventions. It is difficult to determine how such disputes would be resolved. Others may challenge the validity of our patents. If our patents are found to be invalid, we will lose the ability to exclude others from making, using or selling the inventions claimed therein.

Some of our academic institutional licensors, research collaborators and scientific advisors have rights to publish data and information to which we have rights. If we cannot maintain the confidentiality of our technology and other confidential information in connection with our collaborations, then our ability to receive patent protection or protect our proprietary information will be impaired. Additionally, employees whose positions were eliminated in connection with restructurings may seek future employment with our competitors. Although each of our employees is required to sign a confidentiality agreement with us at the time of hire, we cannot guarantee that the confidential nature of our proprietary information will be maintained in the course of such future employment. In addition, technology that we may license in may become important to some aspects of our business. We generally will not control the patent prosecution, maintenance or enforcement of in-licensed technology.

Confidentiality agreements with employees and others may not adequately prevent disclosure of our trade secrets and other proprietary information and may not adequately protect our intellectual property, which could limit our ability to compete.

Because we operate in the highly technical field of drug discovery and development of small molecule drugs, we rely in part on trade secret protection in order to protect our proprietary technology and processes. However, trade secrets are difficult to protect. We enter into confidentiality and intellectual property assignment agreements with our corporate partners, employees, consultants, outside scientific collaborators, sponsored researchers, and other advisors. These agreements generally require that the other party keep confidential and not disclose to third parties all confidential information developed by the party or made known to the party by us during the course of the party's relationship with us. These agreements also generally provide that inventions conceived by the party in the course of rendering services to us will be our exclusive property. However, these agreements may not be honored and may not effectively assign intellectual property rights to us. Enforcing a claim that a party illegally obtained and is using our trade secrets is difficult, expensive and time consuming and the outcome is unpredictable. In addition, courts outside the United States may be less willing to protect trade secrets. The failure to obtain or maintain trade secret protection could adversely affect our competitive position. In addition, we have not entered into any noncompete agreements with any of our employees.

A dispute concerning the infringement or misappropriation of our proprietary rights or the proprietary rights of others could be time consuming and costly, and an unfavorable outcome could harm our business.

There is significant litigation in our industry regarding patent and other intellectual property rights. While we are not currently subject to any pending intellectual property litigation, and are not aware of any such threatened litigation, we may be exposed to future litigation by third parties based on claims that our product candidates, technologies or activities infringe the intellectual property rights of others. In particular, there are many patents relating to specific genes, nucleic acids, polypeptides or the uses thereof to identify product candidates. Some of these may encompass genes or polypeptides that we utilize in our drug development activities. If our drug development activities are found to infringe any such patents, we may have to pay significant damages or seek licenses to such patents. A patentee could prevent us from using the patented genes or polypeptides for the identification or development of drug compounds. There are also many patents relating to chemical compounds and the uses thereof. If our compounds are found to infringe any such patents, we may have to pay significant damages or seek licenses to such patents. A patentee could prevent us from making, using or selling the patented compounds. We may need to resort to litigation to enforce a patent issued to us, protect our trade secrets or determine the scope and validity of third-party proprietary rights. From time to time, we may hire scientific personnel formerly employed by other companies involved in one or more areas similar to the activities conducted by us. Either we or these individuals may be subject to allegations of trade secret misappropriation or other similar claims as a result of their prior affiliations. If we become involved in litigation, it could consume a substantial portion of our managerial and financial resources, regardless of whether we win or lose. We may not be able to afford the costs of litigation. Any legal action against us or our collaborators could lead to:

- payment of damages, potentially treble damages, if we are found to have willfully infringed a party's patent rights;
- injunctive or other equitable relief that may effectively block our ability to further develop, commercialize, and sell products; or
- we or our collaborators having to enter into license arrangements that may not be available on commercially acceptable terms, if at all.

As a result, we could be prevented from commercializing current or future products.

The patent applications of pharmaceutical and biotechnology companies involve highly complex legal and factual questions, which, if determined adversely to us, could negatively impact our patent position.

The patent positions of pharmaceutical and biotechnology companies can be highly uncertain and involve complex legal and factual questions. For example, some of our patent applications will cover gene sequences and products and the uses of those gene sequences and products. Public disclosures and patent applications related to the Human Genome Project and other genomics efforts may limit the scope of our claims or make unpatentable subsequent patent applications. No consistent policy regarding the breadth of claims allowed in biotechnology patents has emerged to date. The United States Patent and Trademark Office's standards are uncertain and could change in the future. Consequently, the issuance and scope of patents cannot be predicted with certainty. Patents, if issued, may be challenged, invalidated or circumvented. U.S. patents and patent applications may also be subject to interference proceedings, and U.S. patents may be subject to reexamination proceedings in the United States Patent and Trademark Office (and foreign patents may be subject to opposition or comparable proceedings in the corresponding foreign patent office), which proceedings could result in either loss of the patent or denial of the patent application or loss or reduction in the scope of one or more of the claims of the patent or patent application. In addition, such interference, reexamination and opposition proceedings may be costly. Accordingly, rights under any issued patents may not provide us with sufficient protection against competitive products or processes.

In addition, changes in or different interpretations of patent laws in the United States and foreign countries may permit others to use our discoveries or to develop and commercialize our technology and products without

providing any compensation to us or may limit the number of patents or claims we can obtain. The laws of some countries do not protect intellectual property rights to the same extent as U.S. laws and those countries may lack adequate rules and procedures for defending our intellectual property rights. For example, some countries, including many in Europe, do not grant patent claims directed to methods of treating humans and, in these countries, patent protection may not be available at all to protect our product candidates. In addition, U.S. patent laws may change which could prevent or limit us from filing patent applications or patent claims to protect our products and/or technologies.

If we fail to obtain and maintain patent protection and trade secret protection of our product candidates, proprietary technologies and their uses, we could lose our competitive advantage and competition we face would increase, reducing our potential revenues and adversely affecting our ability to attain or maintain profitability.

Risks Related to Our Industry

We will be subject to stringent regulation in connection with the marketing of any products derived from our product candidates, which could delay the development and commercialization of our products.

The pharmaceutical industry is subject to stringent regulation by the FDA and other regulatory agencies in the United States and by comparable authorities in other countries. Neither we nor our collaborators can market a pharmaceutical product in the United States until it has completed rigorous preclinical testing and clinical trials and an extensive regulatory clearance process implemented by the FDA. Satisfaction of regulatory requirements typically takes many years, depends upon the type, complexity and novelty of the product, and requires substantial resources. Even if regulatory approval is obtained, it may impose significant restrictions on the indicated uses, conditions for use, labeling, advertising, promotion, and/or marketing of such products, and requirements for post-approval studies, including additional research and development and clinical trials. These limitations may limit the size of the market for the product or result in the incurrence of additional costs. Any delay or failure in obtaining required approvals could have a material adverse effect on our ability to generate revenues from the particular product candidate.

Outside the United States, the ability to market a product is contingent upon receiving approval from the appropriate regulatory authorities. The requirements governing the conduct of clinical trials, marketing authorization, pricing, and reimbursement vary widely from country to country. Only after the appropriate regulatory authority is satisfied that adequate evidence of safety, quality, and efficacy has been presented will it grant a marketing authorization. Approval by the FDA does not automatically lead to the approval by regulatory authorities outside the United States and, similarly, approval by regulatory authorities outside the United States will not automatically lead to FDA approval.

In addition, U.S. and foreign government regulations control access to and use of some human or other tissue samples in our research and development efforts. U.S. and foreign government agencies may also impose restrictions on the use of data derived from human or other tissue samples. Accordingly, if we fail to comply with these regulations and restrictions, the commercialization of our product candidates may be delayed or suspended, which may delay or impede our ability to generate product revenues.

If our competitors develop and market products that are more effective than our product candidates, they may reduce or eliminate our commercial opportunity.

Competition in the pharmaceutical and biotechnology industries is intense and expected to increase. We face competition from pharmaceutical and biotechnology companies, as well as numerous academic and research institutions and governmental agencies, both in the United States and abroad. Some of these competitors have products or are pursuing the development of drugs that target the same diseases and conditions that are the focus of our drug development programs.

For example, our potential product for Parkinson's disease psychosis would compete with off-label use of antipsychotic drugs, including Seroquel, marketed by Astra-Zeneca, and with the generic drug clozapine. Our potential products for the treatment of schizophrenia would compete with Zyprexa, marketed by Eli Lilly, Fanapt to be marketed by Novartis Pharmaceuticals, Risperdal, marketed by Johnson & Johnson, Abilify, marketed jointly by Bristol-Myers Squibb and Otsuka Pharmaceutical, Seroquel, and clozapine. Our potential product for Alzheimer's disease psychosis would compete with off-label use of antipsychotic drugs. In the area of chronic pain, potential products would compete with Neurontin and Lyrica, marketed by Pfizer, and Cymbalta, marketed by Eli Lilly, as well as a variety of generic or proprietary opioids. Our potential products for the treatment of glaucoma would compete with Xalatan, marketed by Pfizer, and Lumigan and Alphagan, marketed by Allergan.

Many of our competitors and their collaborators have significantly greater experience than we do in the following:

- identifying and validating targets;
- screening compounds against targets;
- preclinical studies and clinical trials of potential pharmaceutical products; and
- obtaining FDA and other regulatory approvals.

In addition, many of our competitors and their collaborators have substantially greater capital and research and development resources, manufacturing, sales and marketing capabilities, and production facilities. Smaller companies also may prove to be significant competitors, particularly through proprietary research discoveries and collaboration arrangements with large pharmaceutical and established biotechnology companies. Many of our competitors have products that have been approved or are in advanced development and may develop superior technologies or methods to identify and validate drug targets and to discover novel small molecule drugs. Our competitors, either alone or with their collaborators, may succeed in developing drugs that are more effective, safer, more affordable, or more easily administered than ours and may achieve patent protection or commercialize drugs sooner than us. Our competitors may also develop alternative therapies that could further limit the market for any drugs that we may develop. Our failure to compete effectively could have a material adverse affect on our business.

Any claims relating to improper handling, storage, or disposal of biological, hazardous, and radioactive materials used in our business could be costly and delay our research and development efforts.

Our research and development activities involve the controlled use of potentially harmful hazardous materials, including volatile solvents, biological materials such as blood from patients that has the potential to transmit disease, chemicals that cause cancer, and various radioactive compounds. Our operations also produce hazardous waste products. We face the risk of contamination or injury from the use, storage, handling or disposal of these materials. We are subject to federal, state and local laws and regulations governing the use, storage, handling, and disposal of these materials and specified waste products. The cost of compliance with these laws and regulations could be significant, and current or future environmental regulations may impair our research, development, or production efforts. If one of our employees were accidentally injured from the use, storage, handling, or disposal of these materials, the medical costs related to his or her treatment would be covered by our workers' compensation insurance policy. However, we do not carry specific biological or hazardous waste insurance coverage and our general liability insurance policy specifically excludes coverage for damages and fines arising from biological or hazardous waste exposure or contamination. Accordingly, in the event of contamination or injury, we could be subject to criminal sanctions or fines or be held liable for damages, our operating licenses could be revoked, or we could be required to suspend or modify our operations and our research and development efforts.

Consumers may sue us for product liability, which could result in substantial liabilities that exceed our available resources and damage our reputation.

Researching, developing, and commercializing drug products entails significant product liability risks. Liability claims may arise from our and our collaborators' use of products in clinical trials and the commercial sale of those products. Consumers may make these claims directly and our collaborators or others selling these products may seek contribution from us if they receive claims from consumers. Although we currently have product liability insurance that covers our clinical trials, we will need to increase and expand this coverage as we commence larger scale trials and if our product candidates are approved for commercial sale. This insurance may be prohibitively expensive or may not fully cover our potential liabilities. Inability to obtain sufficient insurance coverage at an acceptable cost or otherwise to protect against potential product liability claims could prevent or inhibit the commercialization of products that we or our collaborators develop. Product liability claims could have a material adverse effect on our business and results of operations. Our liability could exceed our total assets if we do not prevail in a lawsuit from any injury caused by our drug products.

Risks Related to Our Common Stock

Our stock price may be particularly volatile because we are a drug discovery and development company.

The market prices for securities of biotechnology companies in general, and drug discovery and development companies in particular, have been highly volatile and may continue to be highly volatile in the future. The following factors, in addition to other risk factors described in this section, may have a significant impact on the market price of our common stock:

- the development status of our product candidates, including results of our clinical trials for pimavanserin or our chronic pain and glaucoma collaborations;
- the initiation, termination, or reduction in the scope of our collaborations or any disputes or developments regarding these collaborations;
- market conditions or trends related to biotechnology and pharmaceutical industries, or the market in general;
- announcements of technological innovations, new commercial products, or other material events by our competitors or us;
- disputes or other developments concerning our proprietary rights;
- changes in, or failure to meet, securities analysts' or investors' expectations of our financial performance;
- additions or departures of key personnel;
- discussions of our business, products, financial performance, prospects, or stock price by the financial and scientific press and online investor communities such as chat rooms;
- public concern as to, and legislative action with respect to, genetic testing or other research areas of biopharmaceutical companies, the pricing and availability of prescription drugs, or the safety of drugs and drug delivery techniques;
- regulatory developments in the United States and in foreign countries;
- the announcement of, or developments in, any litigation matters; or
- economic and political factors, including but not limited to economic and financial crises, wars, terrorism, and political unrest.

In particular, our development programs with pimavanserin encompass a number of studies, including Phase III trials, open-label safety extension trials and a range of supporting studies, including carcinogenicity

studies, and drug-drug interaction studies. Another unfavorable outcome in one or more of the studies in the development of pimavanserin could be a major set-back for our collaboration with Biovail and for our company, generally. Such an unfavorable outcome could have a material adverse effect on our company and the value of our common stock.

In the past, following periods of volatility in the market price of a particular company's securities, securities class action litigation has often been brought against that company. We may become subject to this type of litigation, which is often extremely expensive and diverts management's attention.

If our officers, directors, and largest stockholders choose to act together, they may be able to significantly influence our management and operations, acting in their best interests and not necessarily those of our other stockholders.

Our directors, executive officers and holders of five percent or more of our outstanding common stock and their affiliates beneficially own a substantial portion of our outstanding common stock. As a result, these stockholders, acting together, have the ability to significantly influence all matters requiring approval by our stockholders, including the election of all of our board members, amendments to our certificate of incorporation, going-private transactions, and the approval of mergers or other business combination transactions. The interests of this group of stockholders may not always coincide with the company's interests or the interests of other stockholders and they may act in a manner that advances their best interests and not necessarily those of our other stockholders.

If we or our stockholders sell substantial amounts of our common stock, the market price of our common stock may decline.

A significant number of shares of our common stock are held by a small number of stockholders. Sales of a significant number of shares of our common stock, or the expectation that such sales may occur, could significantly reduce the market price of our common stock. Holders of a significant number of shares of our common stock, from investments made when we were a private company, have rights to cause us to file a registration statement on their behalf or include their shares in registration statements that we may file on our behalf or on behalf of other stockholders. Additionally, in connection with the CEFF, we filed a registration statement with the SEC to register the resale of up to a total of approximately 7.4 million shares of our common stock that may be issued pursuant to the CEFF or upon exercise of the warrant we issued in connection with establishing the CEFF. In addition, we have filed a registration statement to sell shares of our common stock on our own behalf, which registration statement was declared effective by the SEC on August 18, 2009, and may elect to sell shares pursuant to such registration from time to time. Our stock price may decline as a result of the sale of the shares of our common stock included in any of these registration statements.

Anti-takeover provisions in our charter documents and under Delaware law may make an acquisition of us more complicated and may make the removal and replacement of our directors and management more difficult.

Our amended and restated certificate of incorporation and amended and restated bylaws contain provisions that may delay or prevent a change in control, discourage bids at a premium over the market price of our common stock and adversely affect the market price of our common stock and the voting and other rights of the holders of our common stock. These provisions may also make it difficult for stockholders to remove and replace our board of directors and management. These provisions:

- establish that members of the board of directors may be removed only for cause upon the affirmative vote of stockholders owning at least a majority of our capital stock;
- authorize the issuance of "blank check" preferred stock that could be issued by our board of directors to increase the number of outstanding shares and prevent or delay a takeover attempt;

- limit who may call a special meeting of stockholders;
- establish advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted upon at stockholder meetings;
- prohibit our stockholders from making certain changes to our amended and restated certificate of incorporation or amended and restated bylaws except with 66 2/3 percent stockholder approval; and
- provide for a board of directors with staggered terms.

We are also subject to provisions of the Delaware corporation law that, in general, prohibit any business combination with a beneficial owner of 15 percent or more of our common stock for 3 years unless the holder's acquisition of our stock was approved in advance by our board of directors. Although we believe these provisions collectively provide for an opportunity to receive higher bids by requiring potential acquirors to negotiate with our board of directors, they would apply even if the offer may be considered beneficial by some stockholders.

Adverse securities and credit market conditions have reduced our market capitalization and may significantly affect our ability to raise capital.

Turmoil in the financial markets has adversely affected the market capitalizations of many biotechnology companies, including us, and generally made equity and debt financing more difficult to obtain. This, coupled with other factors, may limit access to financing over the near-term future. This could have a material adverse effect on our ability to access funding pursuant to our CEFF or from other sources on acceptable terms, or at all, and our stock price may suffer further as a result.

If the price of our common stock trades below $1.00 per share for a sustained period, our common stock may be delisted from the Nasdaq Global Market.

The Nasdaq Global Market imposes, among other requirements, listing maintenance standards as well as minimum bid and public float requirements. In particular, Nasdaq rules require us to maintain a minimum bid price of $1.00 per share of our common stock. Our stock did trade below $1.00 per share in 2009. If the closing bid price of our common stock is below $1.00 per share for 30 consecutive trading days, we would fail to be in compliance with Nasdaq's continued listing standards and, if we are unable to cure the non-compliance within 180 days, our common stock may be delisted from the Nasdaq Global Market and we may not be able to maintain the continued listing of our common stock on the Nasdaq Global Market. Delisting could adversely affect the market liquidity of our common stock and the market price of our common stock could decrease. Such delisting could also adversely affect our ability to obtain financing for the continuation of our operations.

Item 1B. ***Unresolved Staff Comments.***

This item is not applicable.

Item 2. ***Properties.***

Our primary facilities consist of approximately 29,000 square feet of leased research and office space located in San Diego, California, following an amendment in January 2010 to exit 24,000 square feet of rental space. The 29,000 square feet is leased through the end of 2012, with options to extend and a right to early terminate the lease. We also lease another facility in San Diego that covers approximately 8,000 square feet of laboratory, office, and other space. That lease runs through November 2010, with an option to extend. We have leased approximately 30,000 square feet of chemistry research and development space in a single facility in Malmö, Sweden. Our Swedish lease commenced in June 2005 and has a ten-year term with a five-year renewal provision. We believe that our existing facilities are adequate for our current needs.

Item 3. ***Legal Proceedings.***

This item is not applicable.

Item 4. ***(Removed and Reserved).***

PART II

Item 5. ***Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.***

(a) Our common stock is traded on the NASDAQ Global Market under the symbol "ACAD". The following table sets forth the high and low sale prices for our common stock as reported on the NASDAQ Global Market for the periods indicated.

2008	High	Low
First Quarter	$13.46	$7.63
Second Quarter	$ 9.86	$3.55
Third Quarter	$ 3.99	$2.30
Fourth Quarter	$ 2.89	$0.72
2009		
First Quarter	$ 1.26	$0.75
Second Quarter	$ 2.97	$0.88
Third Quarter	$ 6.60	$1.66
Fourth Quarter	$ 2.08	$1.16

As of March 1, 2010, there were approximately 54 stockholders of record of our common stock. We have not paid any cash dividends to date and do not anticipate any being paid in the foreseeable future.

Item 6. ***Selected Financial Data.***

The following data has been derived from our audited financial statements, including the consolidated balance sheet at December 31, 2009 and 2008 and the related consolidated statements of operations for the three years ended December 31, 2009 and related notes appearing elsewhere in this report. The statement of operations data for the years ended December 31, 2006 and 2005 and the balance sheet data as of December 31, 2007, 2006 and 2005 are derived from our audited consolidated financial statements that are not included in this report. You should read the selected financial data set forth below in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes included elsewhere in this report.

	Years Ended December 31,				
	2009	2008	2007	2006	2005
	(In thousands, except per share data)				
Consolidated Statement of Operations Data:					
Revenues:					
Collaborative revenues	$ 6,399	$ 1,590	$ 7,555	$ 8,133	$ 10,956
Operating expenses:					
Research and development	41,585	56,750	57,942	49,398	30,336
General and administrative	10,282	11,818	12,267	11,349	10,205
Provision for loss from (settlement of) litigation	—	—	—	(3,560)	6,221
Total operating expenses	51,867	68,568	70,209	57,187	46,762
Loss from operations	(45,468)	(66,978)	(62,654)	(49,054)	(35,806)
Interest income	409	2,915	6,532	4,153	1,851
Interest expense	(86)	(181)	(268)	(198)	(180)
Loss before change in accounting principle	(45,145)	(64,244)	(56,390)	(45,099)	(34,135)
Cumulative effect of change in accounting principle	—	—	—	51	—
Net loss	$(45,145)	$(64,244)	$(56,390)	$(45,048)	$(34,135)
Net loss per common share, basic and diluted	$ (1.20)	$ (1.73)	$ (1.60)	$ (1.61)	$ (1.55)
Weighted average shares used in computing net loss per common share, basic and diluted	37,476	37,113	35,211	27,923	22,014

	At December 31,				
	2009	2008	2007	2006	2005
			(in thousands)		
Consolidated Balance Sheet Data:					
Cash, cash equivalents and investment securities	$47,060	$60,083	$ 126,858	$83,255	$ 55,521
Working capital	33,766	51,331	111,966	65,249	38,424
Total assets	49,680	64,677	134,584	89,544	62,506
Long-term debt, less current portion	98	430	1,156	1,379	892
Total stockholders' equity	12,114	52,992	113,934	67,159	39,371

Item 7. ***Management's Discussion and Analysis of Financial Condition and Results of Operations.***

The following discussion and analysis of our consolidated financial condition and results of operations should be read in conjunction with our consolidated financial statements and related notes included elsewhere in this report. Past operating results are not necessarily indicative of results that may occur in future periods. This discussion contains forward-looking statements, which involve a number of risks and uncertainties. Such forward-looking statements include statements about our strategies, objectives, expectations, discoveries, collaborations, clinical trials, proprietary and external programs, and other statements that are not historical facts, including statements which may be preceded by the words "believes," "expects," "hopes," "may," "will,"

"plans," "intends," "estimates," "could," "should," "would," "continue," "seeks," "aims," "projects," "predicts," "pro forma," "anticipates," "potential" or similar words. For forward-looking statements, we claim the protection of the Private Securities Litigation Reform Act of 1995. Readers of this report are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date on which they are made. We undertake no obligation to update or revise publicly any forward-looking statements. Forward-looking statements are not guarantees of performance. Actual results or events may differ materially from those anticipated in our forward-looking statements as a result of various factors, including those set forth under the section captioned "Risk Factors" elsewhere in this report. Information in the following discussion for a yearly period means for the year ended December 31 of the indicated year.

Overview

Background

We are a biopharmaceutical company focused on the development and commercialization of small molecule drugs for the treatment of central nervous system disorders. We currently are developing a portfolio consisting of our four most advanced product candidates including pimavanserin, which we are developing for three separate neurological and psychiatric indications in collaboration with Biovail. These indications are Parkinson's disease psychosis, which is in Phase III development, adjunctive therapy for schizophrenia, for which Biovail is planning to initiate a Phase III trial in mid-2010, and Alzheimer's disease psychosis, for which we are planning to initiate a Phase II feasibility study in the third quarter of 2010. In addition to our pimavanserin programs, we have a product candidate in Phase II development for chronic pain and a product candidate in Phase I development for glaucoma, both in collaboration with Allergan, and a program in IND-track development in collaboration with Meiji Seika. All of the product candidates in our pipeline emanate from discoveries made using our proprietary drug discovery platform.

We have incurred substantial operating losses since our inception due in large part to expenditures for our research and development activities. In October 2009, we implemented a restructuring designed to streamline our operations, reduce our operating expenses and extend our cash runway. In connection with this restructuring, we reduced our total workforce by about half. As of December 31, 2009, we had an accumulated deficit of $339.2 million. Although we have reduced our internal operating expenses significantly in connection with the restructuring, we expect our operating losses to continue for at least the next several years as we pursue clinical development of our product candidates.

Revenues

We have not generated any revenues from product sales to date, and we do not expect to generate revenues from product sales for at least the next several years, if at all. Our revenues to date have been generated substantially from payments under our current and past collaboration agreements. As of December 31, 2009, we had received an aggregate of $93.9 million in payments under these agreements, including upfront payments, research funding, and milestone payments. We expect our revenues for the next several years to consist primarily of revenues derived from payments under our current agreements with Biovail, Allergan, and Meiji Seika and potential additional collaborations.

In May 2009, we entered into a collaboration agreement with Biovail, pursuant to which we received a $30 million upfront payment. Under the terms of the agreement, we are eligible to receive additional payments of up to an aggregate of $365 million upon successfully achieving development, regulatory and sales milestones, subject to certain offsets for up to 50 percent of the costs of successful Parkinson's disease psychosis trials. We also are entitled to receive royalties on annual net sales of pimavanserin, if any, in the United States and Canada. Our agreement with Biovail is subject to early termination upon specified events.

We currently are a party to three separate collaboration agreements with Allergan. Pursuant to our March 2003 collaboration agreement with Allergan, we had received an aggregate of $16.4 million in payments as of

December 31, 2009, consisting of an upfront payment, research funding and related fees. This collaboration originally provided for a three-year research term, which has been extended by the parties through March 2010. We have had a reduced level of research activities and related research funding under this collaboration during the extension. In our two other collaboration agreements with Allergan, the parties are pursuing the development of product candidates in the areas of chronic pain and glaucoma. We are eligible to receive payments upon achievement of development and regulatory milestones, as well as royalties on product sales, if any, under each of our three collaboration agreements with Allergan. Each of our agreements with Allergan is subject to early termination upon specified events, including, in the case of one of our agreements, if we have a change in control. Upon the conclusion of the research term under each agreement, Allergan may terminate the agreement by notice.

In March 2009, we entered into a collaboration agreement with Meiji Seika, pursuant to which we received an aggregate of $2 million in license fees in April 2009. Under the agreement, we are eligible to receive up to $25 million in aggregate payments, including $3 million in license fees and up to $22 million in potential development and regulatory milestones, as well as royalties on product sales, if any, in the Asian territory. Meiji Seika also is responsible for the first $15 million of development expenses and we will share the remaining expenses through clinical proof-of-concept, subject to possible adjustment in the event we further license the program outside of the Asian territory. Our agreement with Meiji Seika is subject to early termination upon specified events.

Research and Development Expenses

Our research and development expenses consist primarily of fees paid to external service providers, salaries and related personnel expenses, facilities and equipment expenses, and other costs. We charge all research and development expenses to operations as incurred. Our research and development activities are primarily focused on our most advanced product candidates, including pimavanserin.

Prior to our collaboration with Biovail, which we established in May 2009, we were responsible for all costs incurred in the development of pimavanserin as well as the costs associated with our other internal programs. Pursuant to the collaboration agreement, Biovail is responsible for all future costs associated with the development of pimavanserin in all indications with the exception of specified Parkinson's disease psychosis study costs and costs of a planned Alzheimer's disease psychosis feasibility study, which will be funded by us. The Parkinson's disease psychosis studies funded by us include our -014 Study and open-label safety extension studies. From time to time, we have coordinated and we expect to continue to coordinate certain other external development services pursuant to the collaboration, which Biovail is responsible for funding, including the new Phase III Parkinson's disease psychosis study expected to start around mid-2010. Accordingly, we incur the related development costs for these external services and receive reimbursement of these costs by Biovail.

Pursuant to our collaboration with Meiji Seika, which we established in March 2009, Meiji Seika is responsible for the first $15 million of development expenses for the product candidate, AM-831, and we and Meiji Seika will share remaining expenses through clinical proof-of-concept, subject to possible adjustment. We expect to coordinate a significant portion of the planned external development services and, accordingly, we will incur the related development costs for these external services and receive reimbursement of Meiji Seika's portion of these costs pursuant to the agreement. Meiji Seika is responsible for all costs associated with the development of AM-831 in the Asian territory. We are not responsible for, nor have we incurred, development expenses, including costs related to clinical trials, in our clinical programs for chronic pain and glaucoma, which we are pursuing in collaboration with Allergan.

We use external service providers to manufacture our product candidates to be used in clinical trials and for the majority of the services performed in connection with the preclinical and clinical development of our product candidates. We have used our internal research and development resources, including our employees and discovery infrastructure, across several projects and many of our costs have not been attributable to a specific

project but were directed to broadly applicable research activities. Accordingly, we have not reported our internal research and development costs on a project basis. Our internal research and development expenses decreased significantly during 2009 compared to 2008 primarily due to restructurings and related workforce reductions implemented in August 2008 and in October 2009. To the extent that external expenses are not attributable to a specific project, they are included in other external costs. The following table summarizes our research and development expenses for the years ended December 31, 2009, 2008, and 2007 (in thousands):

	Years Ended December 31,		
	2009	2008	2007
Costs of external service providers:			
Pimavanserin	$ 27,079	$ 27,189	$ 10,932
ACP-104 (1)	15	2,658	16,480
AM-831 and other	807	2,251	1,604
Subtotal	27,901	32,098	29,016
Internal costs	12,810	23,327	26,205
Stock-based compensation	874	1,325	2,721
Total research and development	$ 41,585	$ 56,750	$ 57,942

(1) ACP-104 was a product candidate that we were previously developing.

At this time, due to the risks inherent in the clinical trial process and given the stage of development of our programs, we are unable to estimate with any certainty the costs we will incur for the continued development of our product candidates for potential commercialization. Due to these same factors, we are unable to determine the anticipated completion dates for our current research and development programs. Clinical development timelines, probability of success, and development costs vary widely. While our current focus is primarily on advancing the clinical development of pimavanserin, we anticipate that we will make determinations as to which programs to pursue and how much funding to direct to each program on an ongoing basis in response to the scientific and clinical success of each product candidate, as well as an ongoing assessment of each product candidate's commercial potential and our financial position. We cannot forecast with any degree of certainty when and to what extent we will receive cash inflows, if any, from the development or commercialization of pimavanserin pursuant to our agreement with Biovail or the extent to which the parties will have to reimburse each other for certain clinical trial costs pursuant to the agreement. We also cannot forecast with any degree of certainty which product candidates will be subject to future collaborative or licensing arrangements, when such arrangements will be secured, if at all, and to what degree such arrangements would affect our development plans and capital requirements.

We expect our external research and development expenses to continue to be substantial as we pursue the development of pimavanserin and our other product candidates. The lengthy process of completing clinical trials and seeking regulatory approval for our product candidates requires the expenditure of substantial resources. Any failure by us or delay in completing clinical trials, or in obtaining regulatory approvals could cause our research and development expenses to increase and, in turn, have a material adverse effect on our results of operations.

General and Administrative Expenses

Our general and administrative expenses have consisted primarily of salaries and other costs for employees serving in executive, finance, business development, and business operations functions, as well as professional fees associated with legal and accounting services, and costs associated with patents and patent applications for our intellectual property.

Critical Accounting Policies and Estimates

Our discussion and analysis of our financial condition and results of operations is based on our consolidated financial statements. We have identified the accounting policies that we believe require application of management's most subjective judgments, often requiring the need to make estimates about the effect of matters that are inherently uncertain and may change in subsequent periods. Our actual results may differ substantially from these estimates under different assumptions or conditions. While our significant accounting policies are described in more detail in the notes to consolidated financial statements included in this report, we believe that the following accounting policies require the application of significant judgments and estimates.

Revenue Recognition

We recognize revenues in accordance with authoritative guidance established by U.S. GAAP. Our revenues are primarily related to our collaboration agreements, which may provide for various types of payments to us, including upfront payments, funding of research and development, milestone payments, and licensing fees. Our collaboration agreements also include potential payments for product royalties and commercial co-promotion, however, we have not received revenue from these two sources to date.

We consider a variety of factors in determining the appropriate method of accounting under our collaboration agreements, including whether the various elements can be separated and accounted for individually as separate units of accounting. Where there are multiple deliverables identified within a collaboration agreement that are combined into a single unit of accounting, revenues are deferred and recognized over the expected period of performance. The specific methodology for the recognition of the revenue is determined on a case-by-case basis according to the facts and circumstances applicable to each agreement.

Upfront, non-refundable payments that do not have stand-alone value are recorded as deferred revenue once received and recognized as revenues over the expected period of performance. Revenues from non-refundable license fees are recognized upon receipt of the payment if the license has stand-alone value, we do not have ongoing involvement or obligations, and the fair value of any undelivered items can be determined. Non-refundable payments for research funding are generally recognized as revenues over the period as the related research activities are performed. Payments for reimbursement of external development costs are generally recognized as revenues using a contingency-adjusted performance model over the expected period of performance based on the nature of the related agreement.

We assess milestone payments on an individual basis and recognize revenues from non-refundable milestone payments when the earnings process is complete and the payment is reasonably assured. Non-refundable milestone payments related to arrangements under which we have continuing performance obligations are recognized as revenue upon achievement of the associated milestone, provided that (i) the milestone event is substantive and its achievability was not reasonably assured at the inception of the agreement and (ii) the amount of the milestone payment is reasonable in relation to the effort expended or the risk associated with the milestone event. Where separate milestone payments do not meet these criteria, we typically recognize revenue using a contingency-adjusted performance model over the period of performance.

Accrued Expenses

We are required to estimate accrued expenses as part of our process of preparing financial statements. Examples of areas in which subjective judgments may be required include costs associated with services provided by contract organizations for preclinical development, manufacturing of clinical materials, and clinical trials. We accrue for costs incurred as the services are being provided by monitoring the status of the trials or services provided, and the invoices received from our external service providers. In the case of clinical trials, a portion of the cost normally relates to the projected cost to treat a patient in our trials and we recognize this cost over the estimated term of the study based on the number of patients enrolled in the trial on an ongoing basis,

beginning with patient enrollment. As actual costs become known to us, we adjust our accruals. To date, our estimates have not differed significantly from the actual costs incurred. However, subsequent changes in estimates may result in a material change in our accruals, which could also materially affect our balance sheet and results of operations.

Stock-Based Compensation

The fair value of each employee stock option and each employee stock purchase right granted is estimated on the grant date under the fair value method using the Black-Scholes model. The estimated fair values of the stock option or purchase rights, including the effect of estimated forfeitures, are then expensed over the vesting period. As of December 31, 2009, total unrecognized compensation cost related to stock options and purchase rights was approximately $1.9 million, and the weighted average period over which this cost is expected to be recognized is 2.0 years.

Stock-based awards issued to non-employees other than directors are accounted for using a fair value method and are re-measured to fair value at each period end until the earlier of the date that performance by the non-employee is complete or a performance commitment has been obtained. The fair value of each non-employee award is estimated using the Black-Scholes model.

Results of Operations

Fluctuations in Operating Results

Our results of operations have fluctuated significantly from period to period in the past and are likely to continue to do so in the future. We anticipate that our quarterly and annual results of operations will be impacted for the foreseeable future by several factors, including the timing and amount of payments received pursuant to our current and potential future collaborations, and the progress and timing of expenditures related to our development efforts. Due to these fluctuations, we believe that the period-to-period comparisons of our operating results are not a good indication of our future performance.

Comparison of the Years Ended December 31, 2009 and 2008

Revenues

Revenues totaled $6.4 million in 2009 compared to $1.6 million in 2008. The increase was primarily due to $4.6 million in revenues recognized under our collaboration with Biovail, which commenced in May 2009. Revenues from our collaborations with Allergan totaled $1.1 million in 2009 compared to $1.0 million in 2008. Revenues from our agreements with other parties, including our collaboration with Meiji Seika, which commenced in March 2009, totaled $714,000 in 2009 compared to $578,000 in 2008.

Research and Development Expenses

Research and development expenses totaled $41.6 million in 2009, including $874,000 in stock-based compensation, compared to $56.8 million in 2008, including $1.3 million in stock-based compensation. The decrease in research and development expenses was primarily due to $11.0 million in decreased costs associated with our internal research and development organization and $4.2 million in lower external service costs. The decrease in internal research and development costs was primarily attributable to $7.6 million in decreased salaries and related personnel costs, and decreases in laboratory supply, equipment and other costs largely resulting from the restructuring and related workforce reductions implemented in August 2008 and, to a lesser degree, from a second restructuring and related workforce reductions implemented in October 2009. Salaries and related personnel costs for the year ended December 31, 2009 included a charge of $905,000 in connection with workforce reductions from the October 2009 restructuring. Salaries and related personnel costs for the year ended December 31, 2008 included a charge of $1.7 million in connection with workforce reductions from the August

2008 restructuring. External service costs totaled $27.9 million, or 67 percent of our research and development expenses in 2009, compared to $32.1 million, or 57 percent of our research and development expenses in 2008. The decrease in external expenses was largely attributable to decreased development costs for ACP-104 and other programs.

General and Administrative Expenses

General and administrative expenses totaled $10.3 million in 2009, including $1.3 million in stock-based compensation, compared to $11.8 million in 2008, including $1.7 million in stock-based compensation. The decrease in general and administrative expenses was primarily due to $1.3 million in decreased salaries and related personnel costs resulting from our August 2008 restructuring and related workforce reductions. Salaries and related personnel costs for the year ended December 31, 2009 included a charge of $382,000 in connection with workforce reductions from the October 2009 restructuring. Salaries and related personnel costs for the year ended December 31, 2008 included a charge of $454,000 in connection with workforce reductions from the August 2008 restructuring.

Interest Income

Interest income decreased to $409,000 in 2009 from $2.9 million in 2008. The decrease in interest income was due to decreased yields on our investment security portfolio and lower average levels of cash and investment securities.

Comparison of the Years Ended December 31, 2008 and 2007

Revenues

Revenues totaled $1.6 million in 2008 compared to $7.6 million in 2007. The decrease in revenues was primarily due to the completion of our agreements with Sepracor and The Stanley Medical Research Institute, as well as lower revenues from our collaborations with Allergan and smaller scale research and license agreements with other parties. Revenues from our agreement with Sepracor totaled $91,000 in 2008 compared to $3.4 million in 2007. Revenues from our agreement with Stanley Medical , which ended in May 2007, totaled $1.0 million in 2007. Revenues from our collaborations with Allergan totaled $1.0 million in 2008 compared to $1.6 million in 2007. Revenues from other research and license agreements totaled $487,000 in 2008 compared to $1.6 million in 2007.

Research and Development Expenses

Research and development expenses totaled $56.8 million in 2008, including $1.3 million in stock-based compensation, compared to $57.9 million in 2007, including $2.7 million in stock-based compensation. The decrease in research and development expenses was primarily due to $2.9 million in decreased costs associated with our internal research and development organization and lower stock-based compensation, offset by $3.1 million in increased external service costs. The decrease in internal research and development costs was primarily attributable to $1.2 million in decreased salaries and related personnel costs, $1.1 million in decreased laboratory supply costs, and decreases in equipment and other costs. The decrease in salaries and related personnel costs was net of a $1.7 million charge recorded during the third quarter of 2008 in connection with workforce reductions from our August 2008 restructuring. External service costs totaled $32.1 million, or 57 percent of our research and development expenses in 2008, compared to $29.0 million, or 50 percent of our research and development expenses in 2007. The increase in external expenses was largely attributable to increased clinical development costs for pimavanserin offset, in part, by reduced costs for ACP-104.

General and Administrative Expenses

General and administrative expenses totaled $11.8 million in 2008, including $1.7 million in stock-based compensation, compared to $12.3 million in 2007, including $1.6 million in stock-based compensation. The

decrease in general and administrative expenses was primarily due to decreased professional fees and other administrative costs, partially offset by increased salaries and related personnel costs. The increases in salaries and related personnel costs were primarily attributable to a charge of $454,000 recorded during the third quarter of 2008 in connection with workforce reductions from our August 2008 restructuring.

Interest Income

Interest income decreased to $2.9 million in 2008 from $6.5 million in 2007. The decrease in interest income was due to lower average levels of cash and investment securities and decreased yields on our investment security portfolio during 2008.

Liquidity and Capital Resources

Since inception, we have funded our operations primarily through sales of our equity securities, payments received under our collaboration agreements, debt financings, and interest income. As of December 31, 2009, we had received $326.7 million in net proceeds from sales of our equity securities, including $6.9 million in debt we had retired through the issuance of our common stock, $93.9 million in payments from collaboration agreements, $22.4 million in debt financing, and $22.0 million in interest income.

At December 31, 2009, we had approximately $47.1 million in cash, cash equivalents and investment securities compared to $60.1 million at December 31, 2008. We have consumed substantial amounts of capital since our inception. In October 2009, we implemented a restructuring designed to streamline our operations, reduce our internal operating expenses, and extend our cash runway. In connection with the restructuring, we reduced our total workforce by about half and have reduced our internal operating expenses significantly. We anticipate that our cash, cash equivalents and investment securities and anticipated payments from our collaborations will be sufficient to fund our operations through December 31, 2011.

We will require significant additional financing in the future to fund our operations. Our future capital requirements will depend on, and could increase significantly as a result of, many factors, including:

- progress in, and the costs of, our clinical trials, preclinical studies and other research and development programs;
- the scope, prioritization and number of research and development programs;
- the ability of our collaborators and us to reach the milestones, and other events or developments, under our collaboration agreements;
- the extent to which we are obligated to reimburse our collaborators or our collaborators are obligated to reimburse us for clinical trial costs under our collaboration agreements;
- the costs involved in filing, prosecuting, enforcing and defending patent claims and other intellectual property rights;
- the costs of securing manufacturing arrangements for clinical or commercial production of product candidates; and
- the costs of establishing, or contracting for, sales and marketing capabilities if we obtain regulatory clearances to market our product candidates.

Until we can generate significant continuing revenues, we expect to satisfy our future cash needs through strategic collaborations, private or public sales of our securities, debt financings, or by licensing all or a portion of our product candidates or technology. In August 2008, we entered into a Committed Equity Financing Facility, or CEFF, which provides us with access, at our discretion, to capital during a three-year period through the sale of newly-issued shares of our common stock. The funds that can be raised under the CEFF, if available, will

depend on the then-current price of our common stock and the number of shares actually sold, which may not exceed an aggregate of approximately 7 million shares. The aggregate amount raised under the CEFF may not exceed $60 million. We may access capital under the CEFF in tranches of up to a maximum of between 2.0 and 3.5 percent of our market capitalization at the time of the draw down of each tranche, subject to certain conditions, including a minimum share price threshold of $1.50. In October 2009, we completed our only draw down under the CEFF to date in which we raised $1.2 million through the issuance of 785,271 shares of our common stock.

We cannot be certain that funding will be available to us on acceptable terms, or at all. Turmoil in the financial markets has adversely affected the market capitalizations of many biotechnology companies and generally made equity and debt financing more difficult to obtain. This, coupled with other factors, may limit access to additional financing over the near-term future. In particular, given the current market conditions, the disappointing results from our first Phase III Parkinson's disease psychosis trial with pimavanserin, which we announced on September 1, 2009, and any unfavorable outcome over the next two years in our development of pimavanserin could have a material adverse effect on our ability to raise additional capital. To the extent that the average price of our common stock is below the minimum share price of $1.50, we will not be able to raise money under the CEFF.

If we cannot raise adequate additional capital in the future under the CEFF or from other sources, we will be required to delay, further reduce the scope of, or eliminate one or more of our research or development programs or our commercialization efforts. We also may be required to relinquish greater or all rights to product candidates at an earlier stage of development or on less favorable terms than we would otherwise choose. In addition, in connection with our restructurings, we have reduced the scope of our research and development activities, and we may be required to further reduce the scope of our research and development activities in the future. This may lead to an impairment of our equipment and additional charges, which could materially affect our balance sheet and results of operations.

We have invested a substantial portion of our available cash in a money market fund invested in securities of government sponsored enterprises, or GSEs, and securities collateralized by GSEs, U.S. Treasury notes, and high quality, marketable debt instruments of GSEs. We have adopted an investment policy and established guidelines relating to credit quality, diversification and maturities of our investments to preserve principal and maintain liquidity. All investment securities have a credit rating of at least AA or A1+/P1 as determined by Moody's Investors Service and/or Standard & Poor's. We do not have any direct investments in auction-rate securities or securities that are collateralized by assets that include mortgages or subprime debt. Our investment portfolio has not been adversely impacted by the disruption in the credit markets. However, if there is continued and expanded disruption in the credit markets, there can be no assurance that our investment portfolio will not be adversely affected in the future.

Net cash used in operating activities totaled $13.7 million in 2009 compared to $64.9 million in 2008 and $54.9 million in 2007. The decrease in cash used in operating activities in 2009 relative to 2008 was primarily due to a decrease in our net loss and changes in operating assets and liabilities, including an increase in deferred revenue of $28.2 million in 2009 compared to a decrease of $268,000 in 2008, offset in part by a smaller aggregate decrease in accrued expenses and accounts payable. The increase in deferred revenue in 2009 was primarily attributable to the upfront payment received from our collaboration with Biovail and initial licensing fees received from our collaboration with Meiji Seika, offset by initial revenues recognized pursuant to these agreements. Accrued expenses and accounts payable decreased by an aggregate of $1.6 million in 2009 compared to an aggregate decrease of $7.4 million in 2008. These decreases were primarily due to payments made for external service costs related to our clinical trials, the timing and amount of which may fluctuate significantly from period to period.

The increase in cash used in operating activities in 2008 relative to 2007 was primarily due to an increase in our net loss and changes in operating assets and liabilities, including decreases in accrued expenses and accounts

payable, offset in part by a decrease in prepaid expenses, receivables and other current assets. Accrued expenses and accounts payable decreased by an aggregate of $7.4 million in 2008 compared to an aggregate increase of $598,000 in 2007. The decrease in 2008 was primarily due to payments made for external service costs related to our clinical trials, which had been incurred in 2007. Prepaid expenses, receivables and other current assets decreased $2.0 million in 2008 compared to an increase of $1.8 million in 2007. The decrease in 2008 was primarily due to the amortization of advance payments made in 2007 in connection with external service costs for our clinical trials.

Net cash provided by investing activities totaled $9.4 million in 2009 compared to net cash provided by investing activities of $69.7 million in 2008 and net cash used in investing activities of $41.9 million in 2007. Net cash provided by or used in investing activities has fluctuated significantly from period to period primarily due to the timing of purchases and maturities of investment securities. The decrease in net cash provided by investing activities in 2009 relative to 2008 was primarily due to decreased maturities of investment securities, net of purchases of investment securities. The increase in net cash provided by investing activities in 2008 relative to 2007 was primarily due to increased maturities of investment securities, net of purchases of investment securities.

Net cash provided by financing activities totaled $1.2 million in 2009 compared to net cash used in financing activities of $374,000 in 2008 and net cash provided by financing activities of $98.2 million in 2007. The increase in net cash provided by financing activities in 2009 relative to 2008 was primarily attributable to increased proceeds from the issuance of common stock, including sales under our CEFF. The net cash used in financing activities in 2008 was primarily due to repayments of our long-term debt, offset by net proceeds from stock option exercises and employee stock plan purchases. The net cash provided by financing activities in 2007 was primarily due to $98.6 million in net proceeds received from sales of our common stock, including $96.1 million received from a follow-on public offering, offset by net repayments of our long-term debt.

We have entered into equipment financing agreements from time to time, which we have utilized to fund the majority of our property and equipment purchases. The agreements contain fixed interest rates ranging from 9.95 to 10.41 percent per annum. At December 31, 2009, we had $463,000 in outstanding borrowings under these agreements, which are secured by the related equipment.

The following table summarizes our contractual obligations, including interest, at December 31, 2009 (in thousands):

	Total	Less than 1 Year	1-3 Years	4-5 Years	After 5 Years
Operating leases (1)	$10,414	$ 2,388	$5,488	$2,538	$ —
Long-term debt	499	393	106	—	—
Total	$10,913	$ 2,781	$5,594	$2,538	$ —

(1) In January 2010, we amended the operating lease covering our primary place of business and the adjacent property in San Diego, California, thereby terminating the lease with respect to the adjacent property and reducing the rent on our primary place of business. As a result of the amendment, the figures reflected in “Total”, “Less than 1 Year ” and “1-3 Years” would be reduced by $1.5 million, $447,000, and $1.1 million, respectively.

We have also entered into agreements with contract research organizations and other external service providers for services in connection with the development of our product candidates. We were contractually obligated for up to approximately $11.0 million of future services under these agreements as of December 31, 2009, the majority of which are expected to be provided by the end of December 2010. The nature of the work being conducted under our agreements with contract research organizations is such that, in most cases, the

services may be stopped on short notice. In such event, we would not be liable for the full amount of the contract. Our actual contractual obligations may vary depending upon several factors, including the progress and results of the underlying studies.

Pursuant to our collaboration with Biovail, our new Phase III Parkinson's disease psychosis trial, which is expected to start around mid-2010, will be funded by Biovail. However, if this trial does not meet its primary endpoint, then we would be required to reimburse Biovail 50 percent of the costs of this study. We currently estimate that the amount of the potential reimbursement would be in the range of $5 million to $6 million. Because this potential reimbursement would only be required in the event the study does not meet its primary endpoint and it is uncertain when, or if, such event will occur, no amount is included in the above table.

In addition, we have entered into an agreement with the Ipsen Group pursuant to which we licensed certain intellectual property rights that complement our patent portfolio. If certain conditions are met, we would be required to make future payments, including milestones, sublicensing fees and royalties. The amount of potential future milestones payments is $10.5 million in the aggregate, which amount would be offset by any sublicensing fees we may pay under the agreement. Because these milestone payments would only be payable upon the achievement of specified regulatory events and it is uncertain when, or if, such events will occur, we cannot forecast with any degree of certainty when, or if, we will be required to make payments under the agreement. Accordingly, none of these amounts are included in the above table.

Off-Balance Sheet Arrangements

To date, we have not had any relationships with unconsolidated entities or financial partnerships, such as entities referred to as structured finance or special purpose entities, which are established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. As such, we are not materially exposed to any financing, liquidity, market or credit risk that could arise if we had engaged in these relationships.

Recent Accounting Pronouncements

See Item 15 of Part IV, "Notes to Consolidated Financial Statements—Note 2—Summary of Significant Accounting Policies."

Item 7A. ***Quantitative and Qualitative Disclosures About Market Risk*****.**

Interest Rate Risk

We invest our excess cash in investment-grade, interest-bearing securities. The primary objective of our investment activities is to preserve principal and liquidity. To achieve this objective, we currently invest in a money market fund which invests in GSEs and securities collateralized by GSEs, U.S. Treasury notes, and high quality, marketable debt instruments of GSEs with contractual maturity dates of generally less than two years. All investment securities have a credit rating of at least AA or A1+/P1 as determined by Moody's Investors Service and/or Standard & Poor's. We do not have any direct investments in auction-rate securities or securities that are collateralized by assets that include mortgages or subprime debt. If a 10 percent change in interest rates were to have occurred on December 31, 2009, this change would not have had a material effect on the fair value of our investment portfolio as of that date.

Foreign Currency Risk

We have wholly owned subsidiaries in Sweden and Denmark, which expose us to foreign exchange risk. The functional currency of our subsidiary in Sweden is the Swedish kroner and the functional currency of our subsidiary in Denmark is the Danish kroner. Accordingly, all assets and liabilities of our subsidiaries are

translated to U.S. dollars based on the applicable exchange rate on the balance sheet date. Expense components are translated to U.S. dollars at weighted average exchange rates in effect during the period. Gains and losses resulting from foreign currency translation are included as a component of our stockholders' equity. Other foreign currency transaction gains and losses are included in our results of operations and, to date, have not been significant. We have not hedged exposures denominated in foreign currencies or any other derivative financial instrument.

Item 8. ***Financial Statements and Supplementary Data.***

The consolidated financial statements required pursuant to this item are included in Item 15 of this report and are presented beginning on page F-1.

Item 9. ***Changes in and Disagreements With Accountants on Accounting and Financial Disclosure.***

None.

Item 9A. ***Controls and Procedures.***

Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our periodic and current reports that we file with the SEC is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable and not absolute assurance of achieving the desired control objectives. In reaching a reasonable level of assurance, management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. In addition, the design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, control may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

As of December 31, 2009, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of December 31, 2009.

Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a process designed under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America.

As of December 31, 2009, our management assessed the effectiveness of our internal control over financial reporting using the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission

in Internal Control-Integrated Framework. Based on this assessment, management, under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, concluded that, as of December 31, 2009, our internal control over financial reporting was effective based on those criteria.

The effectiveness of our internal control over financial reporting as of December 31, 2009 has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in its report, which appears under Item 15 in this Annual Report.

Changes in Internal Control Over Financial Reporting

An evaluation was also performed under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of any change in our internal control over financial reporting that occurred during our last fiscal quarter and that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting. That evaluation did not identify any change in our internal control over financial reporting that occurred during our latest fiscal quarter and that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. ***Other Information.***

None.

PART III

Item 10. ***Directors, Executive Officers and Corporate Governance*.**

The information required by this Item and not set forth below will be set forth in the section headed "Proposal 1—Election of Directors" in our definitive Proxy Statement for our 2010 Annual Meeting of Stockholders to be filed with the SEC by April 30, 2010 (the "Proxy Statement") and is incorporated in this report by reference.

We have adopted a code of ethics for directors, officers (including our principal executive officer, principal financial officer and principal accounting officer) and employees, known as the Code of Business Conduct and Ethics. The Code of Business Conduct and Ethics is available on our website at *http://www.acadia-pharm.com* under the Corporate Governance section of our Investors page. We will promptly disclose on our website (i) the nature of any amendment to the policy that applies to our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and (ii) the nature of any waiver, including an implicit waiver, from a provision of the policy that is granted to one of these specified individuals, the name of such person who is granted the waiver and the date of the waiver. Stockholders may request a free copy of the Code of Business Conduct and Ethics from our corporate compliance officer, Glenn F. Baity c/o ACADIA Pharmaceuticals Inc., 3911 Sorrento Valley Boulevard, San Diego, CA 92121.

Item 11. ***Executive Compensation*.**

The information required by this Item will be set forth in the section headed "Executive Compensation" in our Proxy Statement and is incorporated in this report by reference.

Item 12. ***Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters*.**

The information required by this Item will be set forth in the section headed "Security Ownership of Certain Beneficial Owners and Management" in our Proxy Statement and is incorporated in this report by reference.

Information regarding our equity compensation plans will be set forth in the section headed "Executive Compensation" in our Proxy Statement and is incorporated in this report by reference.

Item 13. ***Certain Relationships and Related Transactions, and Director Independence*.**

The information required by this Item will be set forth in the section headed "Transactions With Related Persons" in our Proxy Statement and is incorporated in this report by reference.

Item 14. ***Principal Accounting Fees and Services*.**

The information required by this Item will be set forth in the section headed "Proposal 2—Ratification of Selection of Independent Auditors" in our Proxy Statement and is incorporated in this report by reference.

PART IV

Item 15. ***Exhibits, Financial Statement Schedules.***

(a) Documents filed as part of this report.

1. The following financial statements of ACADIA Pharmaceuticals Inc. and Report of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm, are included in this report:

2. List of financial statement schedules. All schedules are omitted because they are not applicable or the required information is shown in the financial statements or notes thereto.

3. List of Exhibits required by Item 601 of Regulation S-K. See part (b) below.

(b) Exhibits. See the Exhibit Index and Exhibits filed as part of this report.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

ACADIA PHARMACEUTICALS INC.

/S/ ULI HACKSELL

Uli Hacksell, Ph.D.
Chief Executive Officer

Date: March 9, 2010

KNOW ALL PERSONS BY THESE PRESENTS, that each individual whose signature appears below constitutes and appoints Uli Hacksell and Thomas H. Aasen, and each of them, his true and lawful attorneys-in-fact and agents with full power of substitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments to this Annual Report on Form 10-K, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities and Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/S/ ULI HACKSELL **Uli Hacksell**	Chief Executive Officer and Director (Principal Executive Officer)	March 9, 2010
/S/ THOMAS H. AASEN **Thomas H. Aasen**	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 9, 2010
/S/ LESLIE IVERSEN **Leslie Iversen**	Chairman of the Board	March 9, 2010
/S/ MICHAEL BORER **Michael Borer**	Director	March 9, 2010
/S/ LAURA BREGE **Laura Brege**	Director	March 9, 2010
/S/ MARY ANN GRAY **Mary Ann Gray**	Director	March 9, 2010
/S/ LESTER KAPLAN **Lester Kaplan**	Director	March 9, 2010
/S/ TORSTEN RASMUSSEN **Torsten Rasmussen**	Director	March 9, 2010
/S/ ALAN WALTON **Alan Walton**	Director	March 9, 2010

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
ACADIA Pharmaceuticals Inc.

In our opinion, the consolidated financial statements listed in the index appearing under Item 15(a)(1) present fairly, in all material respects, the financial position of ACADIA Pharmaceuticals Inc. and its subsidiaries at December 31, 2009 and 2008, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2009 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2009, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for these financial statements, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in Management's Report on Internal Control Over Financial Reporting appearing under Item 9A. Our responsibility is to express opinions on these financial statements and on the Company's internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ PricewaterhouseCoopers LLP

PricewaterhouseCoopers LLP
San Diego, California
March 9, 2010

ACADIA PHARMACEUTICALS INC.

CONSOLIDATED BALANCE SHEETS
(in thousands, except for par value and share data)

	December 31, 2009	December 31, 2008
Assets		
Cash and cash equivalents	$ 18,122	$ 21,171
Investment securities, available-for-sale	28,938	38,912
Prepaid expenses, receivables and other current assets	1,413	2,299
Total current assets	48,473	62,382
Property and equipment, net	1,062	2,103
Other assets	145	192
Total assets	$ 49,680	$ 64,677
Liabilities and stockholders' equity		
Accounts payable	$ 2,947	$ 2,283
Accrued expenses	5,358	7,535
Current portion of deferred revenue	6,037	438
Current portion of long-term debt	365	795
Total current liabilities	14,707	11,051
Long-term portion of deferred revenue	22,579	—
Long-term debt, less current portion	98	430
Other long-term liabilities	182	204
Total liabilities	37,566	11,685
Commitments and contingencies (Note 12)		
Stockholders' equity		
Preferred stock, $0.0001 par value; 5,000,000 shares authorized at December 31, 2009 and 2008; no shares issued and outstanding at December 31, 2009 and 2008	—	—
Common stock, $0.0001 par value; 75,000,000 shares authorized at December 31, 2009 and 2008; 38,332,119 shares and 37,177,874 shares issued and outstanding at December 31, 2009 and 2008, respectively	4	4
Additional paid-in capital	350,872	346,815
Accumulated deficit	(339,245)	(294,100)
Accumulated other comprehensive income	483	273
Total stockholders' equity	12,114	52,992
	$ 49,680	$ 64,677

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

ACADIA PHARMACEUTICALS INC.

CONSOLIDATED STATEMENTS OF OPERATIONS

(in thousands, except per share data)

	Years Ended December 31,		
	2009	2008	2007
Revenues			
Collaborative revenues	$ 6,399	$ 1,590	$ 7,555
Operating expenses			
Research and development (includes stock-based compensation of $874, $1,325 and $2,721, respectively)	41,585	56,750	57,942
General and administrative (includes stock-based compensation of $1,260, $1,662 and $1,574, respectively)	10,282	11,818	12,267
Total operating expenses	51,867	68,568	70,209
Loss from operations	(45,468)	(66,978)	(62,654)
Interest income	409	2,915	6,532
Interest expense	(86)	(181)	(268)
Net loss	$(45,145)	$(64,244)	$(56,390)
Net loss per common share, basic and diluted	$ (1.20)	$ (1.73)	$ (1.60)
Weighted average common shares outstanding, basic and diluted	37,476	37,113	35,211

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

ACADIA PHARMACEUTICALS INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Years Ended December 31,		
	2009	2008	2007
Cash flows from operating activities			
Net loss	$(45,145)	$ (64,244)	$ (56,390)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	1,111	1,043	1,065
Stock-based compensation	2,134	2,987	4,295
Amortization of investment premium/discount	260	911	(297)
Other	323	5	(155)
Changes in operating assets and liabilities:			
Prepaid expenses, receivables and other current assets	1,013	1,966	(1,788)
Other assets	47	83	(27)
Accounts payable	656	(276)	(845)
Accrued expenses	(2,282)	(7,075)	1,443
Deferred revenue	28,178	(268)	(1,959)
Other long-term liabilities	(22)	(1)	(268)
Net cash used in operating activities	(13,727)	(64,869)	(54,926)
Cash flows from investing activities			
Purchases of investment securities	(50,265)	(79,972)	(222,231)
Maturities of investment securities	59,750	149,912	180,745
Purchases of property and equipment	(41)	(226)	(416)
Net cash provided by (used in) investing activities	9,444	69,714	(41,902)
Cash flows from financing activities			
Proceeds from issuance of common stock, net of issuance costs	1,923	535	98,599
Proceeds from issuance of long-term debt	—	—	754
Repayments of long-term debt	(762)	(909)	(1,133)
Net cash provided by (used in) financing activities	1,161	(374)	98,220
Effect of exchange rate changes on cash	73	(287)	115
Net increase (decrease) in cash and cash equivalents	(3,049)	4,184	1,507
Cash and cash equivalents			
Beginning of year	21,171	16,987	15,480
End of year	$ 18,122	$ 21,171	$ 16,987
Supplemental schedule of cash flow information			
Interest paid	$ 96	$ 171	$ 265
Supplemental schedule of noncash investing and financing activities			
Unrealized gain (loss) on investment securities	(98)	(104)	188
Net property acquired under capital leases	—	—	139

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

ACADIA PHARMACEUTICALS INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY AND COMPREHENSIVE INCOME (LOSS)
(in thousands, except share data)

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Unearned Stock-Based Compensation	Accumulated Other Comprehensive (Loss)/Income	Total Stockholders' Equity	Comprehensive Income (Loss)
	Shares	Amount						
Balances at December 31, 2006	29,940,477	$ 3	$240,446	$ (173,466)	$ (64)	$ 240	$ 67,159	$ (44,942)
Issuance of common stock, net of issuance costs	6,612,500	1	96,110	—	—	—	96,111	
Issuance of common stock from exercise of stock options	416,736	—	1,984	—	—	—	1,984	
Issuance of common stock pursuant to employee stock purchase plan	65,676	—	522	—	—	—	522	
Net loss	—	—	—	(56,390)	—	—	(56,390)	$ (56,390)
Noncash compensation related to stock options granted	—	—	4,231	—	64	—	4,295	
Unrealized gain on investment securities	—	—	—	—	—	188	188	188
Cumulative translation adjustment	—	—	—	—	—	65	65	65
Balances at December 31, 2007	37,035,389	$ 4	$343,293	$ (229,856)	$ —	$ 493	$ 113,934	$ (56,137)
Issuance of common stock from exercise of stock options	70,548	—	187	—	—	—	187	
Issuance of common stock pursuant to employee stock purchase plan	71,937	—	348	—	—	—	348	
Net loss	—	—	—	(64,244)	—	—	(64,244)	$ (64,244)
Noncash compensation related to stock options granted	—	—	2,987	—	—	—	2,987	
Unrealized loss on investment securities	—	—	—	—	—	(104)	(104)	(104)
Cumulative translation adjustment	—	—	—	—	—	(116)	(116)	(116)
Balances at December 31, 2008	37,177,874	$ 4	$346,815	$ (294,100)	$ —	$ 273	$ 52,992	$ (64,464)
Issuance of common stock from exercise of stock options	62,189	—	74	—	—	—	74	
Issuance of common stock pursuant to employee stock purchase plan	176,785	—	193	—	—	—	193	
Issuance of common stock under Committed Equity Financing Facility, net of issuance costs	785,271	—	1,147	—	—	—	1,147	
Issuance of common stock upon exercise of warrant	130,000	—	509	—	—	—	509	
Net loss	—	—	—	(45,145)	—	—	(45,145)	(45,145)
Noncash compensation related to stock options granted	—	—	2,134	—	—	—	2,134	
Unrealized loss on investment securities	—	—	—	—	—	(98)	(98)	(98)
Cumulative translation adjustment	—	—	—	—	—	308	308	308
Balances at December 31, 2009	38,332,119	$ 4	$350,872	$ (339,245)	$ —	$ 483	$ 12,114	$ (44,935)

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

ACADIA PHARMACEUTICALS INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Organization and Nature of Operations

ACADIA Pharmaceuticals Inc. (the "Company") was originally incorporated in Vermont in 1993 as Receptor Technologies, Inc. The Company reincorporated in Delaware in 1997. The Company is focused on the development and commercialization of small molecule drugs for the treatment of central nervous system disorders. The Company's primary operations are based in San Diego, California. The Company maintains two wholly owned subsidiaries: ACADIA Pharmaceuticals AB based in Malmö, Sweden and ACADIA Pharmaceuticals A/S based in Denmark.

The Company has not been profitable and has incurred substantial operating losses since its inception due in large part to expenditures for its research and development activities. In October 2009, the Company implemented a restructuring designed to streamline its operations, reduce its internal operating expenses, and extend its cash runway. In connection with the restructuring, the Company reduced its total workforce by about half. At December 31, 2009, the Company had an accumulated deficit of $339.2 million. The Company expects its operating losses to continue for at least the next several years as it pursues the development of its product candidates. The Company currently anticipates that its cash, cash equivalents and investment securities and anticipated payments from its collaborations will be sufficient to fund the Company's operations through December 31, 2011.

The Company will require significant additional financing in the future to fund its operations. Future capital requirements will depend on many factors, including the progress in, the outcome of and the costs of the Company's clinical trials, the scope, prioritization and number of its research and development programs, and the ability of its collaborators and the Company to reach the milestones, and other events or developments under its collaboration agreements. Until the Company can generate significant continuing revenues, it expects to fund its operations through its existing cash, cash equivalents and investment securities, payments from existing and potential future collaborations, proceeds from private or public sales of its securities, debt financing, or by licensing all or a portion of its product candidates or technology. The Company cannot be certain that funding will be available on acceptable terms, or at all. Turmoil in the financial markets and other factors could have a material adverse effect on the Company's ability to access sufficient funding pursuant to its Committed Equity Financing Facility ("CEFF") or from other sources on acceptable terms, or at all. If the Company cannot raise adequate additional capital, it will be required to delay, further reduce the scope of, or eliminate one or more of its research or development programs or its commercialization efforts. The Company may be required to relinquish greater, or even all, rights to product candidates at earlier stages of development or on less favorable terms than it would otherwise choose.

2. Summary of Significant Accounting Policies

Significant accounting policies followed in the preparation of these financial statements are as follows:

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation.

Cash and Cash Equivalents

The Company considers all highly liquid investments with an initial maturity date at the date of purchase of three months or less to be cash equivalents.

ACADIA PHARMACEUTICALS INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Investment Securities

Investment securities are considered to be available-for-sale and are carried at fair value. Unrealized gains and losses, if any, are reported as a separate component of stockholders' equity. The cost of investment securities classified as available-for-sale is adjusted for amortization of premiums and accretion of discounts to maturity. Such amortization and accretion are included in interest income. Realized gains and losses, if any, are also included in interest income. The cost of securities sold is based on the specific identification method.

Fair Value of Financial Instruments

For financial instruments, consisting of cash and cash equivalents, accounts payable and accrued expenses included in the Company's financial statements, the carrying amounts are reasonable estimates of fair value due to their short maturities. Estimated fair values for investment securities, which are separately disclosed elsewhere, are based on quoted market prices for the instruments or discounted cash flows using market rates of interest for certain corporate commercial paper. Based on borrowing rates currently available to the Company, the carrying value of the long-term debt approximates fair value.

Property and Equipment

Property and equipment are recorded at cost and depreciated over their estimated useful lives (generally three to ten years) using the straight line method. Leasehold improvements are amortized over the shorter of their estimated useful lives or the term of the respective leases by use of the straight line method. Maintenance and repair costs are expensed as incurred. When assets are retired or sold, the assets and accumulated depreciation are removed from the respective accounts and any gain or loss is recognized. During the years ended December 31, 2009, 2008 and 2007, losses from disposals of property and equipment were not material.

Revenues

The Company recognizes revenues in accordance with authoritative guidance established by U.S. generally accepted accounting principles ("GAAP"). The Company's revenues are primarily related to its collaboration agreements, which may provide for various types of payments, including upfront payments, funding of research and development, milestone payments, and licensing fees. The Company's collaboration agreements also include potential payments for product royalties and commercial co-promotion, however, the Company has not received revenue from these two sources to date.

The Company considers a variety of factors in determining the appropriate method of accounting under its collaboration agreements, including whether the various elements can be separated and accounted for individually as separate units of accounting. Where there are multiple deliverables identified within a collaboration agreement that are combined into a single unit of accounting, revenues are deferred and recognized over the expected period of performance. The specific methodology for the recognition of the revenue is determined on a case-by-case basis according to the facts and circumstances applicable to each agreement.

Upfront, non-refundable payments that do not have stand-alone value are recorded as deferred revenue once received and recognized as revenues over the expected period of performance. Revenues from non-refundable license fees are recognized upon receipt of the payment if the license has stand-alone value, the Company does not have ongoing involvement or obligations, and the fair value of any undelivered items can be determined. Non-refundable payments for research funding are generally recognized as revenues over the period as the related research activities are performed. Payments for reimbursement of external development costs are generally recognized as revenues using a contingency-adjusted performance model over the expected period of performance based on the nature of the related agreement.

ACADIA PHARMACEUTICALS INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The Company assesses milestone payments on an individual basis and recognizes revenues from non-refundable milestone payments when the earnings process is complete and the payment is reasonably assured. Non-refundable milestone payments related to arrangements under which the Company has continuing performance obligations are recognized as revenue upon achievement of the associated milestone, provided that (i) the milestone event is substantive and its achievability was not reasonably assured at the inception of the agreement and (ii) the amount of the milestone payment is reasonable in relation to the effort expended or the risk associated with the milestone event. Where separate milestone payments do not meet these criteria, the Company recognizes revenue using a contingency-adjusted performance model over the period of performance.

Research and Development Expenses

Research and development expenses are charged to operations as incurred. Research and development expenses include, among other things, costs associated with services provided by contract organizations for preclinical development, manufacturing of clinical materials and clinical trials. The Company accrues for costs incurred as the services are being provided by monitoring the status of the trial or services provided and the invoices received from its external service providers. In the case of clinical trials, a portion of the estimated cost normally relates to the projected cost to treat a patient in the trials, and this cost is recognized over the estimated term of the study based on the number of patients enrolled in the trial on an ongoing basis, beginning with patient enrollment. As actual costs become known, the Company adjusts its accruals. Certain research and development programs are funded under agreements with collaboration partners, and the Company's costs related to these activities are included in research and development expenses.

Concentrations of Risk

Financial instruments, which potentially subject the Company to concentrations of credit risk, principally consist of cash, cash equivalents, and investment securities. The Company currently invests its excess cash primarily in a money market fund which invests in government sponsored enterprises ("GSEs") and securities collateralized by GSEs, U.S. Treasury notes, and high quality, marketable debt instruments of GSEs. The Company has adopted an investment policy that includes guidelines relative to diversification and maturities to maintain safety and liquidity. The Company does not have any direct investments in auction-rate securities or securities that are collateralized by assets that include mortgages or subprime debt.

During the years ended December 31, 2009, 2008, and 2007, revenues from two of the Company's collaborative partners comprised 89 percent, 88 percent, and 66 percent of total revenues, respectively. Revenues from Allergan, Inc. comprised 17 percent, 64 percent, and 22 percent of total revenues for the years ended December 31, 2009, 2008, and 2007, respectively. Revenue from Biovail comprised 72 percent of total revenues for the year ended December 31, 2009. Another collaborative partner comprised 24 percent of total revenues for the year ended December 31, 2008. Revenue from Sepracor Inc. comprised 44 percent of total revenues for the year ended December 31, 2007.

Foreign Currency Translation

The functional currencies of ACADIA Pharmaceuticals AB and ACADIA Pharmaceuticals A/S are the local currencies. Accordingly, assets and liabilities of these entities are translated at the current exchange rate at the balance sheet date and historical rates for equity. Revenue and expense components are translated at weighted average exchange rates in effect during the period. Gains and losses resulting from foreign currency translation are included as a component of stockholders' equity. At December 31, 2009 and 2008, the balance within accumulated other comprehensive (loss) income from foreign currency translation was $482,000 and $174,000, respectively. Foreign currency transaction gains and losses are included in the results of operations and, to date, have not been significant.

ACADIA PHARMACEUTICALS INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Stock-Based Compensation

The fair value of each employee stock option and each employee stock purchase right granted is estimated on the grant date under the fair value method using the Black-Scholes model. The estimated fair values of the stock option or purchase rights, including the effect of estimated forfeitures, are then expensed over the vesting period. The following assumptions were used to estimate the fair value of employee stock options:

	Years Ended December 31,		
	2009	2008	2007
Expected volatility	74-96%	68-81%	64-68%
Risk-free interest rate	2-3%	2-3%	4-5%
Expected forfeiture rate	5-10%	5-6%	6%
Expected dividend yield	0%	0%	0%
Expected life of options in years	5.7	5.5-5.7	5.4-5.5

Expected Volatility. The Company completed its initial public offering on June 2, 2004, so there is limited trading history for its shares in the public markets. Therefore, the Company considers the expected and historic volatility of peer companies as well as its own historical volatility and implied volatility when determining the volatility factor. In considering peer companies, the Company considers characteristics such as industry, stage of development, size and financial leverage.

Risk-Free Interest Rate. The risk-free interest rate is based on the implied yield currently available on U.S. Treasury zero-coupon issues with a remaining term approximating the expected term of the option.

Expected Forfeiture Rate. The Company considers its pre-vesting forfeiture history to determine its expected forfeiture rate.

Expected Dividend Yield. The Company has never paid any dividends and currently has no plans to do so.

Expected Life of Options. The Company considers, among other factors, its historical exercise experience to date as well as the mean time remaining to full vesting of all outstanding options and the mean time remaining to the end of the contractual term of all outstanding options.

The following assumptions were used to estimate fair value for the offerings under the employee stock purchase plan commenced during the indicated year:

	Years Ended December 31,		
	2009	2008	2007
Expected volatility	123-179%	50-164%	45-111%
Risk-free interest rate	0-1%	0-3%	3-5%
Expected dividend yield	0%	0%	0%
Expected life of offering in years	0.5-2.0	0.5-2.0	0.5-2.0

Income Taxes

Current income tax expense or benefit represents the amount of income taxes expected to be payable or refundable for the current year. A deferred income tax asset or liability is computed for the expected future impact of differences between the financial reporting and income tax bases of assets and liabilities and for the expected future tax benefit to be derived from tax credits and loss carryforwards. Deferred income tax expense or

benefit represents the net change during the year in the deferred income tax asset or liability. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

Long-Lived Assets

The Company assesses potential impairments to its long-lived assets when there is evidence that events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. An impairment loss is recognized when the estimated undiscounted cash flows expected to result from the use of the asset and its eventual disposition is less than its carrying amount. The amount of the impairment loss, if any, will generally be measured as the difference between the net book value of the assets and their estimated fair values. No such impairment losses have been recorded by the Company.

Comprehensive Income (Loss)

All components of comprehensive income (loss), including net income (loss), are reported in the financial statements in the period in which they are recognized. Comprehensive income (loss) is defined as the change in equity (net assets) of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. Accordingly, in addition to reporting net income (loss) under the current rules, the Company is required to display the impact of any fluctuations in its foreign currency translation adjustments and any unrealized gains or losses on its investment securities as components of comprehensive income (loss) and to display an amount representing total comprehensive income (loss) for each period.

Accumulated other comprehensive income consisted of the following:

	December 31,	
	2009	2008
	(in thousands)	
Unrealized gain on investment securities	$ 1	$ 99
Foreign currency translation adjustments	482	174
	$483	$273

Net Income (Loss) Per Common Share

Basic earnings (loss) per common share is computed by dividing net income (loss) by the weighted average number of common shares outstanding for the period. Diluted earnings (loss) per common share is computed by dividing net income (loss) by the weighted average number of common shares outstanding during the period, increased to include potential dilutive common shares that were outstanding during the period. The effect of outstanding stock options and warrants is reflected, when dilutive, in diluted earnings per common share by application of the treasury stock method. The Company has excluded all outstanding stock options and warrants from the calculation of diluted net loss per common share because all such securities are antidilutive for all

periods presented. Shares used in calculating basic and diluted net loss per common share above exclude these potential common shares:

	Years Ended December 31,		
	2009	2008	2007
		(in thousands)	
Antidilutive options to purchase common stock	3,612	3,291	2,834
Antidilutive warrants to purchase common stock	1,691	1,539	1,393
Restricted vesting common stock	—	—	6
	5,303	4,830	4,233

Segment Reporting

Management has determined that the Company operates in one business segment. All revenues for the years ended December 31, 2009 and 2008 were generated in the United States. Information regarding long-lived assets by geographic area is as follows:

	December 31,	
	2009	2008
	(in thousands)	
United States	$ 738	$ 1,537
Europe	324	566
	$ 1,062	$ 2,103

Recently Issued Accounting Standards

In May 2009, the Financial Accounting Standards Board (“FASB”) issued guidance regarding the presentation of subsequent events. The guidance establishes general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or available to be issued. The adoption of this guidance did not have an impact on the Company’s consolidated financial statements.

In June 2009, the FASB issued Accounting Standards Codification (“ASC”) as the single source of authoritative U.S. GAAP recognized by the FASB to be applied by nongovernmental entities in preparation of financial statements in conformity with U.S. GAAP. While the adoption of the ASC changes how the Company provides references to accounting standards, the adoption did not have an impact on the Company’s consolidated financial statements.

In August 2009, the FASB issued authoritative guidance on the measurement of liabilities at fair value. The guidance provides clarification that in circumstances in which a quoted market price in an active market for an identical liability is not available, an entity is required to measure fair value using a valuation technique that uses the quoted price of an identical liability when traded as an asset or, if unavailable, quoted prices for similar liabilities or similar assets when traded as assets. If none of this information is available, an entity should use a valuation technique in accordance with existing fair valuation principles. The adoption of this guidance did not have a material impact on the Company’s consolidated financial statements.

In October 2009, the FASB issued authoritative guidance which amends existing guidance related to revenue recognition for arrangements with multiple deliverables. The guidance provides accounting principles and application guidance for arrangements that contain multiple deliverables, including how the arrangement

should be separated, and the consideration allocated to each deliverable. Assuming other criteria are met, this guidance eliminates the requirement to establish the fair value of undelivered products and services and instead provides for separate revenue recognition based upon management's estimate of the selling price for an undelivered item when there is no other means to determine the fair value of that undelivered item. This new approach is effective for fiscal years beginning on or after June 15, 2010. The Company is currently evaluating the impact this guidance will have on its consolidated financial statements.

3. Investment Securities

Investment securities, available-for-sale, consisted of the following:

	December 31, 2009			
	Amortized Cost	Unrealized Gains	Unrealized (Losses)	Estimated Fair Value
	(in thousands)			
U.S. Treasury notes	$ 3,790	$ —	$ —	$ 3,790
Government sponsored enterprise securities	25,147	7	(6)	25,148
	$ 28,937	$ 7	$ (6)	$ 28,938

	December 31, 2008			
	Amortized Cost	Unrealized Gains	Unrealized (Losses)	Estimated Fair Value
	(in thousands)			
Corporate debt securities, including commercial paper	$ 16,691	$ 100	$ —	$ 16,791
Government sponsored enterprise securities	21,992	129	—	22,121
	$ 38,683	$ 229	$ —	$ 38,912

As of December 31, 2009, all investment securities were in compliance with the Company's investment policy guidelines. The Company's investment portfolio has not been adversely impacted by the disruptions in the credit markets. However, if there is continued and expanded disruption in the credit markets, the Company's investment portfolio could be adversely affected in the future. No gains or losses were realized during the years ended December 31, 2009 and 2008. As of December 31, 2009, all investment securities had contractual maturity dates of less than one year.

4. Fair Value Measurements

Authoritative guidance defines fair value, establishes a framework for measuring fair value in U.S. GAAP and expands disclosures about fair value measurements. The guidance requires fair value measurements be classified and disclosed in one of the following three categories:

Level 1. Quoted prices in active markets for identical assets or liabilities that the Company has the ability to access at the measurement date.

Level 2. Inputs other than quoted prices in active markets that are observable for the asset or liability, either directly or indirectly.

Level 3. Inputs that are unobservable for the asset or liability.

ACADIA PHARMACEUTICALS INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

As of December 31, 2009, the Company held $46.0 million of cash equivalents and available-for-sale investment securities consisting of a money market fund invested in securities of GSEs and securities collateralized by GSEs, U.S. Treasury notes, and high quality, marketable debt instruments of GSEs. The Company has adopted an investment policy and established guidelines relating to credit quality, diversification and maturities of its investments to preserve principal and maintain liquidity. All investment securities have a credit rating of at least AA or A1+/P1 as determined by Moody's Investors Service and/or Standard & Poor's. The Company does not have any direct investments in auction-rate securities or securities that are collateralized by assets that include mortgages or subprime debt.

The Company's cash equivalents and available-for-sale investment securities are classified within Level 1 or Level 2 of the fair value hierarchy. The Company's investment securities classified as Level 1 are valued using quoted market prices and the Company's investment securities classified as Level 2 are valued using other observable inputs such as recent trades for the securities or similar securities, interest rates on similar securities, or yield curves or benchmark interest rates observable at commonly quoted intervals. The fair value measurements of the Company's cash equivalents and available-for-sale investment securities are identified in the following hierarchy (in thousands):

		Fair Value Measurements at Reporting Date using		
	December 31, 2009	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Money market fund invested in government sponsored enterprises	$ 17,038	$ 17,038	$ —	$ —
U.S. Treasury notes	3,790	3,790	—	—
Government sponsored enterprise securities	25,148	—	25,148	—
	$ 45,976	$ 20,828	$ 25,148	$ —

5. Balance Sheet Components

Property and equipment, net, consisted of the following:

	Estimated Useful Lives (Years)	December 31, 2009	December 31, 2008
		(in thousands)	
Machinery and equipment	5–7	$ 5,711	$ 5,713
Computers and software	3	1,368	1,343
Furniture and fixtures	3–10	266	259
Leasehold improvements	6–10	1,150	1,133
		8,495	8,448
Accumulated depreciation and amortization		(7,433)	(6,345)
		$ 1,062	$ 2,103

Depreciation and amortization of property and equipment was $1.1 million, $1.0 million, and $1.1 million for the years ended December 31, 2009, 2008, and 2007, respectively.

ACADIA PHARMACEUTICALS INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Accrued expenses consisted of the following:

	December 31,	
	2009	2008
	(in thousands)	
Accrued clinical and research services	$3,623	$5,494
Accrued compensation and benefits	1,375	1,434
Other	360	607
	$5,358	$7,535

6. Long-Term Debt

The Company has entered into equipment financing agreements that were used to finance capital expenditures. These agreements provide for equal monthly installments to be paid over a three to four year period, with interest at rates ranging from 9.95 percent to 10.41 percent per annum. At December 31, 2009 and 2008, the Company had $463,000 and $1.2 million, respectively, in outstanding borrowings under these agreements. Outstanding borrowings under these agreements are collateralized by the related equipment.

At December 31, 2009, future payments under the Company's long-term debt were as follows:

Year Ending	(in thousands)
2010	$ 365
2011	66
2012	32
	463
Less: Current portion	(365)
Long-term portion	$ 98

7. Collaborative Research and Licensing Agreements

In May 2009, the Company entered into a collaboration and license agreement with Biovail Laboratories International SRL ("Biovail"), a subsidiary of Biovail Corporation, to co-develop and commercialize pimavanserin for neurological and psychiatric indications in the United States and Canada. The Company has retained the rights to pimavanserin in the rest of the world. Under the terms of the agreement, the Company received an upfront cash payment of $30 million. The Company is eligible to receive additional payments, excluding royalties, of up to an aggregate of $365 million, including up to $160 million in potential milestone payments associated with the successful completion of clinical trials, regulatory submissions and approvals of pimavanserin for Parkinson's disease psychosis and Alzheimer's disease psychosis, subject to certain offsets for up to 50 percent of the costs of successful Parkinson's disease psychosis trials, up to $45 million in potential milestones should the parties successfully pursue a third indication, currently designated as schizophrenia, and up to $160 million in potential milestones as certain sales thresholds are met. The Company is also entitled to receive a 15 percent royalty on annual net sales of pimavanserin up to $100 million and a 20 percent royalty on annual net sales over $100 million. In addition to product royalties, the Company has the option to co-promote pimavanserin in the United States.

Biovail is responsible for all future costs associated with the development, manufacturing, and commercialization of pimavanserin in all indications with the exception of specified Parkinson's disease

psychosis study costs and of a planned Alzheimer's disease psychosis feasibility study, which will be funded by the Company. Under the agreement, a new Phase III Parkinson's disease psychosis trial will be funded by Biovail provided, however, that if the trial does not meet its primary endpoint, then the Company would reimburse Biovail 50 percent of the costs of this study. If this trial meets its primary endpoint, Biovail may credit 50 percent of the costs of the trial against the potential milestone payment triggered by the trial. In addition, if the Company pursues and funds a feasibility study in Alzheimer's disease psychosis and this trial meets its primary endpoint, then Biovail would reimburse the Company 100 percent of the costs of that trial.

The upfront cash payment of $30 million received from Biovail in May 2009 has been deferred and is being recognized as revenue on a straight line basis over the estimated period of the Company's performance under the agreement. Payments received from Biovail for the reimbursement of specified development costs have been deferred and are being recognized as revenue using a contingency-adjusted performance model over the estimated period of the Company's performance. The Company recognized revenues relating to this collaboration of $4.6 million during the year ended December 31, 2009. At December 31, 2009, $26.1 million of revenue was deferred under this agreement, of which $5.3 million was included in current liabilities and $20.8 million was included in long-term liabilities.

In March 2009, the Company entered into a collaboration and license agreement with Meiji Seika Kaisha, Ltd. ("Meiji Seika") to develop and commercialize a novel class of pro-cognitive drugs to treat patients with schizophrenia and related disorders in Japan and several other Asian countries. Under the agreement, the Company is eligible to receive up to $25 million in aggregate payments, including $3 million in license fees and up to $22 million in potential development and regulatory milestone payments, in addition to royalties on product sales, if any, in the Asian territory. Meiji Seika also is responsible for the first $15 million of development expenses and the companies will share remaining expenses through clinical proof-of-concept, subject to possible adjustment in the event the Company further licenses the program outside of the Asian territory. Meiji Seika is responsible for all costs associated with the development, manufacturing and commercialization of the product candidate in the Asian territory. Meiji Seika is eligible to share a portion of any product-related revenues received by the Company in the rest of the world.

In April 2009, the Company received an aggregate of $2 million in license fees pursuant to the agreement with Meiji Seika, which fees have been deferred and are being recognized as revenue ratably over the estimated period of the Company's performance under the agreement. Payments received from Meija Seika for the reimbursement of specified development costs have been deferred and are being recognized as revenue using a contingency-adjusted performance model over the estimated period of the Company's performance. The Company recognized revenues relating to this collaboration of $161,000 during the year ended December 31, 2009. At December 31, 2009, $2.0 million of revenue was deferred under this agreement, of which $215,000 was included in current liabilities and $1.8 million was included in long-term liabilities.

In March 2003, the Company entered into a collaboration agreement with Allergan to discover, develop and commercialize new therapeutics for ophthalmic and other indications. The agreement originally provided for a three-year research term which has been extended by the parties through March 2010. As of December 31, 2009, the Company had received an aggregate of $16.4 million under the agreement, consisting of an upfront payment, research funding and related fees. The Company may also receive license fees and milestone payments as well as royalties on future product sales worldwide, if any. Revenue recognized under this agreement during the years ended December 31, 2009, 2008, and 2007 totaled $1.0 million, $1.0 million, and $1.3 million, respectively.

In July 1999, the Company entered into a collaboration agreement with Allergan to discover, develop and commercialize drugs for the treatment of glaucoma based on the Company's compounds. Under the agreement, the Company provided its drug discovery expertise to enable the selection by Allergan of a product candidate for development and commercialization. Allergan was granted exclusive worldwide rights to products based on this

product candidate for the treatment of ocular disease. As of December 31, 2009, the Company had received an aggregate of $9.4 million in payments under the agreement, consisting of upfront fees, research funding, and milestone payments. In addition, the Company is eligible to receive additional milestone payments as well as royalties on future product sales worldwide, if any. Revenue recognized under this agreement during the years ended December 31, 2009, 2008, and 2007 totaled $50,000, $23,000 and $336,000, respectively.

In September 1997, the Company entered into a collaboration agreement with Allergan focused primarily on the discovery and development of new therapeutics for pain and ophthalmic indications. This agreement was subsequently amended in conjunction with the execution of the March 2003 collaboration. Pursuant to the 1997 agreement, the Company granted Allergan exclusive worldwide rights to commercialize products resulting from the collaboration. The Company had received an aggregate of $10.5 million in research funding and milestone payments through December 31, 2009 under this agreement. The Company is also eligible to receive additional milestone payments as well as royalties on future product sales worldwide, if any. In connection with the execution of the collaboration agreement in 1997, Allergan made a $6.0 million equity investment in the Company. The Company recognized no revenue under this agreement during the years ended December 31, 2009, 2008, and 2007.

In January 2005, the Company entered into a three-year collaboration agreement with Sepracor, which term ended in January 2008. In connection with the collaboration, Sepracor purchased 1,890,422 shares of the Company's common stock for an aggregate of $20 million in two $10 million tranches. The Company recorded the premium associated with each of these common stock purchases, which was computed based on the excess of the purchase price over the closing price of the Company's common stock on the date of purchase, as deferred revenue. The deferred revenue was recognized as revenue as the related research activities were performed over the research term. During the term of the agreement, the Company received $6.7 million in aggregate research funding pursuant to the collaboration. During the years ended December 31, 2009, 2008 and 2007, revenue of $0, $91,000, and $3.4 million was recognized under the collaboration, respectively. As this agreement has terminated, there will be no future payments under it to the Company.

In May 2004, the Company entered into a three-year development agreement with The Stanley Medical Research Institute, which term ended in May 2007. During the term of this agreement, the Company received an aggregate of $5.0 million in funding to support the further development of one of the Company's product candidates. Revenue recognized under this agreement totaled $1.0 million during the year ended December 31, 2007. As this agreement has terminated, there will be no future payments under it to the Company.

8. Restructurings

In October 2009, the Company implemented a restructuring designed to further streamline its operations, reduce its internal operating expenses, and extend its cash runway. In connection with the restructuring, the Company reduced its total workforce by about half. The Company provided cash severance payments, continuation of benefits and outplacement services to employees directly affected by the workforce reductions. The Company incurred charges of $1.3 million in connection with the workforce reductions, of which $905,000 is included in research and development expenses and $382,000 is included in general and administrative expenses in the statement of operations for the year ended December 31, 2009. As of December 31, 2009, the Company had accrued remaining restructuring costs totaling $719,000, which amount was included in accrued compensation and benefits (Note 5). It is expected that substantially all of these restructuring costs will be paid by June 30, 2010.

In August 2008, the Company implemented a restructuring designed to focus resources on its most advanced product candidates and provide additional financial flexibility and strength. In connection with the

restructuring, the Company reduced its total workforce by about half. The Company provided cash severance payments, continuation of benefits and outplacement services to employees directly affected by the workforce reductions. The Company incurred charges of approximately $2.1 million in connection with the workforce reductions, of which $1.7 million is included in research and development expenses and $454,000 is included in general and administrative expenses in the statement of operations for the year ended December 31, 2008. As of December 31, 2008, the Company had accrued remaining restructuring costs totaling $278,000, which amount was included in accrued compensation and benefits (Note 5). The Company has paid substantially all of the employee severance costs as of December 31, 2009.

There have been no significant changes in estimates or reversals of amounts previously accrued for either of these restructurings.

9. Stockholders' Equity

Public Offerings

From time to time, the Company has sold shares of common stock in public offerings. In April 2007, the Company raised net proceeds of $96.1 million from the sale of 6,612,500 shares of its common stock in a public offering, including 862,500 shares sold pursuant to an exercise of the underwriters' over-allotment option.

Committed Equity Financing Facility

In August 2008, the Company entered into the CEFF with Kingsbridge Capital Limited that provides the Company with access, at its discretion, to capital during a three-year period through the sale of newly-issued shares of the Company's common stock. The funds that can be raised under the CEFF, if available, over the three-year period will depend on the then-current price of the Company's common stock and the number of shares actually sold, which may not exceed an aggregate of approximately 7 million shares. The aggregate amount raised under the CEFF may not exceed $60 million. The Company may access capital under the CEFF in tranches of up to a maximum of between 2.0 and 3.5 percent of its market capitalization at the time of the draw down of each tranche, subject to certain conditions, including a minimum share price threshold of $1.50, which the Company's stock price was below at December 31, 2009. The shares would be sold at discounts ranging from 6 percent to 12 percent, depending on the average market price of the Company's common stock during the applicable pricing period. In October 2009, the Company completed a draw down under the CEFF in which it raised $1.2 million through the issuance of 785,271 shares of common stock. The Company is not obligated to utilize any of the remaining funds available under the CEFF and there are no minimum commitments or minimum use penalties.

In connection with the CEFF, the Company issued a warrant to Kingsbridge to purchase 350,000 shares of common stock at an exercise price of $3.915 per share. The warrant became exercisable in February 2009 for a five-year period through February 2014, subject to certain exceptions. The warrant's value of $576,000 was determined on the date of grant using the Black-Scholes model with the following assumptions: risk free interest rate of 3.23 percent, volatility of 74.33 percent, a 5.5 year term and no dividend yield. In accordance with accounting guidance, this warrant was recorded as a component of stockholders' equity with an equal offsetting amount to stockholders' equity because the value of the warrant is considered a financing cost. In August 2009, Kingsbridge exercised the warrant with respect to 130,000 shares, and a warrant for 220,000 shares remained outstanding as of December 31, 2009.

Also in connection with the CEFF, the Company filed a resale shelf registration statement on Form S-3 with the SEC, which would allow Kingsbridge to resell, as registered securities, any of the shares of the Company's

common stock that may be issued under the CEFF or upon the exercise of the warrant. The registration statement was declared effective by the SEC on September 23, 2008 and must be effective any time that the Company chooses to conduct a draw down under the CEFF. In addition, if the registration statement, or the related prospectus, is not available for the resale of securities purchased by Kingsbridge under the CEFF, then, under certain circumstances, the Company may be required to pay certain liquidated damages to Kingsbridge. No amounts have been accrued for potential liquidated damages as no such damages are considered probable for payment.

Warrants

In addition to the warrant for 220,000 shares outstanding in connection with the CEFF, the Company had warrants outstanding at December 31, 2009 to purchase an aggregate of 1,319,402 shares of its common stock that were issued in connection with a private placement completed in April 2005. These warrants have an exercise price of $8.148 per share and will expire in April 2010. The Company also had warrants outstanding at December 31, 2009 to purchase an aggregate of 74,073 shares of its common stock that were issued in connection with a secured promissory note in 2002. These warrants have an exercise price of $8.10 per share and will expire in May 2012.

Stock Option Plans

The Company's 2004 Equity Incentive Plan (the "2004 Plan") became effective upon the closing of the Company's initial public offering on June 2, 2004. The 2004 Plan permits the grant of options to directors, officers, other employees, and consultants. In addition, the 2004 Plan permits the grant of stock bonuses, rights to purchase restricted stock, and other stock awards. The exercise price of options granted under the 2004 Plan cannot be less than 100 percent of the fair market value of the common stock on the date of grant and the maximum term of any option is ten years. Options granted under the 2004 Plan generally vest over a four-year period. Upon the closing of the Company's initial public offering, all shares that remained eligible for grant under the Company's 1997 stock option plan (the "1997 Plan") were transferred to the 2004 Plan. The 2004 Plan share reserve also has been, and may be, increased by the number of shares that otherwise would have reverted to the 1997 Plan reserve after June 2, 2004. The 2004 Plan also includes an "evergreen" provision, which provides for automatic increases to the number of shares included in the share reserve in connection with each annual meeting of stockholders for a period of five years, which period began with the meeting in 2005. At December 31, 2009, there were 4,468,699 shares of common stock authorized for issuance and 1,813,043 shares of common stock available for new grants under the 2004 Plan.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The 1997 Plan provided for the grant of incentive stock options and nonqualified stock options to employees, officers, directors, consultants and advisors of the Company. The exercise price of each option grant was set at the fair market value for the Company's common stock as determined by the Company's Board of Directors and each option's maximum term was ten years. Options granted under the 1997 Plan generally vested over a four-year period. Stock option transactions under the 1997 Plan and 2004 Plan during the years ended December 31, 2009, 2008, and 2007 are presented below:

	Number of Shares	Weighted-Average Exercise Prices	Weighted Average Remaining Contractual Term
Outstanding at December 31, 2006	2,820,389	$ 6.62	
Granted	511,724	$ 10.19	
Exercised	(416,736)	$ 4.72	
Canceled/forfeited	(104,034)	$ 9.30	
Outstanding at December 31, 2007	2,811,343	$ 7.46	
Granted	1,360,434	$ 5.09	
Exercised	(70,548)	$ 2.66	
Canceled/forfeited	(547,595)	$ 9.21	
Outstanding at December 31, 2008	3,553,634	$ 6.37	
Granted	537,086	$ 1.47	
Exercised	(62,189)	$ 1.20	
Canceled/forfeited	(773,085)	$ 4.58	
Outstanding at December 31, 2009	3,255,446	$ 6.09	5.9
Vested and expected to vest at December 31, 2009	3,154,217	$ 6.18	5.8
Exercisable at December 31, 2009	2,311,808	$ 7.11	4.8

At December 31, 2009, 2008, and 2007, there were 2,311,808, 2,013,495, and 1,741,816 options exercisable, respectively.

The aggregate intrinsic value of options outstanding and options exercisable as of December 31, 2009 is calculated as the difference between the exercise price of the underlying options and the closing market price of the Company's common stock of $1.32 on that date. The aggregate intrinsic value of options outstanding and exercisable as of December 31, 2009 was $71,000. The aggregate intrinsic value of options exercised during the years ended December 31, 2009, 2008, and 2007 was approximately $186,000, $380,000, and $3.8 million, respectively, determined as of the date of exercise. The Company received $74,000 in cash from options exercised during the year ended December 31, 2009. Accounting guidance for equity-based compensation requires that cash flows resulting from tax deductions in excess of the cumulative compensation cost recognized for options exercised (excess tax benefits) be classified as cash inflows provided by financing activities and cash outflows used in operating activities. Due to the Company's net loss position, no tax benefits have been recognized in the cash flow statement.

The weighted average fair value of options granted during the years ended December 31, 2009, 2008, and 2007 was approximately $1.07, $3.21, and $6.25, respectively. As of December 31, 2009, total unrecognized compensation cost related to stock options and purchase rights was approximately $1.9 million, and the weighted average period over which this cost is expected to be recognized is 2.0 years.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The following table summarizes information about stock options outstanding at December 31, 2009:

Options Outstanding				Options Exercisable	
Range of Exercise Prices	Number of Shares	Weighted-Average Remaining Contractual Life	Weighted-Average Exercise Price	Number of Shares	Weighted-Average Exercise Price
$ 0.95–$ 1.80	557,676	5.3	$ 1.13	380,951	$ 1.18
$ 2.00–$ 4.00	875,599	7.4	$ 2.28	343,270	$ 2.38
$ 5.49–$ 6.95	459,641	5.4	$ 6.72	399,759	$ 6.71
$ 7.19–$ 8.50	625,174	5.9	$ 8.24	484,848	$ 8.22
$ 8.55–$12.00	392,818	4.5	$ 9.69	382,681	$ 9.69
$12.02–$15.98	344,538	5.3	$ 14.94	320,299	$ 14.98
	3,255,446		$ 6.09	2,311,808	$ 7.11

Stock-based awards issued to non-employees other than directors are accounted for using a fair value method and are re-measured to fair value at each period end until the earlier of the date that performance by the non-employee is complete or a performance commitment has been obtained. The fair value of each award is estimated using the Black-Scholes model with the following assumptions for the year ended December 31, 2009: dividend yield of 0 percent; volatility of 76 percent; risk free interest rate of 3 to 4 percent and remaining contractual life of 7 to 8 years. For the year ended December 31, 2008, the following assumptions were used: dividend yield of 0 percent; volatility of 72 to 76 percent; risk free interest rate of 2 to 4 percent and remaining contractual life of 7 to 9 years. For the year ended December 31, 2007, the following assumptions were used: dividend yield of 0 percent; volatility of 72 to 74 percent; risk free interest rate of 4 to 5 percent and remaining contractual life of 7 to 10 years. During the years ended December 31, 2009, 2008, and 2007, in connection with the grant of stock options to non-employees, the Company recorded expense (benefit) of $16,000, ($39,000), and $1.3 million, respectively.

Employee Stock Purchase Plan

The Company's 2004 Employee Stock Purchase Plan (the "Purchase Plan") became effective upon the closing of the Company's initial public offering. The Purchase Plan includes an "evergreen" provision providing that an additional number of shares will automatically be added to the shares authorized for issuance at each annual meeting of stockholders for a period of ten years, which began with the meeting in 2005. A total of 775,000 shares of common stock have been reserved for issuance under the Purchase Plan. Eligible employees who elect to participate in an offering under the Purchase Plan may have up to 15 percent of their earnings withheld, subject to certain limitations, to purchase shares of common stock pursuant to the Purchase Plan. The price of common stock purchased under the Purchase Plan is equal to 85 percent of the lower of the fair market value of the common stock at the commencement date of each offering period or the relevant purchase date. During the years ended December 31, 2009, 2008, and 2007, 176,785, 71,937, and 65,676 shares of common stock were issued at average prices of $1.09, $4.83, and $7.94 under the Purchase Plan, respectively. The weighted average fair value of purchase rights granted during the years ended December 31, 2009, 2008, and 2007 was $1.09, $1.49, and $5.48, respectively. During the years ended December 31, 2009, 2008, and 2007, the Company recorded cash received from the exercise of purchase rights of $193,000, $348,000, and $522,000, respectively.

ACADIA PHARMACEUTICALS INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Common Stock Reserved For Future Issuance

At December 31, 2009, 3,255,446 and 1,613,475 shares of common stock were reserved for issuance upon the exercise of stock options and warrants, respectively.

10. 401(k) Plan

Effective January 1997, the Company established a deferred compensation plan (the "401(k) Plan") pursuant to Section 401(k) of the Internal Revenue Code of 1986, as amended (the "Code"), whereby substantially all employees are eligible to contribute up to 60 percent of their pretax earnings, not to exceed amounts allowed under the Code. The Company makes contributions to the 401(k) Plan equal to 100 percent of each employee's pretax contributions up to 5 percent of his or her eligible compensation. The Company's total contributions to the 401(k) Plan were $271,000, $458,000 and $435,000, for the years ended December 31, 2009, 2008 and 2007, respectively.

11. Income Taxes

At December 31, 2009, the Company had both federal and state net operating loss ("NOL") carryforwards of approximately $283.6 million and $207.6 million, respectively. The federal and state NOL carryforwards begin to expire in 2012 and 2014, respectively. The Company has $6.9 million of federal research and development ("R&D") credit carryforwards that will begin to expire in 2012. In addition, the Company has $3.6 million of state R&D credit carryforwards that have no expiration date. The Company also has foreign NOL carryforwards of approximately $4.9 million that have no expiration date.

Utilization of the NOL and R&D credit carryforwards may be subject to a substantial annual limitation due to ownership change limitations that may have occurred or that could occur in the future, as required by Section 382 of the Internal Revenue Code of 1986, as amended (the "Code"), as well as similar state and foreign provisions. These ownership changes may limit the amount of NOL and R&D credit carryforwards that can be utilized annually to offset future taxable income and tax, respectively. In general, an "ownership change" as defined by Section 382 of the Code results from a transaction or series of transactions over a three-year period resulting in an ownership change of more than 50 percentage points of the outstanding stock of a company by certain stockholders or public groups. Since the Company's formation, the Company has raised capital through the issuance of capital stock on several occasions (both before and after its initial public offering) which, combined with the purchasing stockholders' subsequent disposition of those shares, may have resulted in such an ownership change, or could result in an ownership change in the future upon subsequent disposition.

The Company has not completed a study to assess whether an ownership change has occurred or whether there have been multiple ownership changes since the Company's formation due to the complexity and cost associated with such a study, and the fact that there may be additional such ownership changes in the future. If the Company has experienced an ownership change at any time since its formation, utilization of the NOL or R&D credit carryforwards would be subject to an annual limitation under Section 382 of the Code, which is determined by first multiplying the value of the Company's stock at the time of the ownership change by the applicable long-term, tax-exempt rate, and then could be subject to additional adjustments, as required. Any limitation may result in expiration of a portion of the NOL or R&D credit carryforwards before utilization. Further, until a study is completed and any limitation known, no amounts are being considered as an uncertain tax position or disclosed as an unrecognized tax benefit under authoritative accounting guidance. Any carryforwards that will expire prior to utilization as a result of such limitations will be removed from deferred tax assets with a corresponding reduction of the valuation allowance with no net effect on income tax expense or the effective tax rate.

ACADIA PHARMACEUTICALS INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Approximately $2.6 million of the NOL carryforwards relate to excess tax deductions for stock compensation, the income tax benefit of which will be recorded as additional paid-in capital if and when realized.

The components of the deferred tax assets and deferred tax liabilities are as follows:

	2009	2008
	(in thousands)	
NOL carryforwards	$ 108,567	$ 101,615
R&D credit carryforwards	9,257	8,025
Deferred revenue	11,196	175
Capitalized R&D	3,412	4,135
Stock-based compensation	1,991	1,908
Other	1,334	1,284
	135,757	117,142
Valuation allowance	(135,706)	(116,855)
Deferred tax liabilities	—	(239)
	$ 51	$ 48

Realization of deferred tax assets is dependent upon future earnings, if any, the timing and amount of which are uncertain. Accordingly, the net deferred tax assets have been substantially offset by a valuation allowance. The valuation allowance increased by approximately $18.8 million in 2009 primarily due to NOL carryforwards.

A reconciliation of income taxes to the amount computed by applying the statutory federal income tax rate to the net loss is summarized as follows:

	2009	2008	2007
		(in thousands)	
Amounts computed at statutory federal rate	$(15,238)	$(21,868)	$(19,167)
Permanent differences	333	1,131	499
Federal R&D credits	(1,237)	(1,687)	(1,593)
Change in valuation allowance	18,809	25,971	22,900
State taxes	(2,499)	(3,488)	(3,218)
Foreign taxes	(99)	(87)	105
Other	220	(46)	489
	$ 289	$ (74)	$ 15

The net income tax expense (benefit) for the years ended December 31, 2009, 2008 and 2007 are recorded in the Company's statement of operations in general and administrative expenses.

The Company has adopted authoritative guidance for uncertain tax positions as of January 1, 2007. Upon adoption, the Company recognized no adjustment in the amount of unrecognized tax benefits. As of the date of adoption, the Company had no unrecognized tax benefits. The Company's policy is to recognize interest and penalties, if any, as a component of income tax expense.

The tax years 1997-2009 remain open to examination by the major taxing jurisdictions to which the Company is subject.

ACADIA PHARMACEUTICALS INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

12. Commitments and Contingencies

The Company and its Swedish subsidiary lease facilities and certain equipment under noncancelable operating leases that expire at various dates through May 2015. Under the terms of the facilities leases, the Company is required to pay its proportionate share of property taxes, insurance and normal maintenance costs. The Company's facilities leases provide for the extension of their lease terms and the U.S. leases each provide for early termination.

Future noncancelable minimum payment obligations under operating lease arrangements are as follows at December 31, 2009:

Year Ending	(in thousands)
2010	$ 2,388
2011	2,202
2012	2,236
2013	1,050
2014	1,050
Thereafter	1,488
	$ 10,414

In January 2010, the Company amended the operating lease covering its primary place of business and the adjacent property in San Diego, California, thereby terminating the lease with respect to the adjacent property and reducing the rent on its primary place of business.

Rent expense was $2.5 million, $2.6 million and $2.5 million for the years ended December 31, 2009, 2008, and 2007, respectively. Facility operating leases contain escalation clauses. The Company recognizes rent expense on a straight line basis over the lease term. The difference between rent expense recorded and amounts paid under lease agreements is recorded as deferred rent and included in other long-term liabilities in the accompanying consolidated balance sheet.

Pursuant to the Company's collaboration with Biovail (Note 7), the parties are planning a new Phase III Parkinson's disease psychosis trial, which will be funded by Biovail. However, if this trial does not meet its primary endpoint, then the Company would be required to reimburse Biovail 50 percent of the costs of this study. The Company currently estimates that the amount of the potential reimbursement would be in the range of $5 million to $6 million.

The Company has also entered into agreements with contract research organizations and other external service providers for services in connection with the development of its product candidates. The Company was contractually obligated for up to approximately $11.0 million of future services under these agreements as of December 31, 2009, the majority of which are expected to be provided by the end of December 2010. The nature of the work being conducted under the Company's agreements with contract research organizations is such that, in most cases, the services may be stopped with short notice. In such event, the Company would not be liable for the full amount of the contract. The Company's actual contractual obligations may vary depending upon several factors, including the progress and results of the underlying studies.

In November 2006, the Company entered into an agreement with the Ipsen Group pursuant to which it licensed certain intellectual property rights that complement its patent portfolio. If certain conditions are met, the Company would be required to make future payments, including milestones, sublicensing fees and royalties. The

ACADIA PHARMACEUTICALS INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

amount of potential future milestones payments is $10.5 million in the aggregate, which amount would be offset by any sublicensing fees the Company may pay under the agreement. Because these milestone payments would only be payable upon the achievement of specified regulatory events and it is uncertain when, or if, such events will occur, the Company cannot forecast with any degree of certainty when, or if, it will be required to make payments under the agreement.

13. Selected Quarterly Financial Data (Unaudited)

2009	March 31,	June 30,	September 30,	December 31,
	(in thousands, except per share data)			
Revenues	$ 374	$ 1,820	$ 2,435	$ 1,769
Net loss	$(15,001)	$(12,728)	$ (8,728)	$ (8,688)
Net loss per common share, basic and diluted	$ (0.40)	$ (0.34)	$ (0.23)	$ (0.23)

2008	March 31,	June 30,	September 30,	December 31,
Revenues	$ 806	$ 177	$ 282	$ 325
Net loss	$(16,380)	$(18,287)	$ (15,614)	$ (13,963)
Net loss per common share, basic and diluted	$ (0.44)	$ (0.49)	$ (0.42)	$ (0.38)

Revenues and net loss are rounded to thousands each quarter. Therefore, the sum of the quarterly amounts may not equal the annual amounts reported. Net loss per common share, basic and diluted, are computed independently for each quarter and the full year based upon respective average shares outstanding. Therefore, the sum of the quarterly net loss per common share amounts may not equal the annual amounts reported.

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INDEX TO EXHIBITS

Exhibit Number	Description
3.1	Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.3 to Registration Statement File No. 333-113137).
3.2	Amended and Restated Bylaws (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K, filed December 17, 2009).
4.1	Form of common stock certificate of the Registrant (incorporated by reference to Exhibit 4.1 to Registration Statement No. 333-52492).
4.2	Form of Warrant to Purchase Preferred Stock issued to GATX Ventures on May 31, 2002 (incorporated by reference to Exhibit 4.3 to Registration Statement No. 333-113137).
4.3	Form of Warrant to Purchase Common Stock issued to purchasers in a private placement on April 20, 2005 (incorporated by reference to Exhibit 4.3 to Registration Statement No 333-124753).
4.4	Form of Warrant to Purchase Common Stock issued to Kingsbridge Capital Limited on August 4, 2008 (incorporated by reference to Exhibit 4.4 to Registrant's Quarterly Report on Form 10-Q, filed August 7, 2008).
10.1	Amended and Restated Stockholders Agreement, dated March 27, 2003, by and among the Registrant and the stockholders named therein (incorporated by reference to Exhibit 4.2 to Registration Statement No. 333-113137).
10.2[a]	Form of Indemnity Agreement for directors and officers (incorporated by reference to Exhibit 10.1 to Registration Statement No. 333-113137).
10.3[a]	1997 Stock Option Plan and forms of agreement thereunder (incorporated by reference to Exhibit 10.2 to Registration Statement No. 333-113137).
10.4[a]	2004 Equity Incentive Plan and forms of agreement thereunder (incorporated by reference to Exhibit 10.3 to Registration Statement No. 333-113137).
10.5[a]	2004 Employee Stock Purchase Plan and initial offering thereunder (incorporated by reference to Exhibit 10.4 to Registration Statement No. 333-113137).
10.6[a]	Volume Submitter Defined Contribution Plan ("401(k) Plan").
10.7[a]	Adoption Agreement for 401(k) Plan.
10.8[a]	Employment Letter Agreement, dated December 21, 1998, between the Registrant and Uli Hacksell, Ph.D. (incorporated by reference to Exhibit 10.7 to Registration Statement No. 333-52492).
10.9[a]	Employment Letter Agreement, dated March 4, 1998, between the Registrant and Thomas H. Aasen (incorporated by reference to Exhibit 10.9 to Registration Statement No. 333-52492).
10.10[a]	Employment Offer Letter, dated May 26, 2006, between the Registrant and Roger Mills (incorporated by reference to Exhibit 99.1 to the Registrant's Current Report on Form 8-K, filed April 2, 2007).
10.11[a]	Description of Outside Director Compensation Program (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q, filed November 5, 2007).
10.12[b]	Collaborative Research, Development and License Agreement, dated September 24, 1997, by and among the Registrant, Allergan, Inc. and Vision Pharmaceuticals L.P. (now Allergan Sales, Inc.) (incorporated by reference to Exhibit 10.12 to Registration Statement No. 333-113137).

Exhibit Number	Description
10.13[b]	Amendment to Collaborative Research, Development and License Agreement, dated March 27, 2003, by and among the Registrant, Allergan Sales LLC (as successor in interest of Vision Pharmaceuticals L.P.) and Allergan, Inc. (incorporated by reference to Exhibit 10.13 to Registration Statement No. 333-113137).
10.14[b]	Collaborative Research, Development and License Agreement, dated July 26, 1999, by and among the Registrant and Allergan, Inc., Allergan Pharmaceuticals (Ireland) Limited, Inc. and Allergan Sales, Inc. (incorporated by reference to Exhibit 10.14 to Registration Statement No. 333-113137).
10.15[b]	Collaborative Research, Development and License Agreement, dated March 27, 2003, by and among the Registrant, Allergan, Inc. and Allergan Sales, Inc. (incorporated by reference to Exhibit 10.15 to Registration Statement No. 333-113137).
10.16[b]	Second Amendment to Collaborative Research, Development and License Agreement, dated February 28, 2006, by and among the Registrant, Allergan Sales LLC (as successor in interest of Vision Pharmaceuticals L.P.) and Allergan, Inc. (incorporated by reference to Exhibit 10.25 to the Registrant's Annual Report on Form 10-K, filed March 15, 2006).
10.17[b]	Third Amendment to Collaborative Research, Development and License Agreement, dated March 3, 2008, by and among the Registrant, Allergan Sales LLC (as successor in interest of Vision Pharmaceuticals L.P.) and Allergan, Inc. (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q, filed May 5, 2008).
10.18[b]	Fourth Amendment to Collaborative Research, Development and License Agreement, dated April 22, 2009, by and among the Registrant, Allergan Sales LLC (as successor in interest of Vision Pharmaceuticals L.P.) and Allergan, Inc. (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q, filed August 5, 2009).
10.19[b]	Collaboration and License Agreement, dated April 1, 2009, by and among the Registrant and Meiji Seika Keisha, Ltd. (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q, filed May 11, 2009).
10.20[b]	Collaboration and License Agreement, dated May 1, 2009, by and among the Registrant and Biovail Laboratories International SRL (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q, filed August 5, 2009).
10.21[b]	Amendment to Collaboration and License Agreement, dated October 5, 2009, by and among the Registrant and Biovail Laboratories International SRL.
10.22	Standard Industrial/Commercial Single-Tenant Lease-Net, dated August 15, 1997, between the Registrant and R.G. Harris Co. (incorporated by reference to Exhibit 10.18 to Registration Statement No. 333-52492).
10.23	Lease Amendment, dated November 1, 2005, between the Registrant and E.G. Sirrah, LLC (successor in interest to R.G. Harris Co.), to Standard Industrial/Commercial Single-Tenant Lease-Net, dated August 15, 1997, between the Registrant and R.G. Harris Co. (incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q, filed November 14, 2005).
10.24	Lease Amendment, dated November 30, 2007, between the Registrant and E.G. Sirrah, LLC (successor in interest to R.G. Harris Co.), to Standard Industrial/Commercial Single-Tenant Lease-Net, dated August 15, 1997, between the Registrant and R.G. Harris Co. (incorporated by reference to Exhibit 10.21 to the Registrant's Annual Report on Form 10-K, filed March 5, 2008).
10.25	Lease Amendment, dated January 22, 2010, between the Registrant and E.G. Sirrah, LLC (successor in interest to R.G. Harris Co.), to Standard Industrial/Commercial Single-Tenant Lease-Net, dated August 15, 1997, between the Registrant and R.G. Harris Co.

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Exhibit Number	Description
10.26	Lease Agreement, executed November 2, 2005, between ACADIA Pharmaceuticals AB and Medeon Fastigheter AB (incorporated by reference to Exhibit 10.4 to the Registrant's Quarterly Report on Form 10-Q, filed November 14, 2005).
10.27	Assignment of Brann Intellectual Property Rights, dated January 29, 1997, by Mark R. Brann in favor of the Registrant (incorporated by reference to Exhibit 10.17 to Registration Statement No. 333-52492).
10.28	Common Stock Purchase Agreement by and between Kingsbridge Capital Limited and the Registrant, dated as of August 4, 2008 (incorporated by reference to Exhibit 10.1 to Registrant's Quarterly Report on Form 10-Q, filed August 7, 2008).
10.29	Registration Rights Agreement by and between Kingsbridge Capital Limited and the Registrant, dated as of August 4, 2008 (incorporated by reference to Exhibit 10.2 to Registrant's Quarterly Report on Form 10-Q, filed August 7, 2008).
10.30[a]	Description of Executive Officer Annual Incentive Cash Compensation Program (incorporated by reference to Exhibit 99.1 to the Registrant's Current Report on Form 8-K, filed March 7, 2008).
10.31[b]	License Agreement, dated November 30, 2006, by and between the Registrant and Société de Conseils, de Recherches et d'Applications Scientifiques SAS, a French corporation member of the Ipsen Group (incorporated by reference to Exhibit 99.1 to the Registrant's Current Report on Form 8-K, filed December 4, 2006).
21.1	List of subsidiaries of the Registrant.
23.1	Consent of Independent Registered Public Accounting Firm.
24.1	Power of Attorney (see page 53).
31.1	Certification of Uli Hacksell, Ph.D., Chief Executive Officer, pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Thomas H. Aasen, Chief Financial Officer, pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Uli Hacksell, Ph.D., Chief Executive Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Thomas H. Aasen, Chief Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

[a] Indicates management contract or compensatory plan or arrangement.

[b] We have received confidential treatment of certain portions of this agreement, which have been omitted and filed separately with the SEC pursuant to Rule 406 under the Securities Act of 1933.

VOLUME SUBMITTER
DEFINED CONTRIBUTION PLAN

FIDELITY BASIC PLAN DOCUMENT NO. 14

Acadia Pharmaceuticals 401(k) Plan and Trust

Preamble.

This volume submitter plan consists of three parts: (1) an Adoption Agreement that is a separate document incorporated by reference into this Basic Plan Document; (2) this Basic Plan Document; and (3) a Trust Agreement that is a part of this Basic Plan Document and is found in Article 20. Each part of the volume submitter plan contains substantive provisions that are integral to the operation of the plan. The Adoption Agreement is the means by which an adopting Employer elects the optional provisions that shall apply under its plan. The Basic Plan Document describes the standard provisions elected in the Adoption Agreement. The Trust Agreement describes the powers and duties of the Trustee with respect to plan assets.

The volume submitter plan is intended to qualify under Code Section 401(a). Depending upon the Adoption Agreement completed by an adopting Employer, the volume submitter plan may be used to implement a profit sharing plan with or without a cash or deferred arrangement intended to qualify under Code Section 401(k). Provisions appearing on the Additional Provisions Addendum of the Adoption Agreement, if present, supplement or alter provisions appearing in the Adoption Agreement in the manner described therein. Provisions appearing on the Additional Provisions Addendum of the Basic Plan Document, if present, supplement or alter provisions appearing in the Basic Plan Document in the manner described therein. Provisions appearing on the Superseding Provisions Addendum of the Adoption Agreement, if present, supersede any conflicting provisions appearing in the Adoption Agreement, Basic Plan Document or any addendum to either in the manner described therein.

Article 1. Adoption Agreement.

Article 2. Definitions.

2.01. Definitions. Wherever used herein, the following terms have the meanings set forth below, unless a different meaning is clearly required by the context:

(a) **"Account"** means an account established for the purpose of recording any contributions made on behalf of a Participant and any income, expenses, gains, or losses incurred thereon. The Administrator shall establish and maintain sub-accounts within a Participant's Account as necessary to depict accurately a Participant's interest under the Plan.

(b) **"Active Participant"** means any Eligible Employee who has met the requirements of Article 4 to participate in the Plan and who may be entitled to receive allocations under the Plan**.**

(c) **"Administrator"** means the Employer adopting this Plan, as listed in Subsection 1.02(a) of the Adoption Agreement, or any other person designated by the Employer in Subsection 1.01(c) of the Adoption Agreement**.**

(d) **"Adoption Agreement**" means Article 1, under which the Employer establishes and adopts, or amends the Plan and Trust and designates the optional provisions selected by the Employer, and the Trustee accepts its responsibilities under Article 20. The provisions of the Adoption Agreement shall be an integral part of the Plan.

(e) **"Annuity Starting Date**" means the first day of the first period for which an amount is payable as an annuity or in any other form permitted under the Plan.

(f) **"Basic Plan Document**" means this Fidelity volume submitter plan document, qualified with the Internal Revenue Service as Basic Plan Document No. 14.

(g) **"Beneficiary**" means the person or persons (including a trust) entitled under Section 11.04 or 14.04 to receive benefits under the Plan upon the death of a Participant.

(h) **"Break in Vesting Service"** means a 12-consecutive-month period beginning on an Employee's Severance Date or any anniversary thereof in which the Employee is not credited with an Hour of Service.

Notwithstanding the foregoing, the following special rules apply in determining whether an Employee who is on leave has incurred a Break in Vesting Service:

(1) If an individual is absent from work because of maternity/paternity leave on the first anniversary of his Severance Date, the 12-consecutive-month period beginning on the individual's Severance Date shall not constitute a Break in Vesting Service. For purposes of this paragraph, "maternity/paternity leave" means a leave of absence (i) by reason of the pregnancy of the individual, (ii) by reason of the birth of a child of the individual, (iii) by reason of the placement of a child with the individual in connection with the adoption of such child by the individual, or (iv) for purposes of caring for a child for the period beginning immediately following such birth or placement.

(2) If an individual is absent from work because of FMLA leave and returns to employment with the Employer or a Related Employer following such FMLA leave, he shall not incur a Break in Vesting Service due to such FMLA leave. For purposes of this paragraph, "FMLA leave" means an approved leave of absence pursuant to the Family and Medical Leave Act of 1993.

(i) **"Catch-Up Contribution"** means any Deferral Contribution made to the Plan by the Employer in accordance with the provisions of Subsection 5.03(a).

(j) **"Code**" means the Internal Revenue Code of 1986, as amended from time to time.

(k) **"Compensation"** means wages as defined in Code Section 3401(a) and all other payments of compensation to an Eligible Employee by the Employer (in the course of the Employer's trade or business) for services to the Employer while employed as an Eligible Employee for which the Employer is required to furnish the Eligible Employee a written statement under Code Sections 6041(d) and 6051(a)(3). Compensation must be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)). Compensation shall include amounts that are not includable in the gross income of the Participant under a salary reduction agreement by reason of the application of Code Section 125, 132(f)(4), 402(g)(3), 402(h), 403(b), or 457.

For any Self-Employed Individual, Compensation means Earned Income; provided, however, that if the Employer elects to exclude specified items from Compensation, such Earned Income shall be adjusted in a similar manner so that it is equivalent under regulations issued under Code Section 414(s) to Compensation for Participants who are not Self-Employed Individuals.

Compensation shall generally be based on the amount actually paid to the Eligible Employee during the Plan Year or, for purposes of Article 5, if so elected by the Employer in Subsection 1.05(b) of the Adoption Agreement, during that portion of the Plan Year during which the Eligible Employee is an Active Participant. Notwithstanding the preceding sentence, Compensation for purposes of Section 6.12 (Code Section 415 Limitations) and Article 15 (Top-Heavy Provisions) shall be based on the amount actually paid or made available to the Participant during the Limitation Year for purposes of Section 6.12 and during the Plan Year for purposes of Article 15.

If the initial Plan Year of a new plan consists of fewer than 12 months, calculated from the Effective Date listed in Subsection 1.01(g)(1) of the Adoption Agreement through the end of such initial Plan Year, Compensation for such initial Plan Year shall generally be determined as follows:

(1) For purposes of determining Highly Compensated Employees under Subsection 2.01(cc), the initial Plan Year shall be the 12-month period ending on the last day of the Plan Year.

(2) For purposes of Section 6.12 (Code Section 415 Limitations), if the Employer has designated in Subsection 1.01(f) of the Adoption Agreement that the Limitation Year is based on the Plan Year, the Limitation Year shall be the 12-month period ending on the last day of the Plan Year.

(3) For all other purposes, the initial Plan Year shall be the period from the Effective Date listed in Subsection 1.01(g)(1) of the Adoption Agreement through the end of the initial Plan Year.

The annual Compensation of each Active Participant taken into account for determining benefits provided under the Plan for any 12-month determination period shall not exceed the annual Compensation limit under Code Section 401(a)(17) as in effect on the first day of the determination period (e.g., $210,000 for determination periods beginning in 2005). A "determination period" means the Plan Year or other 12consecutive-month period over which Compensation is otherwise determined for purposes of the Plan (e.g., the Limitation Year).

The annual Compensation limit under Code Section 401(a)(17) shall be adjusted by the Secretary to reflect increases in the cost of living, as provided in Code Section 401(a)(17)(B); provided, however, that the dollar increase in effect on January 1 of any calendar year is effective for determination periods beginning in such calendar year. If a Plan determines Compensation over a determination period that contains fewer than 12 calendar months (a "short determination period"), then the Compensation limit for such "short determination period" is equal to the Compensation limit for the calendar year in which the "short determination period" begins multiplied by the ratio obtained by dividing the number of full months in the "short determination period" by 12; provided, however, that such proration shall not apply if there is a "short determination period" because (i) the Employer elected in Subsection 1.05(b) of the Adoption Agreement to determine contributions based only on Compensation paid during the portion of the Plan Year during which an individual was an Active Participant or (ii) an Employee is covered under the Plan less than a full Plan Year.

In lieu of requiring an Active Participant to cease making Deferral Contributions for a Plan Year after his Compensation has reached the annual Compensation limit under Code Section 401(a)(17), the annual Compensation limit shall be applied with respect to Deferral Contributions by limiting the total Deferral Contributions an Active Participant may make for a Plan Year to the product of (i) such Active Participant's Compensation for the Plan Year up to the annual Compensation limit multiplied by (ii) the deferral limit specified in Subsection 1.07(a)(1)(A) of the Adoption Agreement or Subsection 5.03(a), as applicable.

(l) **"Contribution Period"** means the period for which Matching Employer and Nonelective Employer Contributions are made and calculated. The Contribution Period for Matching Employer Contributions described in Subsection 1.11 of the Adoption Agreement is the period specified by the Employer in Subsection 1.11(d) of the Adoption Agreement.

The Contribution Period for Nonelective Employer Contributions is the Plan Year, unless the Employer designates a different Contribution Period in Subsection 1.12(c) of the Adoption Agreement.

(m) **"Deferral Contribution"** means any contribution made to the Plan by the Employer in accordance with the provisions of Section 5.03.

(n) **"Early Retirement Age"** means the early retirement age specified in Subsection 1.14(b) of the Adoption Agreement, if any.

(o) **"Earned Income"** means the net earnings of a Self-Employed Individual derived from the trade or business with respect to which the Plan is established and for which the personal services of such individual are a material income-providing factor, excluding any items not included in gross income and the deductions allocated to such items, except that net earnings shall be determined with regard to the deduction allowed under Code Section 164(f), to the extent applicable to the Employer. Net earnings shall be reduced by contributions of the Employer to any qualified plan, to the extent a deduction is allowed to the Employer for such contributions under Code Section 404.

(p) **"Effective Date"** means the effective date specified by the Employer in Subsection 1.01(g)(1). The Employer may select special Effective Dates with respect to specified Plan provisions, as set forth in Section (a) of the Special Effective Dates Addendum to the Adoption Agreement. In the event that another plan is merged into and made a part of the Plan, the effective date of the merger shall be reflected in the Plan Mergers Addendum to the Adoption Agreement.

(q) **"Eligibility Computation Period"** means each 12-consecutive-month period beginning with an Employee's Employment Commencement Date and each anniversary thereof

(r) **"Eligibility Service"** means an Employee's service that is taken into account in determining his eligibility to participate in the Plan as may be required under Subsection 1.04(b) of the Adoption Agreement. Eligibility Service shall be credited in accordance with Article 3.

(s) **"Eligible Employee"** means any Employee of the Employer who is in the class of Employees eligible to participate in the Plan. The Employer must specify in Subsection 1.04(d) of the Adoption Agreement any Employee or class of Employees not eligible to participate in the Plan. Regardless of the provisions of Subsection 1.04(d) of the Adoption Agreement, the following Employees are automatically excluded from eligibility to participate in the Plan:

(1) any individual who is a signatory to a contract, letter of agreement, or other document that acknowledges his status as an independent contractor not entitled to benefits under the Plan or who is not otherwise classified by the Employer as a common law employee, even if such individual is later determined to be a common law employee; and

(2) any Employee who is a resident of Puerto Rico.

If the Employer elects, in Subsection 1.04(d)(2)(A) of the Adoption Agreement, to exclude collective bargaining employees from the eligible class, the exclusion applies to any Employee of the Employer included in any unit of Employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, unless the collective bargaining agreement requires the Employee to be covered under the Plan. The term "employee representatives" does not include any organization more than half the members of which are owners, officers, or executives of the Employer.

If the Employer does not elect, in Subsection 1.04(d)(2)(C) of the Adoption Agreement, to exclude Leased Employees from the eligible class, contributions or benefits provided by the leasing organization which are attributable to services performed for the Employer shall be treated as provided by the Employer and there shall be no duplication of benefits under this Plan.

Anything to the contrary herein notwithstanding, unless the Employer elects to exclude statutory employees who are full-time life insurance salespersons (as described in Code Section 7701(a)(20)) from the eligible class in Subsection 1.04(d)(2)(E) of the Adoption Agreement, such statutory employees are Eligible Employees.

(t) **"Employee"** means any common law employee (or statutory employee who is a full-time life insurance salesperson as described in Code Section 7701(a)(20)) of the Employer or a Related Employer, any Self-Employed Individual, and any Leased Employee. Notwithstanding the foregoing, a Leased Employee shall not be considered an Employee if Leased Employees do not constitute more than 20 percent of the Employer's non-highly compensated work-force (taking into account all Related Employers) and the Leased Employee is covered by a money purchase pension plan maintained by the leasing organization and providing (1) a nonintegrated employer contribution rate of at least 10 percent of compensation, as defined for purposes of Code Section 415(c)(3), (2) full and immediate vesting, and (3) immediate participation by each employee of the leasing organization.

(u) **"Employee Contribution"** means any after-tax contribution made by an Active Participant to the Plan.

(v) **"Employer"** means the employer named in Subsection 1.02(a) of the Adoption Agreement and any Related Employer designated in the Participating Employers Addendum to the Adoption Agreement. If the Employer has elected in Subsection (b) of the Participating Employers Addendum to the Adoption Agreement that the term "Employer" includes all Related Employers, an employer that becomes a Related Employer as a result of an asset or stock acquisition, merger or other similar transaction shall not be included in the term "Employer" for periods prior to the first day of the second Plan Year beginning after the date of such transaction, unless the Employer has designated therein to accept such Related Employer as a participating employer prior to that date. Notwithstanding the foregoing, the term "Employer" for purposes of authorizing any particular action under the Plan means solely the employer named in Subsection 1.02(a) of the Adoption Agreement.

If the organization or other entity named in the Adoption Agreement is a sole proprietor or a professional corporation and the sole proprietor of such proprietorship or the sole shareholder of the professional corporation dies, then the legal representative of such sole proprietor or shareholder shall be deemed to be the Employer until such time as, through the disposition of such sole proprietor's or sole shareholder's estate or otherwise, any organization or other entity succeeds to the interests of the sole proprietor in the proprietorship or the sole shareholder in the professional corporation. The legal representative of a sole proprietor or shareholder shall be (1) the person appointed as such by the sole proprietor or shareholder prior to his death under a legally enforceable power of attorney, or, if none, (2) the executor or administrator of the sole proprietor's or shareholder's estate.

If a participating Employer designated through Subsection 1.02(b) of the Adoption Agreement is not related to the Employer (hereinafter "un-Related Employer"), the term "Employer" includes such un-Related Employer and the provisions of Section 18.05 shall apply.

(w) **"Employment Commencement Date"** means the date on which an Employee first performs an Hour of Service.

(x) **"Entry Date"** means the date(s) specified by the Employer in Subsection 1.04(e) of the Adoption Agreement as of which an Eligible Employee who has met the applicable eligibility requirements begins to participate in the Plan. The Employer may specify different Entry Dates for purposes of eligibility to participate in the Plan for purposes of (1) making Deferral Contributions and (2) receiving allocations of Matching and/or Nonelective Employer Contributions.

(y) **"ERISA"** means the Employee Retirement Income Security Act of 1974, as from time to time amended.

(z) **"401(k) Safe Harbor Matching Employer Contribution"** means any Matching Employer Contribution made by the Employer to the Plan in accordance with Subsection 1.11(a)(3) of the Adoption Agreement, the 401(k) Safe Harbor Matching Employer Contributions Addendum to the Adoption Agreement, and Section 5.08, that is intended to satisfy the requirements of Code Section 401(k)(12)(B).

(aa) "**401(k) Safe Harbor Nonelective Employer Contribution"** means any Nonelective Employer Contribution made by the Employer to the Plan in accordance with Subsection 1.12(a)(3) of the Adoption Agreement, the 401(k) Safe Harbor Nonelective Employer Contributions Addendum to the Adoption Agreement, and Section 5.10, that is intended to satisfy the requirements of Code Section 401(k)(12)(C).

(bb) **"Fund Share"** means the share, unit, or other evidence of ownership in a Permissible Investment.

(cc) **"Highly Compensated Employee"** means both highly compensated active Employees and highly compensated former Employees.

A highly compensated active Employee includes any Employee who performs service for the Employer during the "determination year" and who (1) at any time during the "determination year" or the "look-back year" was a five percent owner or (2) received Compensation from the Employer during the "look-back year" in excess of the dollar amount specified in Code Section 414(q)(1)(B)(i) adjusted pursuant to Code Section 415(d) (e.g., $95,000 for "determination years" beginning in 2005 and "look-back years" beginning in 2004) and, if elected by the Employer in Subsection 1.06(d)(1) of the Adoption Agreement, was a member of the top-paid group for such year.

For this purpose, the "determination year" shall be the Plan Year. The "look-back year" shall be the twelve-month period immediately preceding the "determination year", unless the Employer has elected in Subsection 1.06(c)(1) of the Adoption Agreement to make the "look-back year" the calendar year beginning within the preceding Plan Year.

A highly compensated former Employee includes any Employee who separated from service (or was deemed to have separated) prior to the "determination year", performs no service for the Employer during the "determination year", and was a highly compensated active Employee for either the separation year or any "determination year" ending on or after the Employee's 55th birthday, as determined under the rules in effect for determining Highly Compensated Employees for such separation year or "determination year".

The determination of who is a Highly Compensated Employee, including the determinations of the number and identity of Employees in the top-paid group, shall be made in accordance with Code Section 414(q) and the Treasury Regulations issued thereunder.

(dd) **"Hour of Service"**, with respect to any individual, means:

(1) Each hour for which the individual is directly or indirectly paid, or entitled to payment, for the performance of duties for the Employer or a Related Employer, each such hour to be credited to the individual for the Eligibility Computation Period in which the duties were performed;

(2) Each hour for which the individual is directly or indirectly paid, or entitled to payment, by the Employer or a Related Employer (including payments made or due from a trust fund or insurer to which the Employer contributes or pays premiums) on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity, disability, layoff, jury duty, military duty, or leave of absence, each such hour to be credited to the individual for the Eligibility Computation Period in which such period of time occurs, subject to the following rules:

(A) No more than 501 Hours of Service shall be credited under this paragraph (2) on account of any single continuous period during which the individual performs no duties, unless the individual performs no duties because of military duty, the individual's employment rights are protected by law, and the individual returns to employment with the Employer or a Related Employer during the period that his employment rights are protected under Federal law;

(B) Hours of Service shall not be credited under this paragraph (2) for a payment which solely reimburses the individual for medically-related expenses, or which is made or due under a plan maintained solely for the purpose of complying with applicable worker's compensation, unemployment compensation or disability insurance laws; and

(C) If the period during which the individual performs no duties falls within two or more Eligibility Computation Periods and if the payment made on account of such period is not calculated on the basis of units of time, the Hours of Service credited with respect to such period shall be allocated between not more than the first two such Eligibility Computation Periods on any reasonable basis consistently applied with respect to similarly situated individuals;

(3) Each hour not counted under paragraph (1) or (2) for which he would have been scheduled to work for the Employer or a Related Employer during the period that he is absent from work because of military duty, provided the individual's employment rights are protected under Federal law and the individual returns to work with the Employer or a Related Employer during the period that his employment rights are protected, each such hour to be credited to the individual for the Eligibility Computation Period for which he would have been scheduled to work; and

(4) Each hour not counted under paragraph (1), (2), or (3) for which back pay, irrespective of mitigation of damages, has been either awarded or agreed to be paid by the Employer or a Related Employer, shall be credited to the individual for the Eligibility Computation Period to which the award or agreement pertains rather than the Eligibility Computation Period in which the award, agreement, or payment is made.

For purposes of paragraphs (2) and (4) above, Hours of Service shall be calculated in accordance with the provisions of Section 2530.200b-2(b) and (c) of the Department of Labor regulations, which are incorporated herein by reference.

The Employer may elect to credit Hours of Service in accordance with one of the other equivalencies set forth in paragraphs (d), (e), or (f) of Department of Labor Regulation Section 2530.200b- 3. If the Employer does not maintain records that accurately reflect the actual Hours of Service to be credited to an Employee, 190 Hours of Service will be credited to the Employee for each month worked, unless the Employer has elected to credit Hours of Service in accordance with one of the other equivalencies set forth in paragraphs (d), (e), or (f) of Department of Labor Regulation Section 2530.200b-3, as provided in Subsection 1.04(b)(4) of the Adoption Agreement.

(ee) **"Inactive Participant"** means any individual who was an Active Participant, but is no longer an Eligible Employee and who has an Account under the Plan.

(ff) **"Leased Employee"** means any individual who provides services to the Employer or a Related Employer (the "recipient") but is not otherwise an employee of the recipient if (1) such services are provided pursuant to an agreement between the recipient and any other person (the "leasing organization"), (2) such individual has performed services for the recipient (or for the recipient and any related persons within the meaning of Code Section 414(n)(6)) on a substantially full-time basis for at least one year, and (3) such services are performed under primary direction of or control by the recipient. The determination of who is a Leased Employee shall be made in accordance with any rules and regulations issued by the Secretary of the Treasury or his delegate.

(gg) **"Limitation Year"** means the 12-consecutive-month period designated by the Employer in Subsection 1.01(f) of the Adoption Agreement. If no other Limitation Year is designated by the Employer, the Limitation Year shall be the calendar year. All qualified plans of the Employer and any Related Employer must use the same Limitation Year. If the Limitation Year is amended to a different 12-consecutive-month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

(hh) **"Matching Employer Contribution"** means any contribution made by the Employer to the Plan in accordance with Section 5.08 or 5.09 on account of an Active Participant's eligible contributions, as elected by the Employer in Subsection 1.11(c) of the Adoption Agreement.

(ii) **"Nonelective Employer Contribution"** means any contribution made by the Employer to the Plan in accordance with Section 5.10.

(jj) **"Non-Highly Compensated Employee"** means any Employee who is not a Highly Compensated Employee.

(kk) **"Normal Retirement Age"** means the normal retirement age specified in Subsection 1.14(a) of the Adoption Agreement. If the Employer enforces a mandatory retirement age in accordance with Federal law, the Normal Retirement Age is the lesser of that mandatory age or the age specified in Subsection 1.14(a) of the Adoption Agreement.

(ll) **"Participant"** means any individual who is either an Active Participant or an Inactive Participant.

(mm) **"Permissible Investment"** means each investment specified by the Employer as available for investment of assets of the Trust and agreed to by the Trustee and the Volume Submitter Sponsor. The Permissible Investments under the Plan shall be listed in the Service Agreement.

(nn) **"Plan"** means the plan established by the Employer in the form of the volume submitter plan, as set forth herein as a new plan or as an amendment to an existing plan, by executing the Adoption Agreement, together with any and all amendments hereto.

(oo) **"Plan Year"** means the 12-consecutive-month period ending on the date designated in Subsection 1.01(d) of the Adoption Agreement, except that the initial Plan Year of a new Plan may consist of fewer than 12 months, calculated from the Effective Date listed in Subsection 1.01(g)(1) of the Adoption Agreement through the end of such initial Plan Year, in which event Compensation for such initial Plan Year shall be treated as provided in Subsection 2.01(k). Additionally, in the event the Plan has a short Plan year, *i.e.*, a Plan Year consisting of fewer than 12 months, otherwise applicable limits and requirements that are applied on a Plan Year basis shall be prorated, but only if and to the extent required by law.

(pp) **"Qualified Matching Employer Contribution"** means any contribution made by the Employer to the Plan on account of Deferral Contributions or Employee Contributions made by or on behalf of Active Participants in accordance with Section 5.09, that may be included in determining whether the Plan meets the "ADP" test described in Section 6.03.

(qq) **"Qualified Nonelective Employer Contribution"** means any contribution made by the Employer to the Plan on behalf of Non-Highly Compensated Employees in accordance with Section 5.07, that may be included in determining whether the Plan meets the "ADP" test described in Section 6.03 or the "ACP" test described in Section 6.06.

(rr) **"Reemployment Commencement Date"** means the date on which an Employee who terminates employment with the Employer and all Related Employers first performs an Hour of Service following such termination of employment.

(ss) **"Related Employer"** means any employer other than the Employer named in Subsection 1.02(a) of the Adoption Agreement if the Employer and such other employer are members of a controlled group of corporations (as defined in Code Section 414(b)) or an affiliated service group (as defined in Code Section 414(m)), or are trades or businesses (whether or not incorporated) which are under common control (as defined in Code Section 414(c)), or such other employer is required to be aggregated with the Employer pursuant to regulations issued under Code Section 414(o).

(tt) **"Required Beginning Date"** means:

(1) for a Participant who is not a five percent owner, April 1 of the calendar year following the calendar year in which occurs the later of (i) the Participant's retirement or (ii) the Participant's attainment of age 70 1/ 2; provided, however, that a Participant may elect to have his Required Beginning Date determined without regard to the provisions of clause (i).

(2) for a Participant who is a five percent owner, April 1 of the calendar year following the calendar year in which the Participant attains age 70 1/2.

Once the Required Beginning Date of a five percent owner or a Participant who has elected to have his Required Beginning Date determined in accordance with the provisions of Section 2.01(tt)(1)(ii) has occurred, such Required Beginning Date shall not be re-determined, even if the Participant ceases to be a five percent owner in a subsequent year or continues in employment with the Employer or a Related Employer.

For purposes of this Subsection 2.01(tt), a Participant is treated as a five percent owner if such Participant is a five percent owner as defined in Code Section 416(i) (determined in accordance with Code Section 416 but without regard to whether the Plan is top-heavy) at any time during the Plan Year ending with or within the calendar year in which such owner attains age 70 1/2.

(uu) **"Rollover Contribution"** means any distribution from an eligible retirement plan, as defined in Section 13.04, that an Employee elects to contribute to the Plan in accordance with the provisions of Section 5.06.

(vv) **"Roth 401(k) Contribution"** means any Deferral Contribution made to the Plan by the Employer in accordance with the provisions of Subsection 5.03(b) that is not excludable from gross income and is intended to satisfy the requirements of Code Section 402A.

(ww) **"Self-Employed Individual"** means an individual who has Earned Income for the taxable year from the Employer or who would have had Earned Income but for the fact that the trade or business had no net profits for the taxable year, including, but not limited to, a partner in a partnership, a sole proprietor, a member in a limited liability company or a shareholder in a subchapter S corporation.

(xx) **"Service Agreement"** means the agreement between the Employer and the Volume Submitter Sponsor (or an agent or affiliate of the Volume Submitter Sponsor) relating to the provision of investment and other services to the Plan and shall include any addendum to the agreement and any other separate written agreement between the Employer and the Volume Submitter Sponsor (or an agent or affiliate of the Volume Submitter Sponsor) relating to the provision of services to the Plan.

(yy) **"Severance Date"** means the earlier of (i) the date an Employee retires, dies, quits, or is discharged from employment with the Employer and all Related Employers or (ii) the 12-month anniversary of the date on which the Employee was otherwise first absent from employment; provided, however, that if an individual terminates or is absent from employment with the Employer and all Related Employers because of military duty, such individual shall not incur a Severance Date if his employment rights are protected under Federal law and he returns to employment with the Employer or a Related Employer within the period during which he retains such employment rights, but, if he does not return to such employment within such period, his Severance Date shall be the earlier of (1) the first anniversary of the date his absence commenced or (2) the last day of the period during which he retains such employment rights.

(zz) **"Trust"** means the trust created by the Employer in accordance with the provisions of Section 20.01.

(aaa) **"Trust Agreement"** means the agreement between the Employer and the Trustee, as set forth in Article 20, under which the assets of the Plan are held, administered, and managed.

(bbb) **"Trustee"** means the trustee designated in Section 1.03 of the Adoption Agreement, or its successor or permitted assigns. The term Trustee shall include any delegate of the Trustee as may be provided in the Trust Agreement.

(ccc) **"Trust Fund"** means the property held in Trust by the Trustee for the benefit of Participants and their Beneficiaries.

(ddd) **"Vesting Service"** means an Employee's service that is taken into account in determining his vested interest in his Matching Employer and Nonelective Employer Contributions Accounts as may be required under Section 1.16 of the Adoption Agreement. Vesting Service shall be credited in accordance with Article 3.

(eee) **"Volume Submitter Sponsor"** means Fidelity Management & Research Company or its successor.

2.02. Interpretation and Construction of Terms. Where required by the context, the noun, verb, adjective, and adverb forms of each defined term shall include any of its other forms. Pronouns used in the Plan are in the masculine gender but include the feminine gender unless the context clearly indicates otherwise. Wherever used herein, the singular shall include the plural, and the plural shall include the singular, unless the context requires otherwise.

2.03. Special Effective Dates. Some provisions of the Plan are only effective beginning as of a specified date or until a specified date. Any such special effective dates are specified within Plan text where applicable and are exceptions to the general Plan Effective Date as defined in Section 2.01(p).

Article 3. Service.

3.01. Crediting of Eligibility Service. If the Employer has selected an Eligibility Service requirement in Subsection 1.04(b) of the Adoption Agreement for an Eligible Employee to become an Active Participant, Eligibility Service shall be credited to an Employee as follows:

(a) If the Employer has selected the one year or two years of Eligibility Service requirement described in Subsection 1.04(b) of the Adoption Agreement, an Employee shall be credited with a year of Eligibility Service for each Eligibility Computation Period during which the Employee has been credited with the number of Hours of Service specified in that Subsection, as applicable.

(b) If the Employer has selected a days or months of Eligibility Service requirement described in Subsection 1.04(b) of the Adoption Agreement, an Employee shall be credited with Eligibility Service for the aggregate of the periods beginning with the Employee's Employment Commencement Date (or Reemployment Commencement Date) and ending on his subsequent Severance Date; provided, however, that an Employee who has a Reemployment Date within the 12-consecutive-month period following the earlier of the first date of his absence or his Severance Date shall be credited with Eligibility Service for the period between his Severance Date and his Reemployment Date. A day of Eligibility Service shall be

credited for each day on which an Employee is credited with Eligibility Service. Months of Eligibility Service shall be measured from the Employee's Employment Commencement Date or Reemployment Commencement Date to the corresponding date in the applicable following month.

3.02. Re-Crediting of Eligibility Service Following Termination of Employment. An Employee whose employment with the Employer and all Related Employers terminates and who is subsequently reemployed by the Employer or a Related Employer shall be re-credited upon reemployment with his Eligibility Service earned prior to his termination of employment.

3.03. Crediting of Vesting Service. If the Plan provides for Matching Employer and/or Nonelective Employer Contributions that are not 100 percent vested when made, Vesting Service shall be credited to an Employee, subject to any exclusions elected by the Employer in Subsection 1.16(b) of the Adoption Agreement, for the aggregate of the periods beginning with the Employee's Employment Commencement Date (or Reemployment Commencement Date) and ending on his subsequent Severance Date; provided, however, that an Employee who has a Reemployment Date within the 12-consecutive-month period following the earlier of the first date of his absence or his Severance Date shall be credited with Vesting Service for the period between his Severance Date and his Reemployment Date. Fractional periods of a year shall be expressed in terms of days.

3.04. Application of Vesting Service to a Participant's Account Following a Break in Vesting Service. The following rules describe how Vesting Service earned before and after a Break in Vesting Service shall be applied for purposes of determining a Participant's vested interest in his Matching Employer and Nonelective Employer Contributions Accounts.

(a) If a Participant incurs five-consecutive Breaks in Vesting Service, all years of Vesting Service earned by the Employee after such Breaks in Service shall be disregarded in determining the Participant's vested interest in his Matching Employer and Nonelective Employer Contributions Account balances attributable to employment before such Breaks in Vesting Service. However, Vesting Service earned both before and after such Breaks in Vesting Service shall be included in determining the Participant's vested interest in his Matching Employer and Nonelective Employer Contributions Account balances attributable to employment after such Breaks in Vesting Service.

(b) If a Participant incurs fewer than five-consecutive Breaks in Vesting Service, Vesting Service earned both before and after such Breaks in Vesting Service shall be included in determining the Participant's vested interest in his Matching Employer and Nonelective Employer Contributions Account balances attributable to employment both before and after such Breaks in Vesting Service.

3.05. Service with Predecessor Employer. If the Plan is the plan of a predecessor employer, an Employee's Eligibility and Vesting Service shall include years of service with such predecessor employer. In any case in which the Plan is not the plan maintained by a predecessor employer, service for an employer specified in Section 1.17 of the Adoption Agreement shall be treated as Eligibility and Vesting Service.

3.06. Change in Service Crediting. If an amendment to the Plan or a transfer from employment as an Employee covered under another qualified plan maintained by the Employer or a Related Employer results in a change in the method of crediting Eligibility and/or Vesting Service with respect to a Participant between the Hours of Service crediting method set forth in Section 2530.200b-2 of the Department of Labor Regulations and the elapsed-time crediting method set forth in Section 1.410(a)-7 of the Treasury Regulations, each Participant with respect to whom the method of crediting Eligibility and/or Vesting Service is changed shall have his Eligibility and/or Vesting Service determined using either the Hours of Service method for the entire Eligibility Computation Period and/or Plan Year, for vesting purposes, or the elapsed time method for the entire Eligibility Computation Period and/or Plan Year, for vesting purposes, whichever provides the greater period of Eligibility Service and/or Vesting Service.

Article 4. Participation.

4.01. Date of Participation. If the Plan is an amendment, as indicated in Subsection 1.01(g)(2)(B) of the Adoption Agreement, all employees who were active participants in the Plan immediately prior to the Effective Date shall continue as Active Participants on the Effective Date, provided that they are Eligible Employees on the Effective Date. If elected by the Employer in Subsection 1.04(f) of the Adoption Agreement, all Eligible Employees who are in the service of the Employer on the date specified in Subsection 1.04(f) (and, if this is an amendment, as indicated in Subsection 1.01(g)(2)(B) of the Adoption Agreement, were not active participants in the Plan immediately prior to that date) shall become Active Participants on the date elected by the Employer in Subsection 1.04(f) of the Adoption Agreement. Any other Eligible Employee shall become an Active Participant in the Plan on the Entry Date coinciding with or immediately following the date on which he first satisfies the eligibility requirements set forth in Subsections 1.04(a) and (b) of the Adoption Agreement.

Any age and/or Eligibility Service requirement that the Employer elects to apply in determining an Eligible Employee's eligibility to make Deferral Contributions shall also apply in determining an Eligible Employee's eligibility to make Employee Contributions, if Employee Contributions are permitted under the Plan, and to receive Qualified Nonelective Employer Contributions. An Eligible Employee who has met the eligibility requirements with respect to certain contributions, but who has not met the eligibility requirements with respect to other contributions, shall become an Active Participant in accordance with the provisions of the preceding paragraph, but only with respect to the contributions for which he has met the eligibility requirements.

Notwithstanding any other provision of the Plan, if the Employer selects in Subsection 1.01(g)(5) of the Adoption Agreement that the Plan is a frozen plan, no Employee who was not already an Active Participant on the date the Plan was frozen shall become an Active Participant while the Plan is frozen. If the Employer amends the Plan to remove the freeze, Employees shall again become Active Participants in accordance with the provisions of the amended Plan.

4.02. Transfers Out of Covered Employment. If any Active Participant ceases to be an Eligible Employee, but continues in the employ of the Employer or a Related Employer, such Employee shall cease to be an Active Participant, but shall continue as an Inactive Participant until his entire Account balance is forfeited or distributed. An Inactive Participant shall not be entitled to receive an allocation of contributions or forfeitures under the Plan for the period that he is not an Eligible Employee and wages and other payments made to him by the Employer or a Related Employer for services other than as an Eligible Employee shall not be included in Compensation for purposes of determining the amount and allocation of any contributions to the Account of such Inactive Participant. Such Inactive Participant shall continue to receive credit for Vesting Service completed during the period that he continues in the employ of the Employer or a Related Employer.

4.03. Transfers Into Covered Employment. If an Employee who is not an Eligible Employee becomes an Eligible Employee, such Eligible Employee shall become an Active Participant immediately as of his transfer date if such Eligible Employee has already satisfied the eligibility requirements and would have otherwise previously become an Active Participant in accordance with Section 4.01. Otherwise, such Eligible Employee shall become an Active Participant in accordance with Section 4.01.

Wages and other payments made to an Employee prior to his becoming an Eligible Employee by the Employer or a Related Employer for services other than as an Eligible Employee shall not be included in Compensation for purposes of determining the amount and allocation of any contributions to the Account of such Eligible Employee.

4.04. Resumption of Participation Following Reemployment. If a Participant who terminates employment with the Employer and all Related Employers is reemployed as an Eligible Employee, he shall again become an Active Participant on his Reemployment Commencement Date. If a former Employee is reemployed as an Eligible Employee on or after an Entry Date coinciding with or following the date on which he met the age and service requirements elected by the Employer in Section 1.04 of the Adoption Agreement, he shall become an Active Participant on his Reemployment Commencement Date. Any other former Employee who is reemployed as an

Eligible Employee shall become an Active Participant as provided in Section 4.01 or 4.03. Any distribution which a Participant is receiving under the Plan at the time he is reemployed by the Employer or a Related Employer shall cease, except as otherwise required under Section 12.04.

Article 5. Contributions.

5.01. Contributions Subject to Limitations. All contributions made to the Plan under this Article 5 shall be subject to the limitations contained in Article 6.

5.02. Compensation Taken into Account in Determining Contributions. In determining the amount or allocation of any contribution that is based on a percentage of Compensation, only Compensation paid to a Participant prior to termination for services rendered to the Employer while employed as an Eligible Employee shall be taken into account. Except as otherwise specifically provided in this Article 5, for purposes of determining the amount and allocation of contributions under this Article 5, Compensation shall not include any amounts elected by the Employer with respect to such contributions in Subsection 1.05(a) or (b), as applicable, of the Adoption Agreement.

If the initial Plan Year of a new plan consists of fewer than 12 months, calculated from the Effective Date listed in Subsection 1.01(g)(1) of the Adoption Agreement through the end of such initial Plan Year, except as otherwise provided in this paragraph, Compensation for purposes of determining the amount and allocation of contributions under this Article 5 for such initial Plan Year shall include only Compensation for services during the period beginning on the Effective Date listed in Subsection 1.01(g)(1) of the Adoption Agreement and ending on the last day of the initial Plan Year.

5.03. Deferral Contributions. If so provided in Subsection 1.07(a) of the Adoption Agreement, each Active Participant may elect to execute a salary reduction agreement with the Employer to reduce his Compensation by an amount, as specified in Subsection 1.07(a) of the Adoption Agreement, for each payroll period. Except as specifically elected by the Employer within Subsections 1.07(a) of the Adoption Agreement, with respect to each payroll period, an Active Participant may not elect to make Deferral Contributions in excess of the percentage of Compensation specified by the Employer in Subsection 1.07(a)(1)(A) of the Adoption Agreement and Subsection 5.03(a) below. Notwithstanding the foregoing, if the Employer has elected 401(k) Safe Harbor Matching Contributions in Option 1.11(a)(3) of the Adoption Agreement, a Participant must be permitted to make Deferral Contributions under the Plan sufficient to receive the full 401(k) Safe Harbor Matching Employer Contribution provided under Subsection (a)(1) or (2), as applicable of the 401(k) Safe Harbor Matching Employer Contributions Addendum to the Adoption Agreement.

An Active Participant's salary reduction agreement shall become effective on the first day of the first payroll period for which the Employer can reasonably process the request, but not earlier than the later of (a) the effective date of the provisions permitting Deferral Contributions or (b) the date the Employer adopts such provisions. The Employer shall make a Deferral Contribution on behalf of the Participant corresponding to the amount of said reduction. Under no circumstances may a salary reduction agreement be adopted retroactively.

An Active Participant may elect to change or discontinue the amount by which his Compensation is reduced by notice to the Employer as provided in Subsection 1.07(a)(1)(C) or (D) of the Adoption Agreement. Notwithstanding the Employer's election in Subsection 1.07(a)(1)(C) or (D) of the Adoption Agreement, if the Employer has elected 401(k) Safe Harbor Matching Employer Contributions in Subsection 1.11(a)(3) of the Adoption Agreement or 401(k) Safe Harbor Nonelective Employer Contributions in; Subsection 1.12(a)(3) of the Adoption Agreement, an Active Participant may elect to change or discontinue the amount by which his Compensation is reduced by notice to the Employer within a reasonable period, as specified by the Employer (but not less than 30 days), of receiving the notice described in Section 6.09.

Based upon the Employer's elections in Subsection 1.07(a) of the Adoption Agreement, the following special types of Deferral Contributions may be made to the Plan:

(a) Catch-Up Contributions. If elected by the Employer in Subsection 1.07(a)(4) of the Adoption Agreement, an Active Participant who has attained or is expected to attain age 50 before the close of the calendar year shall be eligible to make Catch-Up Contributions to the Plan in excess of an otherwise applicable Plan limit, but not in excess of (i) the dollar limit in effect under Code Section 414(v)(2)(B)(ii) for the calendar year or (ii) when added to the other Deferral Contributions made by the Participant for the calendar year, the deferral limit described in Subsection 1.07(a)(1)(A) of the Adoption Agreement, provided such deferral limit is not less than 75 percent. Except as otherwise elected by the Employer in the Adoption Agreement, if the Employer elects to provide for Catch-Up Contributions pursuant to Subsection 1.07(a)(4) of the Adoption Agreement, such deferral limit shall be 75 percent of Compensation. An otherwise applicable Plan limit is a limit that applies to Deferral Contributions without regard to Catch-Up Contributions, including, but not limited to, (1) the dollar limitation on Deferral Contributions under Code Section 402(g), described in Section 6.02, (2) the limitations on annual additions in effect under Code Section 415, described in Section 6.12, and (3) the limitation on Deferral Contributions for Highly Compensated Employees under Code Section 401(k)(3), described in Section 6.03.

In the event that the deferral limit described in Subsection 1.07(a)(1)(A) of the Adoption Agreement or the administrative limit described in Section 6.05, as applicable, is changed during the Plan Year, for purposes of determining Catch-Up Contributions for the Plan Year, such limit shall be determined using the time-weighted average method described in Section 1.414(v)-1(b)(2)(i)(B)(1) of the Treasury Regulations, applying the alternative definition of compensation permitted under Section 1.414(v)-1(b)(2)(i)(B)(2) of the Treasury Regulations.

(b) Roth 401(k) Contributions. Notwithstanding any other provision of the Plan to the contrary, if the Employer elects in Subsection 1.07(a)(5) of the Adoption Agreement to permit Roth 401(k) Contributions, then a Participant may irrevocably designate all or a portion of his Deferral Contributions made pursuant to Subsection 1.07(a) of the Adoption Agreement as Roth 401(k) Contributions that are includible in the Participant's gross income at the time deferred, pursuant to Code Section 402A and any applicable guidance or regulations issued thereunder. A Participant may change his designation prospectively with respect to future Deferral Contributions as of the date or dates elected by the Employer in Subsection 1.07(a)(1)(C) of the Adoption Agreement. The Administrator will maintain all such contributions made pursuant to Code Section 402A separately and make distributions in accordance with the Plan unless required to do otherwise by Code Section 402A and any applicable guidance or regulations issued thereunder.

(c) Automatic Enrollment Contributions. If the Employer elected Option 1.07(a)(6) of the Adoption Agreement, for each Active Participant to whom the Employer has elected to apply the automatic enrollment contribution provisions, such Active Participant's Compensation shall be reduced by the percentage specified by the Employer in Option 1.07(a)(6) of the Adoption Agreement. These amounts shall be contributed to the Plan on behalf of such Active Participant as Deferral Contributions.

An Active Participant's Compensation shall continue to be reduced and Deferral Contributions made to the Plan on his behalf until the Active Participant elects to change or discontinue the percentage by which his Compensation is reduced by notice to the Employer as provided in Subsection 1.07(a)(1)(C) or (D) of the Adoption Agreement. An Eligible Employee may affirmatively elect not to have his Compensation reduced in accordance with this Subsection 5.03(c) by notice to the Employer within a reasonable period ending no later than the date Compensation subject to reduction hereunder becomes available to the Active Participant.

If the Employer elected Option 1.07(b) of the Adoption Agreement, the deferral election of an Active Participant on whose behalf Deferral Contributions are being made pursuant to the automatic enrollment provisions described above shall be increased annually by the percentage of Compensation specified in Subsection 1.07(b)(1) of the Adoption Agreement, unless and until the percentage of Compensation being contributed on behalf of the Active Participant reaches the limit specified in Subsection 1.07(b)(2) of the Adoption Agreement or, if none, in Subsection 1.07(a)(1) of the Adoption

Agreement. An Active Participant may affirmatively elect not to have his deferral election increased in accordance with the provisions of this paragraph by notice to the Employer within a reasonable period ending no later than the date Compensation subject to the increase becomes available to the Active Participant.

Notwithstanding any other provision of this Section or of any Participant's salary reduction agreement, in no event shall a Participant be permitted to make Deferral Contributions in excess of his "effectively available Compensation." A Participant's "effectively available Compensation" is his Compensation remaining after all applicable amounts have been withheld (e.g., tax-withholding and withholding of contributions to a cafeteria plan).

5.04. Employee Contributions. The Employer shall not allow Participants to make Employee Contributions to the Plan. If Plan assets include Employee Contributions made or transferred to the Plan prior to the Effective Date, as indicated by the Employer in Section 1.08 of the Adoption Agreement, such contributions shall be maintained in a separate account.

5.05. No Deductible Employee Contributions. No deductible Employee Contributions may be made to the Plan. Deductible Employee Contributions made prior to January 1, 1987 shall be maintained in a separate Account. No part of the deductible Employee Contributions Account shall be used to purchase life insurance.

5.06. Rollover Contributions. If so provided by the Employer in Subsection 1.09(a) of the Adoption Agreement, an Eligible Employee who is or was entitled to receive an eligible rollover distribution, as defined in Code Section 402(c)(4) and Treasury Regulations issued thereunder, including an eligible rollover distribution received by the Eligible Employee as a surviving spouse or as a spouse or former spouse who is an alternate payee under a qualified domestic relations order, from an eligible retirement plan, as defined in Section 13.04, may elect to contribute all or any portion of such distribution to the Trust directly from such eligible retirement plan (a "direct rollover") or within 60 days of receipt of such distribution to the Eligible Employee. Rollover Contributions shall only be made in the form of cash, allowable Fund Shares, or promissory notes evidencing a plan loan to the Eligible Employee; provided, however, that Rollover Contributions shall only be permitted in the form of promissory notes if the Plan otherwise provides for loans.

Notwithstanding the foregoing, the Plan shall not accept the following as Rollover Contributions:

(a) any rollover of after-tax employee contributions that is not made by a direct rollover;

(b) if elected by the Employer in Subsection 1.09(a)(1) of the Adoption Agreement, a direct rollover of after-tax employee contributions from a qualified plan described in Code Section 401(a) or 403(a);

(c) any rollover of after-tax employee contributions from an annuity contract described in Code Section 403(b) or from an individual retirement account or annuity described in Code Section 408(a) or (b);

(d) any rollover of nondeductible individual retirement account or annuity contributions;

(e) any rollover of after-tax employee contributions from an eligible deferred compensation plan described in Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state;

(f) if elected by the Employer in Subsection 1.09(a)(2) of the Adoption Agreement, any rollover of "designated Roth contributions", as defined in Subsection 6.01(e);

(g) any rollover of the non-taxable portion of an Eligible Employee's "designated Roth contributions", as defined in Subsection 6.01(e), that is not made by a direct rollover; or

(h) any rollover of “designated Roth contributions”, as defined in Subsection 6.01(e), from a Roth IRA described in Code Section 408A.

To the extent the Plan accepts Rollover Contributions of after-tax employee contributions, the Plan will separately account for such contributions, including separate accounting for the portion of the Rollover Contribution that is includible in gross income and the portion that is not includible in gross income.

Any rollover of “designated Roth contributions”, as defined in Subsection 6.01(e), shall be subject to the requirements of Code Section 402(c). To the extent the Plan accepts Rollover Contributions of “designated Roth contributions”, the Plan will separately account for such contributions in accordance with the provisions of Section 7.01, including separate accounting for the portion of the Rollover Contribution that is includible in gross income and the portion that is not includible in gross income, if applicable. If the Plan accepts a direct rollover of “designated Roth contributions”, the Trustee and the Plan Administrator shall be entitled to rely on a statement from the distributing plan’s administrator identifying (i) the Eligible Employee’s basis in the rolled over amounts and (ii) the date on which the Eligible Employee’s 5-taxable-year period of participation (as required under Code Section 402A(d)(2) for a qualified distribution of “designated Roth contributions”) started under the distributing plan. If the 5-taxable-year period of participation under the distributing plan would end sooner than the Eligible Employee’s 5-taxable-year period of participation under the Plan, the 5-taxable-year period of participation applicable under the distributing plan shall continue to apply with respect to the Rollover Contribution.

An Eligible Employee who has not yet become an Active Participant in the Plan in accordance with the provisions of Article 3 may make a Rollover Contribution to the Plan. Such Eligible Employee shall be treated as a Participant under the Plan for all purposes of the Plan, except eligibility to have Deferral Contributions made on his behalf and to receive an allocation of Matching Employer or Nonelective Employer Contributions.

The Administrator shall develop such procedures and require such information from Eligible Employees as it deems necessary to ensure that amounts contributed under this Section 5.06 meet the requirements for tax-deferred rollovers established by this Section 5.06 and by Code Section 402(c). No Rollover Contributions may be made to the Plan until approved by the Administrator.

If a Rollover Contribution made under this Section 5.06 is later determined by the Administrator not to have met the requirements of this Section 5.06 or of the Code or Treasury regulations, the Trustee shall, within a reasonable time after such determination is made, and on instructions from the Administrator, distribute to the Employee the amounts then held in the Trust attributable to such Rollover Contribution.

A Participant’s Rollover Contributions Account shall be subject to the terms of the Plan, including Article 14, except as otherwise provided in this Section 5.06.

5.07. Qualified Nonelective Employer Contributions. The Employer may, in its discretion, make a Qualified Nonelective Employer Contribution for the Plan Year in any amount necessary to satisfy or help to satisfy the “ADP” test, described in Section 6.03, and/or the “ACP” test, described in Section 6.06. Unless the Employer elects the allocation provisions in Subsection 1.10(a)(1) of the Adoption Agreement, any Qualified Nonelective Employer Contribution shall be allocated among the Accounts of Non-Highly Compensated Employees who were Active Participants at any time during the Plan Year in the ratio that each eligible Active Participant’s “testing compensation”, as defined in Subsection 6.01(r), for the Plan Year bears to the total “testing compensation” paid to all eligible Active Participants for the Plan Year. If the Employer elects the allocation provisions in Subsection 1.10(a)(1) of the Adoption Agreement, any Qualified Nonelective Employer Contribution shall be allocated among the Accounts of only those Non-Highly Compensated Employees who are designated by the Employer and who were Active Participants at any time during the Plan Year and shall be allocated to each such Non-Highly Compensated Employee in the amount determined by the Employer; provided, however, that the amount of any Qualified Nonelective Contribution included in a Non-Highly Compensated Employee’s “contribution percentage amounts”, as defined in Subsection 6.01(c), shall not exceed 5% of such Non-Highly Compensated Employee’s “testing compensation”, as defined in Subsection 6.01(r), and the amount of any Qualified Nonelective Contribution included as “ in a Non-Highly Compensated Employee’s “includable contributions”, as defined in Subsection 6.01(n), shall not exceed 5% of such Non-Highly Compensated Employee’s “testing compensation”, as defined in Subsection 6.01(r).

Participants shall not be required to satisfy any Hours of Service or employment requirement for the Plan Year in order to receive an allocation of Qualified Nonelective Employer Contributions.

Qualified Nonelective Employer Contributions shall be distributable only in accordance with the distribution provisions that are applicable to Deferral Contributions; provided, however, that a Participant shall not be permitted to take a hardship withdrawal of amounts credited to his Qualified Nonelective Employer Contributions Account after the later of December 31, 1988 or the last day of the Plan Year ending before July 1, 1989.

5.08. Matching Employer Contributions. If so provided by the Employer in Section 1.11 of the Adoption Agreement, the Employer shall make a Matching Employer Contribution on behalf of each of its "eligible" Participants. For purposes of this Section 5.08, an "eligible" Participant means any Participant who was an Active Participant during the Contribution Period, who meets the requirements in Subsection 1.11(e) of the Adoption Agreement or Section 1.13 of the Adoption Agreement, as applicable, and who had eligible contributions, as elected by the Employer in Subsection 1.11(c) of the Adoption Agreement, made on his behalf during the Contribution Period. The amount of the Matching Employer Contribution shall be determined in accordance with Subsection 1.11(a) and/or (b) of the Adoption Agreement and/or the 401(k) Safe Harbor Matching Employer Contributions Addendum to the Adoption Agreement, as applicable.

Notwithstanding the foregoing, unless otherwise elected in Subsection 1.11(c)(1)(A) of the Adoption Agreement, the Employer shall ***not*** make Matching Employer Contributions, other than 401(k) Safe Harbor Matching Employer Contributions, with respect to an "eligible" Participant's Catch-Up Contributions. If, due to application of a Plan limit, Matching Employer Contributions other than 401(k) Safe Harbor Matching Employer Contributions are attributable to Catch-Up Contributions, such Matching Employer Contributions, plus any income and minus any loss allocable thereto, shall be forfeited and applied as provided in Section 11.09.

5.09. Qualified Matching Employer Contributions. If so provided by the Employer in Subsection 1.11(f) of the Adoption Agreement, prior to making its Matching Employer Contribution (other than any 401(k) Safe Harbor Matching Employer Contribution) to the Plan, the Employer may designate all or a portion of such Matching Employer Contribution as a Qualified Matching Employer Contribution. The Employer shall notify the Trustee of such designation at the time it makes its Matching Employer Contribution. Qualified Matching Employer Contributions shall be distributable only in accordance with the distribution provisions that are applicable to Deferral Contributions; provided, however, that a Participant shall not be permitted to take a hardship withdrawal of amounts credited to his Qualified Matching Employer Contributions Account after the later of December 31, 1988 or the last day of the Plan Year ending before July 1, 1989.

If the amount of an Employer's Qualified Matching Employer Contribution is determined based on a Participant's Compensation, and the Qualified Matching Employer Contribution is necessary to satisfy the "ADP" test described in Section 6.03, the compensation used in determining the amount of the Qualified Matching Employer Contribution shall be "testing compensation", as defined in Subsection 6.01(r). If the Qualified Matching Employer Contribution is not necessary to satisfy the "ADP" test described in Section 6.03, the compensation used to determine the amount of the Qualified Matching Employer Contribution shall be Compensation as defined in Subsection 2.01(k), modified as provided in Section 5.02.

5.10. Nonelective Employer Contributions. If so provided by the Employer in Section 1.12 of the Adoption Agreement, the Employer shall make Nonelective Employer Contributions to the Trust in accordance with Subsection 1.12(a) and/or (b) of the Adoption Agreement to be allocated among "eligible" Participants. For purposes of this Section 5.10, an "eligible" Participant means any Participant who was an Active Participant during the period for which the contribution is made and who meets the requirements in Subsection 1.12(d) of the Adoption Agreement or Section 1.13 of the Adoption Agreement, as applicable. Nonelective Employer Contributions shall be allocated as follows:

(a) If the Employer has elected a fixed contribution formula, Nonelective Employer Contributions shall be allocated among "eligible" Participants in the manner specified in Section 1.12 of the Adoption Agreement or the 401(k) Safe Harbor Nonelective Employer Contributions Addendum to the Adoption Agreement, as applicable.

(b) If the Employer has elected a discretionary contribution amount, Nonelective Employer Contributions shall be allocated among "eligible" Participants, as determined in accordance with Section 1.12 and Section 1.13 of the Adoption Agreement, as follows:

(1) If the non-integrated formula is elected in Subsection 1.12(b)(1) of the Adoption Agreement, Nonelective Employer Contributions shall be allocated to "eligible" Participants in the ratio that each "eligible" Participant's Compensation bears to the total Compensation paid to all "eligible" Participants for the Contribution Period.

(2) If the integrated formula is elected in Subsection 1.12(b)(2) of the Adoption Agreement, Nonelective Employer Contributions shall be allocated in the following steps:

(A) First, to each "eligible" Participant in the same ratio that the sum of the "eligible" Participant's Compensation and "excess Compensation" for the Plan Year bears to the sum of the Compensation and "excess Compensation" of all "eligible" Participants for the Plan Year. This allocation as a percentage of the sum of each "eligible" Participant's Compensation and "excess Compensation" shall not exceed the "permitted disparity limit", as defined in Section 1.12 of the Adoption Agreement.

Notwithstanding the foregoing, if in any Plan Year an "eligible" Participant has reached the "cumulative permitted disparity limit", such "eligible" Participant shall receive an allocation under this Subsection 5.10(b)(2)(A) based on two times his Compensation for the Plan Year, rather than the sum of his Compensation and "excess Compensation" for the Plan Year. If an "eligible" Participant did not benefit under a qualified defined benefit plan or target benefit plan for any Plan Year beginning on or after January 1, 1994, the "eligible" Participant shall have no "cumulative disparity limit".

(B) Second, if any Nonelective Employer Contributions remain after the allocation in Subsection 5.10(b)(2)(A), the remaining Nonelective Employer Contributions shall be allocated to each "eligible" Participant in the same ratio that the "eligible" Participant's Compensation for the Plan Year bears to the total Compensation of all "eligible" Participants for the Plan Year.

Notwithstanding the provisions of Subsections 5.10(b)(2)(A) and (B) above, if in any Plan Year an "eligible" Participant benefits under another qualified plan or simplified employee pension, as defined in Code Section 408(k), that provides for or imputes permitted disparity, the Nonelective Employer Contributions for the Plan Year allocated to such "eligible" Participant shall be in the ratio that his Compensation for the Plan Year bears to the total Compensation paid to all "eligible" Participants.

For purposes of this Subsection 5.10(b)(2), the following definitions shall apply:

(C) **"Cumulative permitted disparity limit"** means 35 multiplied by the sum of an "eligible" Participant's annual permitted disparity fractions, as defined in Sections 1.401(l)-5(b)(3) through (b)(7) of the Treasury Regulations, attributable to the "eligible" Participant's total years of service under the Plan and any other qualified plan or simplified employee pension, as defined in Code Section 408(k), maintained by the Employer or a Related Employer. For each Plan Year commencing prior to January 1, 1989,

the annual permitted disparity fraction shall be deemed to be one, unless the Participant never accrued a benefit under any qualified plan or simplified employee pension maintained by the Employer or a Related Employer during any such Plan Year. In determining the annual permitted disparity fraction for any Plan Year, the Employer may elect to assume that the full disparity limit has been used for such Plan Year.

(D) **"Excess Compensation"** means Compensation in excess of the "integration level" specified by the Employer in Subsection 1.12(b)(2) of the Adoption Agreement.

5.11. Vested Interest in Contributions. A Participant's vested interest in the following sub-accounts shall be 100 percent:

(a) his Deferral Contributions Account;

(b) his Qualified Nonelective Employer Contributions Account;

(c) his Qualified Matching Employer Contributions Account;

(d) his 401(k) Safe Harbor Nonelective Employer Contributions Account;

(e) his 401(k) Safe Harbor Matching Employer Contributions Account;

(f) his Rollover Contributions Account;

(g) his Employee Contributions Account; and

(h) his deductible Employee Contributions Account.

Except as otherwise specifically provided in the Vesting Schedule Addendum to the Adoption Agreement or as may be required under Section 15.05, a Participant's vested interest in his Nonelective Employer Contributions Account attributable to Nonelective Employer Contributions other than those described in Subsection 5.11(d) above, shall be determined in accordance with the vesting schedule elected by the Employer in Subsection 1.16(c)(1) of the Adoption Agreement. Except as otherwise specifically provided in the Vesting Schedule Addendum to the Adoption Agreement, a Participant's vested interest in his Matching Employer Contributions Account attributable to Matching Employer Contributions other than those described in Subsection 5.11(e) above, shall be determined in accordance with the vesting schedule elected by the Employer in Subsection 1.16(c)(2) of the Adoption Agreement.

5.12. Time for Making Contributions. The Employer shall pay its contribution for each Plan Year not later than the time prescribed by law for filing the Employer's Federal income tax return for the fiscal (or taxable) year with or within which such Plan Year ends (including extensions thereof).

If the Employer has elected the payroll period as the Contribution Period in Subsection 1.11(d) of the Adoption Agreement, the Employer shall remit any 401(k) Safe Harbor Matching Employer Contributions made during a Plan Year quarter to the Trustee no later than the last day of the immediately following Plan Year quarter.

The Employer should remit Employee Contributions and Deferral Contributions to the Trustee as of the earliest date on which such contributions can reasonably be segregated from the Employer's general assets, but not later than the 15th business day of the calendar month following the month in which such amount otherwise would have been paid to the Participant, or within such other time frame as may be determined by applicable regulation or legislation.

The Trustee shall have no authority to inquire into the correctness of the amounts contributed and remitted to the Trustee, to determine whether any contribution is payable under this Article 5, or to enforce, by suit or otherwise, the Employer's obligation, if any, to make a contribution to the Trustee. The Trustee is a directed trustee pursuant to ERISA Section 403(a)(1) for all purposes, and, specifically, has no responsibility or authority to collect Plan contributions or loan repayments or to pursue any claim the Plan might have with respect to loan repayments or Plan contributions.

5.13. Return of Employer Contributions. The Trustee shall, upon request by the Employer, return to the Employer the amount (if any) determined under Section 20.21. Such amount shall be reduced by amounts attributable thereto which have been credited to the Accounts of Participants who have since received distributions from the Trust, except to the extent such amounts continue to be credited to such Participants' Accounts at the time the amount is returned to the Employer. Such amount shall also be reduced by the losses of the Trust attributable thereto, if and to the extent such losses exceed the gains and income attributable thereto, but shall not be increased by the gains and income of the Trust attributable thereto, if and to the extent such gains and income exceed the losses attributable thereto. To the extent such gains exceed losses, the gains shall be forfeited and applied as provided in Section 11.09. In no event shall the return of a contribution hereunder cause the balance of the individual Account of any Participant to be reduced to less than the balance which would have been credited to the Account had the mistaken amount not been contributed.

5.14. Frozen Plan. If the Employer has selected in Subsection 1.01(g)(5) of the Adoption Agreement that the Plan is a frozen plan, then during the period that the Plan is a frozen Plan and notwithstanding any other provision of the Plan to the contrary, no further contributions may be made to the Plan in accordance with this Article 5. If the Employer amends the Plan to remove the freeze, contributions shall resume in accordance with the provisions of the amended Plan.

Article 6. Limitations on Contributions.

6.01. Special Definitions. For purposes of this Article, the following definitions shall apply:

(a) **"Annual additions"** mean the sum of the following amounts allocated to an Active Participant for a Limitation Year:

(1) all employer contributions allocated to an Active Participant's account under qualified defined contribution plans maintained by the "415 employer", including amounts applied to reduce employer contributions as provided under Section 11.09, but excluding amounts treated as Catch-Up Contributions;

(2) all employee contributions allocated to an Active Participant's account under a qualified defined contribution plan or a qualified defined benefit plan maintained by the "415 employer" if separate accounts are maintained with respect to such Active Participant under the defined benefit plan;

(3) all forfeitures allocated to an Active Participant's account under a qualified defined contribution plan maintained by the "415 employer";

(4) all amounts allocated to an "individual medical benefit account" which is part of a pension or annuity plan maintained by the "415 employer";

(5) all amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of a key employee, as defined in Code Section 419A(d)(3), under a "welfare benefit fund" maintained by the "415 employer"; and

(6) all allocations to an Active Participant under a "simplified employee pension".

(b) **"Contribution percentage"** means the ratio (expressed as a percentage) of (1) the "contribution percentage amounts" allocated to an "eligible participant's" Accounts for the Plan Year to (2) the "eligible participant's" "testing compensation" for the Plan Year.

(c) **"Contribution percentage amounts"** mean those amounts included in applying the "ACP" test.

(1) "Contribution percentage amounts" include the following:

(A) any Employee Contributions made by an "eligible participant" to the Plan;

(B) any Matching Employer Contributions on eligible contributions as elected by the Employer in Subsection 1.11(c) of the Adoption Agreement, made for the Plan Year, but excluding (A) Qualified Matching Employer Contributions that are taken into account in satisfying the "ADP" test described in Section 6.03 and (B) Matching Employer Contributions that are forfeited either to correct "excess aggregate contributions" or because the contributions to which they relate are "excess deferrals", "excess contributions", "excess aggregate contributions", or Catch-Up Contributions (in the event the Plan does not provide for Matching Employer Contributions with respect to Catch-Up Contributions);

(C) if elected, Qualified Nonelective Employer Contributions, excluding Qualified Nonelective Employer Contributions that are taken into account in satisfying the "ADP" test described in Section 6.03;

(D) if elected, 401(k) Safe Harbor Nonelective Employer Contributions, to the extent such contributions are not required to satisfy the safe harbor contribution requirements under Section 1.401(k)-3(b) of the Treasury Regulations, excluding 401(k) Safe Harbor Nonelective Employer Contributions that are taken into account in satisfying the "ADP" test described in Section 6.03; and

(E) if elected, Deferral Contributions, provided that the "ADP" test described in Section 6.03 is satisfied both including Deferral Contributions included as "contribution percentage amounts" and excluding such Deferral Contributions.

(2) Notwithstanding the foregoing, for any Plan Year in which the "ADP" test described in Section 6.03 is deemed satisfied pursuant to Section 6.09 with respect to some or all Deferral Contributions, "contribution percentage amounts" shall not include the following:

(A) any Deferral Contributions with respect to which the "ADP" test is deemed satisfied; and

(B) if elected, the following Matching Employer Contributions:

(i) if the requirements described in Section 6.10 for deemed satisfaction of the "ACP" test with respect to some or all Matching Employer Contributions are met, those Matching Employer Contributions with respect to which the "ACP" test is deemed satisfied; or

(ii) if the "ADP" test is deemed satisfied using 401(k) Safe Harbor Matching Employer Contributions, but the requirements described in Section 6.10 for deemed satisfaction of the "ACP" test with respect to Matching Employer Contributions are not met, any Matching Employer Contributions made on behalf of an "eligible participant" for the Plan Year that do not exceed four percent of the "eligible participant's" Compensation for the Plan Year.

(3) Notwithstanding any other provisions of this Subsection, if an Employer elects to change from the current year testing method described in Subsection 1.06(a)(1) of the Adoption Agreement to the prior year testing method described in Subsection 1.06(a)(2) of the Adoption Agreement, the following shall not be considered "contribution percentage amounts" for purposes of determining the "contribution percentages" of Non-Highly Compensated Employees for the prior year immediately preceding the Plan Year in which the change is effective:

(A) Qualified Matching Employer Contributions that were taken into account in satisfying the "ADP" test described in Section 6.03 for such prior year;

(B) Qualified Nonelective Employer Contributions that were taken into account in satisfying the "ADP" test described in Section 6.03 or the "ACP" test described in Section 6.06 for such prior year;

(C) 401(k) Safe Harbor Nonelective Employer Contributions that were taken into account in satisfying the "ADP" test described in Section 6.03 or the "ACP" test described in Section 6.06 for such prior year or that were required to satisfy the safe harbor contribution requirements under Section 1.401(k)-3(b) of the Treasury Regulations for such prior year; and

(D) all Deferral Contributions.

To be included in determining an "eligible participant's" "contribution percentage" for a Plan Year, Employee Contributions must be made to the Plan before the end of such Plan Year and other "contribution percentage amounts" must be allocated to the "eligible participant's" Account as of a date within such Plan Year and made before the last day of the 12-month period immediately following the Plan Year to which the "contribution percentage amounts" relate. If an Employer has elected the prior year testing method described in Subsection 1.06(a)(2) of the Adoption Agreement, "contribution percentage amounts" that are taken into account for purposes of determining the "contribution percentages" of Non-Highly Compensated Employees for the prior year relate to such prior year. Therefore, such "contribution percentage amounts" must be made before the last day of the Plan Year being tested.

(d) **"Deferral ratio"** means the ratio (expressed as a percentage) of (1) the amount of "includable contributions" made on behalf of an Active Participant for the Plan Year to (2) the Active Participant's "testing compensation" for such Plan Year. An Active Participant who does not receive "includable contributions" for a Plan Year shall have a "deferral ratio" of zero.

(e) **"Designated Roth contributions"** mean any Roth 401(k) Contributions made to the Plan and any "elective deferrals" made to another plan that would be excludable from a Participant's income, but for the Participant's election to designate such contributions as Roth contributions and include them in income.

(f) **"Determination year"** means (1) for purposes of determining income or loss with respect to "excess deferrals", the calendar year in which the "excess deferrals" were made and (2) for purposes of determining income or loss with respect to "excess contributions", and "excess aggregate contributions", the Plan Year in which such "excess contributions" or "excess aggregate contributions" were made.

(g) **"Elective deferrals"** mean all employer contributions, other than Deferral Contributions, made on behalf of a Participant pursuant to an election to defer under any qualified cash or deferred arrangement as described in Code Section 401(k), any simplified employee pension cash or deferred arrangement as described in Code Section 402(h)(1)(B), any eligible deferred compensation plan under Code Section 457, any plan as described under Code Section 501(c)(18), and any employer contributions made on behalf of a

Participant pursuant to a salary reduction agreement for the purchase of an annuity contract under Code Section 403(b). “Elective deferrals” include “designated Roth contributions” made to another plan. “Elective deferrals” do not include any deferrals properly distributed as excess “annual additions” or any deferrals treated as catch-up contributions in accordance with the provisions of Code Section 414(v).

(h) **“Eligible participant”** means any Active Participant who is eligible to make Employee Contributions, or Deferral Contributions (if the Employer takes such contributions into account in calculating “contribution percentages”), or to receive a Matching Employer Contribution. Notwithstanding the foregoing, the term “eligible participant” shall not include any Active Participant who is included in a unit of Employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers.

(i) **“Excess aggregate contributions”** with respect to any Plan Year mean the excess of

(1) The aggregate “contribution percentage amounts” actually taken into account in computing the average “contribution percentages” of “eligible participants” who are Highly Compensated Employees for such Plan Year, over

(2) The maximum amount of “contribution percentage amounts” permitted to be made on behalf of Highly Compensated Employees under Section 6.06 (determined by reducing “contribution percentage amounts” made for the Plan Year on behalf of “eligible participants” who are Highly Compensated Employees in order of their “contribution percentages” beginning with the highest of such “contribution percentages”).

“Excess aggregate contributions” shall be determined after first determining “excess deferrals” and then determining “excess contributions”.

(j) **“Excess contributions”** with respect to any Plan Year mean the excess of

(1) The aggregate amount of “includable contributions” actually taken into account in computing the average “deferral percentage” of Active Participants who are Highly Compensated Employees for such Plan Year, over

(2) The maximum amount of “includable contributions” permitted to be made on behalf of Highly Compensated Employees under Section 6.03 (determined by reducing “includable contributions” made for the Plan Year on behalf of Active Participants who are Highly Compensated Employees in order of their “deferral ratios”, beginning with the highest of such “deferral ratios”).

(k) **“Excess deferrals”** mean those Deferral Contributions and/or “elective deferrals” that are includable in a Participant’s gross income under Code Section 402(g) to the extent such Participant’s Deferral Contributions and/or “elective deferrals” for a calendar year exceed the dollar limitation under such Code Section for such calendar year.

(l) **“Excess 415 amount”** means the excess of an Active Participant’s “annual additions” for the Limitation Year over the “maximum permissible amount”.

(m) **“415 employer”** means the Employer and any other employers which constitute a controlled group of corporations (as defined in Code Section 414(b) as modified by Code Section 415(h)) or which constitute trades or businesses (whether or not incorporated) which are under common control (as defined in Code Section 414(c) as modified by Code Section 415(h)) or which constitute an affiliated service group (as defined in Code Section 414(m)) and any other entity required to be aggregated with the Employer pursuant to regulations issued under Code Section 414(o).

(n) **"Includable contributions"** mean those amounts included in applying the "ADP" test.

(1) "Includable contributions" include the following:

(A) any Deferral Contributions made on behalf of an Active Participant, including "excess deferrals" of Highly Compensated Employees and "designated Roth contributions", except as specifically provided in Subsection 6.01(n)(2);

(B) if elected, Qualified Nonelective Employer Contributions, excluding Qualified Nonelective Employer Contributions that are taken into account in satisfying the "ACP" test described in Section 6.06; and

(C) if elected, Qualified Matching Employer Contributions on Deferral Contributions or Employee Contributions made for the Plan Year; provided, however, that the maximum amount of Qualified Matching Employer Contributions included in "includable contributions" with respect to an Active Participant shall not exceed the greater of 5% of the Active Participant's "testing compensation" or 100% of his Deferral Contributions for the Plan Year.

(2) "Includable contributions" shall not include the following:

(A) Catch-Up Contributions, except to the extent that a Participant's Deferral Contributions are classified as Catch-Up Contributions as provided in Section 6.04 solely because of a failure of the "ADP" test described in Section 6.03;

(B) "excess deferrals" of Non-Highly Compensated Employees that arise solely from Deferral Contributions made under the Plan or plans maintained by the Employer or a Related Employer;

(C) Deferral Contributions that are taken into account in satisfying the "ACP" test described in Section 6.06;

(D) additional elective contributions made pursuant to Code Section 414(u) that are treated as Deferral Contributions;

(E) for any Plan Year in which the "ADP" test described in Section 6.03 is deemed satisfied pursuant to Section 6.09 with respect to some or all Deferral Contributions, the following:

(i) any Deferral Contributions with respect to which the "ADP" test is deemed satisfied; and

(ii) Qualified Matching Employer Contributions, except to the extent that the "ADP" test described in Section 6.03 must be satisfied with respect to some Deferral Contributions and such Qualified Matching Employer Contributions are used in applying the "ADP" test.

(3) Notwithstanding any other provision of this Subsection, if an Employer elects to change from the current year testing method described in Subsection 1.06(a)(1) of the Adoption Agreement to the prior year testing method described in Subsection 1.06(a)(2) of the Adoption Agreement, the following shall not be considered "includable contributions" for purposes of determining the "deferral ratios" of Non-Highly Compensated Employees for the prior year immediately preceding the Plan Year in which the change is effective:

(A) Deferral Contributions that were taken into account in satisfying the "ACP" test described in Section 6.06 for such prior year;

(B) Qualified Nonelective Employer Contributions that were taken into account in satisfying the "ADP" test described in Section 6.03 or the "ACP" test described in Section 6.06 for such prior year;

(C) 401(k) Safe Harbor Nonelective Employer Contributions that were taken into account in satisfying the "ADP" test described in Section 6.03 or the "ACP" test described in Section 6.06 for such prior year or that were required to satisfy the safe harbor contribution requirements under Section 1.401(k)-3(b) of the Treasury Regulations for such prior year;

(D) 401(k) Safe Harbor Matching Employer Contributions that were taken into account in satisfying the "ADP" test described in Section 6.03 for such prior year or that were required to satisfy the safe harbor contribution requirements under Section 1.401(k)-3(c) of the Treasury Regulations for such prior year; and

(E) all Qualified Matching Employer Contributions.

To be included in determining an Active Participant's "deferral ratio" for a Plan Year, "includable contributions" must be allocated to the Participant's Account as of a date within such Plan Year and made before the last day of the 12-month period immediately following the Plan Year to which the "includable contributions" relate. If an Employer has elected the prior year testing method described in Subsection 1.06(a)(2) of the Adoption Agreement, "includable contributions" that are taken into account for purposes of determining the "deferral ratios" of Non-Highly Compensated Employees for the prior year relate to such prior year. Therefore, such "includable contributions" must be made before the last day of the Plan Year being tested.

(o) **"Individual medical benefit account"** means an individual medical benefit account as defined in Code Section 415(l)(2).

(p) **"Maximum permissible amount"** means for a Limitation Year with respect to any Active Participant the lesser of (1) the maximum dollar amount permitted for the Limitation Year under Code Section 415(c)(1)(A) adjusted as provided in Code Section 415(d) (e.g., $42,000 for the Limitation Year ending in 2005) or (2) 100 percent of the Active Participant's Compensation for the Limitation Year. If a short Limitation Year is created because of an amendment changing the Limitation Year to a different 12-consecutive-month period, the dollar limitation specified in clause (1) above shall be adjusted by multiplying it by a fraction the numerator of which is the number of months in the short Limitation Year and the denominator of which is 12.

The Compensation limitation specified in clause (2) above shall not apply to any contribution for medical benefits within the meaning of Code Section 401(h) or 419A(f)(2) after separation from service which is otherwise treated as an "annual addition" under Code Section 419A(d)(2) or 415(l)(1).

(q) **"Simplified employee pension"** means a simplified employee pension as defined in Code Section 408(k).

(r) **"Testing compensation"** means compensation as defined in Code Section 414(s). "Testing compensation" shall be based on the amount actually paid to a Participant during the "testing year" or, at the option of the Employer, during that portion of the "testing year" during which the Participant is an Active Participant; provided, however, that if the Employer elected different Eligibility Service requirements for purposes of eligibility to make Deferral Contributions and to receive Matching Employer Contributions, then "testing compensation" must be based on the amount paid to a Participant during the full "testing year".

The annual "testing compensation" of each Active Participant taken into account in applying the "ADP" test described in Section 6.03 and the "ACP" test described in Section 6.06 for any "testing year" shall not exceed the annual compensation limit under Code Section 401(a)(17) as in effect on the first day of the "testing year" (e.g., $210,000 for the "testing year" beginning in 2005). This limit shall be adjusted by the Secretary to reflect increases in the cost of living, as provided in Code Section 401(a)(17)(B); provided, however, that the dollar increase in effect on January 1 of any calendar year is effective for "testing years" beginning in such calendar year. If a Plan determines "testing compensation" over a period that contains fewer than 12 calendar months (a "short determination period"), then the Compensation limit for such "short determination period" is equal to the Compensation limit for the calendar year in which the "short determination period" begins multiplied by the ratio obtained by dividing the number of full months in the "short determination period" by 12; provided, however, that such proration shall not apply if there is a "short determination period" because (1) an election was made, in accordance with any rules and regulations issued by the Secretary of the Treasury or his delegate, to apply the "ADP" test described in Section 6.03 and/or the "ACP" test described in Section 6.06 based only on Compensation paid during the portion of the "testing year" during which an individual was an Active Participant or (2) an Employee is covered under the Plan for fewer than 12 calendar months or (3) there is a short initial Plan Year.

(s) **"Testing year"** means

(1) if the Employer has elected the current year testing method in Subsection 1.06(a)(1) of the Adoption Agreement, the Plan Year being tested.

(2) if the Employer has elected the prior year testing method in Subsection 1.06(a)(2) of the Adoption Agreement, the Plan Year immediately preceding the Plan Year being tested.

(t) **"Welfare benefit fund"** means a welfare benefit fund as defined in Code Section 419(e).

To the extent that types of contributions defined in Section 2.01 are referred to in this Article 6, the defined term includes similar contributions made under other plans where the context so requires.

6.02. Code Section 402(g) Limit on Deferral Contributions. In no event shall the amount of Deferral Contributions, other than Catch-Up Contributions, made under the Plan for a calendar year, when aggregated with the "elective deferrals" made under any other plan maintained by the Employer or a Related Employer, exceed the dollar limitation contained in Code Section 402(g) in effect at the beginning of such calendar year.

A Participant may assign to the Plan any "excess deferrals" made during a calendar year by notifying the Administrator on or before March 15 following the calendar year in which the "excess deferrals" were made of the amount of the "excess deferrals" to be assigned to the Plan. A Participant is deemed to notify the Administrator of any "excess deferrals" that arise by taking into account only those Deferral Contributions made to the Plan and those "elective deferrals" made to any other plan maintained by the Employer or a Related Employer. Notwithstanding any other provision of the Plan, "excess deferrals", plus any income and minus any loss allocable thereto, as determined under Section 6.08, shall be distributed no later than April 15 to any Participant to whose Account "excess deferrals" were so assigned for the preceding calendar year and who claims "excess deferrals" for such calendar year. In the event that "excess deferrals" are allocated to a Participant's Deferral Contributions Accounts, such "excess deferrals" will be distributed first from the Participant's Deferral Contributions for the Plan Year other than his Roth 401(k) Contributions then from his Roth 401(k) Contributions.

"Excess deferrals" to be distributed to a Participant for a calendar year shall be reduced by any "excess contributions" for the Plan Year beginning within such calendar year that were previously distributed or re-characterized in accordance with the provisions of Section 6.04.

Any Matching Employer Contributions attributable to "excess deferrals", plus any income and minus any loss allocable thereto, as determined under Section 6.08, shall be forfeited and applied as provided in Section 11.09.

"Excess deferrals" shall be treated as "annual additions" under the Plan, unless such amounts are distributed no later than the first April 15 following the close of the calendar year in which the "excess deferrals" were made.

6.03. Additional Limit on Deferral Contributions ("ADP" Test). Unless the Employer has elected in Subsection 1.11(a)(3) or Subsection 1.12(a)(3) of the Adoption Agreement to make 401(k) Safe Harbor Matching Employer Contributions or 401(k) Safe Harbor Nonelective Employer Contributions for a Plan Year, notwithstanding any other provision of the Plan to the contrary, the Deferral Contributions, excluding additional elective contributions made pursuant to Code Section 414(u) that are treated as Deferral Contributions and Catch-Up Contributions (except to the extent that a Participant's Deferral Contributions are classified as Catch-Up Contributions as provided in Section 6.04 solely because of a failure of the "ADP" test described herein), made with respect to the Plan Year on behalf of Active Participants who are Highly Compensated Employees for such Plan Year may not result in an average "deferral ratio" for such Active Participants that exceeds the greater of:

(a) the average "deferral ratio" for the "testing year" of Active Participants who are Non-Highly Compensated Employees for the "testing year" multiplied by 1.25; or

(b) the average "deferral ratio" for the "testing year" of Active Participants who are Non-Highly Compensated Employees for the "testing year" multiplied by two, provided that the average "deferral ratio" for Active Participants who are Highly Compensated Employees for the Plan Year being tested does not exceed the average "deferral ratio" for Participants who are Non-Highly Compensated Employees for the "testing year" by more than two percentage points.

For the first Plan Year in which the Plan provides a cash or deferred arrangement, the average "deferral ratio" for Active Participants who are Non-Highly Compensated Employees used in determining the limits applicable under Subsections 6.03(a) and (b) shall be either three percent or the actual average "deferral ratio" for such Active Participants for such first Plan Year, as elected by the Employer in Section 1.06(b) of the Adoption Agreement.

The "deferral ratios" of Active Participants who are included in a unit of Employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement shall be disaggregated from the "deferral ratios" of other Active Participants and the provisions of this Section 6.03 shall be applied separately with respect to each group.

The "deferral ratio" for any Active Participant who is a Highly Compensated Employee for the Plan Year being tested and who is eligible to have "includable contributions" allocated to his accounts under two or more cash or deferred arrangements described in Code Section 401(k) that are maintained by the Employer or a Related Employer, shall be determined as if such "includable contributions" were made under the Plan. If a Highly Compensated Employee participates in two or more cash or deferred arrangements that have different plan years, all "includable contributions" made during the Plan Year under all such arrangements shall be treated as having been made under the Plan. Notwithstanding the foregoing, certain plans, and contributions made thereto, shall be treated as separate if mandatorily disaggregated under regulations under Code Section 401(k).

If this Plan satisfies the requirements of Code Section 401(k), 401(a)(4), or 410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such Code Sections only if aggregated with this Plan, then this Section 6.03 shall be applied by determining the "deferral ratios" of Employees as if all such plans were a single plan. Plans may be aggregated in order to satisfy Code Section 401(k) only if they have the same plan year and use the same method to satisfy the "ADP" test.

Notwithstanding anything herein to the contrary, if the Plan permits Employees to make Deferral Contributions prior to the time the Employees have completed the minimum age and service requirements of Code Section 410(a)(1)(A) and the Employer elects, pursuant to Code Section 410(b)(4)(B), to disaggregate the Plan into

two component plans for purposes of complying with Code Section 410(b)(1), one benefiting Employees who have completed such minimum age and service requirements and the other benefiting Employees who have not, the Plan must be disaggregated in the same manner for ADP testing purposes, unless the Plan applies the alternative rule in Code Section 401(k)(3)(F). In determining the component plans for purposes of such disaggregation, the Employer may apply the maximum entry dates permitted under Code Section 410(a)(4).

The Employer shall maintain records sufficient to demonstrate satisfaction of the "ADP" test and the amount of Qualified Nonelective Employer Contributions and/or Qualified Matching Employer Contributions used in such test.

6.04. Allocation and Distribution of "Excess Contributions". Notwithstanding any other provision of this Plan, the "excess contributions" allocable to the Account of a Participant, plus any income and minus any loss allocable thereto, as determined under Section 6.08, shall be distributed to the Participant no later than the last day of the Plan Year immediately following the Plan Year in which the "excess contributions" were made, unless the Employer elected Catch-Up Contributions in Subsection 1.07(a)(4) of the Adoption Agreement and such "excess contributions" are classified as Catch-Up Contributions.

If "excess contributions" are to be distributed from the Plan and such "excess contributions" are distributed more than 2 1/2 months after the last day of the Plan Year in which the "excess contributions" were made, a ten percent excise tax shall be imposed on the Employer maintaining the Plan with respect to such amounts.

The "excess contributions" allocable to a Participant's Account shall be determined by reducing the "includable contributions" made for the Plan Year on behalf of Active Participants who are Highly Compensated Employees in order of the dollar amount of such "includable contributions", beginning with the highest such dollar amount. "Excess contributions" allocated to a Participant for a Plan Year shall be reduced by the amount of any "excess deferrals" previously distributed for the calendar year ending in such Plan Year.

"Excess contributions" shall be treated as "annual additions".

For purposes of distribution, "excess contributions" shall be considered allocated among a Participant's Deferral Contributions Accounts and, if applicable, the Participant's Qualified Nonelective Employer Contributions Account and/or Qualified Matching Employer Contributions Account in the order prescribed and communicated to the Trustee, which order shall be uniform with respect to all Participants and nondiscriminatory. In the event that "excess contributions" are allocated to a Participant's Deferral Contributions Accounts, such "excess contributions" will be distributed first from the Participant's Deferral Contributions for the Plan Year other than his Roth 401(k) Contributions then from his Roth 401(k) Contributions.

Any Matching Employer Contributions attributable to "excess contributions", plus any income and minus any loss allocable thereto, as determined under Section 6.08, shall be forfeited and applied as provided in Section 11.09.

6.05. Reductions in Deferral Contributions to Meet Code Requirements. If the Administrator anticipates that the Plan will not satisfy the "ADP" and/or "ACP" test for the year, the Administrator may reduce the rate of Deferral Contributions of Participants who are Highly Compensated Employees to an amount determined by the Administrator to be necessary to satisfy the "ADP" and/or "ACP" test.

6.06. Limit on Matching Employer Contributions and Employee Contributions ("ACP" Test). The provisions of this Section 6.06 shall not apply to Active Participants who are included in a unit of Employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers. The provisions of this Section shall not apply to Matching Employer Contributions made on account of amounts deferred pursuant to Code Section 457 under a separate eligible deferred compensation plan.

Notwithstanding any other provision of the Plan to the contrary, Matching Employer Contributions and Employee Contributions made with respect to a Plan Year by or on behalf of "eligible participants" who are Highly Compensated Employees for such Plan Year may not result in an average "contribution percentage" for such "eligible participants" that exceeds the greater of:

(a) the average "contribution percentage" for the "testing year" of "eligible participants" who are Non- Highly Compensated Employees for the "testing year" multiplied by 1.25; or

(b) the average "contribution percentage" for the "testing year" of "eligible participants" who are Non- Highly Compensated Employees for the "testing year" multiplied by two, provided that the average "contribution percentage" for the Plan Year being tested of "eligible participants" who are Highly Compensated Employees does not exceed the average "contribution percentage" for the "testing year" of "eligible participants" who are Non-Highly Compensated Employees for the "testing year" by more than two percentage points.

For the first Plan Year in which the Plan provides for "contribution percentage amounts" to be made, the "ACP" for "eligible participants" who are Non-Highly Compensated Employees used in determining the limits applicable under paragraphs (a) and (b) of this Section 6.06 shall be either three percent or the actual "ACP" of such eligible participants for such first Plan Year, as elected by the Employer in Section 1.06(b) of the Adoption Agreement.

The "contribution percentage" for any "eligible participant" who is a Highly Compensated Employee for the Plan Year and who is eligible to have "contribution percentage amounts" allocated to his accounts under two or more plans described in Code Section 401(a) that are maintained by the Employer or a Related Employer, shall be determined as if such "contribution percentage amounts" were contributed to the Plan. If a Highly Compensated Employee participates in two or more such plans that have different plan years, all "contribution percentage amounts" made during the Plan Year under such other plans shall be treated as having been contributed to the Plan. Notwithstanding the foregoing, certain plans shall be treated as separate if mandatorily disaggregated under Treasury Regulations issued under Code Section 401(m).

If this Plan satisfies the requirements of Code Section 401(m), 401(a)(4) or 410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such Code Sections only if aggregated with this Plan, then this Section 6.06 shall be applied by determining the "contribution percentages" of Employees as if all such plans were a single plan. Plans may be aggregated in order to satisfy Code Section 401(m) only if they have the same plan year and use the same method to satisfy the "ACP" test.

Notwithstanding anything herein to the contrary, if the Plan permits Employees to make Employee Contributions and/or receive Matching Employer Contributions prior to the time the Employees have completed the minimum age and service requirements of Code Section 410(a)(1)(A) and the Employer elects, pursuant to Code Section 410(b)(4)(B), to disaggregate the Plan into two component plans for purposes of complying with Code Section 410(b)(1), one benefiting Employees who have completed such minimum age and service requirements and the other benefiting Employees who have not, the Plan must be disaggregated in the same manner for ACP testing purposes, unless the Plan applies the alternative rule in Code Section 401(m)(5)(C). In determining the component plans for purposes of such disaggregation, the Employer may apply the maximum entry dates permitted under Code Section 410(a)(4).

The Employer shall maintain records sufficient to demonstrate satisfaction of the "ACP" test and the amount of Deferral Contributions, Qualified Nonelective Employer Contributions, and/or Qualified Matching Employer Contributions used in such test.

6.07. Allocation, Distribution, and Forfeiture of "Excess Aggregate Contributions". Notwithstanding any other provision of the Plan, the "excess aggregate contributions" allocable to the Account of a Participant, plus any income and minus any loss allocable thereto, as determined under Section 6.08, shall be forfeited, if forfeitable, or if not forfeitable, distributed to the Participant no later than the last day of the Plan Year immediately following the

Plan Year in which the "excess aggregate contributions" were made. If such excess amounts are distributed more than 2 1/2 months after the last day of the Plan Year in which such "excess aggregate contributions" were made, a ten percent excise tax shall be imposed on the Employer maintaining the Plan with respect to such amounts.

The "excess aggregate contributions" allocable to a Participant's Account shall be determined by reducing the "contribution percentage amounts" made for the Plan Year on behalf of "eligible participants" who are Highly Compensated Employees in order of the dollar amount of such "contribution percentage amounts", beginning with the highest such dollar amount.

"Excess aggregate contributions" shall be treated as "annual additions".

"Excess aggregate contributions" shall be forfeited or distributed from a Participant's Employee Contributions Account, Matching Employer Contributions Account and, if applicable, the Participant's Deferral Contributions Account and/or Qualified Nonelective Employer Contributions Account in the order prescribed and communicated to the Trustee, which order shall be uniform with respect to all Participants and nondiscriminatory. In the event that "excess aggregate contributions" are allocated to a Participant's Deferral Contributions Accounts, such "excess aggregated contributions" will be distributed first from the Participant's Deferral Contributions for the Plan Year other than his Roth 401(k) Contributions then from his Roth 401(k) Contributions.

Forfeitures of "excess aggregate contributions" shall be applied as provided in Section 11.09.

6.08. Income or Loss on Distributable Contributions. The income or loss allocable to "excess deferrals", "excess contributions", and "excess aggregate contributions" shall be determined under one of the following methods:

(a) the income or loss attributable to such distributable contributions shall be the sum of (i) the income or loss for the "determination year" allocable to the Participant's Account to which such contributions were made multiplied by a fraction, the numerator of which is the amount of the distributable contributions and the denominator of which is the balance of the Participant's Account to which such contributions were made, determined as of the end of the "determination year" without regard to any income or loss occurring during the "determination year", plus (ii) 10 percent of the amount determined under (i) multiplied by the number of whole calendar months between the end of the "determination year" and the date of distribution, counting the calendar month of distribution if distribution occurs after the 15th of the month; or

(b) the income or loss attributable to such distributable contributions shall be the sum of (i) the income or loss on such contributions for the "determination year", determined under any other reasonable method, plus (ii) the income or loss on such contributions for the "gap period", determined under such other reasonable method. Any reasonable method used to determine income or loss hereunder shall be used consistently for all Participants in determining the income or loss allocable to distributable contributions hereunder and shall be the same method that is used by the Plan in allocating income or loss to Participants' Accounts. For purposes of this paragraph, the "gap period" means the period between the end of the "determination year" and the date of distribution; provided, however, that income or loss for the "gap period" may be determined as of a date that is no more than seven days before the date of distribution.

6.09. Deemed Satisfaction of "ADP" Test. Notwithstanding any other provision of this Article 6 to the contrary, if the Employer has elected in Subsection 1.11(a)(3) or Subsection 1.12(a)(3) of the Adoption Agreement to make 401(k) Safe Harbor Matching Employer Contributions or 401(k) Safe Harbor Nonelective Employer Contributions, , the Plan shall be deemed to have satisfied the "ADP" test described in Section 6.03 for a Plan Year provided all of the following requirements are met:

(a) The 401(k) Safe Harbor Matching Employer Contribution or 401(k) Safe Harbor Nonelective Employer Contribution must be allocated to an Active Participant's Account as of a date within such Plan Year and must be made before the last day of the 12-month period immediately following such Plan Year.

(b) If the Employer has elected to make 401(k) Safe Harbor Matching Employer Contributions, such 401(k) Safe Harbor Matching Employer Contributions must be made with respect to Deferral Contributions made by the Active Participant for such Plan Year.

(c) The Employer shall provide to each Active Participant during the Plan Year a comprehensive notice, written in a manner calculated to be understood by the average Active Participant, of the Active Participant's rights and obligations under the Plan. If the Employer either (i) is considering amending its Plan to satisfy the "ADP" test using 401(k) Safe Harbor Nonelective Employer Contributions, as provided in Section 6.11, or (ii) has selected 401(k) Safe Harbor Nonelective Employer Contributions under Subsection 1.12(a)(3) of the Adoption Agreement and selected Subsection (a)(2), but not Subsection (a)(2)(A) of the 401(k) Safe Harbor Nonelective Employer Contributions Addendum, the notice shall include a statement that the Plan may be amended to provide a 401(k) Safe Harbor Nonelective Employer Contribution for the Plan Year. The notice shall be provided to each Active Participant within one of the following periods, whichever is applicable:

(1) if the Employee is an Active Participant 90 days before the beginning of the Plan Year, within the period beginning 90 days and ending 30 days, or any other reasonable period, before the first day of the Plan Year; or

(2) if the Employee becomes an Active Participant after the date described in paragraph (f) above, within the period beginning 90 days before and ending on the date he becomes an Active Participant.

If the notice provides that the Plan may be amended to provide a 401(k) Safe Harbor Nonelective Employer Contribution for the Plan Year and the Plan is amended to provide such contribution, a supplemental notice shall be provided to all Active Participants stating that a 401(k) Safe Harbor Nonelective Employer Contribution in the specified amount shall be made for the Plan Year. Such supplemental notice shall be provided to Active Participants at least 30 days before the last day of the Plan year.

(d) If the Employer has elected to make 401(k) Safe Harbor Matching Employer Contributions, the ratio of Matching Employer Contributions made on behalf of each Highly Compensated Employee for the Plan Year to each such Highly Compensated Employee's eligible contributions for the Plan Year is not greater than the ratio of Matching Employer Contributions to eligible contributions that would apply to any Non-Highly Compensated Employee for whom such eligible contributions are the same percentage of Compensation, adjusted as provided in Section 5.02, for the Plan Year.

(e) Except as otherwise provided in Subsection 6.11(b), or with respect to the Plan Year described in (2) below the Plan is amended to provide for 401(k) Safe Harbor Matching Employer Contributions or 401(k) Safe Harbor Nonelective Employer Contributions before the first day of such Plan Year, and except as otherwise provided in Subsection 6.11(d) or with respect to a Plan Year described in (1) through (4) below, such provisions remain in effect for an entire 12-month Plan Year. The 12-month Plan Year requirement shall not apply to:

(1) The first Plan Year of a newly established Plan (other than a successor plan) if such Plan Year is at least 3 months long, provided that the 3-month requirement shall not apply in the case of a newly established employer that establishes a plan as soon as administratively feasible;

(2) The Plan Year in which a cash or deferred arrangement is first added to an existing plan (other than a successor plan) if the cash or deferred arrangement is effective no later than 3 months before the end of such Plan Year;

(3) Any short Plan Year resulting from a change in Plan Year if (i) the Plan satisfied the safe harbor requirements for the immediately preceding Plan Year and (ii) the Plan satisfies the safe harbor requirements for the immediately following Plan Year (or the immediately following 12 months, if the following Plan Year has fewer than 12 months);

(4) The final Plan Year of a terminating Plan if any of the following applies: (i) the Plan would satisfy the provisions of paragraph Subsection 6.11(d) below, other than the provisions of paragraph Subsection 6.11(d)(3), treating the termination as an election to reduce or suspend 401(k) Safe Harbor Matching Employer Contributions; (ii) the termination is in connection with a transaction described in Code Section 410(b)(6)(C); or (iii) the Employer incurs a substantial business hardship comparable to a substantial business hardship described in Code Section 412(d).

Notwithstanding any other provision of this Section, if the Employer has elected a more stringent eligibility requirement in Section 1.04 of the Adoption Agreement for 401(k) Safe Harbor Matching Employer Contributions or 401(k) Safe Harbor Nonelective Employer Contributions than for Deferral Contributions, the Plan shall be disaggregated and treated as two separate plans pursuant to Code Section 410(b)(4)(B). The separate disaggregated plan that satisfies Code Section 401(k)(12) shall be deemed to have satisfied the "ADP" test. The other disaggregated plan shall be subjected to the "ADP" test described in Section 6.03.

If the Employer has elected in Subsection (a)(1)(B) or (a)(2)(B) of the 401(k) Safe Harbor Matching Employer Contributions Addendum to the Adoption Agreement or Section (b) of the 401(k) Safe Harbor Nonelective Employer Contributions Addendum to the Adoption Agreement to exclude collectively-bargained employees from receiving 401(k) Safe Harbor Matching Employer Contributions or 401(k) Safe Harbor Nonelective Employer Contributions, the Plan shall be deemed to have satisfied the "ADP" test only with respect to those employees who are eligible to receive such contributions. The remainder of the Plan shall be subjected to the "ADP" test described in Section 6.03.

Except as otherwise provided in Subsection 6.11(d) regarding amendments suspending or eliminating 401(k) Safe Harbor Matching Contributions, a plan that does not meet the requirements specified in (a) through (e) above with respect to a Plan Year may not default to ADP testing in accordance with Section 6.03 above.

6.10. Deemed Satisfaction of "ACP" Test With Respect to Matching Employer Contributions. The portion of the Plan that is deemed to satisfy the "ADP" test pursuant to Section 6.09 shall also be deemed to have satisfied the "ACP" test described in Section 6.06 with respect to Matching Employer Contributions, if Matching Employer Contributions to the Plan for the Plan Year meet all of the following requirements:

(a) Matching Employer Contributions meet the requirements of Subsections 6.09(a) and (b) as if they were 401(k) Safe Harbor Matching Employer Contributions;

(b) the percentage of eligible contributions matched does not increase as the percentage of Compensation contributed increases;

(c) the ratio of Matching Employer Contributions made on behalf of each Highly Compensated Employee for the Plan Year to each such Highly Compensated Employee's eligible contributions for the Plan Year is not greater than the ratio of Matching Employer Contributions to eligible contributions that would apply to each Non-Highly Compensated Employee for whom such eligible contributions are the same percentage of Compensation, adjusted as provided in Section 5.02, for the Plan Year;

(d) eligible contributions matched do not exceed six percent of a Participant's Compensation; and

(e) if the Employer elected in Subsection 1.11(a)(2) or 1.11(b) of the Adoption Agreement to provide discretionary Matching Employer Contributions, the Employer also elected in Subsection 1.11(a)(2)(A) or 1.11(b)(1) of the Adoption Agreement, as applicable, to limit the dollar amount of such discretionary Matching Employer Contributions allocated to a Participant for the Plan Year to no more than four percent of such Participant's Compensation for the Plan Year.

The portion of the Plan not deemed to have satisfied the "ACP" test pursuant to this Section shall be subject to the "ACP" test described in Section 6.06 with respect to Matching Employer Contributions.

If the Plan provides for Employee Contributions, the "ACP" test described in Section 6.06 must be applied with respect to such Employee Contributions.

6.11. Changing Testing Methods. Notwithstanding any other provisions of the Plan, if the Employer elects to change between the "ADP" testing method and the safe harbor testing method, the following shall apply:

(a) Except as otherwise specifically provided in this Section or Subsection 6.09(e), the Employer may not change from the "ADP" testing method to the safe harbor testing method unless Plan provisions adopting the safe harbor testing method are adopted before the first day of the Plan Year in which they are to be effective and remain in effect for an entire 12-month Plan Year.

(b) A Plan may be amended during a Plan Year to make 401(k) Safe Harbor Nonelective Employer Contributions to satisfy the testing rules for such Plan Year if:

(1) The Employer provides both the initial and subsequent notices described in Section 6.09 for such Plan Year within the time period prescribed in Section 6.09.

(2) The Employer amends its Adoption Agreement no later than 30 days prior to the end of such Plan Year to provide for 401(k) Safe Harbor Nonelective Employer Contribution in accordance with the provisions of the 401(k) Safe Harbor Nonelective Employer Contributions Addendum to the Adoption Agreement.

(c) Except as otherwise specifically provided in this Section, a Plan may not be amended during the Plan Year to discontinue 401(k) Safe Harbor Nonelective or Matching Employer Contributions and revert to the "ADP" testing method for such Plan Year.

(d) A Plan may be amended to reduce or suspend 401(k) Safe Harbor Matching Contributions on future contributions during a Plan Year and revert to the "ADP" testing method for such Plan Year if:

(1) All Active Participants are provided notice of the reduction or suspension describing (i) the consequences of the amendment, (ii) the procedures for changing their salary reduction agreements and (iii) the effective date of the reduction or suspension.

(2) The reduction or suspension of 401(k) Safe Harbor Matching Contributions is no earlier than the later of (i) 30 days after the date the notice described in paragraph (1) is provided to Active Participants or (ii) the date the amendment is adopted.

(3) Active Participants are given a reasonable opportunity before the reduction or suspension occurs, including a reasonable period after the notice described in paragraph (1) is provided to Active Participants, to change their salary reduction agreements elections.

(4) The Plan makes 401(k) Safe Harbor Matching Employer Contributions in accordance with the provisions of the Adoption Agreement in effect prior to the amendment with respect to Deferral Contributions made through the effective date of the amendment.

If the Employer amends its Plan in accordance with the provisions of this paragraph (d), the "ADP" test described in Section 6.03 shall be applied as if it had been in effect for the entire Plan Year using the current year testing method in Subsection 1.06(a)(1) of the Adoption Agreement.

6.12. Code Section 415 Limitations. Notwithstanding any other provisions of the Plan, the following limitations shall apply:

(a) Employer Maintains Single Plan: If the "415 employer" does not maintain any other qualified defined contribution plan or any "welfare benefit fund", "individual medical benefit account", or "simplified employee pension" in addition to the Plan, the provisions of this Subsection 6.12(a) shall apply.

(1) If a Participant does not participate in, and has never participated in any other qualified defined contribution plan, "welfare benefit fund", "individual medical benefit account", or "simplified employee pension" maintained by the "415 employer", which provides an "annual addition", the amount of "annual additions" to the Participant's Account for a Limitation Year shall not exceed the lesser of the "maximum permissible amount" or any other limitation contained in the Plan. If a contribution that would otherwise be contributed or allocated to the Participant's Account would cause the "annual additions" for the Limitation Year to exceed the "maximum permissible amount", the amount contributed or allocated shall be reduced so that the "annual additions" for the Limitation Year shall equal the "maximum permissible amount".

(2) Prior to the determination of a Participant's actual Compensation for a Limitation Year, the "maximum permissible amount" may be determined on the basis of a reasonable estimation of the Participant's Compensation for such Limitation Year, uniformly determined for all Participants similarly situated. Any Employer contributions based on estimated annual Compensation shall be reduced by any "excess 415 amounts" carried over from prior Limitation Years.

(3) As soon as is administratively feasible after the end of the Limitation Year, the "maximum permissible amount" for such Limitation Year shall be determined on the basis of the Participant's actual Compensation for such Limitation Year.

(4) If there is an "excess 415 amount" with respect to a Participant for a Limitation Year as a result of the estimation of the Participant's Compensation for the Limitation Year, the allocation of forfeitures to the Participant's Account, or a reasonable error in determining the amount of Deferral Contributions that may be made on behalf of the Participant under the limits of this Section 6.12, such "excess 415 amount" shall be disposed of as follows:

(A) Any Employee Contributions that have not been matched shall be reduced to the extent necessary to reduce the "excess 415 amount".

(B) If after application of Subsection 6.12(a)(4)(A) an "excess 415 amount" still exists, any Employee Contributions that have been matched and the Matching Employer Contributions attributable thereto shall be reduced to the extent necessary to reduce the "excess 415 amount".

(C) If after application of Subsection 6.12(a)(4)(B) an "excess 415 amount" still exists, any Deferral Contributions that have not been matched shall be reduced to the extent necessary to reduce the "excess 415 amount". If both pre-tax Deferral Contributions and Roth 401(k) Contributions have been made on behalf of a Participant, the pre-tax Deferral Contributions that have not been matched shall be reduced first. If there is still an "excess 415 amount" after all such pre-tax Deferral Contributions have been distributed, then Roth 401(k) Contributions that have not been matched shall be reduced to the extent necessary.

(D) If after application of Subsection 6.12(a)(4)(C) an "excess 415 amount" still exists, any Deferral Contributions that have been matched and the Matching Employer Contributions attributable thereto shall be reduced to the extent necessary to reduce the "excess 415 amount". If both pre-tax Deferral Contributions and Roth 401(k)

Contributions have been made on behalf of a Participant, the pre-tax Deferral Contributions that have been matched and the Matching Contributions attributable thereto shall be reduced first. If there is still an "excess 415 amount" after all such pre-tax Deferral Contributions have been distributed, then Roth 401(k) Contributions that have been matched and the Matching Contributions attributable thereto shall be reduced to the extent necessary.

(E) If after the application of Subsection 6.12(a)(4)(D) an "excess 415 amount" still exists, any Nonelective Employer Contributions shall be reduced to the extent necessary to reduce the "excess 415 amount".

(F) If after the application of Subsection 6.12(a)(4)(E) an "excess 415 amount" still exists, any Qualified Nonelective Employer Contributions shall be reduced to the extent necessary to reduce the "excess 415 amount".

Employee Contributions and Deferral Contributions that are reduced as provided above shall be returned to the Participant. Any income allocable to returned Employee Contributions or Deferral Contributions shall also be returned or shall be treated as additional "annual additions" for the Limitation Year in which the excess contributions to which they are allocable were made.

If Matching Employer, Nonelective Employer, or Qualified Nonelective Employer Contributions to a Participant's Account are reduced as an "excess 415 amount", as provided above, then such "excess 415 amount" shall be allocated and re-allocated among Active Participants, except to the extent such allocation or re-allocation pursuant to the provisions of the Plan would cause an Active Participant to exceed the limitations contained in this Section. If any excess remains after allocation and re-allocation has been made as provided in the preceding sentence, then such excess shall be held unallocated in a suspense account established for the Limitation Year and shall be allocated and re-allocated among Active Participants for the next Limitation Year.

If a suspense account is in existence at any time during the Limitation Year pursuant to this Subsection 6.12(a)(4), it shall participate in the allocation of the Trust Fund's investment gains and losses. All amounts in the suspense account must be allocated to the Accounts of Active Participants before any Employer contribution may be made for the Limitation Year.

Except as otherwise specifically provided in this Subsection 6.12, "excess 415 amounts" may not be distributed to Participants.

(b) Employer Maintains Multiple Defined Contribution Type Plans: Unless the Employer specifies another method for limiting "annual additions" in the 415 Correction Addendum to the Adoption Agreement, if the "415 employer" maintains any other qualified defined contribution plan or any "welfare benefit fund", "individual medical benefit account", or "simplified employee pension" in addition to the Plan, the provisions of this Subsection 6.12(b) shall apply.

(1) If a Participant is covered under any other qualified defined contribution plan or any "welfare benefit fund", "individual medical benefit account", or "simplified employee pension" maintained by the "415 employer", that provides an "annual addition", the amount of "annual additions" to the Participant's Account for a Limitation Year shall not exceed the lesser of

(A) the "maximum permissible amount", reduced by the sum of any "annual additions" to the Participant's accounts for the same Limitation Year under such other qualified defined contribution plans and "welfare benefit funds", "individual medical benefit accounts", and "simplified employee pensions", or

(B) any other limitation contained in the Plan.

If the “annual additions” with respect to a Participant under other qualified defined contribution plans, “welfare benefit funds”, “individual medical benefit accounts”, and “simplified employee pensions” maintained by the “415 employer” are less than the “maximum permissible amount” and a contribution that would otherwise be contributed or allocated to the Participant’s Account under the Plan would cause the “annual additions” for the Limitation Year to exceed the “maximum permissible amount”, the amount to be contributed or allocated shall be reduced so that the “annual additions” for the Limitation Year shall equal the “maximum permissible amount”. If the “annual additions” with respect to the Participant under such other qualified defined contribution plans, “welfare benefit funds”, “individual medical benefit accounts”, and “simplified employee pensions” in the aggregate are equal to or greater than the “maximum permissible amount”, no amount shall be contributed or allocated to the Participant’s Account under the Plan for the Limitation Year.

(2) Prior to the determination of a Participant’s actual Compensation for the Limitation Year, the amounts referred to in Subsection 6.12(b)(1)(A) above may be determined on the basis of a reasonable estimation of the Participant’s Compensation for such Limitation Year, uniformly determined for all Participants similarly situated. Any Employer contribution based on estimated annual Compensation shall be reduced by any “excess 415 amounts” carried over from prior Limitation Years.

(3) As soon as is administratively feasible after the end of the Limitation Year, the amounts referred to in Subsection 6.12(b)(1)(A) shall be determined on the basis of the Participant’s actual Compensation for such Limitation Year.

(4) Notwithstanding the provisions of any other plan maintained by a “415 employer”, if there is an “excess 415 amount” with respect to a Participant for a Limitation Year as a result of estimation of the Participant’s Compensation for the Limitation Year, the allocation of forfeitures to the Participant’s account under any qualified defined contribution plan maintained by the “415 employer”, or a reasonable error in determining the amount of Deferral Contributions that may be made on behalf of the Participant to the Plan or any other qualified defined contribution plan maintained by the “415 employer” under the limits of this Subsection 6.12(b), such “excess 415 amount” shall be deemed to consist first of the “annual additions” allocated to this Plan and shall be reduced as provided in Subsection 6.12(a)(4).

Article 7. Participants’ Accounts.

7.01. Individual Accounts. The Administrator shall establish and maintain an Account for each Participant that shall reflect Employer and Employee contributions made on behalf of the Participant and earnings, expenses, gains and losses attributable thereto, and investments made with amounts in the Participant’s Account. The Administrator shall separately account for any Deferral Contributions made on behalf of a Participant and the earnings, expenses, gains and losses attributable thereto. The Administrator shall establish and maintain such other accounts and records as it decides in its discretion to be reasonably required or appropriate in order to discharge its duties under the Plan. The Administrator shall notify the Trustee of all Accounts established and maintained under the Plan.

If “designated Roth contributions”, as defined in Section 6.01, are held under the Plan either as Rollover Contributions or because of an Active Participant’s election to make Roth 401(k) Contributions under the terms of the Plan, separate accounts shall be maintained with respect to such “designated Roth contributions.” Contributions and withdrawals of “designated Roth contributions” will be credited and debited to the “designated Roth contributions” sub-account maintained for each Participant within the Participant’s Account. The Plan will maintain a record of the amount of “designated Roth contributions” in each such sub-account. Gains, losses, and other credits or charges will be separately allocated on a reasonable and consistent basis to each Participant’s “designated Roth contributions” sub-account and the Participant’s other sub-accounts within the Participant’s Account under the Plan. No contributions other than “designated Roth contributions” and properly attributable earnings will be credited to each Participant’s “designated Roth contributions” sub-account.

7.02. Valuation of Accounts. Participant Accounts shall be valued at their fair market value at least annually as of a "determination date", as defined in Subsection 15.01(a), in accordance with a method consistently followed and uniformly applied, and on such date earnings, expenses, gains and losses on investments made with amounts in each Participant's Account shall be allocated to such Account.

Article 8. Investment of Contributions.

8.01. Manner of Investment. All contributions made to the Accounts of Participants shall be held for investment by the Trustee. Except as otherwise specifically provided in Section 20.10, the Accounts of Participants shall be invested and reinvested only in Permissible Investments selected by the Employer and designated in the Service Agreement. The Trustee shall have no responsibility for the selection of investment options under the Trust and shall not render investment advice to any person in connection with the selection of such options.

8.02. Investment Decisions. Investments shall be directed by each Participant. Pursuant to Section 20.04, the Trustee shall have no discretion or authority with respect to the investment of the Trust Fund; however, an affiliate of the Trustee may exercise investment management authority in accordance with Subsection (d) below.

(a) Each Participant shall direct the investment of his Account among the Permissible Investments designated in the Service Agreement. The Participant shall file initial investment instructions using procedures established by the Administrator, selecting the Permissible Investments in which amounts credited to his Account shall be invested.

(1) While any balance remains in the Account of a Participant after his death, the Beneficiary of the Participant shall make decisions as to the investment of the Account as though the Beneficiary were the Participant. To the extent required by a qualified domestic relations order as defined in Code Section 414(p), an alternate payee shall make investment decisions with respect to any segregated account established in the name of the alternate payee as provided in Section 18.04.

(2) If the Trustee receives any contribution under the Plan as to which investment instructions have not been provided, such amount shall be invested in the Permissible Investment selected by the Employer for such purposes.

The Plan is intended to constitute a plan described in ERISA Section 404(c) and regulations issued thereunder. The fiduciaries of the Plan shall be relieved of liability for any losses that are the direct and necessary result of investment instructions given by the Participant, his Beneficiary, or an alternate payee under a qualified domestic relations order. The Employer shall not be relieved of fiduciary responsibility for the selection and monitoring of the Permissible Investments under the Plan.

(b) All dividends, interest, gains and distributions of any nature received in respect of Fund Shares shall be reinvested in additional shares of that Permissible Investment.

(c) Expenses attributable to the acquisition of investments shall be charged to the Account of the Participant for which such investment is made.

(d) The Employer may appoint an investment manager (which may be the Trustee or an affiliate) to determine the allocation of amounts held in Participants' Accounts among various investment options (the "Managed Account" option) for Participants who direct the Trustee to invest any portion of their accounts in the Managed Account option. The investment options utilized under the Managed Account option may be those generally available under the Plan or may be as selected by the investment manager for use under the Managed Account option. Participation in the Managed Account option shall be subject to such conditions and limitations (including account minimums) as may be imposed by the investment manager. The Employer may also appoint an investment manager (which may be the Trustee or an affiliate) to manage any Permissible Investment subject to management by such investment manager.

8.03. Participant Directions to Trustee. The method and frequency for change of investments shall be determined under (a) the rules applicable to the Permissible Investments selected by the Employer and designated in the Service Agreement and (b) any additional rules of the Employer limiting the frequency of investment changes, which are included in a separate written administrative procedure adopted by the Employer and accepted by the Trustee. The Trustee shall have no duty to inquire into the investment decisions of a Participant or to advise him regarding the purchase, retention, or sale of assets credited to his Account.

Article 9. Participant Loans.

9.01. Special Definition. For purposes of this Article, a "**participant**" is any Participant or Beneficiary, including an alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), who is a party-in-interest (as determined under ERISA Section 3(14)) with respect to the Plan.

9.02. Participant Loans. If so provided by the Employer in Section 1.18 of the Adoption Agreement, the Administrator shall allow "participants" to apply for a loan from their Accounts under the Plan, subject to the provisions of this Article 9.

9.03. Separate Loan Procedures. All Plan loans shall be made and administered in accordance with separate loan procedures that are hereby incorporated into the Plan by reference.

9.04. Availability of Loans. Loans shall be made available to all "participants" on a reasonably equivalent basis. Loans shall not be made available to "participants" who are Highly Compensated Employees in an amount greater than the amount made available to other "participants".

9.05. Limitation on Loan Amount. No loan to any "participant" shall be made to the extent that such loan when added to the outstanding balance of all other loans to the "participant" would exceed the lesser of (a) $50,000 reduced by the excess (if any) of the highest outstanding balance of plan loans during the one-year period ending on the day before the loan is made over the outstanding balance of plan loans on the date the loan is made, or (b) one-half the present value of the "participant's" vested interest in his Account. For purposes of the above limitation, plan loans include all loans from all plans maintained by the Employer and any Related Employer.

9.06. Interest Rate. Subject to the requirements of the Servicemembers Civil Relief Act, all loans shall bear a reasonable rate of interest as determined by the Administrator based on the prevailing interest rates charged by persons in the business of lending money for loans which would be made under similar circumstances. The determination of a reasonable rate of interest must be based on appropriate regional factors unless the Plan is administered on a national basis in which case the Administrator may establish a uniform reasonable rate of interest applicable to all regions.

9.07. Level Amortization. All loans shall by their terms require that repayment (principal and interest) be amortized in level payments, not less than quarterly, over a period not extending beyond five years from the date of the loan unless such loan is for the purchase of a "participant's" primary residence. Notwithstanding the foregoing, the amortization requirement may be waived while a "participant" is on a leave of absence from employment with the Employer and any Related Employer either without pay or at a rate of pay which, after withholding for employment and income taxes, is less than the amount of the installment payments required under the terms of the loan, provided that the period of such waiver shall not exceed one year, unless the "participant" is absent because of military leave during which the "participant" performs services with the uniformed services (as defined in chapter 43 of title 38 of the United States Code), regardless of whether such military leave is a qualified military leave in accordance with the provisions of Code Section 414(u). Installment payments must resume after such leave of absence ends or, if earlier, after the first year of such leave of absence, in an amount that is not less than the amount of the installment payments required under the terms of the original loan. Unless a "participant" is absent because of military leave, as discussed below, no waiver of the amortization requirements shall extend the period of the loan

beyond five years from the date of the loan, unless the loan is for purchase of the "participant's" primary residence. If a "participant" is absent because of military leave during which the "participant" performs services with the uniformed services (as defined in chapter 43 of title 38 of the United States Code), regardless of whether such military leave is a qualified military leave in accordance with the provisions of Code Section 414(u), waiver of the amortization requirements may extend the period of the loan to the maximum period permitted for such loan under the separate loan procedures extended by the period of such military leave.

9.08. Security. Loans must be secured by the "participant's" vested interest in his Account not to exceed 50 percent of such vested interest. If the provisions of Section 14.04 apply to a Participant, a Participant must obtain the consent of his or her spouse, if any, to use his vested interest in his Account as security for the loan. Spousal consent shall be obtained no earlier than the beginning of the 90-day period that ends on the date on which the loan is to be so secured. The consent must be in writing, must acknowledge the effect of the loan, and must be witnessed by a Plan representative or notary public. Such consent shall thereafter be binding with respect to the consenting spouse or any subsequent spouse with respect to that loan.

9.09. Loan Repayments. If a "participant's" loan is being repaid through payroll withholding, the Employer shall remit any such loan repayment to the Trustee as of the earliest date on which such amount can reasonably be segregated from the Employer's general assets, but not later than the earlier of (a) the close of the period specified in the separate loan procedures for preventing a default or (b) the 15th business day of the calendar month following the month in which such amount otherwise would have been paid to the "participant".

9.10. Default. The Administrator shall treat a loan in default if

(a) any scheduled repayment remains unpaid at the end of the period specified in the separate loan procedures (unless payment is not made due to a waiver of the amortization schedule for a "participant" who is on a leave of absence, as described in Section 9.07), or

(b) there is an outstanding principal balance existing on a loan after the last scheduled repayment date.

Upon default, the entire outstanding principal and accrued interest shall be immediately due and payable. If a distributable event (as defined by the Code) has occurred, the Administrator shall direct the Trustee to foreclose on the promissory note and offset the "participant's" vested interest in his Account by the outstanding balance of the loan. If a distributable event has not occurred, the Administrator shall direct the Trustee to foreclose on the promissory note and offset the "participant's" vested interest in his Account as soon as a distributable event occurs. The Trustee shall have no obligation to foreclose on the promissory note and offset the outstanding balance of the loan except as directed by the Administrator.

9.11. Effect of Termination Where Participant has Outstanding Loan Balance. If a Participant has an outstanding loan balance at the time his employment terminates, the entire outstanding principal and accrued interest shall be immediately due and payable. Any outstanding loan amounts that are immediately due and payable hereunder shall be treated in accordance with the provisions of Sections 9.10 and 9.12 as if the Participant had defaulted on the outstanding loan. Notwithstanding the foregoing, if a Participant with an outstanding loan balance terminates employment with the Employer and all Related Employers under circumstances that do not constitute a separation from service, as described in Subsection 12.01(b), such Participant may elect, within 60 days of such termination, to roll over the outstanding loan to an eligible retirement plan, as defined in Section 13.04, that accepts such rollovers.

9.12. Deemed Distributions Under Code Section 72(p). Notwithstanding the provisions of Section 9.10, if a "participant's" loan is in default, the "participant" shall be treated as having received a taxable "deemed distribution" for purposes of Code Section 72(p), whether or not a distributable event has occurred. The tax treatment of that portion of a defaulted loan that is secured by Roth 401(k) Contributions shall be determined in accordance with Code Section 402A and guidance issued thereunder.

The amount of a loan that is a deemed distribution ceases to be an outstanding loan for purposes of Code Section 72, except as otherwise specifically provided herein, and a Participant shall not be treated as having received a taxable distribution when the Participant's Account is offset by the outstanding balance of the loan amount as provided in Section 9.10. In addition, interest that accrues on a loan after it is deemed distributed shall not be treated as an additional loan to the Participant and shall not be included in the income of the Participant as a deemed distribution. Notwithstanding the foregoing, unless a Participant repays a loan that has been deemed distributed, with interest thereon, the amount of such loan, with interest, shall be considered an outstanding loan under Code Section 72(p) for purposes of determining the applicable limitation on subsequent loans under Section 9.05.

If a Participant makes payments on a loan that has been deemed distributed, payments made on the loan after the date it was deemed distributed shall be treated as Employee Contributions to the Plan for purposes of increasing the Participant's tax basis in his Account, but shall not be treated as Employee Contributions for any other purpose under the Plan, including application of the "ACP" test described in Section 6.06 and application of the Code Section 415 limitations described in Section 6.12.

The provisions of this Section 9.12 regarding treatment of loans that are deemed distributed shall not apply to loans made prior to January 1, 2002, except to the extent provided under the transition rules in Q & A 22(c)(2) of Section 1.72(p)-l of the Treasury Regulations.

9.13. Determination of Vested Interest Upon Distribution Where Plan Loan is Outstanding. Notwithstanding any other provision of the Plan, the portion of a "participant's" vested interest in his Account that is held by the Plan as security for a loan outstanding to the "participant" in accordance with the provisions of this Article shall reduce the amount of the Account payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than 100 percent of a "participant's" vested interest in his Account (determined without regard to the preceding sentence) is payable to the "participant's" surviving spouse or other Beneficiary, then the Account shall be adjusted by first reducing the "participant's" vested interest in his Account by the amount of the security used as repayment of the loan, and then determining the benefit payable to the surviving spouse or other Beneficiary.

Article 10. In-Service Withdrawals.

10.01. Availability of In-Service Withdrawals. Except as otherwise permitted under Section 11.02 with respect to Participants who continue in employment past Normal Retirement Age, or as required under Section 12.04 with respect to Participants who continue in employment past their Required Beginning Date, a Participant shall not be permitted to make a withdrawal from his Account under the Plan prior to retirement or termination of employment with the Employer and all Related Employers, if any, except as provided in this Article.

10.02. Withdrawal of Employee Contributions. A Participant may elect to withdraw, in cash, up to 100 percent of the amount then credited to his Employee Contributions Account. Such withdrawals may be made at any time.

10.03. Withdrawal of Rollover Contributions. A Participant may elect to withdraw, in cash, up to 100 percent of the amount then credited to his Rollover Contributions Account. Such withdrawals may be made at any time.

10.04. Age 59 1/2 Withdrawals. If so provided by the Employer in Subsection 1.19(b) of the Adoption Agreement or the In-Service Withdrawals Addendum to the Adoption Agreement, a Participant who continues in employment as an Employee and who has attained the age of 59 1/2 is permitted to withdraw upon request all or any portion of his Accounts specified by the Employer in Subsection 1.19(b) of the Adoption Agreement or the In- Service Withdrawals Addendum to the Adoption Agreement, as applicable.

10.05. Hardship Withdrawals. If so provided by the Employer in Subsection 1.19(a) of the Adoption Agreement, a Participant who continues in employment as an Employee may apply to the Administrator for a hardship withdrawal of all or any portion of (a) his Deferral Contributions Account (excluding any earnings thereon accrued after the later of December 31, 1988 or the last day of the last Plan Year ending before July 1, 1989), if elected by the Employer in Subsection 1.19(a)(1)(A) of the Adoption Agreement or (b), if elected by the Employer

in Subsection 1.19(a)(1)(B) of the Adoption Agreement, such Accounts as may be specified in Section (a) of the In- Service Withdrawals Addendum to the Adoption Agreement. The minimum amount that a Participant may withdraw because of hardship is the dollar amount specified by the Employer in Subsection 1.19(a) of the Adoption Agreement, if any.

For purposes of this Section 10.05, a withdrawal is made on account of hardship if made on account of an immediate and heavy financial need of the Participant where such Participant lacks other available resources. The Administrator shall direct the Trustee with respect to hardship withdrawals and those withdrawals shall be based on the following special rules:

(a) The following are the only financial needs considered immediate and heavy:

(1) expenses incurred or necessary for medical care (that would be deductible under Code Section 213(d), determined without regard to whether the expenses exceed any applicable income limit) of the Participant, the Participant's spouse, children, or dependents;

(2) costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;

(3) payment of tuition, related educational fees, and room and board for the next 12 months of post-secondary education for the Participant, the Participant's spouse, children or dependents (as defined in Code Section 152, without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof);

(4) payments necessary to prevent the eviction of the Participant from, or a foreclosure on the mortgage on, the Participant's principal residence;

(5) payments for funeral or burial expenses for the Participant's deceased parent, spouse, child, or dependent (as defined in Code Section 152, without regard to subsection (d)(1)(B) thereof);

(6) expenses for the repair of damage to the Participant's principal residence that would qualify for a casualty loss deduction under Code Section 165 (determined without regard to whether the loss exceeds any applicable income limit); or

(7) any other financial need determined to be immediate and heavy under rules and regulations issued by the Secretary of the Treasury or his delegate; provided, however, that any such financial need shall constitute an immediate and heavy need under this paragraph (7) no sooner than administratively practicable following the date such rule or regulation is issued.

(b) A distribution shall be considered as necessary to satisfy an immediate and heavy financial need of the Participant only if:

(1) The Participant has obtained all distributions, other than the hardship withdrawal, and all nontaxable (at the time of the loan) loans currently available under all plans maintained by the Employer or any Related Employer;

(2) The Participant suspends Deferral Contributions and Employee Contributions to the Plan for the 6-month period following receipt of his hardship withdrawal. The suspension must also apply to all elective contributions and employee contributions to all other qualified plans and non-qualified plans maintained by the Employer or any Related Employer, other than any mandatory employee contribution portion of a defined benefit plan, including stock option, stock purchase, and other similar plans, but not including health and welfare benefit plans (other than the cash or deferred arrangement portion of a cafeteria plan); and

(3) The withdrawal amount is not in excess of the amount of an immediate and heavy financial need (including amounts necessary to pay any Federal, state or local income taxes or penalties reasonably anticipated to result from the distribution).

10.06. Preservation of Prior Plan In-Service Withdrawal Rules. As indicated by the Employer in Subsection 1.19(d) of the Adoption Agreement, to the extent required under Code Section 411(d)(6), in-service withdrawals that were available under a prior plan shall be available under the Plan.

(a) The following provisions shall apply to preserve prior in-service withdrawal provisions.

(1) If the Plan is an amendment and restatement of a prior plan document or is a transferee plan of a prior plan that provided for in-service withdrawals from a Participant's vested interest in his Matching Employer and/or Nonelective Employer Contributions Accounts of amounts that have been held in such Accounts for a specified period of time, a Participant shall be entitled to withdraw at any time prior to his termination of employment, any vested interest in amounts attributable to such Employer Contributions held in such Accounts for the period of time specified by the Employer in Subsection 1.19(d)(1)(A) of the Adoption Agreement.

(2) If the Plan is an amendment and restatement of a prior plan document or is a transferee plan of a prior plan that provided for in-service withdrawals from a Participant's vested interest in his Matching Employer and/or Nonelective Employer Contributions Accounts by Participants with at least 60 months of participation, a Participant with at least 60 months of participation shall be entitled to withdraw at any time prior to his termination of employment, his vested interest held in such Accounts.

(3) If the Plan is an amendment and restatement of a prior plan document or is a transferee plan of a prior plan that provided for in-service withdrawals from a Participant's vested interest in his Matching Employer and/or Nonelective Employer Contributions Accounts under any other circumstances, a Participant who has met any applicable requirements, as set forth in the In- Service Withdrawals Addendum to the Adoption Agreement, shall be entitled to withdraw at any time prior to his termination of employment his vested interest held in such Accounts. Any such withdrawal shall be subject to any restrictions applicable under the prior plan or document that the Employer elects to continue under the Plan as amended and restated hereunder, as set forth in the In-Service Withdrawal Addendum to the Adoption Agreement.

(b) If the Plan is a transferee plan of a prior profit sharing plan that provided for in-service withdrawals from any portion of a Participant's Account other than his Employee Contributions and/or Rollover Contributions Accounts, a Participant who has met any applicable requirements, as set forth in the In-Service Withdrawals Addendum to the Adoption Agreement, shall be entitled to withdraw at any time prior to his termination of employment his vested interest in amounts attributable to such prior profit sharing accounts, subject to any restrictions applicable under the prior plan that the Employer elects to continue under the Plan as amended and restated hereunder (other than any mandatory suspension of contributions restriction), as set forth in the In-Service Withdrawals Addendum to the Adoption Agreement.

10.07. Restrictions on In-Service Withdrawals. The following restrictions apply to any in-service withdrawal made from a Participant's Account under this Article:

(a) If the provisions of Section 14.04 apply to a Participant's Account, the Participant must obtain the consent of his spouse, if any, to obtain an in-service withdrawal.

(b) In-service withdrawals under this Article shall be made in a lump sum payment, except that if the provisions of Section 14.04 apply to a Participant's Account, the Participant shall receive the in-service withdrawal in the form of a "qualified joint and survivor annuity", as defined in Subsection 14.01(a), unless the consent rules in Section 14.05 are satisfied.

(c) Notwithstanding any other provision of the Plan to the contrary other than the provisions of Section 11.02 or 12.04, a Participant shall not be permitted to make an in-service withdrawal from his Account of amounts attributable to contributions made to a money purchase pension plan, except employee and/or rollover contributions that were held in a separate account(s) under such plan.

Article 11. Right to Benefits.

11.01. Normal or Early Retirement. Each Participant who continues in employment as an Employee until his Normal Retirement Age or, if so provided by the Employer in Subsection 1.14(b) of the Adoption Agreement, Early Retirement Age, shall have a vested interest in his Account of 100 percent regardless of any vesting schedule elected in Section 1.16 of the Adoption Agreement. If a Participant retires upon the attainment of Normal or Early Retirement Age, such retirement is referred to as a normal retirement.

11.02. Late Retirement. If a Participant continues in employment as an Employee after his Normal Retirement Age, he shall continue to have a 100 percent vested interest in his Account and shall continue to participate in the Plan until the date he establishes with the Employer for his late retirement. Until he retires, he has a continuing right to elect to receive distribution of all or any portion of his Account in accordance with the provisions of Articles 12 and 13; provided, however, that a Participant may not receive any portion of his Deferral Contributions, Qualified Nonelective Employer Contributions, Qualified Matching Employer Contributions, 401(k) Safe Harbor Matching Employer Contributions, or 401(k) Safe Harbor Nonelective Employer Contributions Accounts prior to his attainment of age 59 1/2.

11.03. Disability Retirement. If so provided by the Employer in Subsection 1.14(c) of the Adoption Agreement, a Participant who becomes disabled while employed as an Employee shall have a 100 percent vested interest in his Account regardless of any vesting schedule elected in Section 1.16 of the Adoption Agreement. An Employee is considered disabled if he satisfies any of the requirements for disability retirement selected by the Employer in Section 1.15 of the Adoption Agreement and terminates his employment with the Employer. Such termination of employment is referred to as a disability retirement.

11.04. Death. A Participant who dies while employed as an Employee shall have a 100 percent vested interest in his Account and his designated Beneficiary shall be entitled to receive the balance of his Account, plus any amounts thereafter credited to his Account. If a Participant whose employment as an Employee has terminated dies, his designated Beneficiary shall be entitled to receive the Participant's vested interest in his Account.

A copy of the death notice or other sufficient documentation must be filed with and approved by the Administrator. If upon the death of the Participant there is, in the opinion of the Administrator, no designated Beneficiary for part or all of the Participant's Account, such amount shall be paid to his surviving spouse or, if none, to his estate (such spouse or estate shall be deemed to be the Beneficiary for purposes of the Plan). If a Beneficiary dies after benefits to such Beneficiary have commenced, but before they have been completed, and, in the opinion of the Administrator, no person has been designated to receive such remaining benefits, then such benefits shall be paid in a lump sum to the deceased Beneficiary's estate.

Subject to the requirements of Section 14.04, a Participant may designate a Beneficiary, or change any prior designation of Beneficiary by giving notice to the Administrator using procedures established by the Administrator. If more than one person is designated as the Beneficiary, their respective interests shall be as indicated on the designation form. In the case of a married Participant, the Participant's spouse shall be deemed to be the designated Beneficiary unless the Participant's spouse has consented to another designation in the manner described in Section 14.06. Notwithstanding the foregoing, if a Participant's Account is subject to the requirements of Section 14.04 and the Employer has specified in Subsection 1.20(c)(2)(B)(ii) of the Adoption Agreement that less

than 100 percent of the Participant's Account that is subject to Section 14.04 shall be used to purchase the "qualified preretirement survivor annuity", as defined in Section 14.01, the Participant may designate a Beneficiary other than his spouse for the portion of his Account that would not be used to purchase the "qualified preretirement survivor annuity," regardless of whether the spouse consents to such designation.

11.05. Other Termination of Employment. If a Participant terminates his employment with the Employer and all Related Employers, if any, for any reason other than death or normal, late, or disability retirement, he shall be entitled to a termination benefit equal to the sum of (a) his vested interest in the balance of his Matching Employer and/or Nonelective Employer Contributions Account(s), other than the balance attributable to 401(k) Safe Harbor Matching Employer and/or 401(k) Safe Harbor Nonelective Employer Contributions, such vested interest to be determined in accordance with the vesting schedule(s) selected by the Employer in Section 1.16 of the Adoption Agreement, and (b) the balance of his Deferral, Employee, Qualified Nonelective Employer, 401(k) Safe Harbor Nonelective Employer, Qualified Matching Employer, 401(k) Safe Harbor Matching Employer, and Rollover Contributions Accounts.

11.06. Application for Distribution. Except as provided in Subsection 1.21(a) of the Adoption Agreement or Section 13.02, a Participant (or his Beneficiary, if the Participant has died) who is entitled to a distribution hereunder must make application, using procedures established by the Administrator, for a distribution from his Account and no such distribution shall be made without proper application.

11.07. Application of Vesting Schedule Following Partial Distribution. If a distribution from a Participant's Matching Employer and/or Nonelective Employer Contributions Account has been made to him at a time when his vested interest in such Account balance is less than 100 percent, the vesting schedule(s) in Section 1.16 of the Adoption Agreement shall thereafter apply only to the balance of his Account attributable to Matching Employer and/or Nonelective Employer Contributions allocated after such distribution. The balance of the Account from which such distribution was made shall be transferred to a separate account immediately following such distribution.

At any relevant time prior to a forfeiture of any portion thereof under Section 11.08, a Participant's vested interest in such separate account shall be equal to P(AB+(RxD))-(RxD), where P is the Participant's vested interest expressed as a percentage at the relevant time determined under Section 11.05; AB is the account balance of the separate account at the relevant time; D is the amount of the distribution; and R is the ratio of the account balance at the relevant time to the account balance after distribution. Following a forfeiture of any portion of such separate account under Section 11.08 below, the Participant's vested interest in any balance in such separate account shall remain 100 percent.

11.08. Forfeitures. If a Participant terminates his employment with the Employer and all Related Employers before his vested interest in his Matching Employer and/or Nonelective Employer Contributions Accounts is 100 percent, the non-vested portion of his Account (including any amounts credited after his termination of employment) shall be forfeited by him as follows:

(a) If the Inactive Participant elects to receive distribution of his entire vested interest in his Account, the non-vested portion of his Account shall be forfeited upon the complete distribution of such vested interest, subject to the possibility of reinstatement as provided in Section 11.10. For purposes of this Subsection, if the value of an Employee's vested interest in his Account balance is zero, the Employee shall be deemed to have received a distribution of his vested interest immediately following termination of employment.

(b) If the Inactive Participant elects not to receive distribution of his vested interest in his Account following his termination of employment, the non-vested portion of his Account shall be forfeited after the Participant has incurred five consecutive Breaks in Vesting Service.

No forfeitures shall occur solely as a result of a Participant's withdrawal of Employee Contributions.

11.09. Application of Forfeitures. Any forfeitures occurring during a Plan Year shall be applied to reduce the contributions of the Employer. Notwithstanding any other provision of the Plan to the contrary, forfeitures shall first be used to pay administrative expenses under the Plan, if so directed by the Employer. To the extent that forfeitures are not used to reduce administrative expenses under the Plan, as directed by the Employer, forfeitures will be applied in accordance with this Section 11.09.

Pending application, forfeitures shall be held in the Permissible Investment selected by the Employer for such purpose.

Notwithstanding any other provision of the Plan to the contrary, in no event may forfeitures be used to reduce the Employer's obligation to remit to the Trust (or other appropriate Plan funding vehicle) loan repayments made pursuant to Article 9, Deferral Contributions or Employee Contributions.

11.10. Reinstatement of Forfeitures. If a Participant forfeits any portion of his Account under Subsection 11.08(a) because of distribution of his complete vested interest in his Account, but again becomes an Eligible Employee, then the amount so forfeited, without any adjustment for the earnings, expenses, losses, or gains of the assets credited to his Account since the date forfeited, shall be recredited to his Account (or to a separate account as described in Section 11.07, if applicable) if he repays the entire amount of his distribution not attributable to Employee Contributions before the earlier of:

(a) his incurring five-consecutive Breaks in Vesting Service following the date complete distribution of his vested interest was made to him; or

(b) five years after his Reemployment Date.

If an Employee is deemed to have received distribution of his complete vested interest as provided in Section 11.08, the Employee shall be deemed to have repaid such distribution on his Reemployment Date.

Upon such an actual or deemed repayment, the provisions of the Plan (including Section 11.07) shall thereafter apply as if no forfeiture had occurred. The amount to be recredited pursuant to this paragraph shall be derived first from the forfeitures, if any, which as of the date of recrediting have yet to be applied as provided in Section 11.09 and, to the extent such forfeitures are insufficient, from a special contribution to be made by the Employer.

11.11. Adjustment for Investment Experience. If any distribution under this Article 11 is not made in a single payment, the amount retained by the Trustee after the distribution shall be subject to adjustment until distributed to reflect the income and gain or loss on the investments in which such amount is invested and any expenses properly charged under the Plan and Trust to such amounts.

Article 12. Distributions.

12.01. Restrictions on Distributions.

(a) Severance from Employment Rule. A Participant, or his Beneficiary, may not receive a distribution from the Participant's Deferral Contributions, Qualified Nonelective Employer Contributions, Qualified Matching Employer Contributions, 401(k) Safe Harbor Matching Employer Contributions or 401(k) Safe Harbor Nonelective Employer Contributions Accounts earlier than upon the Participant's severance from employment with the Employer and all Related Employers, death, or disability, except as otherwise provided in Article 10, Section 11.02 or Section 12.04. If the Employer elected Subsection 1.21(b) of the Adoption Agreement, distribution from the Participant's Deferral Contributions, Qualified Nonelective Employer Contributions, Qualified Matching Employer Contributions, 401(k) Safe Harbor Matching Employer Contributions or 401(k) Safe Harbor Nonelective Employer Contributions Accounts may be further postponed in accordance with the provisions of Subsection 12.01(b) below.

(b) Same Desk Rule. If elected by the Employer in Subsection 1.21(b) of the Adoption Agreement, a Participant, or his Beneficiary, may not receive a distribution from the Participant's Deferral Contributions, Qualified Nonelective Employer Contributions, Qualified Matching Employer Contributions, 401(k) Safe Harbor Matching Employer Contributions or 401(k) Safe Harbor Nonelective Employer Contributions Accounts earlier than upon the Participant's separation from service with the Employer and all Related Employers, death, or disability, except as otherwise provided in Article 10, Section 11.02 or Section 12.04. Notwithstanding the foregoing, amounts may also be distributed from such Accounts, in the form of a lump sum only, upon

(1) The disposition by a corporation to an unrelated corporation of substantially all of the assets (within the meaning of Code Section 409(d)(2)) used in a trade or business of such corporation if such corporation continues to maintain the Plan with respect to the Participant after the disposition, but only with respect to former Employees who continue employment with the corporation acquiring such assets.

(2) The disposition by a corporation to an unrelated entity of such corporation's interest in a subsidiary (within the meaning of Code Section 409(d)(3)) if such corporation continues to maintain the Plan with respect to the Participant, but only with respect to former Employees who continue employment with such subsidiary.

In addition to the distribution events described in paragraph (a) or (b) above, as applicable, such amounts may also be distributed upon the termination of the Plan provided that the Employer does not maintain another defined contribution plan (other than an employee stock ownership plan as defined in Code Section 4975(e)(7) or 409(a), a simplified employee pension plan as defined in Code Section 408(k), a SIMPLE IRA plan as defined in Code Section 408(p), a plan or contract described in Code Section 403(b) or a plan described in Code Section 457(b) or (f)) at any time during the period beginning on the date of plan termination and ending 12 months after all assets have been distributed from the Plan. Subject to Section 14.04, such a distribution must be made in a lump sum.

12.02. Timing of Distribution Following Retirement or Termination of Employment. The balance of a Participant's vested interest in his Account shall be distributable upon his termination of employment with the Employer and all Related Employers, if any, because of death, normal, early, or disability retirement (as permitted under the Plan), or other termination of employment. Notwithstanding the foregoing, a Participant may elect to postpone distribution of his Account until the date in Subsection 1.21(a) of the Adoption Agreement, unless the Employer has elected in Subsection 1.20(e)(1) of the Adoption Agreement to cash out de minimus Accounts and the Participant's vested interest in his Account does not exceed the amount subject to automatic distribution pursuant to Section 13.02. A Participant who elects to postpone distribution has a continuing election to receive such distribution prior to the date as of which distribution is required, unless such Participant is reemployed as an Employee.

12.03. Participant Consent to Distribution. No distribution shall be made to the Participant before he reaches his Normal Retirement Age (or age 62, if later) without the Participant's consent, unless the Employer has elected in Subsection 1.20(e)(1) of the Adoption Agreement to cash out de minimus Accounts and the Participant's vested interest in his Account does not exceed the amount subject to automatic distribution pursuant to Section 13.02. Such consent shall be made within the 90-day period ending on the Participant's Annuity Starting Date.

If a Participant's vested interest in his Account exceeds the maximum cash out limit permitted under Code Section 411(a)(11)(A) ($5,000 as of January 1, 2005), the consent of the Participant's spouse must also be obtained if the Participant's Account is subject to the provisions of Section 14.04, unless the distribution shall be made in the form of a "qualified joint and survivor annuity" or "qualified preretirement survivor annuity" as those terms are defined in Section 14.01. A spouse's consent to early distribution, if required, must satisfy the requirements of Section 14.06.

Neither the consent of the Participant nor the Participant's spouse shall be required to the extent that a distribution is required to satisfy Code Section 401(a)(9) or Code Section 415. In addition, upon termination of the

Plan if it does not offer an annuity option (purchased from a commercial provider) and if the Employer or any Related Employer does not maintain another defined contribution plan (other than an employee stock ownership plan as defined in Code Section 4975(e)(7)) the Participant's Account shall, without the Participant's consent, be distributed to the Participant. However, if any Related Employer maintains another defined contribution plan (other than an employee stock ownership plan as defined in Code Section 4975(e)(7)) then the Participant's Account shall be transferred, without the Participant's consent, to the other plan if the Participant does not consent to an immediate distribution.

12.04. Required Commencement of Distribution to Participants. In no event shall distribution to a Participant commence later than the date in Section 1.21(a) of the Adoption Agreement, which date shall not be later than the earlier of the dates described in (a) and (b) below:

(a) unless the Participant (and his spouse, if appropriate) elects otherwise, the 60th day after the close of the Plan Year in which occurs the latest of (i) the date on which the Participant attains Normal Retirement Age, or age 65, if earlier, (ii) the date on which the Participant's employment with the Employer and all Related Employers ceases, or (iii) the 10th anniversary of the year in which the Participant commenced participation in the Plan; and

(b) the Participant's Required Beginning Date.

Notwithstanding the provisions of Subsection 12.04(a) above, the failure of a Participant (and the Participant's spouse, if applicable) to consent to a distribution shall be deemed to be an election to defer commencement of payment as provided in Section 12.02 above.

12.05. Required Commencement of Distribution to Beneficiaries. Subject to the requirements of Subsection 12.05(a) below, if a Participant dies before his Annuity Starting Date, the Participant's Beneficiary shall receive distribution of the Participant's vested interest in his Account in the form provided under Article 13 or 14, as applicable, beginning as soon as reasonably practicable following the date the Beneficiary's application for distribution is filed with the Administrator. If distribution is to be made to a Participant's spouse, it shall be made available within a reasonable period of time after the Participant's death that is no less favorable than the period of time applicable to other distributions.

(a) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire vested interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant's surviving spouse is the Participant's sole "designated beneficiary," then, except as otherwise elected under Subsection 12.05(b), minimum distributions, as described in Section 13.03, will begin to the surviving spouse by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(2) If the Participant's surviving spouse is not the Participant's sole "designated beneficiary," then, except as otherwise elected under Subsection 12.05(b), minimum distributions, as described in Section 13.03, will begin to the "designated beneficiary" by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(3) If there is no "designated beneficiary" as of September 30 of the year following the year of the Participant's death, the Participant's entire vested interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving spouse is the Participant's sole "designated beneficiary" and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Subsection 12.05(a), other than Subsection 12.05(a)(1), will apply as if the surviving spouse were the Participant.

For purposes of this Subsection 12.05(a), unless Subsection 12.05(a)(4) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Subsection 12.05(a)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Subsection 12.05(a)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Subsection 12.05(a)(1)), the date distributions are considered to begin is the date distributions actually commence.

(b) Election of 5-Year Rule. Participants or Beneficiaries may elect on an individual basis whether the 5-year rule described in Subsection 12.05(a)(3) or the minimum distribution rule described in Section 13.03 applies to distributions after the death of a Participant who has a "designated beneficiary." The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Subsection 12.05(a), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, the surviving spouse's) death. If neither the Participant nor the Beneficiary makes an election under this Subsection 12.05(b), distributions will be made in accordance with Subsection 12.05(a) and Section 13.03.

Subject to the requirements of Subsection 12.05(a) above, if a Participant dies on or after his Annuity Starting Date, but before his entire vested interest in his Account is distributed, his Beneficiary shall receive distribution of the remainder of the Participant's vested interest in his Account beginning as soon as reasonably practicable following the Participant's date of death in a form that provides for distribution at least as rapidly as under the form in which the Participant was receiving distribution.

For purposes of this Section 12.05, "designated beneficiary" is as defined in Subsection 13.03(c)(1).

12.06. Whereabouts of Participants and Beneficiaries. The Administrator shall at all times be responsible for determining the whereabouts of each Participant or Beneficiary who may be entitled to benefits under the Plan and shall direct the Trustee as to the maintenance of a current address of each such Participant or Beneficiary. The Trustee shall be under no duty to make any distributions other than those for which it has received satisfactory direction from the Administrator.

Notwithstanding the foregoing, if the Trustee attempts to make a distribution in accordance with the Administrator's instructions but is unable to make such distribution because the whereabouts of the distributee is unknown, the Trustee shall notify the Administrator of such situation and thereafter the Trustee shall be under no duty to make any further distributions to such distributee until it receives further written instructions from the Administrator.

If the Administrator is unable after diligent attempts to locate a Participant or Beneficiary who is entitled to a benefit under the Plan, the benefit otherwise payable to such Participant or Beneficiary shall be forfeited and applied as provided in Section 11.09. If a benefit is forfeited because the Administrator determines that the Participant or Beneficiary cannot be found, such benefit shall be reinstated by the Employer if a claim is filed by the Participant or Beneficiary with the Administrator and the Administrator confirms the claim to the Employer. Notwithstanding the above, forfeiture of a Participant's or Beneficiary's benefit may occur only if a distribution could be made to the Participant or Beneficiary without obtaining the Participant's or Beneficiary's consent in accordance with the requirements of Section 1.411(a)-11 of the Treasury Regulations.

Article 13. Form of Distribution.

13.01. Normal Form of Distribution Under Profit Sharing Plan. Unless a Participant's Account is subject to the requirements of Section 14.03 or 14.04, distributions to a Participant or to the Beneficiary of the Participant shall

be made in a lump sum in cash or, if elected by the Participant (or the Participant's Beneficiary, if applicable) and provided by the Employer in Section 1.20 of the Adoption Agreement, under a systematic withdrawal plan (installments). A Participant (or the Participant's Beneficiary, if applicable) who is receiving distribution under a systematic withdrawal plan may elect to accelerate installment payments or to receive a lump sum distribution of the remainder of his Account balance.

Notwithstanding anything herein to the contrary, if distribution to a Participant commences on the Participant's Required Beginning Date as determined under Subsection 2.01(tt), the Participant may elect to receive distributions under a systematic withdrawal plan that provides the minimum distributions required under Code Section 401(a)(9), as described in Section 13.03.

Distributions shall be made in cash, except that distributions may be made in Fund Shares of marketable securities (as defined in Code Section 731(c)(2)) at the election of the Participant, pursuant to the qualifying rollover of such distribution to a Fidelity Investments® individual retirement account.

13.02. Cash Out Of Small Accounts. Notwithstanding any other provision of the Plan to the contrary, if the Employer elected to cash out small Accounts as provided in Subsection 1.20(e)(1) of the Adoption Agreement, and a Participant's vested interest in his Account does not exceed $1,000 the Participant's vested interest in his Account shall be distributed in a lump sum following the Participant's termination of employment because of retirement, disability, or other termination of employment. If elected by the Employer in Subsection 1.20(e)(1)(A) of the Adoption Agreement, if a mandatory distribution greater than $1,000 is made to a Participant in accordance with the provisions of this Section prior to the Participant's Normal Retirement Age (or age 62, if later) and the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive such distribution directly, then the Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Administrator. For purposes of determining whether an amount being distributed pursuant to this Section 13.02 will be subject to a direct rollover by the Administrator, a Participant's Roth 401(k) Contributions Account will be considered separately from the amount within the Participant's non-Roth Account.

If the Employer elected to cash out small Accounts as provided in Subsection 1.20(e)(1) of the Adoption Agreement and if distribution is to be made to a Participant's Beneficiary following the death of the Participant and the Beneficiary's vested interest in the Participant's Account does not exceed the maximum cash out limit permitted under Code Section 411(a)(11)(A) ($5,000 as of January 1, 2005), distribution shall be made to the Beneficiary in a lump sum following the Participant's death.

13.03. Minimum Distributions. Unless a Participant's vested interest in his Account is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Participant's Required Beginning Date, as of the first "distribution calendar year" distributions will be made in accordance with this Section. If the Participant's vested interest in his Account is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations issued thereunder.

Notwithstanding the foregoing or any other provisions of this Section, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of Subsection 13.03(d) below.

(a) Required Minimum Distributions During a Participant's Lifetime. During a Participant's lifetime, the minimum amount that will be distributed for each "distribution calendar year" is the lesser of:

(1) the quotient obtained by dividing the Participant's "account balance" by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the "distribution calendar year"; or

(2) if the Participant's sole "designated beneficiary" for the "distribution calendar year" is the Participant's spouse, the quotient obtained by dividing the Participant's "account balance" by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the "distribution calendar year."

Required minimum distributions will be determined under this Subsection 13.03(a) beginning with the first "distribution calendar year" and up to and including the "distribution calendar year" that includes the Participant's date of death.

(b) Required Minimum Distributions After Participant's Death.

(1) If a Participant dies on or after the date distributions begin and there is a "designated beneficiary," the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the Participant's "account balance" by the longer of the remaining "life expectancy" of the Participant or the remaining "life expectancy" of the Participant's "designated beneficiary," determined as follows:

(A) The Participant's remaining "life expectancy" is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(B) If the Participant's surviving spouse is the Participant's sole "designated beneficiary," the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For "distribution calendar years" after the year of the surviving spouse's death, the remaining "life expectancy" of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant's surviving spouse is not the Participant's sole "designated beneficiary," the "designated beneficiary's" remaining "life expectancy" is calculated using the age of the "designated beneficiary" in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) If the Participant dies on or after the date distributions begin and there is no "designated beneficiary" as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the Participant's "account balance" by the Participant's remaining "life expectancy" calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(3) Unless the Participant or Beneficiary elects otherwise in accordance with Subsection 12.05(b), if the Participant dies before the date distributions begin and there is a "designated beneficiary," the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the Participant's "account balance" by the remaining "life expectancy" of the Participant's "designated beneficiary," determined as provided in Subsection 13.03(b)(1).

(4) If the Participant dies before the date distributions begin and there is no "designated beneficiary" as of September 30 of the year following the year of the Participant's death, distribution of the Participant's full vested interest in his Account will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(5) If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole "designated beneficiary," and the surviving spouse dies before distributions are required to begin to the surviving spouse under Subsection 12.05(a)(1), Subsections 13.03(b)(3) and (4) will apply as if the surviving spouse were the Participant.

For purposes of this Subsection 13.03(b), unless Subsection 13.03(b)(5) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Subsection 13.03(b)(5) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Subsection 12.05(a)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Subsection 12.05(a)(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) Definitions. For purposes of this Section 13.03, the following special definitions shall apply:

(1) "**Designated beneficiary**" means the individual who is the Participant's Beneficiary as defined under Section 2.01(g) and is the designated beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4 of the Treasury Regulations.

(2) "**Distribution calendar year**" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first "distribution calendar year" is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first "distribution calendar year" is the calendar year in which distributions are required to begin under Subsection 12.05(a). The required minimum distribution for the Participant's first "distribution calendar year" will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other "distribution calendar years," including the required minimum distribution for the "distribution calendar year" in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that "distribution calendar year."

(3) "**Life expectancy**" means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.

(4) A Participant's "**account balance**" means the balance of the Participant's vested interest in his Account as of the last valuation date in the calendar year immediately preceding the "distribution calendar year" (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The "account balance" for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the "distribution calendar year" if distributed or transferred in the valuation calendar year.

(d) Section 242(b)(2) Elections. Notwithstanding any other provisions of this Section and subject to the requirements of Article 14, if applicable, distribution on behalf of a Participant, including a five-percent owner, may be made pursuant to an election under Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 and in accordance with all of the following requirements:

(1) The distribution is one which would not have disqualified the Trust under Code Section 401(a)(9), if applicable, or any other provisions of Code Section 401(a), as in effect prior to the effective date of Section 242(a) of the Tax Equity and Fiscal Responsibility Act of 1982.

(2) The distribution is in accordance with a method of distribution elected by the Participant whose vested interest in his Account is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.

(3) Such election was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.

(4) The Participant had accrued a benefit under the Plan as of December 31, 1983.

(5) The method of distribution elected by the Participant or the Beneficiary specifies the form of the distribution, the time at which distribution will commence, the period over which distribution will be made, and in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.

A distribution upon death shall not be made under this Subsection 13.03(d) unless the information in the election contains the required information described above with respect to the distributions to be made upon the death of the Participant. For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant or the Beneficiary to whom such distribution is being made will be presumed to have designated the method of distribution under which the distribution is being made, if this method of distribution was specified in writing and the distribution satisfies the requirements in Subsections 13.03(d)(1) and (5). If an election is revoked, any subsequent distribution will be in accordance with the other provisions of the Plan. Any changes in the election will be considered to be a revocation of the election. However, the mere substitution or addition of another Beneficiary (one not designated as a Beneficiary in the election), under the election will not be considered to be a revocation of the election, so long as such substitution or addition does not alter the period over which distributions are to be made under the election directly, or indirectly (for example, by altering the relevant measuring life).

The Administrator shall direct the Trustee regarding distributions necessary to comply with the minimum distribution rules set forth in this Section 13.03.

13.04. Direct Rollovers. Notwithstanding any other provision of the Plan to the contrary, a "distributee" may elect, at the time and in the manner prescribed by the Administrator, to have any portion or all of an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the "distributee" in a direct rollover; provided, however, that a "distributee" may not elect a direct rollover with respect to a portion of an "eligible rollover distribution" if such portion totals less than $500. In applying the $500 minimum on rollovers of a portion of a distribution, any "eligible rollover distribution" from a Participant's Roth 401(k) Contributions Account will be considered separately from any "eligible rollover distribution" from the Participant's non-Roth Account.

The portion of any "eligible rollover distribution" consisting of Employee Contributions may only be rolled over to an individual retirement account or annuity described in Code Section 408(a) or (b) or to a qualified defined contribution plan described in Code Section 401(a) or 403(a) that provides for separate accounting with respect to such accounts, including separate accounting for the portion of such "eligible rollover distribution" that is includible in income and the portion that is not includible in income. That portion of any "eligible rollover distribution" consisting of Roth 401(k) Contributions, may only be rolled over to another designated Roth account established for the individual under an applicable retirement plan described in Code Section 402A(e)(1) that provides for "designated Roth contributions", as defined in Section 6.01, or to a Roth individual retirement account described in Code Section 408A, subject to the rules of Code Section 402(c).

For purposes of this Section 13.04, the following definitions shall apply:

(a) "Distributee" means a Participant, the Participant's surviving spouse, and the Participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, who is entitled to receive a distribution from the Participant's vested interest in his Account.

(b) “Eligible retirement plan” means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), a qualified defined contribution plan described in Code Section 401(a), an annuity contract described in Code Section 403(b), an eligible deferred compensation plan described in Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, provided that such 457 plan provides for separate accounting with respect to such rolled over amounts, that accepts “eligible rollover distributions”, or a Roth individual retirement account described in Code Section 408A.

(c) “Eligible rollover distribution” means any distribution of all or any portion of the balance to the credit of the “distributee”, except that an “eligible rollover distribution” does not include the following:

(1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the “distributee” or the joint lives (or joint life expectancies) of the “distributee” and the “distributee’s” designated beneficiary, or for a specified period of ten years or more;

(2) any distribution to the extent such distribution is required under Code Section 401(a)(9); or

(3) any hardship withdrawal made in accordance with the provisions of Section 10.05 or the In-Service Withdrawals Addendum to the Adoption Agreement.

13.05. Notice Regarding Timing and Form of Distribution. Within the period beginning 90 days before a Participant’s Annuity Starting Date and ending 30 days before such date, the Administrator shall provide such Participant with written notice containing a general description of the material features of each form of distribution available under the Plan and an explanation of the financial effect of electing each form of distribution available under the Plan. The notice shall also inform the Participant of his right to defer receipt of the distribution until the date in Subsection 1.21(a) of the Adoption Agreement and his right to make a direct rollover.

Distribution may commence fewer than 30 days after such notice is given, provided that:

(a) the Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option);

(b) the Participant, after receiving the notice, affirmatively elects a distribution, with his spouse’s written consent, if necessary;

(c) if the Participant’s Account is subject to the requirements of Section 14.04, the following additional requirements apply:

(1) the Participant is permitted to revoke his affirmative distribution election at any time prior to the later of (A) his Annuity Starting Date or (B) the expiration of the seven-day period beginning the day after such notice is provided to him; and

(2) distribution does not begin to such Participant until such revocation period ends.

13.06. Determination of Method of Distribution. Subject to Section 13.02, the Participant shall determine the method of distribution of benefits to himself and may determine the method of distribution to his Beneficiary. If the Participant does not determine the method of distribution to his Beneficiary or if the Participant permits his Beneficiary to override his determination, the Beneficiary, in the event of the Participant’s death, shall determine the method of distribution of benefits to himself as if he were the Participant. A determination by the Beneficiary must be made no later than the close of the calendar year in which distribution would be required to begin under Section 12.05 or, if earlier, the close of the calendar year in which the fifth anniversary of the death of the Participant occurs.

13.07. Notice to Trustee. The Administrator shall notify the Trustee in any medium acceptable to the Trustee, which may be specified in the Service Agreement, whenever any Participant or Beneficiary is entitled to receive benefits under the Plan. The Administrator's notice shall indicate the form of payment of benefits that such Participant or Beneficiary shall receive, (in the case of distributions to a Participant) the name of any designated Beneficiary or Beneficiaries, and such other information as the Trustee shall require.

Article 14. Superseding Annuity Distribution Provisions.

14.01. Special Definitions. For purposes of this Article, the following special definitions shall apply:

(a) **"Qualified joint and survivor annuity"** means (1) if the Participant is not married on his Annuity Starting Date, an immediate annuity payable for the life of the Participant or (2) if the Participant is married on his Annuity Starting Date, an immediate annuity for the life of the Participant with a survivor annuity for the life of the Participant's spouse (to whom the Participant was married on the Annuity Starting Date) equal to 50 percent (or the percentage designated in Subsection 1.20(c)(2)(A)(i)(I) or 1.20(c)(2)(B)(i), as applicable, of the Adoption Agreement) of the amount of the annuity which is payable during the joint lives of the Participant and such spouse, provided that the survivor annuity shall not be payable to a Participant's spouse if such spouse is not the same spouse to whom the Participant was married on his Annuity Starting Date.

(b) **"Qualified preretirement survivor annuity"** means an annuity purchased with at least 50 percent of a Participant's vested interest in his Account that is payable for the life of a Participant's surviving spouse. The Employer shall specify that portion of a Participant's vested interest in his Account that is to be used to purchase the "qualified preretirement survivor annuity" in Section 1.20 of the Adoption Agreement.

14.02. Applicability. The provisions of this Article shall apply to a Participant's Account if:

(a) the Plan includes assets transferred from a money purchase pension plan;

(b) the Plan is an amendment and restatement of a plan that provided an annuity form of payment and such form of payment has ***not*** been eliminated pursuant to Subsection 1.20(d) of the Adoption Agreement;

(c) the Plan is an amendment and restatement of a plan that provided an annuity form of payment and such form of payment ***has*** been eliminated pursuant to Subsection 1.20(d) of the Adoption Agreement, but the Participant elected a life annuity form of payment before the effective date of the elimination;

(d) the Participant's Account contains assets attributable to amounts directly or indirectly transferred from a plan that provided an annuity form of payment and such form of payment has ***not*** been eliminated pursuant to Subsection 1.20(d) of the Adoption Agreement;

(e) the Participant's Account contains assets attributable to amounts directly or indirectly transferred from a plan that provided an annuity form of payment and such form of payment ***has*** been eliminated pursuant to Subsection 1.20(d) of the Adoption Agreement, but the Participant elected a life annuity form of payment before the effective date of the elimination.

14.03. Annuity Form of Payment. To the extent provided in Section 1.20 of the Adoption Agreement, a Participant may elect distributions made in whole or in part in the form of an annuity contract. Any annuity contract distributed under the Plan shall be subject to the provisions of this Section 14.03 and, to the extent provided therein, Sections 14.04 through 14.09.

(a) At the direction of the Administrator, the Trustee shall purchase the annuity contract on behalf of a Participant or Beneficiary from an insurance company. Such annuity contract shall be nontransferable.

(b) The terms of the annuity contract shall comply with the requirements of the Plan and distributions under such contract shall be made in accordance with Code Section 401(a)(9) and the Treasury Regulations issued thereunder.

(c) The annuity contract may provide for payment over the life of the Participant and, upon the death of the Participant, may provide a survivor annuity continuing for the life of the Participant's designated Beneficiary. Such an annuity may provide for an annuity certain feature for a period not exceeding the life expectancy of the Participant or, if the annuity is payable to the Participant and a designated Beneficiary, the joint life and last survivor expectancy of the Participant and such Beneficiary. If the Participant dies prior to his Annuity Starting Date, the annuity contract distributed to the Participant's Beneficiary may provide for payment over the life of the Beneficiary, and may provide for an annuity certain feature for a period not exceeding the life expectancy of the Beneficiary. The types of annuity contracts provided under the Plan shall be limited to the types of annuities described in Section 1.20 of the Adoption Agreement and the Forms of Payment Addendum to the Adoption Agreement.

(d) The annuity contract must provide for nonincreasing payments.

14.04. "Qualified Joint and Survivor Annuity" and "Qualified Preretirement Survivor Annuity" Requirements. The requirements of this Section 14.04 apply to a Participant's Account if:

(a) the Plan includes assets transferred from a money purchase pension plan;

(b) the Employer has selected in Subsection 1.20(c)(2)(B) of the Adoption Agreement that distribution in the form of a life annuity is the normal form of distribution with respect to such Participant's Account; or

(c) the Employer has selected in Subsection 1.20(c)(2)(A) of the Adoption Agreement that distribution in the form of a life annuity is an optional form of distribution with respect to such Participant's Account and the Participant is permitted to elect and has elected distribution in the form of an annuity contract payable over the life of the Participant.

If a Participant's Account is subject to the requirements of this Section 14.04, distribution shall be made to the Participant with respect to such Account in the form of a "qualified joint and survivor annuity" (with a survivor annuity in the percentage amount specified by the Employer in Subsection 1.20 of the Adoption Agreement) in the amount that can be purchased with such Account unless the Participant waives the "qualified joint and survivor annuity" as provided in Section 14.05. If the Participant dies prior to his Annuity Starting Date, distribution shall be made to the Participant's surviving spouse, if any, in the form of a "qualified preretirement survivor annuity" in the amount that can be purchased with such Account unless the Participant waives the "qualified preretirement survivor annuity" as provided in Section 14.05, or the Participant's surviving spouse elects in writing to receive distribution in one of the other forms of payment provided under the Plan. A Participant's Account that is subject to the requirements of this Section 14.04 shall be used to purchase the "qualified preretirement survivor annuity" and the balance of the Participant's vested interest in his Account that is not used to purchase the "qualified preretirement survivor annuity" shall be distributed to the Participant's designated Beneficiary in accordance with the provisions of Sections 11.04 and 12.05.

14.05. Waiver of the "Qualified Joint and Survivor Annuity" and/or "Qualified Preretirement Survivor Annuity" Rights. A Participant may waive the "qualified joint and survivor annuity" described in Section 14.04 and elect another form of distribution permitted under the Plan at any time during the 90-day period ending on his Annuity Starting Date; provided, however, that if the Participant is married, his spouse must consent in writing to such election as provided in Section 14.06.

A Participant may waive the "qualified preretirement survivor annuity" and designate a non-spouse Beneficiary at any time during the "applicable election period"; provided, however, that the Participant's spouse must consent in writing to such election as provided in Section 14.06. The "applicable election period" begins on the later of (1) the date the Participant's Account becomes subject to the requirements of Section 14.04 or (2) the first day of the Plan Year in which the Participant attains age 35 or, if he terminates employment prior to such date, the date he terminates employment with the Employer and all Related Employers. The "applicable election period" ends on the earlier of the Participant's Annuity Starting Date or the date of the Participant's death. A Participant whose employment has not terminated may elect to waive the "qualified preretirement survivor annuity" prior to the Plan Year in which he attains age 35, provided that any such waiver shall cease to be effective as of the first day of the Plan Year in which the Participant attains age 35.

A Participant's waiver of the "qualified joint and survivor annuity" or "qualified preretirement survivor annuity" shall be valid only if the applicable notice described in Section 14.07 or 14.08 has been provided to the Participant.

14.06. Spouse's Consent to Waiver. A spouse's written consent to a Participant's waiver of the "qualified joint and survivor annuity" or "qualified preretirement survivor annuity" forms of distribution must acknowledge the effect of the Participant's election and must be witnessed by a Plan representative or a notary public. In addition, the spouse's written consent must either (a) specify the form of distribution elected instead of the "qualified joint and survivor annuity", if applicable, and that such form may not be changed (except to a "qualified joint and survivor annuity") without written spousal consent and specify any non-spouse Beneficiary designated by the Participant, if applicable, and that such designation may not be changed without written spousal consent or (b) acknowledge that the spouse has the right to limit consent as provided in clause (a) above, but permit the Participant to change the form of distribution elected or the designated Beneficiary without the spouse's further consent.

A Participant's spouse shall be deemed to have given written consent to a Participant's waiver if the Participant establishes to the satisfaction of a Plan representative that spousal consent cannot be obtained because the spouse cannot be located or because of other circumstances set forth in Code Section 401(a)(11) and Treasury Regulations issued thereunder.

Any written consent given or deemed to have been given by a Participant's spouse hereunder shall be irrevocable and shall be effective only with respect to such spouse and not with respect to any subsequent spouse.

A spouse's consent to a Participant's waiver shall be valid only if the applicable notice described in Section 14.07 or 14.08 has been provided to the Participant.

14.07. Notice Regarding "Qualified Joint and Survivor Annuity". The notice provided to a Participant under Section 14.05 shall include a written explanation of (a) the terms and conditions of the "qualified joint and survivor annuity" provided herein, (b) the financial effect of receiving payment under the "qualified joint and survivor annuity", (c) the Participant's right to make, and the effect of, an election to waive the "qualified joint and survivor annuity", (d) the rights of the Participant's spouse under Section 14.06, and (e) the Participant's right to revoke an election to waive the "qualified joint and survivor annuity" prior to his Annuity Starting Date.

14.08. Notice Regarding "Qualified Preretirement Survivor Annuity". If a Participant's Account is subject to the requirements of Section 14.04, the Participant shall be provided with a written explanation of the "qualified preretirement survivor annuity" comparable to the written explanation provided with respect to the "qualified joint and survivor annuity", as described in Section 14.07. Such explanation shall be furnished within whichever of the following periods ends last:

(a) the period beginning with the first day of the Plan Year in which the Participant reaches age 32 and ending with the end of the Plan Year preceding the Plan Year in which he reaches age 35;

(b) a reasonable period ending after the Employee becomes an Active Participant;

(c) a reasonable period ending after Section 14.04 first becomes applicable to the Participant's Account; or

(d) in the case of a Participant who separates from service before age 35, a reasonable period ending after such separation from service.

For purposes of the preceding sentence, the two-year period beginning one year prior to the date of the event described in Subsection 14.08(b), (c) or (d) above, whichever is applicable, and ending one year after such date shall be considered reasonable, provided, that in the case of a Participant who separates from service under Subsection 14.08(d) above and subsequently recommences employment with the Employer, the applicable period for such Participant shall be redetermined in accordance with this Section 14.08.

14.09. Former Spouse. For purposes of this Article, a former spouse of a Participant shall be treated as the spouse or surviving spouse of the Participant, and a current spouse shall not be so treated, to the extent required under a qualified domestic relations order, as defined in Code Section 414(p).

Article 15. Top-Heavy Provisions.

15.01. Definitions. For purposes of this Article, the following special definitions shall apply:

(a) **"Determination date"** means, for any Plan Year subsequent to the first Plan Year, the last day of the preceding Plan Year. For the first Plan Year of the Plan, "determination date" means the last day of that Plan Year.

(b) **"Determination period"** means the Plan Year containing the "determination date".

(c) **"Distribution period"** means (i) for any distribution made to an employee on account of severance from employment, death, disability, or termination of a plan which would have been part of the "required aggregation group" had it not been terminated, the one-year period ending on the "determination date" and (ii) for any other distribution, the five-year period ending on the "determination date".

(d) **"Key employee"** means any Employee or former Employee (including any deceased Employee) who at any time during the "determination period" was (1) an officer of the Employer or a Related Employer having annual Compensation greater than the dollar amount specified in Code Section 416(i)(1)(A)(I) adjusted under Code Section 416(i)(1) for Plan Years beginning after December 31, 2002 (e.g., $135,000 for Plan Years beginning in 2005), (2) a five-percent owner of the Employer or a Related Employer, or (3) a one-percent owner of the Employer or a Related Employer having annual Compensation of more than $150,000. The determination of who is a "key employee" shall be made in accordance with Code Section 416(i)(1) and any applicable guidance or regulations issued thereunder.

(e) **"Permissive aggregation group"** means the "required aggregation group" plus any other qualified plans of the Employer or a Related Employer which, when considered as a group with the "required aggregation group", would continue to satisfy the requirements of Code Sections 401(a)(4) and 410.

(f) **"Required aggregation group" means:**

(1) Each qualified plan of the Employer or Related Employer in which at least one "key employee" participates, or has participated at any time during the "determination period" or, unless and until modified by future Treasury guidance, any of the four preceding Plan Years (regardless of whether the plan has terminated), and

(2) any other qualified plan of the Employer or Related Employer which enables a plan described in Subsection 15.01(f)(1) above to meet the requirements of Code Section 401(a)(4) or 410.

(g) **"Top-heavy plan"** means a plan in which any of the following conditions exists:

(1) the "top-heavy ratio" for the plan exceeds 60 percent and the plan is not part of any "required aggregation group" or "permissive aggregation group";

(2) the plan is a part of a "required aggregation group" but not part of a "permissive aggregation group" and the "top-heavy ratio" for the "required aggregation group" exceeds 60 percent; or

(3) the plan is a part of a "required aggregation group" and a "permissive aggregation group" and the "top-heavy ratio" for both groups exceeds 60 percent.

Notwithstanding the foregoing, a plan is not a "top-heavy plan" for a Plan Year if it consists solely of a cash or deferred arrangement that satisfies the nondiscrimination requirements under Code Section 401(k) by application of Code Section 401(k)(12) and, if matching contributions are provided under such plan, satisfies the nondiscrimination requirements under Code Section 401(m) by application of Code Section 401(m)(11).

(h) **"Top-heavy ratio" means:**

(1) With respect to the Plan, or with respect to any "required aggregation group" or "permissive aggregation group" that consists solely of defined contribution plans (including any simplified employee pension, as defined in Code Section 408(k)), a fraction, the numerator of which is the sum of the account balances of all "key employees" under the plans as of the "determination date" (including any part of any account balance distributed during the "distribution period"), and the denominator of which is the sum of all account balances (including any part of any account balance distributed during the "distribution period") of all participants under the plans as of the "determination date". Both the numerator and denominator of the "topheavy ratio" shall be increased, to the extent required by Code Section 416, to reflect any contribution which is due but unpaid as of the "determination date".

(2) With respect to any "required aggregation group" or "permissive aggregation group" that includes one or more defined benefit plans which, during the "determination period", has covered or could cover an Active Participant in the Plan, a fraction, the numerator of which is the sum of the account balances under the defined contribution plans for all "key employees" and the present value of accrued benefits under the defined benefit plans for all "key employees", and the denominator of which is the sum of the account balances under the defined contribution plans for all participants and the present value of accrued benefits under the defined benefit plans for all participants. Both the numerator and denominator of the "top-heavy ratio" shall be increased for any distribution of an account balance or an accrued benefit made during the "distribution period" and any contribution due but unpaid as of the "determination date".

For purposes of Subsections 15.01(h)(1) and (2) above, the value of accounts shall be determined as of the most recent "determination date" and the present value of accrued benefits shall be determined as of the date used for computing plan costs for minimum funding that falls within 12 months of the most recent "determination date", except as provided in Code Section 416 and the regulations issued thereunder for the first and second plan years of a defined benefit plan. When aggregating plans, the value of accounts and accrued benefits shall be calculated with reference to the "determination dates" that fall within the same calendar year.

The accounts and accrued benefits of a Participant who is not a "key employee" but who was a "key employee" in a prior year, or who has not performed services for the Employer or any Related Employer at any time during the one-year period ending on the "determination date", shall be disregarded. The calculation of the "top-heavy ratio", and the extent to which distributions, rollovers, and transfers are taken into account, shall be made in accordance with Code Section 416 and the regulations issued thereunder. Deductible employee contributions shall not be taken into account for purposes of computing the "top-heavy ratio".

For purposes of determining if the Plan, or any other plan included in a "required aggregation group" of which the Plan is a part, is a "top-heavy plan", the accrued benefit in a defined benefit plan of an Employee other than a "key employee" shall be determined under the method, if any, that uniformly applies for accrual purposes under all plans maintained by the Employer or a Related Employer, or, if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional accrual rate of Code Section 411(b)(1)(C).

15.02. Application. If the Plan is or becomes a "top-heavy plan" in any Plan Year or is automatically deemed to be a "top-heavy plan" in accordance with the Employer's selection in Subsection 1.22(a)(1) of the Adoption Agreement, the provisions of this Article shall apply and shall supersede any conflicting provision in the Plan. Notwithstanding the foregoing, the provisions of this Article shall not apply if Subsection 1.22(a)(3) of the Adoption Agreement is selected.

15.03. Minimum Contribution. Except as otherwise specifically provided in this Section 15.03, the Nonelective Employer Contributions made for the Plan Year on behalf of any Active Participant who is not a "key employee", when combined with the Matching Employer Contributions made on behalf of such Active Participant for the Plan Year, shall not be less than the lesser of three percent (or five percent, if selected by the Employer in Subsection 1.22(b) of the Adoption Agreement) of such Participant's Compensation for the Plan Year or, in the case where neither the Employer nor any Related Employer maintains a defined benefit plan which uses the Plan to satisfy Code Section 401(a)(4) or 410, the largest percentage of Employer contributions made on behalf of any "key employee" for the Plan Year, expressed as a percentage of the "key employee's" Compensation for the Plan Year. Catch-Up Contributions made on behalf of a "key employee" for the Plan Year shall not be taken into account for purposes of determining the amount of the minimum contribution required hereunder.

If an Active Participant is entitled to receive a minimum contribution under another qualified plan maintained by the Employer or a Related Employer that is a "top-heavy plan", no minimum contribution shall be made hereunder unless the Employer has provided in Subsection 1.22(b)(1) of the Adoption Agreement that the minimum contribution shall be made under this Plan in any event. If the Employer has provided in Subsection 1.22(b)(2) that an alternative means shall be used to satisfy the minimum contribution requirements where an Active Participant is covered under multiple plans that are "top-heavy plans", no minimum contribution shall be required under this Section, except as provided under the 416 Contributions Addendum to the Adoption Agreement. If a minimum contribution is required to be made under the Plan for the Plan Year on behalf of an Active Participant who is not a "key employee" and who is a participant in a defined benefit plan maintained by the Employer or a Related Employer that is aggregated with the Plan, the minimum contribution shall not be less than five percent of such Participant's Compensation for the Plan Year.

The minimum contribution required under this Section 15.03 shall be made to the Account of an Active Participant even though, under other Plan provisions, the Active Participant would not otherwise be entitled to receive a contribution, or would have received a lesser contribution for the Plan Year, because (a) the Active Participant failed to complete the Hours of Service requirement selected by the Employer in Subsection 1.11(e) or 1.12(d) of the Adoption Agreement, or (b) the Participant's Compensation was less than a stated amount; provided, however, that no minimum contribution shall be made for a Plan Year to the Account of an Active Participant who is not employed by the Employer or a Related Employer on the last day of the Plan Year.

That portion of a Participant's Account that is attributable to minimum contributions required under this Section 15.03, to the extent required to be nonforfeitable under Code Section 416(b), may not be forfeited under Code Section 411(a)(3)(B).

15.04. Determination of Minimum Required Contribution. For purposes of determining the amount of any minimum contribution required to be made on behalf of a Participant who is not a "key employee" for a Plan Year, the Matching Employer Contributions made on behalf of such Participant and the Nonelective Employer Contributions allocated to such Participant for the Plan Year shall be aggregated. If the aggregate amount of such contributions, when expressed as a percentage of such Participant's Compensation for the Plan Year, is less than the minimum contribution required to be made to such Participant under Section 15.03, the Employer shall make an additional contribution on behalf of such Participant in an amount that, when aggregated with the Matching Employer Contributions and Nonelective Employer Contributions previously allocated to such Participant, will equal the minimum contribution required to be made to such Participant under Section 15.03.

15.05. Accelerated Vesting. For any Plan Year in which the Plan is or is deemed to be a "top-heavy plan" and all Plan Years thereafter, the top-heavy vesting schedule provided in Subsection 1.22(c) of the Adoption Agreement shall automatically apply to the Plan. The top-heavy vesting schedule applies to all benefits within the meaning of Code Section 411(a)(7) except those already subject to a vesting schedule which vests at least as rapidly in all cases as the schedule elected in Subsection 1.22(c) of the Adoption Agreement, including benefits accrued before the Plan becomes a "top-heavy plan". Notwithstanding the foregoing provisions of this Section 15.05, the top-heavy vesting schedule does not apply to the Account of any Participant who does not have an Hour of Service after the Plan initially becomes or is deemed to have become a "top-heavy plan" and such Employee's Account attributable to Employer Contributions shall be determined without regard to this Section 15.05.

15.06. Exclusion of Collectively-Bargained Employees. Notwithstanding any other provision of this Article 15, Employees who are included in a unit covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers shall not be included in determining whether or not the Plan is a "top-heavy plan". In addition, such Employees shall not be entitled to a minimum contribution under Section 15.03 or accelerated vesting under Section 15.05, unless otherwise provided in the collective bargaining agreement.

Article 16. Amendment and Termination.

16.01. Amendments by the Employer that do Not Affect Volume submitter Status. The Employer reserves the authority through a board of directors' resolution or similar action, subject to the provisions of Article 1 and Section 16.04, to amend the Plan as provided herein, and such amendment shall not affect the status of the Plan as a volume submitter plan.

(a) The Employer may amend the Adoption Agreement to make a change or changes in the provisions previously elected by it. Such amendment may be made either by (1) completing an amended Adoption Agreement, or (2) adopting an amendment in the form provided by the Volume Submitter Sponsor. Any such amendment must be filed with the Trustee.

(b) The Employer may adopt certain model amendments published by the Internal Revenue Service which specifically provide that their adoption shall not cause the Plan to be treated as an individually designed plan.

16.02. Amendments by the Employer Adopting Provisions not Included in Volume Submitter Specimen Plan. The Employer reserves the authority, subject to the provisions of Section 16.04, to amend the Plan by adopting provisions that are not included in the Volume Submitter Sponsor's specimen plan. Any such amendment shall be made through use of the Superseding Provisions Addendum to the Adoption Agreement. Any such amendment may affect the Plan's status as a volume submitter adopter.

16.03. Amendment by the Volume Submitter Sponsor. Effective as of the date the Volume Submitter Sponsor receives approval from the Internal Revenue Service of its Volume Submitter specimen plan, the Volume Submitter Sponsor may in its discretion amend the volume submitter plan at any time, which amendment may also apply to the Plan maintained by the Employer. The Volume Submitter Sponsor shall satisfy any recordkeeping and notice requirements imposed by the Internal Revenue Service in order to maintain its amendment authority. The Volume Submitter Sponsor shall provide a copy of any such amendment to each Employer adopting its volume submitter plan at the Employer's last known address as shown on the books maintained by the Volume Submitter Sponsor or its affiliates.

Notwithstanding the above, the Volume Submitter Sponsor will no longer have the authority to amend the Plan on behalf of an adopting Employer as of the earlier of (a) the date the Internal Revenue Service requires the Employer to file Form 5300 as an individually-designed plan as a result of an Employer amendment to the Plan to incorporate a type of plan that is not allowable in the Volume Submitter program, as described in Section 16.02 of Rev. Proc. 2005-16 (or the successor thereto), or (b) the date the Employer's Plan is otherwise considered an individually-designed plan due to the nature and extent of amendments, as described in Section 24.03 of Rev. Proc. 2005-16 (or the successor thereto).

16.04. Amendments Affecting Vested Interest and/or Accrued Benefits. Except as permitted by Section 16.05, Section 1.20(d) of the Adoption Agreement, and/or Code Section 411(d)(6) and regulations issued thereunder, no amendment to the Plan shall be effective to the extent that it has the effect of decreasing a Participant's Account or eliminating an optional form of benefit with respect to benefits attributable to service before the amendment. Furthermore, if the vesting schedule of the Plan is amended, the nonforfeitable interest of a Participant in his Account, determined as of the later of the date the amendment is adopted or the date it becomes effective, shall not be less than the Participant's nonforfeitable interest in his Account determined without regard to such amendment.

If the Plan's vesting schedule is amended because of a change to "top-heavy plan" status, as described in Subsection 15.01(g), the accelerated vesting provisions of Section 15.05 shall continue to apply for all Plan Years thereafter, regardless of whether the Plan is a "top-heavy plan" for such Plan Year.

If the Plan's vesting schedule is amended and an Active Participant's vested interest, as calculated by using the amended vesting schedule, is less in any year than the Active Participant's vested interest calculated under the Plan's vesting schedule immediately prior to the amendment, the amended vesting schedule shall apply only to Employees first hired on or after the effective date of the change in vesting schedule.

16.05. Retroactive Amendments made by Volume Submitter Sponsor. An amendment made by the Volume Submitter Sponsor in accordance with Section 16.03 may be made effective on a date prior to the first day of the Plan Year in which it is adopted if, in published guidance, the Internal Revenue Service either permits or requires such an amendment to be made to enable the Plan and Trust to satisfy the applicable requirements of the Code and all requirements for the retroactive amendment are satisfied.

16.06. Termination and Discontinuation of Contributions. The Employer has adopted the Plan with the intention and expectation that assets shall continue to be held under the Plan on behalf of Participants and their Beneficiaries indefinitely and, unless the Plan is a frozen plan as provided in Subsection 1.01(g)(5) of the Adoption Agreement, that contributions under the Plan shall be continued indefinitely. However, said Employer has no obligation or liability whatsoever to maintain the Plan for any length of time and may amend the Plan to discontinue contributions under the Plan or terminate the Plan at any time without any liability hereunder for any such discontinuance or termination.

If the Plan is not already a frozen plan, the Employer may amend the Plan to discontinue further contributions to the Plan by selecting Subsection 1.01(g)(5) of the Adoption Agreement. An Employer that has selected in Subsection 1.01(g)(5) of the Adoption Agreement may change its selection and provide for contributions under the Plan to recommence with the intention that such contributions continue indefinitely, as provided in the preceding paragraph.

The Employer may terminate the Plan by written notice delivered to the Trustee. Notwithstanding the effective date of the termination of the Plan, loan payments being made pursuant to Section 9.07 shall continue to be remitted to the Trust until the loan has been defaulted or distributed pursuant to Sections 9.10 and 9.11 or Section 9.13, respectively.

16.07. Distribution upon Termination of the Plan. Upon termination or partial termination of the Plan or complete discontinuance of contributions thereunder, each Participant (including a terminated Participant with respect to amounts not previously forfeited by him) who is affected by such termination or partial termination or discontinuance shall have a vested interest in his Account of 100 percent. Subject to Section 12.01 and Article 14, upon receipt of instructions from the Administrator, the Trustee shall distribute to each Participant or other person entitled to distribution the balance of the Participant's Account in a single lump sum payment. In the absence of such instructions, the Trustee shall notify the Administrator of such situation and the Trustee shall be under no duty to make any distributions under the Plan until it receives instructions from the Administrator. Upon the completion of such distributions, the Trust shall terminate, the Trustee shall be relieved from all liability under the Trust, and no Participant or other person shall have any claims thereunder, except as required by applicable law.

If distribution is to be made to a Participant or Beneficiary who cannot be located, following the Administrator's completion of such search methods as described in applicable Department of Labor guidance, the Administrator shall give instructions to the Trustee to roll over the distribution to an individual retirement account established by the Administrator in the name of the missing Participant or Beneficiary, which account shall satisfy the requirements of the Department of Labor automatic rollover safe harbor generally applicable to amounts less than or equal to the maximum cashout amount specified in Code Section 401(a)(31)(B)(ii) ($5,000 as of January 1, 2005) that are mandatorily distributed from the Plan. In the absence of such instructions, the Trustee shall make no distribution to the distributee.

16.08. Merger or Consolidation of Plan; Transfer of Plan Assets. In case of any merger or consolidation of the Plan with, or transfer of assets and liabilities of the Plan to, any other plan, provision must be made so that each Participant would, if the Plan then terminated, receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer if the Plan had then terminated.

Article 17. Amendment and Continuation of Prior Plan; Transfer of Funds to or from Other Qualified Plans.

17.01. Amendment and Continuation of Prior Plan. In the event the Employer has previously established a plan (the "prior plan") which is a defined contribution plan under the Code and which on the date of adoption of the Plan meets the applicable requirements of Code Section 401(a), the Employer may, in accordance with the provisions of the prior plan, amend and restate the prior plan in the form of the Plan and become the Employer hereunder, subject to the following:

(a) Subject to the provisions of the Plan, each individual who was a Participant in the prior plan immediately prior to the effective date of such amendment and restatement shall become a Participant in the Plan on the effective date of the amendment and restatement, provided he is an Eligible Employee as of that date.

(b) Except as provided in Section 16.04, no election may be made under the vesting provisions of the Adoption Agreement if such election would reduce the benefits of a Participant under the Plan to less than the benefits to which he would have been entitled if he voluntarily separated from the service of the Employer immediately prior to such amendment and restatement.

(c) No amendment to the Plan shall decrease a Participant's accrued benefit or eliminate an optional form of benefit, except as permitted under Subsection 1.20(d) of the Adoption Agreement.

(d) The amounts standing to the credit of a Participant's account immediately prior to such amendment and restatement which represent the amounts properly attributable to (1) contributions by the Participant and (2) contributions by the Employer and forfeitures shall constitute the opening balance of his Account or Accounts under the Plan.

(e) Amounts being paid to an Inactive Participant or to a Beneficiary in accordance with the provisions of the prior plan shall continue to be paid in accordance with such provisions.

(f) Any election and waiver of the "qualified preretirement survivor annuity", as defined in Section 14.01, in effect after August 23, 1984, under the prior plan immediately before such amendment and restatement shall be deemed a valid election and waiver of Beneficiary under Section 14.04 if such designation satisfies the requirements of Sections 14.05 and 14.06, unless and until the Participant revokes such election and waiver under the Plan.

(g) All assets of the predecessor trust shall be invested by the Trustee as soon as reasonably practicable pursuant to Article 8. The Employer agrees to assist the Trustee in any way requested by the Trustee in order to facilitate the transfer of assets from the predecessor trust to the Trust Fund.

17.02. Transfer of Funds from an Existing Plan. The Employer may from time to time direct the Trustee, in accordance with such rules as the Trustee may establish, to accept cash, allowable Fund Shares or participant loan promissory notes transferred for the benefit of Participants from a trust forming part of another qualified plan under the Code, provided such plan is a defined contribution plan. Such transferred assets shall become assets of the Trust as of the date they are received by the Trustee. Such transferred assets shall be credited to Participants' Accounts in accordance with their respective interests immediately upon receipt by the Trustee. A Participant's vested interest under the Plan in transferred assets which were fully vested and nonforfeitable under the transferring plan or which were transferred to the Plan in a manner intended to satisfy the requirements of subsection (b) of this Section 17.02 shall be fully vested and nonforfeitable at all times. A Participant's interest under the Plan in transferred assets which were transferred to the Plan in a manner intended to satisfy the requirements of subsection (a) of this Section 17.02 shall be determined in accordance with the terms of the Plan, but applying the Plan's vesting schedule or the transferor plan's vesting schedule, whichever is more favorable, for each year of Vesting Service completed by the Participant. Such transferred assets shall be invested by the Trustee in accordance with the provisions of Subsection 17.01(g) as if such assets were transferred from a prior plan, as defined in Section 17.01. Except as otherwise provided below, no transfer of assets in accordance with this Section 17.02 may cause a loss of an accrued or optional form of benefit protected by Code Section 411(d)(6).

The terms of the Plan as in effect at the time of the transfer shall apply to the amounts transferred regardless of whether such application would have the effect of eliminating or reducing an optional form of benefit protected by Code Section 411(d)(6) which was previously available with respect to any amount transferred to the Plan pursuant to this Section 17.02, provided that such transfer satisfies the requirements set forth in either (a) or (b):

(a) (1) The transfer is conditioned upon a voluntary, fully informed election by the Participant to transfer his entire account balance to the Plan. As an alternative to the transfer, the Participant is offered the opportunity to retain the form of benefit previously available to him (or, if the transferor plan is terminated, to receive any optional form of benefit for which the participant is eligible under the transferor plan as required by Code Section 411(d)(6));

(2) If the defined contribution plan from which the transfer is made includes a qualified cash or deferred arrangement, the Plan includes a cash or deferred arrangement;

(3) The defined contribution plan from which the transfer is made is not a money purchase pension plan and

(4) The transfer is made either in connection with an asset or stock acquisition, merger or other similar transaction involving a change in employer of the employees of a trade or business

(i.e., an acquisition or disposition within the meaning of Section 1.410(b)-2(f) of the Treasury Regulations) or in connection with the participant's change in employment status such that the participant is not entitled to additional allocations under the transferor plan.

(b) (1) The transfer satisfies the requirements of subsection (a)(1) of this Section 17.02;

(2) The transfer occurs at a time when the Participant is eligible, under the terms of the transferor plan, to receive an immediate distribution of his account;

(3) The transfer occurs at a time when the participant is not eligible to receive an immediate distribution of his entire nonforfeitable account balance in a single sum distribution that would consist entirely of an eligible rollover distribution within the meaning of Code Section 401(a)(31)(C); and

(4) The amount transferred, together with the amount of any contemporaneous Code Section 401(a)(31) direct rollover to the Plan, equals the entire nonforfeitable account of the participant whose account is being transferred.

It is the Employer's obligation to ensure that all assets of the Plan, other than those maintained in a separate trust or fund pursuant to the provisions of Section 20.10, are transferred to the Trustee. The Trustee shall have no liability for and no duty to inquire into the administration of such transferred assets for periods prior to the transfer.

17.03. Acceptance of Assets by Trustee. The Trustee shall not accept assets which are not either in a medium proper for investment under the Plan, as set forth in the Plan and the Service Agreement, or in cash. Such assets shall be accompanied by instructions in writing (or such other medium as may be acceptable to the Trustee) showing separately the respective contributions by the prior employer and by the Participant, and identifying the assets attributable to such contributions. The Trustee shall establish such accounts as may be necessary or appropriate to reflect such contributions under the Plan. The Trustee shall hold such assets for investment in accordance with the provisions of Article 8, and shall in accordance with the instructions of the Employer make appropriate credits to the Accounts of the Participants for whose benefit assets have been transferred.

17.04. Transfer of Assets from Trust. The Employer may direct the Trustee to transfer all or a specified portion of the Trust assets to any other plan or plans maintained by the Employer or the employer or employers of an Inactive Participant or Participants, provided that the Trustee has received evidence satisfactory to it that such other plan meets all applicable requirements of the Code, subject to the following:

(a) The assets so transferred shall be accompanied by instructions from the Employer naming the persons for whose benefit such assets have been transferred, showing separately the respective contributions by the Employer and by each Inactive Participant, if any, and identifying the assets attributable to the various contributions. The Trustee shall not transfer assets hereunder until all applicable filing requirements are met. The Trustee shall have no further liabilities with respect to assets so transferred.

(b) A transfer of assets made pursuant to this Section 17.04 may result in the elimination or reduction of an optional form of benefit protected by Code Section 411(d)(6), provided that the transfer satisfies the requirements set forth in either (1) or (2):

(1) (i) The transfer is conditioned upon a voluntary, fully informed election by the Participant to transfer his entire Account to the other defined contribution plan. As an alternative to the transfer, the Participant is offered the opportunity to retain the form of benefit previously available to him (or, if the Plan is terminated, to receive any optional form of benefit for which the Participant is eligible under the Plan as required by Code Section 411(d)(6));

(ii) If the Plan includes a qualified cash or deferred arrangement under Code Section 401(k), the defined contribution plan to which the transfer is made must include a qualified cash or deferred arrangement; and

(iii) The transfer is made either in connection with an asset or stock acquisition, merger or other similar transaction involving a change in employer of the employees of a trade or business (i.e., an acquisition or disposition within the meaning of Section 1.410(b)-2(f) of the Treasury Regulations) or in connection with the Participant's change in employment status such that the Participant becomes an Inactive Participant.

(2) (i) The transfer satisfies the requirements of subsection (1)(i) of this Section 17.04;

(ii) The transfer occurs at a time when the Participant is eligible, under the terms of the Plan, to receive an immediate distribution of his benefit;

(iii) The transfer occurs at a time when the Participant is not eligible to receive an immediate distribution of his entire nonforfeitable Account in a single sum distribution that would consist entirely of an eligible rollover distribution within the meaning of Code Section 401(a)(31)(C);

(iv) The Participant is fully vested in the transferred amount in the transferee plan; and

(v) The amount transferred, together with the amount of any contemporaneous Code Section 401(a)(31) direct rollover to the transferee plan, equals the entire nonforfeitable Account of the Participant whose Account is being transferred.

Article 18. Miscellaneous.

18.01. Communication to Participants. The Plan shall be communicated to all Eligible Employees by the Employer promptly after the Plan is adopted.

18.02. Limitation of Rights. Neither the establishment of the Plan and the Trust, nor any amendment thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any Participant or other person any legal or equitable right against the Employer, Administrator or Trustee, except as provided herein; and in no event shall the terms of employment or service of any Participant be modified or in any way affected hereby. It is a condition of the Plan, and each Participant expressly agrees by his participation herein, that each Participant shall look solely to the assets held in the Trust for the payment of any benefit to which he is entitled under the Plan.

18.03. Nonalienability of Benefits. Except as provided in Code Sections 401(a)(13)(C) and (D) (relating to offsets ordered or required under a criminal conviction involving the Plan, a civil judgment in connection with a violation or alleged violation of fiduciary responsibilities under ERISA, or a settlement agreement between the Participant and the Department of Labor in connection with a violation or alleged violation of fiduciary responsibilities under ERISA), Section 1.401(a)-13(b)(2) of the Treasury Regulations (relating to Federal tax levies), or as otherwise required by law, the benefits provided hereunder shall not be subject to alienation, assignment, garnishment, attachment, execution or levy of any kind, either voluntarily or involuntarily, and any attempt to cause such benefits to be so subjected shall not be recognized. The preceding sentence shall also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant pursuant to a domestic relations order, unless such order is determined in accordance with procedures established by the Administrator to be a qualified domestic relations order, as defined in Code Section 414(p), or any domestic relations order entered before January 1, 1985.

18.04. Qualified Domestic Relations Orders Procedures. The Administrator must establish reasonable procedures to determine the qualified status of a domestic relations order. Upon receiving a domestic relations order, the Participant and any alternate payee named in the order shall be notified, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Administrator must determine the qualified status of the order. The Participant and each alternate payee shall be provided notice of such determination by mailing to the individual's address specified in the domestic relations order, or in a manner consistent with the Department of Labor regulations.

If any portion of the Participant's Account is payable during the period the Administrator is making its determination of the qualified status of the domestic relations order, the Administrator must make a separate accounting of the amounts payable. If the Administrator determines the order is a qualified domestic relations order within 18 months of the date amounts first are payable following receipt of the order, the Administrator shall direct the Trustee to distribute the payable amounts in accordance with the order. If the determination of the qualified status of the order is not made within the 18-month determination period, the Administrator shall direct the Trustee to distribute the payable amounts in the manner the Plan would distribute if the order did not exist and shall apply the order prospectively if the Administrator later determines that the order is a qualified domestic relations order.

The Trustee shall set up segregated accounts for each alternate payee as directed by the Administrator.

A domestic relations order shall not fail to be deemed a qualified domestic relations order merely because it permits distribution or requires segregation of all or part of a Participant's Account with respect to an alternate payee prior to the Participant's earliest retirement age (as defined in Code Section 414(p)) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of the earliest retirement age is available only if the order provides for distribution at that time and the alternate payee consents to a distribution occurring prior to the Participant's attainment of earliest retirement age.

Notwithstanding any other provisions of this Section or of a domestic relations order, if the Employer has elected to cash out small Accounts as provided in Subsection 1.20(e)(1) of the Adoption Agreement and the alternate payee's benefits under the Plan do not exceed the maximum cash out limit permitted under Code Section 411(a)(11)(A) ($5,000 as of January 1, 2005), distribution shall be made to the alternate payee in a lump sum as soon as practicable following the Administrator's determination that the order is a qualified domestic relations order.

18.05. Application of Plan Provisions for Multiple Employer Plans. Notwithstanding any other provision of the Plan to the contrary, if one of the Employers designated in Subsection 1.02(b) of the Adoption Agreement is or ceases to be a Related Employer (hereinafter "un-Related Employer"), the Plan shall be treated as a multiple employer plan (as defined in Code Section 413(c)) in accordance with applicable guidance.

For the period, if any, that the Plan is a multiple employer plan, each un-Related Employer shall be treated as a separate Employer for purposes of contributions, application of the "ADP" and "ACP" tests described in Sections 6.03 and 6.06, top-heavy determinations and application of the top-heavy requirements under Article 15, and application of such other Plan provisions as the Employers determine to be appropriate. For any such period, the Volume Submitter Sponsor shall continue to treat the Employer as participating in this volume submitter plan arrangement for purposes of notice or other communications in connection with the Plan, and other Plan-related services. The Administrator shall be responsible for administering the Plan as a multiple employer plan.

18.06. Veterans Reemployment Rights. Notwithstanding any other provision of the Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u) and the regulations thereunder. The Administrator shall notify the Trustee of any Participant with respect to whom additional contributions are made because of qualified military service. Additional contributions made to the Plan pursuant to Code Section 414(u) shall be treated as Deferral Contributions (if Option 1.07(a)(5) is selected in the Adoption Agreement, including, to the extent designated by the Participant, Roth 401(k) Contributions), Employee Contributions, Matching Employer Contributions, Qualified Matching Employer Contributions, Qualified Nonelective Employer Contributions, or Nonelective Employer Contributions based on the

character of the contribution they are intended to replace; provided, however, that the Plan shall not be treated as failing to meet the requirements of Code Section 401(a)(4), 401(k)(3), 401(k)(12), 401(m), 410(b), or 416 by reason of the making of or the right to make such contribution.

18.07. Facility of Payment. In the event the Administrator determines, on the basis of medical reports or other evidence satisfactory to the Administrator, that the recipient of any benefit payments under the Plan is incapable of handling his affairs by reason of minority, illness, infirmity or other incapacity, the Administrator may direct the Trustee to disburse such payments to a person or institution designated by a court which has jurisdiction over such recipient or a person or institution otherwise having the legal authority under state law for the care and control of such recipient. The receipt by such person or institution of any such payments shall be complete acquittance therefore, and any such payment to the extent thereof, shall discharge the liability of the Trust for the payment of benefits hereunder to such recipient.

18.08. Information between Employer and/or Administrator and Trustee. The Employer and/or Administrator will furnish the Trustee, and the Trustee will furnish the Employer and/or Administrator, with such information relating to the Plan and Trust as may be required by the other in order to carry out their respective duties hereunder, including without limitation information required under the Code and any regulations issued or forms adopted by the Treasury Department thereunder or under the provisions of ERISA and any regulations issued or forms adopted by the Department of Labor thereunder.

18.09. Effect of Failure to Qualify Under Code. Notwithstanding any other provision contained herein, if the Employer's plan fails to be a qualified plan under the Code, such plan can no longer participate in this volume submitter plan arrangement and shall be considered an individually designed plan.

18.10. Directions, Notices and Disclosure. Any notice or other communication in connection with this Plan shall be deemed delivered in writing if addressed as follows and if either actually delivered at said address or, in the case of a letter, three business days shall have elapsed after the same shall have been deposited in the United States mail, first-class postage prepaid and registered or certified:

(a) If to the Employer or Administrator, to it at the address as the Administrator shall direct pursuant to the Service Agreement;

(b) If to the Trustee, to it at the address set forth in Subsection 1.03(a) of the Adoption Agreement;

or, in each case at such other address as the addressee shall have specified by written notice delivered in accordance with the foregoing to the addressor's then effective notice address.

Any direction, notice or other communication provided to the Employer, the Administrator or the Trustee by another party which is stipulated to be in written form under the provisions of this Plan may also be provided in any medium which is permitted under applicable law or regulation. Any written communication or disclosure to Participants required under the provisions of this Plan may be provided in any other medium (electronic, telephone or otherwise) that is permitted under applicable law or regulation.

18.11. Governing Law. The Plan and the accompanying Adoption Agreement shall be construed, administered and enforced according to ERISA, and to the extent not preempted thereby, the laws of the Commonwealth of Massachusetts.

18.12. Discharge of Duties by Fiduciaries. The Trustee, the Employer and any other fiduciary shall discharge their duties under the Plan in accordance with the requirements of ERISA solely in the interests of Participants and their Beneficiaries and with the care, skill, prudence, and diligence under the applicable circumstances that a prudent man acting in a like capacity and familiar with such matters would use in conducting an enterprise of like character with like aims.

Article 19. Plan Administration.

19.01. Powers and Responsibilities of the Administrator. The Administrator has the full power and the full responsibility to administer the Plan in all of its details, subject, however, to the requirements of ERISA. The Administrator is the agent for service of legal process for the Plan. In addition to the powers and authorities expressly conferred upon it in the Plan, the Administrator shall have all such powers and authorities as may be necessary to carry out the provisions of the Plan, including the discretionary power and authority to interpret and construe the provisions of the Plan, such interpretation to be final and conclusive on all persons claiming benefits under the Plan; to make benefit determinations; to utilize the correction programs or systems established by the Internal Revenue Service (such as the Employee Plans Compliance and Resolution System) or the Department of Labor; and to resolve any disputes arising under the Plan. The Administrator may, by written instrument, allocate and delegate its fiduciary responsibilities in accordance with ERISA Section 405, including allocation of such responsibilities to an administrative committee formed to administer the Plan.

19.02. Nondiscriminatory Exercise of Authority. Whenever, in the administration of the Plan, any discretionary action by the Administrator is required, the Administrator shall exercise its authority in a nondiscriminatory manner so that all persons similarly situated shall receive substantially the same treatment.

19.03. Claims and Review Procedures. As required under Section 2560.503-1(b)(2) of Regulations issued by the Department of Labor, the claims and review procedures are described in detail in the Summary Plan Description for the Plan.

19.04. Named Fiduciary. The Administrator is a "named fiduciary" for purposes of ERISA Section 402(a)(1) and has the powers and responsibilities with respect to the management and operation of the Plan described herein.

19.05. Costs of Administration. Unless paid by the Employer, all reasonable costs and expenses (including legal, accounting, and employee communication fees) incurred by the Administrator and the Trustee in administering the Plan and Trust may be paid from the forfeitures (if any) resulting under Section 11.08, or from the remaining Trust Fund. All such costs and expenses paid from the Trust Fund shall, unless allocable to the Accounts of particular Participants, be charged against the Accounts of all Participants as provided in the Service Agreement.

Article 20. Trust Agreement.

20.01. Acceptance of Trust Responsibilities. By executing the Adoption Agreement, the Employer establishes a trust to hold the assets of the Plan that are invested in Permissible Investments. By executing the Adoption Agreement, the Trustee agrees to accept the rights, duties and responsibilities set forth in this Article. If the Plan is an amendment and restatement of a prior plan, the Trustee shall have no liability for and no duty to inquire into the administration of the assets of the Plan for periods prior to the date such assets are transferred to the Trust.

20.02. Establishment of Trust Fund. A trust is hereby established under the Plan. The Trustee shall open and maintain a trust account for the Plan and, as part thereof, Accounts for such individuals as the Employer shall from time to time notify the Trustee are Participants in the Plan. The Trustee shall accept and hold in the Trust Fund such contributions on behalf of Participants as it may receive from time to time from the Employer. The Trust Fund shall be fully invested and reinvested in accordance with the applicable provisions of the Plan in Fund Shares or as otherwise provided in Section 20.10.

20.03. Exclusive Benefit. The Trustee shall hold the assets of the Trust Fund for the exclusive purpose of providing benefits to Participants and Beneficiaries and defraying the reasonable expenses of administering the Plan. No assets of the Plan shall revert to the Employer except as specifically permitted by the terms of the Plan.

20.04. Powers of Trustee. The Trustee shall have no discretion or authority with respect to the investment of the Trust Fund but shall act solely as a directed trustee of the funds contributed to it. In addition to and not in limitation of such powers as the Trustee has by law or under any other provisions of the Plan, the Trustee shall have the following powers, each of which the Trustee exercises solely as a directed trustee in accordance with the written direction of the Employer except to the extent a Plan asset is subject to Participant direction of investment and provided that no such power shall be exercised in any manner inconsistent with the provisions of ERISA:

(a) to deal with all or any part of the Trust Fund and to invest all or a part of the Trust Fund in Permissible Investments, without regard to the law of any state regarding proper investment;

(b) to transfer to and invest all or any part of the Trust in any collective investment trust which is then maintained by a bank or trust company (or any affiliate) and which is tax-exempt pursuant to Code Section 501(a) and Rev. Rul. 81-100; provided that such collective investment trust is a Permissible Investment; and provided, further, that the instrument establishing such collective investment trust, as amended from time to time, shall govern any investment therein, and is hereby made a part of the Plan and this Trust Agreement to the extent of such investment therein;

(c) to retain uninvested such cash as the Named Fiduciary or Administrator may, from time to time, direct;

(d) to sell, lease, convert, redeem, exchange, or otherwise dispose of all or any part of the assets constituting the Trust Fund;

(e) to enforce by suit or otherwise, or to waive, its rights on behalf of the Trust, and to defend claims asserted against it or the Trust, provided that the Trustee is indemnified to its satisfaction against liability and expenses;

(f) to employ legal, accounting, clerical, and other assistance to carry out the provisions of this Trust and to pay the reasonable expenses of such employment, including compensation, from the Trust if not paid by the Employer;

(g) to compromise, adjust and settle any and all claims against or in favor of it or the Trust;

(h) to oppose, or participate in and consent to the reorganization, merger, consolidation, or readjustment of the finances of any enterprise, to pay assessments and expenses in connection therewith, and to deposit securities under deposit agreements;

(i) to apply for or purchase annuity contracts in accordance with Article 14;

(j) to hold securities unregistered, or to register them in its own name or in the name of nominees in accordance with the provisions of Section 2550.403a-1(b) of Department of Labor Regulations;

(k) to appoint custodians to hold investments within the jurisdiction of the district courts of the United States and to deposit securities with stock clearing corporations or depositories or similar organizations;

(l) to make, execute, acknowledge and deliver any and all instruments that it deems necessary or appropriate to carry out the powers herein granted;

(m) generally to exercise any of the powers of an owner with respect to all or any part of the Trust Fund; and

(n) to take all such actions as may be necessary under the Trust Agreement, to the extent consistent with applicable law.

The Employer specifically acknowledges and authorizes that affiliates of the Trustee may act as its agent in the performance of ministerial, nonfiduciary duties under the Trust.

The Trustee shall provide the Employer with reasonable notice of any claim filed against the Plan or Trust or with regard to any related matter, or of any claim filed by the Trustee on behalf of the Plan or Trust or with regard to any related matter.

20.05. Accounts. The Trustee shall keep full accounts of all receipts and disbursements and other transactions hereunder. Within 120 days after the close of each Plan Year and at such other times as may be appropriate, the Trustee shall determine the then net fair market value of the Trust Fund as of the close of the Plan Year, as of the termination of the Trust, or as of such other time, whichever is applicable, and shall render to the Employer and Administrator an account of its administration of the Trust during the period since the last such accounting, including all allocations made by it during such period.

20.06. Approval of Accounts. To the extent permitted by law, the written approval of any account by the Employer or Administrator shall be final and binding, as to all matters and transactions stated or shown therein, upon the Employer, Administrator, Participants and all persons who then are or thereafter become interested in the Trust. The failure of the Employer or Administrator to notify the Trustee within six months after the receipt of any account of its objection to the account shall, to the extent permitted by law, be the equivalent of written approval. If the Employer or Administrator files any objections within such six month period with respect to any matters or transactions stated or shown in the account, and the Employer or Administrator and the Trustee cannot amicably settle the question raised by such objections, the Trustee shall have the right to have such questions settled by judicial proceedings. Nothing herein contained shall be construed so as to deprive the Trustee of the right to have judicial settlement of its accounts. In any proceeding for a judicial settlement of any account or for instructions, the only necessary parties shall be the Trustee, the Employer and the Administrator.

20.07. Distribution from Trust Fund. The Trustee shall make such distributions from the Trust Fund as the Employer or Administrator may direct (in writing or such other medium as may be acceptable to the Trustee), consistent with the terms of the Plan and either for the exclusive benefit of Participants or their Beneficiaries, or for the payment of expenses of administering the Plan.

20.08. Transfer of Amounts from Qualified Plan. If amounts are to be transferred to the Plan from another qualified plan or trust under Code Section 401(a), such transfer shall be made in accordance with the provisions of the Plan and with such rules as may be established by the Trustee. The Trustee shall only accept assets which are in a medium proper for investment under this Trust Agreement or in cash, and that are accompanied in a timely manner, as agreed to by the Administrator and the Trustee, by instructions in writing (or such other medium as may be acceptable to the Trustee) showing separately the respective contributions by the prior employer and the transferring Employee, the records relating to such contributions, and identifying the assets attributable to such contributions. The Trustee shall hold such assets for investment in accordance with the provisions of this Trust Agreement.

20.09. Transfer of Assets from Trust. Subject to the provisions of the Plan, the Employer may direct the Trustee to transfer all or a specified portion of the Trust assets to any other plan or plans maintained by the Employer or the employer or employers of an Inactive Participant or Participants, provided that the Trustee has received evidence satisfactory to it that such other plan meets all applicable requirements of the Code. The assets so transferred shall be accompanied by written instructions from the Employer naming the persons for whose benefit such assets have been transferred, showing separately the respective contributions by the Employer and by each Participant, if any, and identifying the assets attributable to the various contributions. The Trustee shall have no further liabilities with respect to assets so transferred.

20.10. Separate Trust or Fund for Existing Plan Assets. With the consent of the Trustee, the Employer may maintain a trust or fund (including a group annuity contract) under this volume submitter plan document separate from the Trust Fund for Plan assets which are not Permissible Investments listed in the Service Agreement and which (i) are purchased prior to the adoption of this volume submitter plan document or (ii) are transferred to the Plan in connection with the merger of another plan into the Plan, provided that such transferred assets were acquired by such other plan prior to the merger date specified for such other plan in the Plan Mergers Addendum to the Adoption Agreement. The Trustee shall have no authority and no responsibility for the Plan assets held in such

separate trust or fund. The Employer shall be responsible for assuring that such separate trust or fund is maintained pursuant to a separate trust agreement signed by the Employer and a trustee. The duties and responsibilities of the trustee of a separate trust shall be provided by the separate trust agreement, between the Employer and the trustee of the separate trust. Notwithstanding any other provision of the Plan to the contrary, in the event such separate trust contains illiquid assets, to the extent a Participant's account is invested in such illiquid assets and Plan loans are otherwise available, such illiquid assets shall be disregarded in determining the amount available as a loan from the Plan and shall in no event be included in a Plan loan.

Notwithstanding the preceding paragraph, the Trustee or an affiliate of the Trustee may agree in writing to provide ministerial recordkeeping services for guaranteed investment contracts held in the separate trust or fund. The guaranteed investment contract(s) shall be valued as directed by the Employer or the trustee of the separate trust.

The trustee of the separate trust shall be the owner of any insurance contract purchased prior to the adoption of this volume submitter plan document. The insurance contract(s) must provide that proceeds shall be payable to the trustee of the separate trust; provided, however, that the trustee of the separate trust shall be required to pay over all proceeds of the contract(s) to the Participant's designated Beneficiary in accordance with the distribution provisions of this Plan. A Participant's spouse shall be the designated Beneficiary of the proceeds in all circumstances unless a qualified election has been made in accordance with Article 14. Under no circumstances shall the trust retain any part of the proceeds. In the event of any conflict between the terms of the Plan and the terms of any insurance contract purchased hereunder, the Plan provisions shall control.

Any life insurance contracts held in the Trust Fund or in the separate trust are subject to the following limits:

(a) Ordinary life - For purposes of these incidental insurance provisions, ordinary life insurance contracts are contracts with both nondecreasing death benefits and nonincreasing premiums. If such contracts are held, less than 1/2 of the aggregate employer contributions allocated to any Participant shall be used to pay the premiums attributable to them.

(b) Term and universal life - No more than 1/4 of the aggregate employer contributions allocated to any participant shall be used to pay the premiums on term life insurance contracts, universal life insurance contracts, and all other life insurance contracts which are not ordinary life.

(c) Combination - The sum of 1/2 of the ordinary life insurance premiums and all other life insurance premiums shall not exceed 1/4 of the aggregate employer contributions allocated to any Participant.

20.11. Voting; Delivery of Information. The Trustee shall deliver, or cause to be executed and delivered, to the Employer or Administrator all notices, prospectuses, financial statements, proxies and proxy soliciting materials received by the Trustee relating to securities held by the Trust or, if applicable, deliver these materials to the appropriate Participant or the Beneficiary of a deceased Participant. Unless provided otherwise in the Service Agreement, the Trustee shall vote any securities held by the Trust in accordance with the instructions of the Participant or the Beneficiary of a deceased Participant and shall not vote securities for which it has not received instructions.

20.12. Compensation and Expenses of Trustee. The Trustee's fee for performing its duties hereunder shall be such reasonable amounts as specified in the Service Agreement or any other written agreement with the Employer. Such fee, any taxes of any kind which may be levied or assessed upon or with respect to the Trust Fund, and any and all expenses, including without limitation legal fees and expenses of administrative and judicial proceedings, reasonably incurred by the Trustee in connection with its duties and responsibilities hereunder shall, unless some or all have been paid by said Employer, be paid from the Trust in the method specified in the Service Agreement.

20.13. Reliance by Trustee on Other Persons. The Trustee may rely upon and act upon any writing from any person authorized by the Employer or the Administrator pursuant to the Service Agreement or any other written direction to give instructions concerning the Plan and may conclusively rely upon and be protected in acting upon any written order from the Employer or the Administrator or upon any other notice, request, consent, certificate, or other instructions or paper reasonably believed by it to have been executed by a duly authorized person, so long as it acts in good faith in taking or omitting to take any such action. The Trustee need not inquire as to the basis in fact of any statement in writing received from the Employer or the Administrator.

The Trustee shall be entitled to rely on the latest certificate it has received from the Employer or the Administrator as to any person or persons authorized to act for the Employer or the Administrator hereunder and to sign on behalf of the Employer or the Administrator any directions or instructions, until it receives from the Employer or the Administrator written notice that such authority has been revoked.

Except with respect to instructions from a Participant as to the Participant's Account that are otherwise authorized under the Plan, the Trustee shall be under no duty to take any action with respect to any Participant's Account (other than as specified herein) unless and until the Employer or the Administrator furnishes the Trustee with written instructions on a form acceptable to the Trustee, and the Trustee agrees thereto in writing. The Trustee shall not be liable for any action taken pursuant to the Employer's or the Administrator's written instructions (nor for the collection of contributions under the Plan, nor the purpose or propriety of any distribution made thereunder).

20.14. Indemnification by Employer. The Employer shall indemnify and save harmless the Trustee, and all affiliates, employees, agents and sub-contractors of the Trustee, from and against any and all liability or expense (including reasonable attorneys' fees) to which the Trustee, or such other individuals or entities, may be subjected by reason of any act or conduct being taken in the performance of any Plan-related duties, including those described in this Trust Agreement and the Service Agreement, unless such liability or expense results from the Trustee's, or such other individuals' or entities', negligence or willful misconduct.

20.15. Consultation by Trustee with Counsel. The Trustee may consult with legal counsel (who may be but need not be counsel for the Employer or the Administrator) concerning any question which may arise with respect to its rights and duties under the Plan and Trust, and the opinion of such counsel shall, to the extent permitted by law, be full and complete protection in respect of any action taken or omitted by the Trustee hereunder in good faith and in accordance with the opinion of such counsel.

20.16. Persons Dealing with the Trustee. No person dealing with the Trustee shall be bound to see to the application of any money or property paid or delivered to the Trustee or to inquire into the validity or propriety of any transactions.

20.17. Resignation or Removal of Trustee. The Trustee may resign at any time by written notice to the Employer, which resignation shall be effective 60 days after delivery to the Employer. The Trustee may be removed by the Employer by written notice to the Trustee, which removal shall be effective 60 days after delivery to the Trustee or such shorter period as may be mutually agreed upon by the Employer and the Trustee.

Except in the case of Plan termination, upon resignation or removal of the Trustee, the Employer shall appoint a successor trustee. Any such successor trustee shall, upon written acceptance of his appointment, become vested with the estate, rights, powers, discretion, duties and obligations of the Trustee hereunder as if he had been originally named as Trustee in this Agreement.

Upon resignation or removal of the Trustee, the Employer shall no longer participate in this volume submitter plan and shall be deemed to have adopted an individually designed plan. In such event, the Employer shall appoint a successor trustee within said 60-day period and the Trustee shall transfer the assets of the Trust to the successor trustee upon receipt of sufficient evidence (such as a determination letter or opinion letter from the Internal Revenue Service or an opinion of counsel satisfactory to the Trustee) that such trust shall be a qualified trust under the Code.

The appointment of a successor trustee shall be accomplished by delivery to the Trustee of written notice that the Employer has appointed such successor trustee, and written acceptance of such appointment by the successor trustee. The Trustee may, upon transfer and delivery of the Trust Fund to a successor trustee, reserve such reasonable amount as it shall deem necessary to provide for its fees, compensation, costs and expenses, or for the payment of any other liabilities chargeable against the Trust Fund for which it may be liable. The Trustee shall not be liable for the acts or omissions of any successor trustee.

20.18. Fiscal Year of the Trust. The fiscal year of the Trust shall coincide with the Plan Year.

20.19. Amendment. In accordance with provisions of the Plan, and subject to the limitations set forth therein, this Trust Agreement may only be amended by an instrument in writing signed by the Employer and the Trustee. No amendment to this Trust Agreement shall divert any part of the Trust Fund to any purpose other than as provided in Section 20.03.

20.20. Plan Termination. Upon termination or partial termination of the Plan or complete discontinuance of contributions thereunder, the Trustee shall make distributions to the Participants or other persons entitled to distributions as the Employer or Administrator directs in accordance with the provisions of the Plan. In the absence of such instructions and unless the Plan otherwise provides, the Trustee shall notify the Employer or Administrator of such situation and the Trustee shall be under no duty to make any distributions under the Plan until it receives written instructions from the Employer or Administrator. Upon the completion of such distributions, the Trust shall terminate, the Trustee shall be relieved from all liability under the Trust, and no Participant or other person shall have any claims thereunder, except as required by applicable law.

20.21. Permitted Reversion of Funds to Employer. If it is determined by the Internal Revenue Service that the Plan does not initially qualify under Code Section 401, all assets then held under the Plan shall be returned by the Trustee, as directed by the Administrator, to the Employer, but only if the application for determination is made by the time prescribed by law for filing the Employer's return for the taxable year in which the Plan was adopted or such later date as may be prescribed by regulations. Such distribution shall be made within one year after the date the initial qualification is denied. Upon such distribution the Plan shall be considered to be rescinded and to be of no force or effect.

Contributions under the Plan are conditioned upon their deductibility under Code Section 404. In the event the deduction of a contribution made by the Employer is disallowed under Code Section 404, such contribution (to the extent disallowed) must be returned to the Employer within one year of the disallowance of the deduction.

Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution.

20.22. Governing Law. This Trust Agreement shall be construed, administered and enforced according to ERISA and, to the extent not preempted thereby, the laws of the State or Commonwealth in which the Trustee has its principal place of business.

20.23. Assignment and Successors. This Trust Agreement, and any of its rights and obligations hereunder, may not be assigned by any party without the prior written consent of the other party(ies), and such consent may be withheld in any party's sole discretion. Notwithstanding the foregoing, the Trustee may assign this Agreement in whole or in part, and any of its rights and obligations hereunder, to a subsidiary or affiliate of the Trustee without consent of the Employer. Any successor to the Trustee or successor trustee, either through sale or transfer of the business or trust department of the Trustee or successor trustee, or through reorganization, consolidation, or merger, or any similar transaction of either the Trustee or successor trustee, shall, upon consummation of the transaction, become the successor trustee under this Agreement. All provisions in this Trust Agreement shall extend to and be binding upon the parties hereto and their respective successors and permitted assigns.

Volume Submitter Defined Contribution Plan

ADDENDUM

RE: Code Sections 401(k) and 415 2007 Final Regulations

Katrina Emergency Tax Relief Act of 2005 and

Gulf Opportunity Zone Act of 2005

Amendments for Fidelity Basic Plan Document No. 14

PREAMBLE

Adoption and Effective Date of Amendment. This amendment of the Plan is adopted to reflect the final regulations under Internal Revenue Code (Code) Sections 401(k) and 415 and to reflect amendments to the Code pursuant to the Katrina Emergency Tax Relief Act ("KETRA") and the Gulf Opportunity Zone Act of 2005 ("GOZA"). This amendment is intended as good faith compliance with the requirements of Code Sections 401(k) and 415, KETRA, and GOZA and is to be construed in accordance with guidance issued thereunder. This amendment shall be effective as described below.

Supersession of Inconsistent Provisions. This amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

1. Effective for Plan Years and Limitation Years beginning on and after July 1, 2007, the first paragraph of Section 2.01(k) is hereby amended in its entirety, to provide as follows:

(k) **"Compensation"** (subject to any adjustments thereto in Section 5.02, for purposes of determining the amount and allocation of contributions, or in Section 6.12(c), for purposes of applying the Code Section 415 limitations) means wages as defined in Code Section 3401(a) (for purposes of income tax withholding at the source) plus amounts that would be included in wages but for an election under Code Section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) and all other payments of compensation to an Eligible Employee by the Employer (in the course of the Employer's trade or business) for services to the Employer while employed as an Eligible Employee for which the Employer is required to furnish the Eligible Employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052. Compensation must be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)). Notwithstanding anything to the contrary herein, however, severance amounts paid after severance from employment shall be excluded from Compensation.

(1) For purposes of this Section 2.01(k), "severance amounts" are any amounts paid after severance from employment, except a payment of regular compensation for services during the Eligible Employee's regular working hours, or compensation for services outside the Eligible Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments provided such payment would have been made prior to a severance from employment if the Eligible Employee had continued in employment with the Employer, provided such amounts are paid by the later of (A) 2-1/2 months after or (B) the end of the Limitation Year that includes the date of the Eligible Employee's severance from employment (as defined in Subsection 2.01(k)(2) below).

(2) For purposes of this Section 2.01(k), an Eligible Employee has a "severance from employment" when (i) the employee ceases to be an employee of an employer (applying the aggregation rules in Code Section 414) maintaining a plan and (ii) in connection with a change of employment, the individual's new employer does not maintain such plan with respect to the individual. The determination of whether an Eligible Employee ceases to be an employee of an employer maintaining a plan is based on all of the relevant facts and circumstances.

2. Effective for Plan Years and Limitation Years beginning on and after July 1, 2007, the third paragraph of Section 2.01(k) is hereby amended, in its entirety to provide as follows:

Compensation shall generally be based on the amount actually paid to the Eligible Employee during the Plan Year or, for purposes of Article 5, if so elected by the Employer in Subsection 1.05(b) of the Adoption Agreement, during that portion of the Plan Year during which the Eligible Employee is an Active Participant. Notwithstanding the preceding sentence, Compensation for purposes of Article 15 (Top-Heavy Provisions) shall be based on the amount actually paid or made available to the Participant during the Plan Year. Compensation is treated as paid on a date if it is actually paid on that date or it would have been paid on that date but for an election under Code Section 125, 132(f)(4), 401(k), 403(b), 408(k), 408(p)(2)(A)(i), or 457(b).

3. Effective for Plan Years and Limitation Years beginning on and after July 1, 2007, Subsections (1), (2), and (3) of Section 2.01(k) are re-numbered as Subsections (3), (4), and (5).

4. Effective for Plan Years beginning on and after July 1, 2007, the first paragraph of Section 5.02 is hereby amended to provide as follows:

5.02 Compensation Taken into Account in Determining Contributions. In determining the amount or allocation of any contribution that is based on Compensation, only Compensation paid to a Participant for services rendered to the Employer while employed as an Eligible Employee shall be taken into account. Except as otherwise specifically provided in this Article 5, for purposes of determining the amount and allocation of contributions under this Article 5, Compensation shall not include any amounts elected by the Employer with respect to such contributions in Subsection 1.05(a) or (b), as applicable, of the Adoption Agreement.

5. Effective for Limitation Years beginning on and after July 1, 2007, Section 6.12 is hereby amended in its entirety to provide as follows:

6.12. Code Section 415 Limitations. Notwithstanding any other provisions of the Plan, the following limitations shall apply:

(a) Employer Maintains Single Plan: If the "415 employer" does not maintain any other qualified defined contribution plan or any "welfare benefit fund", "individual medical benefit account", or "simplified employee pension" in addition to the Plan, the provisions of this Subsection 6.12(a) shall apply.

(1) If a Participant does not participate in, and has never participated in any other qualified defined contribution plan, "welfare benefit fund", "individual medical benefit account", or "simplified employee pension" maintained by the "415 employer", which provides an "annual addition", the amount of "annual additions" to the Participant's Account for a Limitation Year shall not exceed the lesser of the "maximum permissible amount" or any other limitation contained in the Plan. If a contribution that would otherwise be contributed or allocated to the Participant's Account would cause the "annual additions" for the Limitation Year to exceed the "maximum permissible amount", the amount contributed or allocated shall be reduced so that the "annual additions" for the Limitation Year shall equal the "maximum permissible amount".

(2) Prior to the determination of a Participant's actual Compensation for a Limitation Year, the "maximum permissible amount" may be determined on the basis of a reasonable estimation of the Participant's Compensation for such Limitation Year, uniformly determined for all Participants similarly situated. Any Employer contributions based on estimated annual Compensation shall be reduced by any "excess 415 amounts" carried over from prior Limitation Years.

(3) As soon as is administratively feasible after the end of the Limitation Year, the "maximum permissible amount" for such Limitation Year shall be determined on the basis of the Participant's actual Compensation for such Limitation Year.

(b) Employer Maintains Multiple Defined Contribution Type Plans: Unless the Employer specifies another method for limiting "annual additions" in the 415 Correction Addendum to the Adoption Agreement, if the "415 employer" maintains any other qualified defined contribution plan or any "welfare benefit fund", "individual medical benefit account", or "simplified employee pension" in addition to the Plan, the provisions of this Subsection 6.12(b) shall apply.

(1) If a Participant is covered under any other qualified defined contribution plan or any "welfare benefit fund", "individual medical benefit account", or "simplified employee pension" maintained by the "415 employer", that provides an "annual addition", the amount of "annual additions" to the Participant's Account for a Limitation Year shall not exceed the lesser of

(A) the "maximum permissible amount", reduced by the sum of any "annual additions" to the Participant's accounts for the same Limitation Year under such other qualified defined contribution plans and "welfare benefit funds", "individual medical benefit accounts", and "simplified employee pensions", or

(B) any other limitation contained in the Plan.

If the "annual additions" with respect to a Participant under other qualified defined contribution plans, "welfare benefit funds", "individual medical benefit accounts", and "simplified employee pensions" maintained by the "415 employer" are less than the "maximum permissible amount" and a contribution that would otherwise be contributed or allocated to the Participant's Account under the Plan would cause the "annual additions" for the Limitation Year to exceed the "maximum permissible amount", the amount to be contributed or allocated shall be reduced so that the "annual additions" for the Limitation Year shall equal the "maximum permissible amount". If the "annual additions" with respect to the Participant under such other qualified defined contribution plans, "welfare benefit funds", "individual medical benefit accounts", and "simplified employee pensions" in the aggregate are equal to or greater than the "maximum permissible amount", no amount shall be contributed or allocated to the Participant's Account under the Plan for the Limitation Year.

(2) Prior to the determination of a Participant's actual Compensation for the Limitation Year, the amounts referred to in Subsection 6.12(b)(1)(A) above may be determined on the basis of a reasonable estimation of the Participant's Compensation for such Limitation Year, uniformly determined for all Participants similarly situated. Any Employer contribution based on estimated annual Compensation shall be reduced by any "excess 415 amounts" carried over from prior Limitation Years.

(3) As soon as is administratively feasible after the end of the Limitation Year, the amounts referred to in Subsection 6.12(b)(1)(A) shall be determined on the basis of the Participant's actual Compensation for such Limitation Year.

(c) Adjustments to Compensation: Compensation for purposes of this Section 6.12 shall be subject to the following:

(1) Compensation shall be based on compensation for all services to the "415 employer."

(2) Compensation shall be based on the amount actually paid or made available to the Participant (or, if earlier, includible in the gross income of the Participant) during the Limitation Year.

(3) An Eligible Employee's severance from employment, as defined in Section 2.01(k), shall be applied using the modification to the employer aggregation rules prescribed in Code Section 415(h).

(4) Compensation shall include amounts paid by the later of (A) 2-1/2 months after or (B) the end of the Limitation Year that includes the date of the Participant's severance from employment (as defined in Section 2.01(k), modified as provided in subparagraph (c)(3) above) if such amounts are either payments for unused accrued bona fide sick, vacation, or other leave (but only if the Eligible Employee would have been able to use the leave if employment had continued), or received by a Participant pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the Participant at the same time if the Participant had not severed employment and only to the extent that the payment is includible in the Participant's gross income.

(5) Compensation shall include amounts that otherwise would be excluded as "severance amounts" if such amounts are paid to an individual who does not currently perform services for the employer because of qualified military service (as used in Code Section 414(u)(1)) to the extent those amounts do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service or to a Participant who is permanently and totally disabled.

(6) Compensation shall include amounts earned, but not paid during the Limitation Year solely because of the timing of pay periods and pay dates, provided

(A) such amounts are paid during the first few weeks of the next Limitation Year;

(B) such amounts are included on a uniform and consistent basis with respect to all similarly situated Participants; and

(C) no such amounts are included in more than one Limitation Year.

In addition, for Limitation Years beginning on or after July 1, 2007, Compensation for purposes of this Section 6.12 shall not reflect compensation for a year greater than the limit under Code Section 401(a)(17) that applies to that year.

(d) Corrections: In correcting an "excess 415 amount" in a Limitation Year beginning on or after July 1, 2007, the Employer may use any appropriate correction under the Employee Plans Compliance Resolution System, or any successor thereto.

(e) Exclusion from Annual Additions: Restorative payments allocated to a Participant's Account, which include payments made to restore losses to the Plan resulting from actions (or a failure to act) by a fiduciary for which there is a reasonable risk of liability under Title I of ERISA or under other applicable federal or state law, where similarly situated Participants are similarly treated do not give rise to an "annual addition" for any Limitation Year.

6. Effective August 25, 2005, a new Section 10.08 is added at the end of Article 10 to provide as follows:

10.08 Qualified Hurricane Distributions. Qualified Individuals (as defined in subsection (b) below) may designate all or a portion of a qualifying distribution as a Qualified Hurricane Distribution (as defined in subsection (a) below).

(a) A "Qualified Hurricane Distribution" means any distribution made on or after the QHD Effective Date (as defined in subsection (c) below) and before the QHD Distribution Date (as defined in subsection (d) below) to a Qualified Individual, to the extent that such distribution, when aggregated with all other Qualified Hurricane Distributions to the Qualified Individual made under the Plan (and under any other plan maintained by the Employer or a Related Employer), does not exceed $100,000. A Qualified Hurricane Distribution must be made in accordance with and pursuant to the distribution provisions of the Plan, except that:

(1) A Qualified Hurricane Distribution of amounts attributable to Nonelective Employer Contributions, Deferral Contributions and Qualified Nonelective Employer contributions shall be deemed to be made after the occurrence of any distributable events otherwise applicable under Code section 401(k)(2)(B)(i), such as termination of employment (and shall be deemed permissible under Section 12.01), and

(2) The requirements of Code sections 401(a)(31), 402(f) and 3405 and Section 13.04 shall not apply.

(b) A "Qualified Individual" means any individual whose principal place of abode on

(1) August 28, 2005, is located in the Hurricane Katrina disaster area (as defined in Code section 1400M(2))and who has sustained an economic loss by reason of Hurricane Katrina;

(2) September 23, 2005, is located in the Hurricane Rita disaster area (as defined in Code section 1400M(4)) and who has sustained an economic loss by reason of Hurricane Rita; or

(3) October 23, 2005, is located in the Hurricane Wilma disaster area (as defined in Code section 1400M(6)) and who has sustained an economic loss by reason of Hurricane Wilma.

(c) The "QHD Effective Date" means

(1) August 25, 2005, with respect to a Qualified Individual described in subsection (b)(1) above;

(2) September 23, 2005, with respect to a Qualified Individual described in subsection (b)(2) above; and

(3) October 23, 2005, with respect to a Qualified Individual described in subsection (b)(3) above.

(d) The "QHD Distribution Date" means

(1) January 1, 2007, with respect to a Qualified Individual described in subsection (b)(1), (2), or (3) above.

(e) If the Employer elected to provide for Rollover Contributions in Subsection 1.09(a) of the Adoption Agreement, an Eligible Employee who received a Qualified Hurricane Distribution, as defined herein, may repay to the Plan the Qualified Hurricane Distribution, provided the Qualified Hurricane Distribution is eligible for tax-free rollover treatment. Any such re-contribution will be treated as having been made in a direct rollover to the Plan, provided it is made during the three-year period beginning on the day after the date on which the Qualified Hurricane Distribution was received and does not exceed the amount of such distribution.

Volume Submitter Defined Contribution Plan

ADDENDUM

RE: Compensation Taken into Account

Amendment for Fidelity Basic Plan Document No. 14

Effective December 11, 2008, the first paragraph of Section 5.02 is hereby amended to provide as follows:

5.02 Compensation Taken into Account in Determining Contributions. In determining the amount or allocation of any contribution that is based on Compensation, only Compensation paid to a Participant for services rendered to the Employer while employed as an Eligible Employee shall be taken into account. Except as otherwise specifically provided in this Article 5, for purposes of determining the amount and allocation of contributions under this Article 5, Compensation shall not include reimbursements or other expense allowances, fringe benefits (cash and non-cash), moving expenses, deferred compensation, welfare benefits, and any amounts elected by the Employer with respect to such contributions in Subsection 1.05(a) or (b), as applicable, of the Adoption Agreement.

VOLUME SUBMITTER
DEFINED CONTRIBUTION PLAN

(PROFIT SHARING/401(K) PLAN)

A FIDELITY VOLUME SUBMITTER PLAN

Adoption Agreement No. 001

For use With

Fidelity Basic Plan Document No. 14

TABLE OF CONTENTS

ADOPTION AGREEMENT
ARTICLE 1
PROFIT SHARING/401(K) PLAN

1.01 PLAN INFORMATION

(a) ***Name of Plan:***

This is the ACADIA Pharmaceuticals 401(k) Plan and Trust (the "Plan")

(b) ***Type of Plan:***

(1) ☐ 401(k) Only

(2) ☒ 401(k) and Profit Sharing

(3) ☐ Profit Sharing Only

(c) ***Administrator Name (if not the Employer):***

(d) ***Plan Year End*** (month/day): 12/31

(e) ***Three Digit Plan Number***: 001

(f) ***Limitation Year*** (check one):

(1) ☒ Calendar Year

(2) ☐ Plan Year

(3) ☐ Other: _____

(g) ***Plan Status*** (check appropriate box(es)):

(1) Adoption Agreement Effective Date: 03/29/2010

Note: The effective date specified above must be after the last day of the 2001 Plan Year.

(2) The Adoption Agreement Effective Date is:

(A) ☐ A new Plan Effective Date

(B) ☒ An amendment Effective Date (check one):

(i) ☐ an amendment and restatement of this Basic Plan Document No. 14 and its Adoption Agreement previously executed by the Employer;

(ii) ☒ a conversion from Fidelity Basic Plan Document No. 10 and its Adoption Agreement to Basic Plan Document No. 14 and its Adoption Agreement; or

(iii) ☐ a conversion to Basic Plan Document No. 14 and its Adoption Agreement.

The original effective date of the Plan: 1/1/1997

(3) ☐ **Special Effective Dates.** Certain provisions of the Plan shall be effective as of a date other than the date specified in Subsection 1.01(g)(1) above. Please complete the Special Effective Dates Addendum to the Adoption Agreement indicating the affected provisions and their effective dates.

(4) ☐ **Plan Merger Effective Dates.** Certain plan(s) were merged into the Plan on or after the date specified in Subsection 1.01(g)(1) above. The merged plans are listed in the Plan Mergers Addendum. Please complete the appropriate subsection(s) of the Plan Mergers Addendum to the Adoption Agreement indicating the plan(s) that have merged into the Plan and the effective date(s) of such merger(s).

(5) ☐ **Frozen Plan.** The Plan is currently frozen. Unless the Plan is amended in the future to provide otherwise, no further contributions shall be made to the Plan. Plan assets will continue to be held on behalf of Participants and their Beneficiaries until distributed in accordance with the Plan terms. ***(If this provision is selected, it will override any conflicting provision selected in the Adoption Agreement.)***

Note: While the Plan is frozen, no further contributions, including Deferral Contributions, Employee Contributions, and Rollover Contributions, may be made to the Plan and no employee who is not already a Participant in the Plan may become a Participant.

1.02 EMPLOYER

(a) ***Employer Name*:** ACADIA Pharmaceuticals Inc.

(1) Employer's Tax Identification Number: 06-1376651

(2) Employer's fiscal year end: 12/31

(b) ***The term "Employer" includes the following participating employers*** (choose one):

(1) ☒ No other employers participate in the Plan.

(2) ☐ Certain other employers participate in the Plan. Please complete the Participating Employers Addendum.

1.03 TRUSTEE

(a) ***Trustee Name***: **Fidelity Management Trust Company**

Address: 82 Devonshire Street
Boston, MA 02109

1.04 COVERAGE

***All Employees who meet the conditions specified below shall be eligible to participate in the Plan*:**

(a) ***Age Requirement*** **(check one):**

(1) ☐ no age requirement.

(2) ☒ must have attained age: 21 **(not to exceed 21).**

(b) ***Eligibility Service Requirement(s)*** **-** There shall be no eligibility service requirements for contributions to the Plan unless selected below **(check one):**

(1) ☐ _____ **(not to exceed 365)** days of Eligibility Service requirement (no minimum Hours of Service can be required)

(2) ☐ _____ **(not to exceed 12)** months of Eligibility Service requirement (no minimum Hours of Service can be required)

(3) ☐ one year of Eligibility Service requirement (at least _____ **(not to exceed 1,000)** Hours of Service are required during the Eligibility Computation Period)

(4) ☐ two years of Eligibility Service requirement (at least _____ **(not to exceed 1,000)** Hours of Service are required during each Eligibility Computation Period) ***(If Option 1.07(a) is elected, only one year of Eligibility Service is required for Deferral Contributions.)***

Note: If the Employer selects the two year Eligibility Service requirement, then contributions subject to such Eligibility Service requirement must be 100% vested when made.

(5) ☐ **Hours of Service Crediting.** Hours of Service will be credited in accordance with the equivalency selected in the Hours of Service Equivalencies Addendum rather than in accordance with the equivalency described in Subsection 2.01(dd) of the Basic Plan Document. Please complete the Hours of Service Equivalencies Addendum.

(c) ***Eligibility Computation Period*** - The Eligibility Computation Period is the 12-consecutive-month period beginning on an Employee's Employment Commencement Date and each 12-consecutive-month period beginning on an anniversary of his Employment Commencement Date.

(d) ***Eligible Class of Employees***:

(1) Generally, the Employees eligible to participate in the Plan are (choose one):

(A) ☒ all Employees of the Employer.

(B) ☐ only Employees of the Employer who are covered by (choose one):

(i) ☐ any collective bargaining agreement with the Employer, provided that the agreement requires the employees to be included under the Plan.

(ii) ☐ the following collective bargaining agreement(s) with the Employer:

_____

_____

(2) ☒ Notwithstanding the selection in Subsection 1.04(d)(1) above, certain Employees of the Employer are excluded from participation in the Plan (check the appropriate box(es)):

Note: Certain employees (e.g., residents of Puerto Rico) are excluded automatically pursuant to Subsection 2.01(s) of the Basic Plan Document, regardless of the Employer's selection under this Subsection 1.04(d)(2).

(A) ☐ employees covered by a collective bargaining agreement, unless the agreement requires the employees to be included under the Plan. ***(Do not choose if Option 1.04(d)(1)(B) is selected above.)***

(B) ☐ Highly Compensated Employees as defined in Subsection 2.01(cc) of the Basic Plan Document.

(C) ☐ Leased Employees as defined in Subsection 2.01(ff) of the Basic Plan Document.

(D) ☐ nonresident aliens who do not receive any earned income from the Employer which constitutes United States source income.

(E) ☒ other:

Post Doctoral Training Fellows and Graduate Student Training Fellows.

Note: The eligible group defined above must be a definitely determinable group and cannot be subject to the discretion of the Employer. In addition, the design of the classifications cannot be such that the only Non-Highly Compensated Employees benefiting under the Plan are those with the lowest compensation and/or the shortest periods of service and who may represent the minimum number of such employees necessary to satisfy coverage under Code Section 410(b).

(i) ☒ Notwithstanding this exclusion, any Employee who is excluded from participation because of an exclusion that directly or indirectly imposes an age and/or service requirement for participation (for example by excluding part-time or temporary employees) shall become an Eligible Employee eligible to participate in the Plan on the Entry Date coinciding with or immediately following the date on which he first satisfies the following requirements: (I) he attains age 21 and (II) he completes at least 1,000 Hours of Service during an Eligibility Computation Period.

Note: The Employer should exercise caution when excluding employees from participation in the Plan. Exclusion of employees may adversely affect the Plan's satisfaction of the minimum coverage requirements, as provided in Code Section 410(b).

(e) ***Entry Date(s)*** - The Entry Date(s) shall be **(check one)**:

(1) ☐ the first day of each Plan Year and the first day of the seventh month of each Plan Year

(2) ☒ the first day of each Plan Year and the first day of the fourth, seventh, and tenth months of each Plan Year

(3) ☐ the first day of each month

(4) ☐ immediate upon meeting the eligibility requirements specified in Subsections 1.04(a) and 1.04(b)

(5) ☐ the first day of each Plan Year (Do not select if there is an Eligibility Service requirement of more than six months in Subsection 1.04(b) for the type(s) of contribution or if there is an age requirement of more than 20 1/2 in Subsection 1.04(a) for the type(s) of contribution.)

Note: If another plan is merged into the Plan, the Plan may provide on the Plan Mergers Addendum that the effective date of the merger is also an Entry Date with respect to certain Employees.

(f) ***Date of Initial Participation*** - An Employee shall become a Participant unless excluded by Subsection 1.04(d) above on the Entry Date coinciding with or immediately following the date the Employee completes the service and age requirement(s) in Subsections 1.04(a) and (b), if any, except (check one):

(1) ☒ no exceptions.

(2) ☐ Employees employed on _____ ***(insert date)*** shall become Participants on that date.

(3) ☐ Employees who meet the age and service requirement(s) of Subsections 1.04(a) and (b) on _____ ***(insert date)*** shall become Participants on that date.

1.05 COMPENSATION

Compensation for purposes of determining contributions shall be as defined in Subsection 2.01(k) of the Basic Plan Document, modified as provided below.

(a) ***Compensation Exclusions*** - Compensation shall exclude the item(s) selected below.

(1) ☐ No exclusions.

(2) ☐ Overtime pay.

(3) ☐ Bonuses.

(4) ☐ Commissions.

(5) ☒ The value of restricted stock or of a qualified or a non-qualified stock option granted to an Employee by the Employer to the extent such value is includable in the Employee's taxable income.

(6) ☐ Severance pay received prior to termination of employment. *(Severance pay received following termination of employment is always excluded for purposes of contributions.)*

Note: If the Employer selects an option, other than (1) above, with respect to Nonelective Employer Contributions, Compensation must be tested to show that it meets the requirements of Code Section 414(s) or the allocations must be tested to show that they meet the general test under regulations issued under Code Section 401(a)(4). These exclusions shall not apply for purposes of the "Top Heavy" requirements in Section 15.03, for allocating safe harbor Matching Employer Contributions if Subsection 1.11(a)(3) is selected, for allocating safe harbor Nonelective Employer Contributions if Subsection 1.12(a)(3) is selected, or for allocating non-safe harbor Nonelective Employer Contributions if the Integrated Formula is elected in Subsection 1.12(b)(2).

(b) ***Compensation for the First Year of Participation*** **-** Contributions for the Plan Year in which an Employee first becomes a Participant shall be determined based on the Employee's Compensation as provided below. (Complete by checking the appropriate box.)

(1) ☒ Compensation for the entire Plan Year.

(2) ☐ Only Compensation for the portion of the Plan Year in which the Employee is eligible to participate in the Plan.

1.06 TESTING RULES

(a) ***ADP/ACP Present Testing Method*** **-** The testing method for purposes of applying the "ADP" and "ACP" tests described in Sections 6.03 and 6.06 of the Basic Plan Document shall be the (check one):

(1) ☒ **Current Year Testing Method -** The "ADP" or "ACP" of Highly Compensated Employees for the Plan Year shall be compared to the "ADP" or "ACP" of Non-Highly Compensated Employees for the same Plan Year. ***(Must choose if Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, or Option 1.12(a)(3), 401(k) Safe Harbor Formula, with respect to Nonelective Employer Contributions is checked.)***

(2) ☐ **Prior Year Testing Method -** The "ADP" or "ACP" of Highly Compensated Employees for the Plan Year shall be compared to the "ADP" or "ACP" of Non-Highly Compensated Employees for the immediately preceding Plan Year. ***(Do <u>not</u> choose if Option 1.10(a)(1), alternative allocation formula for Qualified Nonelective Contributions.)***

(3) ☐ Not applicable. ***(Only if Option 1.01(b)(3), Profit Sharing Only, is checked or Option 1.04(d)(2)(B), excluding all Highly Compensated Employees from the eligible class of Employees, is checked.)***

Note: Restrictions apply on elections to change testing methods.

(b) ***First Year Testing Method*** **-** If the first Plan Year that the Plan, other than a successor plan, permits Deferral Contributions or provides for Matching Employer Contributions, occurs on or after the Effective Date specified in Subsection 1.01(g), the "ADP" and/or "ACP" test for such first Plan Year shall be applied using the actual "ADP" and/or "ACP" of Non-Highly Compensated Employees for such first Plan Year, unless otherwise provided below.

(1) ☐ The "ADP" and/or "ACP" test for the first Plan Year that the Plan permits Deferral Contributions or provides for Matching Employer Contributions shall be applied assuming a 3% "ADP" and/or "ACP" for Non-Highly Compensated Employees. ***(Do not choose unless Plan uses prior year testing method described in Subsection 1.06(a)(2).)***

(c) ***HCE Determinations: Look Back Year*** **-** The look back year for purposes of determining which Employees are Highly Compensated Employees shall be the 12-consecutive-month period preceding the Plan Year unless otherwise provided below.

(1) ☐ **Calendar Year Determination -** The look back year shall be the calendar year beginning within the preceding Plan Year. ***(Do not choose if the Plan Year is the calendar year.)***

(d) ***HCE Determinations: Top Paid Group Election*** **-** All Employees with Compensation exceeding the dollar amount specified in Code Section 414(q)(1)(B)(i) adjusted pursuant to Code Section 415(d) (e.g., $95,000 for "determination years" beginning in 2005 and "look-back years" beginning in 2004) shall be considered Highly Compensated Employees, unless Top Paid Group Election below is checked.

(1) ☐ **Top Paid Group Election** - Employees with Compensation exceeding the dollar amount specified in Code Section 414(q)(1)(B)(i) adjusted pursuant to Code Section 415(d) (e.g., $95,000 for "determination years" beginning in 2005 and "look-back years" beginning in 2004 shall be considered Highly Compensated Employees only if they are in the top paid group (the top 20% of Employees ranked by Compensation).

Note: Plan provisions for Sections 1.06(c) and 1.06(d) must apply consistently to all retirement plans of the Employer for determination years that begin with or within the same calendar year (except that Option 1.06(c)(1), Calendar Year Determination, shall not apply to calendar year plans).

1.07 DEFERRAL CONTRIBUTIONS

(a) ☒ ***Deferral Contributions*** **-** Participants may elect to have a portion of their Compensation contributed to the Plan on a before-tax basis pursuant to Code Section 401(k). Pursuant to Subsection 5.03(a) of the Basic Plan Document, if Catch-Up Contributions are selected below, the Plan's deferral limit is 75%, unless the Employer elects an alternative deferral limit in Subsection 1.07(a)(1)(A) below. If Catch-Up Contributions are selected below, and the Employer has specified a percentage in Subsection 1.07(a)(1)(A) that is less than 75%, a Participant eligible to make Catch-Up Contributions shall (subject to the statutory limits in Treasury Regulation Section 1.414-1(b)(1)(i)) in any event be permitted to contribute in excess of the specified deferral limit up to 100% of the Participant's "effectively available Compensation" (*i.e.*, Compensation available after other withholding), as required by Treasury Regulation Section 1.414(v)-1(e)(1)(ii)(B).

(1) **Regular Contributions -** The Employer shall make a Deferral Contribution in accordance with Section 5.03 of the Basic Plan Document on behalf of each Participant who has an executed salary reduction agreement in effect with the Employer for the payroll period in question. Such Deferral Contribution shall not exceed the deferral limit specified in Subsection 5.03(a) of the Basic Plan Document or in Subsection 1.07(a)(1)(A) below, as applicable. Check and complete the appropriate box(es), if any.

(A) ☒ The deferral limit is **60**% ***(must be a whole number multiple of one percent)*** of Compensation. ***(Unless a different deferral limit is specified, the deferral limit shall be 75%. If Option 1.07(a)(4), Catch-Up Contributions, is selected below, complete only if deferral limit is other than 75%.)***

(B) ☐ Instead of specifying a percentage of Compensation, a Participant's salary reduction agreement may specify a dollar amount to be contributed each payroll period, provided such dollar amount does not exceed the maximum percentage of Compensation specified in Subsection 5.03(a) of the Basic Plan Document or in Subsection 1.07(a)(1)(A) above, as applicable.

(C) A Participant may increase or decrease, on a prospective basis, his salary reduction agreement percentage or, if Roth 401(k) Contributions are selected in Subsection 1.07(a)(5) below, the portion of his Deferral Contributions designated as Roth 401(k) Contributions (check one):

(i) ☐ as of the beginning of each payroll period.

(ii) ☐ as of the first day of each month.

(iii) ☒ as of each Entry Date. ***(Do not select if immediate entry is elected with respect to Deferral Contributions in Subsection 1.04(e).)***

Note: Notwithstanding the Employer's election hereunder, if Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, or Option 1.12(a)(3), 401(k) Safe Harbor Formula, with respect to Nonelective Employer Contributions is checked, the Plan provides that an Active Participant may change his salary reduction agreement percentage for the Plan Year within a reasonable period (not fewer than 30 days) of receiving the notice described in Section 6.09 of the Basic Plan Document.

(D) A Participant may revoke, on a prospective basis, a salary reduction agreement at any time upon proper notice to the Administrator but in such case may not file a new salary reduction agreement until (check one):

(i) ☐ the beginning of the next payroll period.

(ii) ☐ the first day of the next month.

(iii) ☒ the next Entry Date. ***(Do not select if immediate entry is elected with respect to Deferral Contributions in Subsection 1.04(e).)***

(2) ☐ **Additional Deferral Contributions -** The Employer shall allow a Participant upon proper notice and approval to enter into a special salary reduction agreement to make additional Deferral Contributions in an amount up to 100% of their effectively available Compensation for the payroll period(s) designated by the Employer.

(3) ☒ **Bonus Contributions -** The Employer shall allow a Participant upon proper notice and approval to enter into a special salary reduction agreement to make Deferral Contributions in an amount up to 100% of any Employer paid cash bonuses designated by the Employer on a uniform and nondiscriminatory basis that are made for such Participants during the Plan Year. The Compensation definition elected by the Employer in Subsection 1.05(a) must include bonuses if bonus contributions are permitted. Unless a Participant has entered into a special salary reduction agreement with respect to bonuses, the percentage deferred from any Employer paid cash bonus shall be (check (A) or (B) below):

(A) ☐ Zero.

(B) ☒ The same percentage elected by the Participant for his regular contributions in accordance with Subsection 1.07(a)(1) above or deemed to have been elected by the Participant in accordance with Option 1.07(a)(6) below.

Note: A Participant's contributions under Subsection 1.07(a)(2) and/or (3) may not cause the Participant to exceed the percentage limit specified by the Employer in Subsection 1.07(a)(1)(A) for the full Plan Year. If the Administrator anticipates that the Plan will not satisfy the "ADP" and/or "ACP" test for the year, the Administrator may reduce the rate of Deferral Contributions of Participants who are Highly Compensated Employees to an amount objectively determined by the Administrator to be necessary to satisfy the "ADP" and/or "ACP" test.

(4) ☒ **Catch-Up Contributions** - The following Participants who have attained or are expected to attain age 50 before the close of the calendar year will be permitted to make Catch-Up Contributions to the Plan, as described in Subsection 5.03(a) of the Basic Plan Document:

(A) ☒ All such Participants.

(B) ☐ All such Participants except those covered by a collective-bargaining agreement under which retirement benefits were a subject of good faith bargaining unless the bargaining agreement specifically provides for Catch-Up Contributions to be made on behalf of such Participants.

Note: The Employer must not select Option 1.07(a)(4) above unless all "applicable plans" (except any plan that is qualified under Puerto Rican law or that covers only employees who are covered by a collective bargaining agreement under which retirement benefits were a subject of good faith bargaining) maintained by the Employer and by any other employer that is treated as a single employer with the Employer under Code Section 414(b), (c), (m), or (o) also permit Catch-Up Contributions in the same dollar amount. An "applicable plan" is any 401(k) plan or any SIMPLE IRA plan, SEP, plan or contract that meets the requirements of Code Section 403(b), or Code Section 457 eligible governmental plan that provides for elective deferrals.

(5) ☐ **Roth 401(k) Contributions.** Participants shall be permitted to irrevocably designate pursuant to Subsection 5.03(b) of the Basic Plan Document that a portion or all of the Deferral Contributions made under this Subsection 1.07(a) are Roth 401(k) Contributions that are includable in the Participant's gross income at the time deferred.

(6) ☐ ***Automatic Enrollment Contributions.*** Beginning on the effective date of this paragraph (6) (the "Automatic Enrollment Effective Date") and subject to the remainder of this paragraph (6) unless an Eligible Employee affirmatively elects otherwise, his Compensation will be reduced by ____% (the "Automatic Enrollment Rate"), such percentage to be increased in accordance with Option 1.07(b) (if applicable), for each payroll period in which he is an Active Participant, beginning as indicated in Subsection 1.07(a)(6)(A) below, and the Employer will make a pre-tax Deferral Contribution in such amount on the Participant's behalf in accordance with the provisions of Subsection 5.03(c) of the Basic Plan Document (an "Automatic Enrollment Contribution").

(A) With respect to an affected Participant, Automatic Enrollment Contributions will begin as soon as administratively feasible on or after (check one):

(i) ☐ The Participant's Entry Date.

(ii) ☐ _____ (minimum of 30) days following the Participant's date of hire, but no sooner than the Participant's Entry Date.

Within a reasonable period ending no later than the day prior to the date Compensation subject to the reduction would otherwise become available to the Participant, an Eligible Employee may make an

affirmative election not to have Automatic Enrollment Contributions made on his behalf. If an Eligible Employee makes no such affirmative election, his Compensation shall be reduced and Automatic Enrollment Contributions will be made on his behalf in accordance with the provisions of this paragraph (6), and Option 1.07(b) if applicable, until such Active Participant elects to change or revoke such Deferral Contributions as provided in Subsection 1.07(a)(1)(C) or (D). Automatic Enrollment Contributions shall be made only on behalf of Active Participants who are first hired by the Employer on or after the Automatic Enrollment Effective Date and do not have a Reemployment Commencement Date, unless otherwise provided below.

(B) ☐ Additionally, unless such affected Participant affirmatively elects otherwise within the reasonable period established by the Plan Administrator, Automatic Enrollment Contributions will be made with respect to the Employees described below. (Check all that apply.)

(i) ☐ Inclusion of Previously Hired Employees. On the later of the date specified in Subsection 1.07(a)(6)(A) with regard to such Eligible Employee or as soon as administratively feasible on or after the 30th day following the Notification Date specified in Subsection 1.07(a)(6)(B)(i)(I) below, Automatic Enrollment Contributions will begin for the following Eligible Employees who were hired before the Automatic Enrollment Effective Date and have not had a Reemployment Commencement Date. (Complete (I), check (II) or (III), and complete (IV), if applicable.)

(I) Notification Date: _____. (Date must be on or after the Automatic Enrollment Effective Date.)

(II) ☐ Unless otherwise elected in Subsection 1.07(a)(6)(B)(i)(IV) below, all such Employees who have never had a Deferral Contribution election in place.

(III) ☐ Unless otherwise elected in Subsection 1.07(a)(6)(B)(i)(IV) below, all such Employees who have never had a Deferral Contribution election in place and were hired by the Employer before the Automatic Enrollment Effective Date, but on or after the following date: _____.

(IV) ☐ In addition to the group of Employees elected in Subsection 1.07(a)(6)(B)(i)(II) or (III) above, any Employee described in Subsection 1.07(a)(6)(B)(i)(II) or (III) above, as applicable, even if he has had a Deferral Contribution election in place previously, provided he is not suspended from making Deferral Contributions pursuant to the Plan and has a deferral rate of zero on the Notification Date.

(ii) ☐ Inclusion of Rehired Employees. Unless otherwise stated herein, each Eligible Employee having a Reemployment Commencement Date on the date indicated in Subsection 1.07(a)(6)(A) above. If Subsection 1.07(a)(6)(B)(i)(III) is selected, only such Employees with a Reemployment Commencement on or after the date specified in Subsection 1.07(a)(6)(B)(i)(III) will be automatically enrolled. If Subsection 1.07(a)(6)(B)(i) is not selected, only such Employees with a Reemployment Commencement on or after the Automatic Enrollment Effective Date will be automatically enrolled. If Subsection 1.07(a)(6)(A)(ii) has been elected above, for purposes of Subsection 1.07(a)(6)(A) only, such Employee's Reemployment Commencement Date will be treated as his date of hire.

(b) ☐ ***Automatic Deferral Increase: (Choose only if Automatic Enrollment Contributions are selected in Option 1.07(a)(6) above)*** - Unless an Eligible Employee affirmatively elects otherwise after receiving appropriate notice, Deferral Contributions for each Active Participant having Automatic Enrollment Contributions made on his behalf shall be increased annually by the whole percentage of Compensation stated in Subsection 1.07(b)(1) below until the deferral percentage stated in Subsection 1.07(a)(1) is reached (except that the increase will be limited to only the percentage needed to reach the limit stated in Subsection 1.07(a)(1), if applying the percentage in Subsection 1.07(b)(1) would exceed the limit stated in Subsection 1.07(a)(1)), unless the Employer has elected a lower percentage limit in Subsection 1.07(b)(2) below.

(1) Increase by ____% **(not to exceed 10%)** of Compensation. Such increased Deferral Contributions shall be pre-tax Deferral Contributions.

(2) ☐ Limited to ____% of Compensation **(not to exceed the percentage indicated in Subsection 1.07(a)(1)).**

(3) Notwithstanding the above, the automatic deferral increase shall not apply to a Participant within the first six months following the date upon which Automatic Enrollment Contributions begin for such Participant.

1.08 EMPLOYEE CONTRIBUTIONS (AFTER TAX CONTRIBUTIONS)

(a) ☐ ***Frozen Employee Contributions*** - Participants may not currently make after-tax Employee Contributions to the Plan, but the Employer does maintain frozen Employee Contributions Accounts.

1.09 ROLLOVER CONTRIBUTIONS

(a) ☒ ***Rollover Contributions*** - Employees may roll over eligible amounts from other qualified plans to the Plan subject to the additional following requirements:

(1) ☐ The Plan will not accept rollovers of after-tax employee contributions.

(2) ☒ The Plan will not accept rollovers of designated Roth contributions. ***(Must be selected if Roth 401(k) Contributions are not elected in Subsection 1.07(a)(5).)***

1.10 QUALIFIED NONELECTIVE EMPLOYER CONTRIBUTIONS

(a) ***Qualified Nonelective Employer Contributions*** – If any of the following Options is checked: 1.07(a), Deferral Contributions, or 1.11(a), Matching Employer Contributions, the Employer may contribute an amount which it designates as a Qualified Nonelective Employer Contribution to be included in the "ADP" or "ACP" test. Unless otherwise provided below, Qualified Nonelective Employer Contributions shall be allocated to all Participants who were eligible to participate in the Plan at any time during the Plan Year and are Non-Highly Compensated Employees in the ratio which each such Participant's "testing compensation", as defined in Subsection 6.01(r) of the Basic Plan Document, for the Plan Year bears to the total of all such Participants' "testing compensation" for the Plan Year.

(1) ☐ Qualified Nonelective Employer Contributions shall be allocated only among those Participants who are Non-Highly Compensated Employees and are designated by the Employer as eligible to receive a Qualified Nonelective Employer Contribution for the Plan Year. The amount of the Qualified Nonelective Employer Contribution allocated to each such Participant shall be as designated by the Employer, but not in excess of the "regulatory maximum." The "regulatory maximum" means 5% (10% for Qualified Nonelective Contributions made in connection with the Employer's obligation to pay prevailing wages under the Davis-Bacon Act) of the "testing compensation" for such Participant for the Plan Year. The "regulatory maximum" shall apply separately with respect to Qualified Nonelective Contributions to be included in the "ADP" test and Qualified Nonelective Contributions to be included in the "ACP" test. ***(Cannot be selected if the Employer has elected prior year testing in Subsection 1.06(a)(2).)***

1.11 MATCHING EMPLOYER CONTRIBUTIONS

(a) ☒ ***Matching Employer Contributions*** - The Employer shall make Matching Employer Contributions on behalf of each of its "eligible" Participants as provided in this Section 1.11. For purposes of this Section 1.11, an "eligible" Participant means any Participant who is an Active Participant during the Contribution Period and who satisfies the requirements of Subsection 1.11(e) or Section 1.13. (Check one):

(1) ☐ **Non-Discretionary Matching Employer Contributions** - The Employer shall make a Matching Employer Contribution on behalf of each "eligible" Participant in an amount equal to the following percentage of the eligible contributions made by the "eligible" Participant during the Contribution Period (complete all that apply):

(A) ☐ Flat Percentage Match:

(i) ____% to all "eligible" Participants.

(B) ☐ Tiered Match: ____% of the first ____% of the "eligible" Participant's Compensation contributed to the Plan,

____% of the next ____% of the "eligible" Participant's Compensation contributed to the Plan,

____% of the next ____% of the "eligible" Participant's Compensation contributed to the Plan.

Note: The group of "eligible" Participants benefiting under each match rate must satisfy the nondiscriminatory coverage requirements of Code Section 410(b).

(C) ☐ Limit on Non-Discretionary Matching Employer Contributions (check the appropriate box(es)):

(i) ☐ Contributions in excess of ____% of the "eligible" Participant's Compensation for the Contribution Period shall not be considered for non-discretionary Matching Employer Contributions.

Note: If the Employer elected a percentage limit in (i) above and requested the Trustee to account separately for matched and unmatched Deferral and/or Employee Contributions made to the Plan, the non-discretionary Matching Employer Contributions allocated to each "eligible" Participant must be computed, and the percentage limit applied, based upon each payroll period.

(ii) ☐ Matching Employer Contributions for each "eligible" Participant for each Plan Year shall be limited to $_____.

(2) ☐ **Discretionary Matching Employer Contributions** - The Employer may make a discretionary Matching Employer Contribution on behalf of each "eligible" Participant in accordance with Section 5.08 of the Basic Plan Document in an amount equal to a percentage of the eligible contributions made by each "eligible" Participant during the Contribution Period. Discretionary Matching Employer Contributions may be limited to match only contributions up to a specified percentage of Compensation or limit the amount of the match to a specified dollar amount.

Note: If the Matching Employer Contribution made in accordance with this Subsection 1.11(a)(2) matches different percentages of contributions for different groups of "eligible" Participants, it may need to be tested to show that it meets the requirements of Code Section 401(a)(4), nondiscrimination in benefits, rights, and features.

(A) ☐ 4% Limitation on Discretionary Matching Employer Contributions for Deemed Satisfaction of "ACP" Test -In no event may the dollar amount of the discretionary Matching Employer Contribution made on an "eligible" Participant's behalf for the Plan Year exceed 4% of the "eligible" Participant's Compensation for the Plan Year. ***(Only if Option 1.12(a)(3), 401(k) Safe Harbor Formula, with respect to Nonelective Employer Contributions is checked.)***

(3) ☒ **401(k) Safe Harbor Matching Employer Contributions** - If the Employer elects one of the safe harbor formula Options provided in the 401(k) Safe Harbor Matching Employer Contributions Addendum to the Adoption Agreement and provides written notice each Plan Year to all Active Participants of their rights and obligations under the Plan, the Plan shall be deemed to satisfy the "ADP" test and, under certain circumstances, the "ACP" test. ***(Only if Option 1.07(a), Deferral Contributions is checked.)***

(b) ☐ ***Additional Matching Employer Contributions*** -The Employer may at Plan Year end make an additional Matching Employer Contribution on behalf of each "eligible" Participant in an amount equal to a percentage of the eligible contributions made by each "eligible" Participant during the Plan Year. ***(Only if Option 1.11(a)(1) or (3) is checked.)*** The additional Matching Employer Contribution may be limited to match only contributions up to a specified percentage of Compensation or limit the amount of the match to a specified dollar amount.

Note: If the additional Matching Employer Contribution made in accordance with this Subsection 1.11(b) matches different percentages of contributions for different groups of "eligible" Participants, it may need to be tested to show that it meets the requirements of Code Section 401(a)(4), nondiscrimination in benefits, rights, and features.

(1) ☐ **4% Limitation on additional Matching Employer Contributions for Deemed Satisfaction of "ACP" Test** - In no event may the dollar amount of the additional Matching Employer Contribution made on an "eligible" Participant's behalf for the Plan Year exceed 4% of the "eligible" Participant's Compensation for the Plan Year. ***(Only if Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, or Option 1.12(a)(3), 401(k) Safe Harbor Formula, with respect to Nonelective Employer Contributions is checked.)***

Note: If the Employer elected Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, above and wants to be deemed to have satisfied the "ADP" test, the additional Matching Employer Contribution must meet the requirements of Section 6.09 of the Basic Plan Document. In addition to the foregoing requirements, if the Employer elected Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, or Option 1.12(a)(3), 401(k) Safe Harbor Formula, with respect to Nonelective Employer Contributions, and wants to be deemed to have satisfied the "ACP" test with respect to Matching Employer Contributions for the Plan Year, the eligible contributions matched may not exceed the limitations in Section 6.10 of the Basic Plan Document.

(c) ***Contributions Matched*** - The Employer matches the following contributions (check appropriate box(es)):

(1) **Deferral Contributions** - Deferral Contributions made to the Plan are matched at the rate specified in this Section 1.11. Catch-Up Contributions are not matched unless the Employer elects Option 1.11(c)(1)(A) below.

(A) ☐ Catch-Up Contributions made to the Plan pursuant to Subsection 1.07(a)(4) are matched at the rates specified in this Section 1.11.

Note: Notwithstanding the above, if the Employer elected Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, Deferral Contributions shall be matched at the rate specified in the 401(k) Safe Harbor Matching Employer Contributions Addendum to the Adoption Agreement without regard to whether they are Catch-Up Contributions.

(d) ***Contribution Period for Matching Employer Contributions*** **-** The Contribution Period for purposes of calculating the amount of Matching Employer Contributions is:

(1) ☐ each calendar month.

(2) ☐ each Plan Year quarter.

(3) ☒ each Plan Year.

(4) ☐ each payroll period.

The Contribution Period for additional Matching Employer Contributions described in Subsection 1.11(b) is the Plan Year.

Note: If Matching Employer Contributions are made more frequently than for the Contribution Period selected above, the Employer must calculate the Matching Employer Contribution required with respect to the full Contribution Period, taking into account the "eligible" Participant's contributions and Compensation for the full Contribution Period, and contribute any additional Matching Employer Contributions necessary to "true up" the Matching Employer Contribution so that the full Matching Employer Contribution is made for the Contribution Period.

(e) ***Continuing Eligibility Requirement(s)*** **-** A Participant who is an Active Participant during a Contribution Period and makes eligible contributions during the Contribution Period shall only be entitled to receive Matching Employer Contributions under Section 1.11 for that Contribution Period if the Participant satisfies the following requirement(s) (Check the appropriate box(es). Options (3) and (4) may not be elected together; Option (5) may not be elected with Option (2), (3), or (4); Options (2), (3), (4), (5), and (7) may not be elected with respect to Matching Employer Contributions if Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, is checked or if Option 1.12(a)(3), 401(k) Safe Harbor Formula, with respect to Nonelective Employer Contributions is checked and the Employer intends to satisfy the Code Section 401(m)(11) safe harbor with respect to Matching Employer Contributions):

(1) ☒ No requirements.

(2) ☐ Is employed by the Employer or a Related Employer on the last day of the Contribution Period.

(3) ☐ Earns at least 501 Hours of Service during the Plan Year. ***(Only if the Contribution Period is the Plan Year.)***

(4) ☐ Earns at least _____ **(not to exceed 1,000)** Hours of Service during the Plan Year. ***(Only if the Contribution Period is the Plan Year.)***

(5) ☐ Either earns at least 501 Hours of Service during the Plan Year or is employed by the Employer or a Related Employer on the last day of the Plan Year. ***(Only if the Contribution Period is the Plan Year.)***

(6) ☐ Is not a Highly Compensated Employee for the Plan Year.

(7) ☐ Is not a partner or a member of the Employer, if the Employer is a partnership or an entity taxed as a partnership.

Note: If Option (2), (3), (4), or (5) is adopted during a Contribution Period, such Option shall not become effective until the first day of the next Contribution Period. Matching Employer Contributions attributable to the Contribution Period that are funded during the Contribution Period shall not be subject to the eligibility

requirements of Option (2), (3), (4), or (5). If Option (2), (3), (4), (5), or (7) is elected with respect to any Matching Employer Contributions and if Option 1.12(a)(3), 401(k) Safe Harbor Formula, is also elected, the Plan will not be deemed to satisfy the "ACP" test in accordance with Section 6.10 of the Basic Plan Document and will have to pass the "ACP" test each year.

(f) ☐ ***Qualified Matching Employer Contributions*** - Prior to making any Matching Employer Contribution hereunder (other than a 401(k) Safe Harbor Matching Employer Contribution), the Employer may designate all or a portion of such Matching Employer Contribution as a Qualified Matching Employer Contribution that may be used to satisfy the "ADP" test on Deferral Contributions and excluded in applying the "ACP" test on Employee and Matching Employer Contributions. Unless the additional eligibility requirement is selected below, Qualified Matching Employer Contributions shall be allocated to **all** Participants who were Active Participants during the Contribution Period and who meet the continuing eligibility requirement(s) described in Subsection 1.11(e) above for the type of Matching Employer Contribution being characterized as a Qualified Matching Employer Contribution.

(1) ☐ To receive an allocation of Qualified Matching Employer Contributions a Participant must also be a Non-Highly Compensated Employee for the Plan Year.

Note: Qualified Matching Employer Contributions may not be excluded in applying the "ACP" test for a Plan Year if the Employer elected Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, or Option 1.12(a)(3), 401(k) Safe Harbor Formula, with respect to Nonelective Employer Contributions, and the "ADP" test is deemed satisfied under Section 6.09 of the Basic Plan Document for such Plan Year.

1.12 NONELECTIVE EMPLOYER CONTRIBUTIONS

If (a) or (b) is elected below, the Employer may make Nonelective Employer Contributions on behalf of each of its "eligible" Participants in accordance with the provisions of this Section 1.12. For purposes of this Section 1.12, an "eligible" Participant means a Participant who is an Active Participant during the Contribution Period and who satisfies the requirements of Subsection 1.12(d) or Section 1.13.

Note: An Employer may elect both a fixed formula and a discretionary formula. If both are selected, the discretionary formula shall be treated as an additional Nonelective Employer Contribution and allocated separately in accordance with the allocation formula selected by the Employer.

(a) ☐ ***Fixed Formula*** (check one or more):

(1) ☐ **Fixed Percentage Employer Contribution** - For each Contribution Period, the Employer shall contribute for each "eligible" Participant a percentage of such "eligible" Participant's Compensation equal to):

(A) ____% **(not to exceed 25%)** to all "eligible" Participants.

Note: The allocation formula in Option 1.12(a)(1)(A) above generally satisfies a design-based safe harbor pursuant to the regulations under Code Section 401(a)(4).

(2) ☐ **Fixed Flat Dollar Employer Contribution** - The Employer shall contribute for each "eligible" Participant an amount equal to:

(A) $_____ to all "eligible" Participants. (Complete (i) below).

(i) The contribution amount is based on an "eligible" Participant's service for the following period (check one of the following):

(I) ☐ Each paid hour.

(II) ☐ Each Plan Year.

(III) ☐ Other: _____ ***(must be a period within the Plan Year that does not exceed one week and is uniform with respect to all "eligible" Participants).***

Note: The allocation formula in Option 1.12(a)(2)(A) above generally satisfies a design-based safe harbor pursuant to the regulations under Code Section 401(a)(4).

(3) ☐ **401(k) Safe Harbor Formula -** The Nonelective Employer Contribution specified in the 401(k) Safe Harbor Nonelective Employer Contributions Addendum is intended to satisfy the safe harbor contribution requirements under Sections 401(k) and 401(m) of the Code such that the "ADP" test (and, under certain circumstances, the "ACP" test) is deemed satisfied. Please complete the 401(k) Safe Harbor Nonelective Employer Contributions Addendum to the Adoption Agreement. ***(Choose only if Option 1.07(a), Deferral Contributions is checked.)***

(b) ☒ ***Discretionary Formula*** **-** The Employer may decide each Contribution Period whether to make a discretionary Nonelective Employer Contribution on behalf of "eligible" Participants in accordance with Section 5.10 of the Basic Plan Document.

(1) ☒ **Non-Integrated Allocation Formula -** In the ratio that each "eligible" Participant's Compensation bears to the total Compensation paid to all "eligible" Participants for the Contribution Period.

(2) ☐ **Integrated Allocation Formula -** As (1) a percentage of each "eligible" Participant's Compensation plus (2) a percentage of each "eligible" Participant's Compensation in excess of the "integration level" as defined below. The percentage of Compensation in excess of the "integration level" shall be equal to the lesser of the percentage of the "eligible" Participant's Compensation allocated under (1) above or the "permitted disparity limit" as defined below.

Note: An Employer that has elected Option 1.12(a)(3), 401(k) Safe Harbor Formula, may not take Nonelective Employer Contributions made to satisfy the 401(k) safe harbor into account in applying the integrated allocation formula described above.

(A) "Integration level" means the Social Security taxable wage base for the Plan Year, unless the Employer elects a lesser amount in (i) or (ii) below.

(i) ____% **(not to exceed 100%)** of the Social Security taxable wage base for the Plan Year, or

(ii) $_____ **(not to exceed the Social Security taxable wage base)**.

"Permitted disparity limit" means the percentage provided by the following table:

The "Integration Level" is ____% of the Taxable Wage Base	**The "Permitted Disparity Limit" is**
20% or less	5.7%
More than 20%, but not more than 80%	4.3%
More than 80%, but less than 100%	5.4%
100%	5.7%

Note: An Employer who maintains any other plan that provides for Social Security Integration (permitted disparity) may not elect Option 1.12(b)(2).

(c) ***Contribution Period for Nonelective Employer Contributions*** - The Contribution Period for purposes of calculating the amount of Nonelective Employer Contributions is the Plan Year.

(d) ***Continuing Eligibility Requirement(s)*** - A Participant shall only be entitled to receive Nonelective Employer Contributions for a Plan Year under this Section 1.12 if the Participant is an Active Participant during the Plan Year and satisfies the following requirement(s) (Check the appropriate box(es) - Options (3) and (4) may not be elected together; Option (5) may not be elected with Option (2), (3), or (4); Options (2), (3), (4), (5), and (7) may not be elected with respect to Nonelective Employer Contributions under the fixed formula if Option 1.12(a)(3), 401(k) Safe Harbor Formula, is checked):

(1) ☐ No requirements.

(2) ☒ Is employed by the Employer or a Related Employer on the last day of the Contribution Period.

(3) ☐ Earns at least 501 Hours of Service during the Plan Year. ***(Only if the Contribution Period is the Plan Year.)***

(4) ☐ Earns at least _____ **(not to exceed 1,000)** Hours of Service during the Plan Year. ***(Only if the Contribution Period is the Plan Year.)***

(5) ☐ Either earns at least 501 Hours of Service during the Plan Year or is employed by the Employer or a Related Employer on the last day of the Plan Year. ***(Only if the Contribution Period is the Plan Year.)***

(6) ☐ Is not a Highly Compensated Employee for the Plan Year.

(7) ☐ Is not a partner or a member of the Employer, if the Employer is a partnership or an entity taxed as a partnership.

Note: If Option (2) (3), (4), or (5) is adopted during a Contribution Period, such Option shall not become effective until the first day of the next Contribution Period. Nonelective Employer Contributions attributable to the Contribution Period that are funded during the Contribution Period shall not be subject to the eligibility requirements of Option (2), (3), (4), or (5).

1.13 EXCEPTIONS TO CONTINUING ELIGIBILITY REQUIREMENTS

☐ **Death, Disability, and Retirement Exceptions** - All Participants who become disabled, as defined in Section 1.15, retire, as provided in Subsection 1.14(a), (b), or (c), or die are exempted from any last day or Hours of Service requirement.

1.14 RETIREMENT

(a) ***The Normal Retirement Age under the Plan is*** (check one):

(1) ☒ age 65.

(2) ☐ age ____ (specify between 55 and 64).

(3) ☐ later of age ____ **(not to exceed 65)** or the ____ **(not to exceed 5th)** anniversary of the Participant's Employment Commencement Date.

(b) ☐ ***The Early Retirement Age is the date the Participant attains age ____ (specify 55 or greater) and completes ____ years of Vesting Service.***

Note: If this Option is elected, Participants who are employed by the Employer or a Related Employer on the date they reach Early Retirement Age shall be 100% vested in their Accounts under the Plan.

(c) ☐ ***A Participant who becomes disabled, as defined in Section 1.15, is eligible for disability retirement.***

Note: If this Option is elected, Participants who are employed by the Employer or a Related Employer on the date they become disabled shall be 100% vested in their Accounts under the Plan. Pursuant to Section 11.03 of the Basic Plan Document, a Participant is not considered to be disabled until he terminates his employment with the Employer.

1.15 DEFINITION OF DISABLED

A Participant is disabled if he/she meets any of the requirements selected below (check the appropriate box(es)):

(a) ☐ The Participant satisfies the requirements for benefits under the Employer's long-term disability plan.

(b) ☐ The Participant satisfies the requirements for Social Security disability benefits.

(c) ☐ The Participant is determined to be disabled by a physician approved by the Employer.

1.16 VESTING

A Participant's vested interest in Matching Employer Contributions and/or Nonelective Employer Contributions, other than 401(k) Safe Harbor Matching Employer and/or 401(k) Safe Harbor Nonelective Employer Contributions elected in Subsection 1.11(a)(3) or 1.12(a)(3), shall be based upon his years of Vesting Service and the schedule selected in Subsection 1.16(c) below, except as provided in Subsection 1.16(d) or (e) below and the Vesting Schedule Addendum to the Adoption Agreement or as provided in Subsection 1.22(c).

(a) ***When years of Vesting Service are determined, the elapsed time method shall be used.***

(b) ☐ ***Years of Vesting Service shall exclude service prior to the Plan's original Effective Date as listed in Subsection 1.01(g)(1) or Subsection 1.01(g)(2), as applicable.***

(c) ***Vesting Schedule(s)***

(1) Nonelective Employer Contributions (check one):

- **(A)** ☐ N/A - No Nonelective Employer Contributions other than 401(k) Safe Harbor Nonelective Employer Contributions
- **(B)** ☒ 100% Vesting immediately
- **(C)** ☐ 3 year cliff (see **C** below)
- **(D)** ☐ 6 year graduated (see **D** below)
- **(E)** ☐ Other vesting (complete **E1** below)

(2) Matching Employer Contributions (check one):

- **(A)** ☒ N/A – No Matching Employer Contributions other than 401(k) Safe Harbor Matching Employer Contributions
- **(B)** ☐ 100% Vesting immediately
- **(C)** ☐ 3 year cliff (see **C** below)
- **(D)** ☐ 6 year graduated (see **D** below)
- **(E)** ☐ Other vesting (complete **E2** below)

Years of Vesting Service	Applicable Vesting Schedule(s)			
	C	D	E1	E2
0	0%	0%	____%	____%
1	0%	0%	____%	____%
2	0%	20%	____%	____%
3	100%	40%	____%	____%
4	100%	60%	____%	____%
5	100%	80%	____%	____%
6 or more	100%	100%	____%	100%

Note: A schedule elected under E1 or E2 above must be at least as favorable as one of the schedules in C or D above.

Note: If the vesting schedule is amended and a Participant's vested interest calculated using the amended vesting schedule is less in any year than the Participant's vested interest calculated under the Plan's vesting schedule in effect immediately before the amendment, the amended vesting schedule shall apply only to Employees hired on or after the effective date of the amendment. Please select paragraph (e) below and complete Section (b) of the Vesting Schedule Addendum to the Adoption Agreement describing the vesting schedule in effect for Employees hired before the effective date of the amendment.

Note: If the vesting schedule is amended, the amended vesting schedule shall apply only to Participants who are Active Participants on or after the effective date of the amendment not subject to the prior vesting schedule as provided in the preceding Note. Participants who are not Active Participants on or after that date shall be subject to the prior vesting schedule. Please select paragraph (e) below and complete Section (b) of the Vesting Schedule Addendum to the Adoption Agreement describing the prior vesting schedule.

(d) ☐ ***A less favorable vesting schedule than the vesting schedule selected in 1.16(c)(2) above applies to Matching Employer Contributions made for Plan Years beginning before the EGTRRA effective date.*** Please complete Section (a) of the Vesting Schedule Addendum to the Adoption Agreement.

(e) ☐ ***A vesting schedule or schedules different from the vesting schedule(s) selected above applies to certain Participants.*** Please complete Section (b) of the Vesting Schedule Addendum to the Adoption Agreement.

1.17 PREDECESSOR EMPLOYER SERVICE

(a) ☐ ***Service for purposes of eligibility in Subsection 1.04(b) and vesting in Subsection 1.16 of this Plan shall include service with the following predecessor employer(s):***

1.18 PARTICIPANT LOANS

(a) ☐ ***Participant loans are allowed in accordance with Article 9 and loan procedures outlined in the Service Agreement.***

1.19 IN-SERVICE WITHDRAWALS

Participants may make withdrawals prior to termination of employment under the following circumstances (check the appropriate box(es)):

(a) ☒ ***Hardship Withdrawals*** - Hardship withdrawals shall be allowed in accordance with Section 10.05 of the Basic Plan Document, subject to a $500 minimum amount.

(1) Hardship withdrawals will be permitted from:

(A) ☒ Participant's Deferral Contributions Account only.

(B) ☐ The Accounts specified in the In-Service Withdrawals Addendum. Please complete Section (a) in In-Service Withdrawals Addendum.

(b) ☒ ***Age 59 ½*** - Participants shall be entitled to receive a distribution of all or any portion of the following Accounts upon attainment of age 59 ½ (check one):

(1) ☐ Deferral Contributions Account.

(2) ☒ All vested Account balances.

(c) ***Withdrawal of Employee Contributions and Rollover Contributions***

(1) Employee Contributions may be withdrawn in accordance with Section 10.02 of the Basic Plan Document at any time.

(2) Rollover Contributions may be withdrawn in accordance with Section 10.03 of the Basic Plan Document at any time.

(d) ☐ ***Protected In-Service Withdrawal Provisions*** - Check if the Plan was converted by plan amendment or received transfer contributions from another defined contribution plan, and benefits under the other defined contribution plan were payable as (check the appropriate box(es)):

(1) ☐ an in-service withdrawal of vested amounts attributable to Employer Contributions maintained in a Participant's Account (check (A) and/or (B)):

(A) ☐ for at least ____ (24 or more) months.

(B) ☐ after the Participant has at least 60 months of participation.

(2) ☐ another in-service withdrawal option that is a "protected benefit" under Code Section 411(d)(6). Please complete the In-Service Withdrawals Addendum to the Adoption Agreement identifying the in-service withdrawal option(s).

1.20 FORM OF DISTRIBUTIONS

Subject to Section 13.01, 13.02 and Article 14 of the Basic Plan Document, distributions under the Plan shall be paid as provided below. (Check the appropriate box(es).)

(a) ***Lump Sum Payments*** - Lump sum payments are always available under the Plan.

(b) ☒ ***Installment Payments*** - Participants may elect distribution under a systematic withdrawal plan (installments).

(c) ☐ ***Annuities*** (Check if the Plan is retaining any annuity form(s) of payment.)

(1) An annuity form of payment is available under the Plan for the following reason(s) (check (A) and/or (B), as applicable):

(A) ☐ As a result of the Plan's receipt of a transfer of assets from another defined contribution plan or pursuant to the Plan terms prior to the Adoption Agreement Effective Date specified in Subsection 1.01(g)(1), benefits were previously payable in the form of an annuity that the Employer elects to continue to be offered as a form of payment under the Plan.

(B) ☐ The Plan received a transfer of assets from a plan that was subject to the minimum funding requirements of Code Section 412 and therefore an annuity form of payment is a protected benefit under the Plan in accordance with Code Section 411(d)(6).

(2) The normal form of payment under the Plan is (check (A) or (B)):

(A) ☐ A lump sum payment.

(i) Optional annuity forms of payment (check (I) and/or (II), as applicable). ***(Must check and complete (I) if a life annuity is one of the optional annuity forms of payment under the Plan.)***

(I) ☐ A married Participant who elects an annuity form of payment shall receive a qualified joint and ____**% (at least 50% but not more than 100%)** survivor annuity. An unmarried Participant shall receive a single life annuity.

The qualified preretirement survivor annuity provided to the spouse of a married Participant who elects an annuity form of payment is purchased with ____**% (at least 50%)** of the Participant's Account.

(II) ☐ Other annuity form(s) of payment. Please complete Section (a) of the Forms of Payment Addendum describing the other annuity form(s) of payment available under the Plan.

(B) ☐ A life annuity (complete (i) and (ii) and check (iii) if applicable.)

(i) The normal form for married Participants is a qualified joint and ____**% (at least 50% but not more than 100%)** survivor annuity. The normal form for unmarried Participants is a single life annuity.

(ii) The qualified preretirement survivor annuity provided to a Participant's spouse is purchased with ____**% (at least 50%)** of the Participant's Account.

(iii) ☐ Other annuity form(s) of payment. Please complete Subsection (a) of the Forms of Payment Addendum describing the other annuity form(s) of payment available under the Plan.

(d) ☐ ***Eliminated Forms of Payment Not Protected Under Code Section 411(d)(6)***. Check if benefits were payable in a form of payment that is no longer being offered after either the Adoption Agreement Effective Date specified in Subsection 1.01(g)(1) or, if forms of payment are being eliminated by a separate amendment, the amendment effective date indicated on the Amendment Execution Page.

Note: A life annuity option will continue to be an available form of payment for any Participant who elected such life annuity payment before the effective date of its elimination.

(e) ***Cash Outs and Implementation of Required Rollover Rule***

(1) ☒ If the vested Account balance payable to an individual is less than or equal to the cash out limit utilized for such individual under Section 13.02 of the Basic Plan Document, such Account will be distributed in accordance with the provisions of Section 13.02 or 18.04 of the Basic Plan Document. Unless otherwise elected below, the cash out limit is $1,000.

(A) ☐ The cash out limit utilized for Participants is the maximum cash out limit permitted under Code Section 411(a)(11)(A) ($5,000 as of January 1, 2005). Any distribution greater than $1,000 that is made to a Participant without the Participant's consent before the Participant's Normal Retirement Age (or age 62, if later) will be rolled over to an individual retirement plan designated by the Plan Administrator.

1.21 TIMING OF DISTRIBUTIONS

Except as provided in Subsection 1.21(a) or (b) distribution shall be made to an eligible Participant from his vested interest in his Account as soon as reasonably practicable following the Participant's request for distribution pursuant to Article 12 of the Basic Plan Document.

(a) ***Distribution shall be made to an eligible Participant from his vested interest in his Account as soon as reasonably practicable following the date the Participant's application for distribution is received by the Administrator, but in no event later than his Required Beginning Date, as defined in Subsection 2.01(tt).***

(b) ☒ ***Preservation of Same Desk Rule*** - Check if the Employer wants to continue application of the same desk rule described in Subsection 12.01(b) of the Basic Plan Document regarding distribution of Deferral Contributions, Qualified Nonelective Employer Contributions, Qualified Matching Employer Contributions, 401(k) Safe Harbor Matching Employer Contributions, and 401(k) Safe Harbor Nonelective Employer Contributions. ***(If any of the above-listed contribution types were previously distributable upon severance from employment, this Option may not be selected.)***

1.22 TOP HEAVY STATUS

(a) ***The Plan shall be subject to the Top-Heavy Plan requirements of Article 15*** (check one):

(1) ☐ for each Plan Year, whether or not the Plan is a "top-heavy plan" as defined in Subsection 15.01(g) of the Basic Plan Document.

(2) ☒ for each Plan Year, if any, for which the Plan is a "top-heavy plan" as defined in Subsection 15.01(g) of the Basic Plan Document.

(3) ☐ Not applicable. ***(Choose only if (A) Plan covers only employees subject to a collective bargaining agreement, or (B) Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, or Option 1.12(a)(3), 401(k) Safe Harbor Formula, is selected, and the Plan does not provide for Employee Contributions or any other type of Employer Contributions.)***

(b) ***If the Plan is or is treated as a "top-heavy plan" for a Plan Year, each non-key Employee shall receive an Employer Contribution of at least*** **3.0** ***(3 or 5)% of Compensation for the Plan Year in accordance with Section 15.03 of the Basic Plan Document. The minimum Employer Contribution provided in this Subsection 1.22(b) shall be made under this Plan only if the Participant is not entitled to such contribution under another qualified plan of the Employer, unless the Employer elects otherwise below*****:**

(1) ☐ The minimum Employer Contribution shall be paid under this Plan in any event.

(2) ☐ Another method of satisfying the requirements of Code Section 416. Please complete the 416 Contributions Addendum to the Adoption Agreement describing the way in which the minimum contribution requirements will be satisfied in the event the Plan is or is treated as a "top-heavy plan".

(3) ☐ Not applicable. ***(Choose only if (A) Plan covers only employees subject to a collective bargaining agreement, or (B) Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, or Option 1.12(a)(3), 401(k) Safe Harbor Formula, is selected and the Plan does not provide for Employee Contributions or any other type of Employer Contributions.)***

Note: The minimum Employer contribution may be less than the percentage indicated in Subsection 1.22(b) above to the extent provided in Section 15.03 of the Basic Plan Document.

(c) ***If the Plan is or is treated as a "top-heavy plan" for a Plan Year, the following vesting schedule shall apply instead of the schedule(s) elected in Subsection 1.16(c) for such Plan Year and each Plan Year thereafter*** (check one):

(1) ☐ Not applicable. ***(Choose only if one of the following applies: (A) Plan provides for Nonelective Employer Contributions and the schedule elected in Subsection 1.16(c)(1) is at least as favorable in all cases as the schedules available below, (B) Option 1.11(a)(3), 401(k) Safe Harbor Matching Employer Contributions, or Option 1.12(a)(3), 401(k) Safe Harbor Formula, is selected, and the Plan does not provide for Employee Contributions or any other type of Employer Contributions, or (C) the Plan covers only employees subject to a collective bargaining agreement.)***

(2) ☒ 100% vested after **0** **(not in excess of 3)** years of Vesting Service.

(3) ☐ Graded vesting:

Years of Vesting Service	Vesting Percentage	Must be At Least
0		0%
1		0%
2		20%
3		40%
4		60%
5		80%
6 or more		100%

Note: If the Plan provides for Nonelective Employer Contributions and the schedule elected in Subsection 1.16(c)(1) is more favorable in all cases than the schedule elected in Subsection 1.22(c) above, then the schedule in Subsection 1.16(c)(1) shall continue to apply even in Plan Years in which the Plan is a "top-heavy plan".

1.23 CORRECTION TO MEET 415 REQUIREMENTS UNDER MULTIPLE DEFINED CONTRIBUTION PLANS

☐ ***Other Order for Limiting Annual Additions*** – If the Employer maintains other defined contribution plans, annual additions to a Participant's Account shall be limited as provided in Section 6.12 of the Basic Plan Document to meet the requirements of Code Section 415, unless the Employer elects this Option and completes the 415 Correction Addendum describing the order in which annual additions shall be limited among the plans.

1.24 INVESTMENT DIRECTION

Investment Directions – Subject to Section 8.03 of the Basic Plan Document, Participant Accounts shall be invested in accordance with the investment directions provided to the Trustee by each Participant for allocating his entire Account among the Options listed in the Service Agreement.

1.25 ADDITIONAL PROVISIONS

The Employer may elect Option (a) below and complete the Additional Provisions Addendum to describe provisions which cannot be shown by making the elections provided in this Adoption Agreement.

(a) ☐ The Employer has completed Additional Provisions Addendum to show the provisions of the Plan which supplement and/or alter provisions of this Adoption Agreement.

1.26 SUPERSEDING PROVISIONS

The Employer may elect Option (a) below and complete the Superseding Provisions Addendum to describe overriding provisions which cannot be shown by making the elections provided in this Adoption Agreement.

(a) ☐ The Employer has completed Superseding Provisions Addendum to show the provisions of the Plan which supersede provisions of this Adoption Agreement and/or the Basic Plan Document.

Note: If the Employer elects superseding provisions in Option (a) above, the Employer may not be permitted to rely on the Volume Submitter Sponsor's advisory letter for qualification of its Plan and may be required to apply for a determination letter as described in Section 1.27 below. In addition, such superseding provisions may in certain circumstances affect the Plan's status as a pre-approved volume submitter plan eligible for the 6-year remedial amendment cycle.

1.27 RELIANCE ON ADVISORY LETTER

An adopting Employer may rely on an advisory letter issued by the Internal Revenue Service as evidence that this Plan is qualified under Code Section 401 only to the extent provided in Section 19.02 of Revenue Procedure 2005 16. The Employer may not rely on the advisory letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the advisory letter issued with respect to this Plan and in Section 19.03 of Revenue Procedure 2005-16. In order to have reliance in such circumstances or with respect to such qualification requirements, application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.

Failure to properly complete the Adoption Agreement and failure to operate the Plan in accordance with the terms of the Plan document may result in disqualification of the Plan.

This Adoption Agreement may be used only in conjunction with Fidelity Basic Plan Document No. 14. The Volume Submitter Sponsor shall inform the adopting Employer of any amendments made to the Plan or of the discontinuance or abandonment of the volume submitter plan document.

1.28 ELECTRONIC SIGNATURE AND RECORDS

This Adoption Agreement, and any amendment thereto, may be executed or affirmed by an electronic signature or electronic record permitted under applicable law or regulation, provided the type or method of electronic signature or electronic record is acceptable to the Trustee.

1.29 VOLUME SUBMITTER INFORMATION

Name of Volume Submitter Sponsor:	Fidelity Management & Research Company
Address of Volume Submitter Sponsor:	82 Devonshire Street Boston, MA 02109

EXECUTION PAGE

(Employer's Copy)

The Fidelity Basic Plan Document No. 14 and the accompanying Adoption Agreement together comprise the Volume Submitter Defined Contribution Plan. It is the responsibility of the adopting Employer to review this volume submitter plan document with its legal counsel to ensure that the volume submitter plan is suitable for the Employer and that Adoption Agreement has been properly completed prior to signing.

IN WITNESS WHEREOF, the Employer has caused this Adoption Agreement to be executed this 4th day of March, 2010.

Employer: ACADIA Pharmaceuticals, Inc.
By: /s/ Thomas H. Aasen
Title: VP & CFO

Note: Only one authorized signature is required to execute this Adoption Agreement unless the Employer's corporate policy mandates two authorized signatures.

Employer: _____
By: _____
Title: _____

Accepted by: Fidelity Management Trust Company, as Trustee

By: /s/ Matthew L. Sears Date: March 4, 2010
Title: Authorized Signatory

EXECUTION PAGE

(Trustee's Copy)

The Fidelity Basic Plan Document No. 14 and the accompanying Adoption Agreement together comprise the Volume Submitter Defined Contribution Plan. It is the responsibility of the adopting Employer to review this volume submitter plan document with its legal counsel to ensure that the volume submitter plan is suitable for the Employer and that Adoption Agreement has been properly completed prior to signing.

IN WITNESS WHEREOF, the Employer has caused this Adoption Agreement to be executed this _____day of _____, _____.

Employer: _____
By: _____
Title: _____

Note: Only one authorized signature is required to execute this Adoption Agreement unless the Employer's corporate policy mandates two authorized signatures.

Employer: _____
By: _____
Title: _____

Accepted by: Fidelity Management Trust Company, as Trustee

By: _____ Date: _____
Title: _____

401(K) SAFE HARBOR MATCHING EMPLOYER CONTRIBUTIONS ADDENDUM

for

Plan Name: **ACADIA Pharmaceuticals 401(k) Plan and Trust**

Note: Safe Harbor Matching Employer Contributions will be made on behalf of "eligible" Participants, as defined in Section 1.11.

(a) ***401(k) Safe Harbor Matching Employer Contributions Formula***

Note: 401(k) Safe Harbor Matching Employer Contributions will only satisfy the "ADP" test with respect to Deferral Contributions made under this Plan.

Note: Matching Employer Contributions made under this Option must be 100% vested when made and may only be distributed because of death, disability, severance from employment, age 59 1/2, or termination of the Plan without the establishment of a successor plan. In addition, each Plan Year, the Employer must provide written notice to all Active Participants of their rights and obligations under the Plan.

(1) ☐ 100% of the first 3 % of the "eligible" Participant's Compensation contributed to the Plan and 50% of the next 2% of the "eligible" Participant's Compensation contributed to the Plan

(A) ☐ 401(k) Safe Harbor Matching Employer Contributions shall not be made on behalf of Highly Compensated Employees.

Note: If the Employer selects this formula and does not elect Option 1.11(b), Additional Matching Employer Contributions, Matching Employer Contributions will automatically meet the safe harbor contribution requirements for deemed satisfaction of the "ACP" test. (Employee Contributions must still be tested.)

(2) ☒ Other Enhanced Match: 100.00% of the first 5% of the "eligible" Participant's Compensation contributed to the Plan,

Note: To satisfy the 401(k) safe harbor contribution requirement for the "ADP" test, the percentages specified above for Matching Employer Contributions may not increase as the percentage of Compensation contributed increases, and the aggregate amount of Matching Employer Contributions at such rates must at least equal the aggregate amount of Matching Employer Contributions which would be made under the percentages described in Subsection (a)(1) of this Addendum.

(A) ☐ 401(k) Safe Harbor Matching Employer Contributions shall not be made on behalf of Highly Compensated Employees.

(B) ☒ The formula specified above is also intended to satisfy the safe harbor contribution requirement for deemed satisfaction of the "ACP" test with respect to Matching Employer Contributions. (Employee Contributions must still be tested.)

Note: To satisfy the safe harbor contribution requirement for the "ACP" test, the Deferral Contributions and/or Employee Contributions matched cannot exceed 6% of an "eligible" Participant's Compensation.

Volume Submitter Defined Contribution Plan

ADDENDUM TO ADOPTION AGREEMENT

Fidelity Basic Plan Document No. 14

RE: Pension Protection Act of 2006,

The Heroes Earnings Assistance and Relief Act of 2008,

The Worker, Retiree and Employee Recovery Act of 2008

And Code Sections 401(k) and 401(m) 2009 Proposed Regulations

Plan Name: ACADIA Pharmaceuticals 401(k) Plan and Trust

Fidelity 5-digit Plan Number: 43581

PREAMBLE

Adoption and Effective Date of Amendment. This amendment of the Plan is adopted to reflect certain provisions of the Pension Protection Act of 2006 (the "PPA"). This amendment is intended as good faith compliance with the PPA and is to be construed in accordance with applicable guidance. Except as otherwise provided below, this amendment shall be effective with respect to Fidelity's Volume Submitter plan for Plan Years beginning after December 31, 2006.

Supersession of Inconsistent Provisions. This amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment. ***(Execution of this PPA Addendum is not required unless one of (a) through (h) is being selected below and no provision of this PPA Addendum will be interpreted to supersede the provisions of the Plan unless selected below.)***

(a) ☐ ***In-service, Age 62 Distribution of Money Purchase Benefits***. A Participant who has attained at least age 62 shall be eligible to elect to receive a distribution of benefit amounts accrued as a result of the Participant's participation in a money purchase pension plan (either due to a merger into this Plan of money purchase pension plan assets and liabilities or because this Plan is a money purchase pension plan), if any. This subsection (a) shall be effective to permit such distributions on and after the following effective date:_____ (can be no earlier than the first day of the first plan year beginning after December 31, 2006).

(b) ☐ ***Automatic Enrollment Contributions. (Choose only if selecting (d) or (e) below.)***

(1) ***Adoption of Automatic Enrollment Contributions.*** Beginning on the effective date of this paragraph (1), as provided in paragraph (A) below (the "Automatic Enrollment Effective Date") and subject to the remainder of this Subsection (b), unless an Eligible Employee affirmatively elects otherwise, his Compensation will be reduced by __% (except as such percentage may be modified for certain Eligible Employees through the Additional Provisions Addendum to the Adoption Agreement, the "Automatic Enrollment Rate"), such percentage to be increased in accordance with Subsection (c) (if applicable), for each payroll period in which he is an Active Participant, beginning as indicated in (2) below, and the Employer will make a pre-tax Deferral Contribution in such amount on the Participant's behalf in accordance with the provisions of Section 5.03 of the Basic Plan Document (an "Automatic Enrollment Contribution").

(A) Automatic Enrollment Effective Date: _____

(B) If the Plan had an automatic contribution arrangement before the Automatic Enrollment Effective Date provided in (A) above (the "Pre-existing Arrangement"), the effective date of the Preexisting Arrangement was: _____.

Please also check (i) and/or (ii) below if applicable:

(i) ☐ The Pre-existing Arrangement was a Qualified Automatic Contribution Arrangement described in Code section 401(k)(13)(B).

(ii) ☐ The Pre-existing Arrangement was an Eligible Automatic Contribution Arrangement described in Code section 414(w)(3).

(2) With respect to an affected Participant, Automatic Enrollment Contributions will begin as soon as administratively feasible on or after (check one):

(A) ☐ The Participant's Entry Date.

(B) ☐ _____ (minimum of 30) days following the Participant's date of hire, but no sooner than the Participant's Entry Date.

Within a reasonable period ending no later than the day prior to the date Compensation subject to the reduction would otherwise become available to the Participant, an Eligible Employee may make an affirmative election not to have Automatic Enrollment Contributions made on his behalf. If an Eligible Employee makes no such affirmative election, his Compensation shall be reduced and Automatic Enrollment Contributions will be made on his behalf in accordance with the provisions of this Subsection (b), and Subsection (c), if applicable, until such Active Participant elects to change or revoke such Deferral Contributions as provided in Subsection 1.07(a)(1). Automatic Enrollment Contributions shall be made only on behalf of Active Participants who are first hired by the Employer on or after the Automatic Enrollment Effective Date and do not have a Reemployment Commencement Date, unless otherwise provided below.

(3) ☐ Additionally, subject to the Note below, unless such affected Participant affirmatively elects otherwise within the reasonable period established by the Plan Administrator, Automatic Enrollment Contributions will be made with respect to the Employees described below. (Check all that apply).

(A) ☐ Inclusion of Previously Hired Employees. On the later of the date specified in Subsection (b)(2) with regard to such Eligible Employee or as soon as administratively feasible on or after the 30th day following the Notification Date specified in (iii) below, Automatic Enrollment Contributions will begin for the following Eligible Employees who were hired before the Automatic Enrollment Effective Date and have not had a Reemployment Commencement Date. (Check (i) or (ii), complete (iii), and complete (iv), if applicable).

(i) ☐ Unless otherwise elected in (iv) below, all such Employees who have never had a Deferral Contribution election in place. If the Employer has elected a QACA in Subsection (d) below, then for the effective date of this election, all Participants for whom contributions are being made pursuant to an automatic contribution arrangement at a percentage not at least equal to the rate specified above (or the limit of automatic increase(s) as specified in Subsection (c)(2) below, if greater) will be automatically enrolled on the 30th day following the Notification Date at the rate given in Subsection (b)(1) above.

(ii) ☐ Unless otherwise elected in (iv) below, all such Employees who have never had a Deferral Contribution election in place and were hired by the Employer before the Automatic Enrollment Effective Date, but after the following date: _____.

(iii) Notification Date: _____.

(iv) ☐ In addition to the group of Employees elected in (i) or (ii) above, any Employee described in (i) or (ii) above, as applicable, even if he has had a Deferral Contribution election in place previously, provided he is not suspended from making Deferral Contributions pursuant to the Plan and has a deferral rate of zero on the Notification Date. If the Employer has elected a QACA in Subsection (d) below, then for the effective date of this election, all Participants not deferring a percentage at least equal to the rate specified above (or the limit of automatic increase(s) as specified in Subsection (c)(2) below, if greater) will be automatically enrolled on the 30th day following the Notification Date at the rate given in Subsection (b)(1) above.

(B) ☐ Inclusion of Rehired Employees. Unless otherwise stated herein, each Eligible Employee having a Reemployment Commencement Date on the Automatic Enrollment Effective Date. If Subsection (b)(3)(A)(ii) is selected, only such Employees with a Reemployment Commencement on or after the date specified in Subsection (b)(3)(A)(ii) will be automatically enrolled. If Subsection (b)(3)(A) is not selected, only such Employees with a Reemployment Commencement on or after the Automatic Enrollment Effective Date will be automatically enrolled. If Subsection (b)(2)(B) has been elected above, for purposes of Subsection (b)(2) only, such Employee's Reemployment Commencement Date will be treated as his date of hire.

(c) ☐ ***Automatic Deferral Increase (Choose only if Automatic Enrollment Contributions are elected in Subsection (b) above)*** **-** Unless an Eligible Employee affirmatively elects otherwise after receiving appropriate notice, Deferral Contributions for each Active Participant having Automatic Enrollment Contributions made on his behalf shall be increased annually by the (whole number) percentage of Compensation stated in (1) below until the deferral percentage stated in Section 1.07(a)(1) is reached (except that the increase will be limited to only the percentage needed to reach the limit stated in Section 1.07(a)(1), if applying the percentage in (1) would exceed the limit stated in Section 1.07(a)(1)), unless the Employer has elected a lower percentage limit in Subsection (c)(2) below.

(1) Increase by ____% **(**except as such percentage may be modified for certain Eligible Employees through the Additional Provisions Addendum to the Adoption Agreement, but not to exceed 10%**)** of Compensation. Such increased Deferral Contributions shall be pre-tax Deferral Contributions regardless of any election made by the Participant to have any portion of his Deferral Contributions treated as a Roth 401(k) Contribution.

(2) ☐ Limited to ____% of Compensation **(not to exceed the percentage indicated in Subsection 1.07(a)(1))**.

(3) The Automatic Deferral Increase for each Participant still subject to it pursuant to Section 5.03(c) of the Basic Plan Document shall occur:

(A) ☐ On each anniversary of such Participant's automatic enrollment date pursuant to (b)(2) or (b)(3) above, as applicable.

(B) ☐ Except if selected below with regard to the first such annual increase, each year on the following date: _____

(i) ☐ The automatic deferral increase shall not apply to a Participant within the first six months following the automatic enrollment date pursuant to (b)(2) or (b)(3) above, as applicable.

(d) ☐ ***Qualified Automatic Contribution Arrangement.*** The automatic contribution arrangement described in Sections (b) and (c) (if applicable) of this Addendum shall constitute a qualified automatic contribution arrangement described in Code Section 401(k)(13) ("QACA"), initially effective as of the following date: _____ (can be no earlier than the first day of the first plan year beginning after December 31, 2007).

(1) ☐ QACA Matching Employer Contribution Formula. Matching Employer Contributions used to satisfy the QACA must vest at least as rapidly as 100% once the Participant is credited with two Years of Service.

(A) ☐ 100% of the first 1% of the Active Participant's Compensation contributed to the Plan and 50% of the next 5% of the Active Participant's Compensation contributed to the Plan.

Note: If the Employer selects this formula and does not elect Subsection 1.11(b) (or Subsection 1.11(f) through the Additional Provisions Addendum, as appropriate), Additional Matching Employer Contributions, Matching Employer Contributions will automatically meet the safe harbor contribution requirements for deemed satisfaction of the "ACP" test. (Employee Contributions must still be tested for "ACP" test purposes.)

(B) **(i)** ☐ Other Enhanced Match:____% of the first ____% of the Active Participant's Compensation contributed to the Plan,

____% of the next ____% of the Active Participant's Compensation contributed to the Plan,

____% of the next ____% of the Active Participant's Compensation contributed to the Plan.

Note: To satisfy the safe harbor contribution requirement for the "ADP" test, the percentages specified above for Matching Employer Contributions may not increase as the percentage of Compensation contributed increases, and the aggregate amount of Matching employer contributions at such rates must at least equal the aggregate amount of Matching Employer Contributions that would be made under the percentages described in (d)(1)(A) of this Addendum.

(ii) ☐ The formula in (i) of this paragraph (B) is also intended to satisfy the safe harbor contribution requirement for deemed satisfaction of the "ACP" test with respect to Matching Employer Contributions. (Employee Contributions must still be tested for "ACP" test purposes.)

(C) ☐ Safe harbor Matching Employer Contributions shall not be made on behalf of Highly Compensated Employees.

(2) ☐ QACA Nonelective Employer Contribution. Nonelective Employer Contributions used to satisfy the QACA must vest at least as rapidly as 100% once the Participant is credited with two Years of Service.

(A) ☐ For each Plan Year, the Employer shall contribute for each eligible Active Participant an amount equal to ____% (not less than 3% nor more than 25%) of such Active Participant's Compensation.

(B) ☐ The Employer may decide each Plan Year whether to amend the Plan by electing and completing (i) below to provide for a contribution on behalf of each eligible Active Participant in an amount equal to at least 3% of such Active Participant's Compensation.

Note: An employer that has selected paragraph (B) above must amend the Plan by electing (i) below no later than 30 days prior to the end of each Plan Year for which the QACA Nonelective Employer Contributions are being made.

(i) ☐ For the Plan Year beginning ____, the Employer shall contribute for each eligible Active Participant an amount equal to ____% (not less than 3% nor more than 25%) of such Active Participant's Compensation.

(C) ☐ QACA Nonelective Employer Contributions shall not be made on behalf of Highly Compensated Employees.

(D) ☐ The employer has elected to make Matching Employer Contributions under Subsection 1.10 of the Adoption Agreement, if any, that are intended to meet the requirements for deemed satisfaction of the "ACP" test with respect to Matching Employer Contributions.

(3) ☐ The Plan previously had a QACA, but the Plan was amended to remove the QACA effective: _____

(e) ☐ ***Eligible Automatic Contribution Arrangement.*** The automatic contribution arrangement described in Sections (b) and (c) (if applicable) of this Addendum shall constitute an eligible automatic enrollment arrangement described in Code Section 414(w) ("EACA"), effective as of the following date: _____ (can be no earlier than the first day of the first plan year beginning after December 31, 2007).

(1) ☐ Permissible Withdrawal. A Participant who has made an Automatic Enrollment Contribution pursuant to the EACA (an "EACA Participant") shall be eligible to elect to withdraw the amount attributable to such Automatic Enrollment Contribution pursuant to the following rules:

(A) The EACA Participant must make any such election within ninety days of his automatic enrollment date pursuant to (b)(2) or (b)(3) above, as applicable. Upon making such an election, the EACA Participant's Deferral Contribution election will be set to zero until such time as the EACA Participant's Deferral Contribution rate has changed pursuant to Section 1.07(a)(1) or this Addendum.

(B) The amount of such withdrawal shall be equal to the amount of the EACA Deferrals through the end of the fifteen day period beginning on the date the Participant makes the election described in (A) above, adjusted for allocable gains and losses to the date of such withdrawal.

(C) Any amounts attributable to Employer Matching Contributions allocated to the Account of an EACA Participant with respect to EACA Deferrals that have been withdrawn pursuant to this Section (e)(1) shall be forfeited. In the event that Employer Matching Contributions would otherwise be allocated to the EACA Participant's Account with respect to EACA Deferrals that have been so withdrawn, the Employer shall not contribute such Employer Matching Contributions to the Plan.

(2) An Active Participant who is otherwise covered by the EACA but who makes an affirmative election regarding the amount of Deferral Contributions shall remain covered by the EACA solely for purposes of receiving any required notice from the Plan Administrator in connection with the EACA and for purposes of determining the period applicable to the distribution of certain excess contributions pursuant to Sections 6.04 and 6.07 of the Basic Plan Document.

(3) ☐ The Plan previously allowed the Permissible Withdrawal described in (e)(1) above, but the Plan was amended to remove the Permissible Withdrawal effective for Participants automatically enrolled on or after the following date:_____.

(f) ☐ Coverage under the QACA and/or EACA. The QACA and/or EACA described in the previous sections of this PPA Addendum shall cover only those Active Participants eligible to affirmatively elect to make Deferral Contributions described below (Check all that apply. If Option (e)(1), Permissible Withdrawal, has been selected by the Employer, then all Employees subject to an automatic enrollment arrangement through the Plan must be covered by the EACA.):

(1) ☐ Those who are not employees of an unrelated employer listed in Section (c) of the Participating Employers Addendum and are not collectively bargained employees, as defined in Treasury Regulation section 1.410(b)- 6(d)(2).

(2) ☐ Those who are not employees of an unrelated employer listed in Section (c) of the Participating Employers Addendum and are collectively bargained employees, as defined in Treasury Regulation section 1.410(b)-6(d)(2), except for those covered under the following collective bargaining agreement(s): _____.

(3) ☐ Those who are employees of an unrelated employer listed in Section (c) of the Participating Employers Addendum, except as provided in (A) below if selected.

(A) ☐ Employees of the following unrelated employer(s) listed in Section (c) of the Participating Employers Addendum shall not be covered by the QACA and/or EACA:

_____.

_____.

Note: In the event the Plan's automatic contribution arrangement is both an EACA and a QACA, the Employer's elections in this subsection (f) apply to both the EACA and the QACA.

(g) ☐ ***Qualified Reservist Distribution.*** A Participant called to active duty after September 11, 2001 for a period that is either indefinite or to exceed 179 days and the Participant takes the distribution between the date of the call to active duty and the close of the active duty period. The distribution may be made only from amounts attributable to 401(k) deferrals and is exempt from the 10% income tax penalty that would otherwise apply if the Participant has not yet attained age 59 1/ 2. The PPA would further permit the Participant to repay the distribution to an IRA only (not to the plan) within two years after the end of the active duty period. This subsection (g) shall be effective to permit such distributions after the following date: _____ (can be no earlier than September 11, 2001).

(h) ☐ ***Change to Addendum Provisions.*** The Employer has amended the provisions of Subsection (a), (b), (c), (d), (e), (f) and/or (g) to be as indicated above.

Amendment Execution

IN WITNESS WHEREOF, the Employer has caused this Amendment to be executed this __ day of _____, _____.

Employer: ACADIA Pharmaceuticals Inc.

By: _____

Title: _____

Employer: ACADIA Pharmaceuticals Inc.

By: _____

Title: _____

Accepted by: Fidelity Management Trust Company, as Trustee

By: _____

Title: Authorized Signatory

Date: _____

EFFECTIVE DATES FOR INTERIM LEGAL COMPLIANCE SNAP OFF ADDENDUM

for

Plan Name: ACADIA Pharmaceuticals 401(k) Plan and Trust

Notwithstanding any other provision of the Plan to the contrary, to comply with changes required by the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), Treasury regulations under Code Section 401(a)(9) ("401(a)(9) Regulations"), final Treasury regulations under Code Section 401(k) ("final 401(k) Regulations"), and final Treasury regulations under Code Section 401(m) ("final 401(m) Regulations"), the following provisions shall apply effective as of the dates set forth below:

(a) ***EGTRRA Compliance*** - Unless a later date is specified below, the following changes for compliance with EGTRRA were effective as of the first day of the first Plan Year beginning on or after January 1, 2002:

(1) **Code Section 401(a)(17) Compensation Limit** – The dollar limitation on compensation used to calculate contributions, apply the limitations in effect under Code Section 415, apply the ADP and ACP tests, and apply the top-heavy rules was increased to $200,000, as adjusted.

(2) ☒ **Catch-Up Contributions** – **Unless a later date is specified below,** the Plan was amended to provide for Catch-Up Contributions.

(A) ☒ **Later Effective Date.** Catch-Up Contributions were permitted after the first day of the first Plan Year beginning on or after January 1, 2002:

Later effective date: 01/01/2002 **(month/day/year)**

(B) ☐ **Discontinuation of Catch-Up Contributions**. Catch-Up Contributions were discontinued effective as of: _____ **(month/day/year)**

(3) **Rollovers of After-Tax Contributions to the Plan** – Unless otherwise specified below, the Plan accepted direct rollovers of after-tax employee contributions from plans qualified under Code Section 401(a).

(A) ☐ **Rollovers of After-Tax Contributions Never Permitted**. The Plan has never accepted direct rollovers of after-tax employee contributions.

(B) ☐ **Later Effective Date**. The Plan did not accept direct rollovers of after-tax employee contributions until a date later than the first day of the first Plan Year beginning on or after January 1, 2002:

Effective Date: _____ **(month/day/year)**

(C) ☐ **Discontinuation of After-Tax Rollovers**. The Plan ceased to accept direct rollovers of after-tax employee contributions effective as of: _____ **(month/day/year)**

(4) **Rollovers from Other Eligible Retirement Plans – Unless otherwise specified below**, in addition to accepting Rollover Contributions from plans qualified under Code Section 401(a) or 403(a), the Plan was amended to accept Rollover Contributions from annuity contracts described in Code Section 403(b) (excluding after-tax employee contributions), eligible plans under Code Section 457(b) maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, and individual retirement accounts or annuities described in Code Section 408(a) or 408(b).

(A) ☐ The Plan did not accept Rollover Contributions from annuity contracts described in Code Section 403(b) (excluding after-tax employee contributions) until a date later than the first day of the first Plan Year beginning on or after January 1, 2002:

Effective Date: _____ **(month/day/year)** ***(cannot be later than the date the Plan was restated onto a Fidelity Prototype or Volume Submitter)***

(B) ☐ The Plan did not accept Rollover Contributions from a eligible plans under Code Section 457(b) maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state until a date later than the first day of the first Plan Year beginning on or after January 1, 2002:

Effective Date: _____ **(month/day/year)** ***(cannot be later than the date the Plan was restated onto a Fidelity Prototype or Volume Submitter)***

(C) ☐ The Plan did not accept Rollover Contributions from individual retirement accounts or annuities described in Code Section 408(a) or 408(b) until a date later than the first day of the first Plan Year beginning on or after January 1, 2002:

Effective Date: _____ **(month/day/year)** ***(cannot be later than the date the Plan was restated onto a Fidelity Prototype or Volume Submitter)***

(5) **Multiple Use Test** – To the extent applicable, the provisions of the Plan proscribing multiple use of the alternative limitations under Code Sections 401(k)(3)(A)(ii)(II) and 401(m)(2)(A)(ii), as provided in Treasury Regulations Section 1.401(m)-2, were deleted.

(6) **415 Limitations – The Plan was amended to reflect the Code Section 415 limitations in** effect under EGTRRA, as described in Section 6.12 of the Basic Plan Document.

(7) ☐ **Vesting of Matching Employer Contributions** – Except as otherwise specified below, the Plan was amended to change the vesting schedule applicable to Matching Employer Contributions to comply with EGTRRA for Participants who complete an Hour of Service on or after the effective date. Unless otherwise elected below, the amended vesting schedule applies to all accrued benefits derived from Matching Employer Contributions.

(A) ☐ **Delayed Effective Date for Bargained Plan.** The Plan was maintained pursuant to one or more collective bargaining agreements ratified by June 1, 2001 and the effective date of the revised vesting schedule was later than the first day of the first Plan Year beginning on or after January 1, 2002:

Effective Date: _____ **(month/day/year)** ***(cannot be later than the earlier of (i) January 1, 2006 or (ii) the later of the date on which the last of the collective bargaining agreements described above terminates (without regard to any extension on or after June 1, 2001) or January 1, 2002)***

(B) ☐ **Grandfathered Application of Prior Vesting Schedule.** The vesting schedule in effect before the amendment continues to apply to the portion of a Participant's accrued benefit derived from Matching Employer Contributions made to the Plan for a Plan Year beginning before the effective date.

(8) **Loans by Owner-Employees and Shareholder-Employees** – If the Plan provided for loans to Participants from Plan assets, the Plan was amended to eliminate the restriction on loans to owner-employees, as defined in Code Section 401(c)(3), and shareholder-employees, as defined in ERISA Section 408(d)(3).

(9) **Hardship Withdrawals – Suspension of Contributions** – Except as otherwise specified below, if the Plan provided for hardship withdrawals in accordance with the safe harbor in Treasury Regulations Section 1.401(k)-1(d)(2)(iv)(B), the Plan was amended to change the suspension period applicable to elective contributions and employee contributions from 12 months to 6 months.

(A) ☐ **Delayed Effective Date.** The change in the suspension period was effective later than the first day of the first Plan Year beginning on or after January 1, 2002:

Effective Date: _____ **(month/day/year)** ***(cannot be later than the date the Plan was restated onto a Fidelity Prototype or Volume Submitter)***

(10) **Hardship Withdrawals – Elimination of Reduction in 402(g) Limit** – Except as otherwise specified below, if the Plan provided for hardship withdrawals in accordance with the safe harbor in Treasury Regulations Section 1.401(k)-1(d)(2)(iv)(B), the Plan was amended to eliminate the reduction in the Code Section 402(g) limit for calendar years beginning on and after January 1, 2002 with respect to Participants receiving a hardship withdrawal on or after January 1, 2001.

(A) ☐ **Delayed Effective Date.** The reduction in the 402(g) limit was eliminated for calendar years beginning on and after January 1, _____ ***(cannot be later than the year following the date the Plan was restated onto a Fidelity Prototype or Volume Submitter)*** with respect to Participants receiving a hardship withdrawal on or after January 1st of the year prior to the year indicated in this Subsection (a)(10)(A).

(11) ☐ **Distribution Upon Severance from Employment** – The Plan was amended to permit distribution of Deferral Contributions, Qualified Nonelective Contributions, Qualified Matching Contributions, 401(k) Safe Harbor Matching Employer Contributions, and 401(k) Safe Harbor Nonelective Employer Contributions upon a Participant's severance from employment rather than requiring a separation from service.

(A) ☐ **Delayed Effective Date**. Distribution upon severance from employment was not permitted until after the first day of the first Plan Year beginning on or after January 1, 2002:

Effective Date: _____ **(month/day/year)**

(B) ☐ **Limitation on Rule**. Distribution upon severance from employment was effective only for severances occurring after: _____ **(month/day/year)**

(12) **Rollovers Out of the Plan** – The Plan was amended to permit direct rollovers of "eligible rollover distributions" (as defined in Subsection 13.04(c) of the Basic Plan Document) from the Plan by the Participant, the Participant's surviving spouse, or the Participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order to any "eligible retirement plan" (as defined in Subsection 13.04(b) of the Basic Plan Document).

(13) **Top-Heavy Modifications** – The Plan was amended to comply the top-heavy provisions with EGTRRA by: (i) modifying the definition of "key employee" as provided in Subsection 15.01(d) of the Basic Plan Document, (ii) including for purposes of the top-heavy determination any distribution made to an employee on account of severance from employment, death, disability, or termination of a plan during the one-year period ending on the "determination date", as defined in Subsection 15.01(a) of the Basic Plan Document, and any other distribution made during the five-year period ending on the "determination date", (iii) excluding for purposes of the top-heavy determination the accrued benefits and accounts of any individual who has not performed services for the 1-year period ending on the "determination date", (iv) permitting matching contributions to be taken into account for purposes of satisfying the top-heavy minimum contribution requirement, and (v) providing that the top-heavy provisions are inapplicable for years in which a plan consists solely of a cash or deferred arrangement that meets the requirements of Code Section 401(k(12) and, if applicable, matching contributions with respect to which the requirements of Code Section 401(m)(11) are met.

(14) ☐ **Disregard Rollovers in Applying Cashout Rules** – The Plan was amended to exclude Rollover Contributions in determining whether a Participant's Account exceeded the cashout limit specified in the Plan.

(A) ☐ **Delayed Effective Date**. Rollover Contributions were not excluded for cashout purposes until after the first day of the first Plan Year beginning on or after January 1, 2002:

Effective Date: _____ **(month/day/year)**

(B) **Rollover Contributions Included in Applying Cashout Rules**. The Plan was further amended to include Rollover Contributions in determining whether a Participant's Account exceeded the cashout limit specified in the Plan as of the date specified below:

Effective Date: _____ **(month/day/year)** ***(cannot be later than the date the Plan was restated onto a Fidelity Prototype or Volume Submitter)***

(b) **401(a)(9) Regulations Compliance** - The Plan was amended to comply with 401(a)(9) Regulations as follows:

(1) ☒ **Compliance with Proposed Regulations.** The Plan was amended to apply the minimum distribution requirements of Code Section 401(a)(9) in accordance with the regulations under Code Section 401(a)(9) that were proposed in January 2001 with respect to distributions made for the following calendar years:

(A) ☐ 2001 calendar year.

(B) ☒ 2002 calendar year.

(2) **Compliance with Final Regulations**. Except as otherwise specified below, the Plan was amended to apply the minimum distribution requirements of Code Section 401(a)(9) in accordance with the final regulations under Code Section 401(a)(9) that were published in April 2002 with respect to distributions made for calendar years beginning on or after January 1, 2003.

(A) ☐ **Earlier Effective Date**. Distributions were made in accordance with the final regulations for calendar years beginning on or after January 1, 2002.

(c) ***Automatic Rollover Compliance*** - Except as otherwise specified below, if the Plan provided for cash outs of small benefits, effective as of March 28, 2005, the Plan was amended to comply with the automatic rollover rules of EGTRRA by reducing the cashout limit applicable to Participants to $1,000:

(1) ☐ Instead of reducing the cashout limit, the Plan was amended to provide that mandatory distributions greater than $1,000 would be rolled over directly to an individual retirement plan designated by the Administrator.

(A) ☐ The Plan was subsequently amended, as of the date specified below, to reduce the cashout limit to $1,000:

Effective Date: _____ **(month/day/year)**

(d) ***Final 401(k) and 401(m) Regulations Compliance*** - Unless a different date is specified below, the following changes for compliance with the final 401(k) and final 401(m) Regulations were effective as of the first day of the first Plan Year beginning on or after January 1, 2006:

(1) ☐ **Earlier Effective Date**. The Plan was amended to comply with the final 401(k) and final 401(m) Regulations effective as of the first day of the following Plan Year: _____ ***(cannot be later than the 2006 Plan Year)***

Note: If an earlier Plan Year is selected above, it must have ended after December 29, 2004 and the Plan must have been operated in compliance with the final 401(k) and final 401(m) Regulations for the full Plan Year and all subsequent Plan Years.

(2) **Qualified Nonelective Contributions**. Unless a later date is specified below, if the Plan provided for Qualified Nonelective Contributions ("QNECs") to be allocated pursuant to a "bottoms up" or other formula that could violate the requirements of Treasury Regulations Section 1.401(k)-2(a)(6)(iv) or 1.401(m)-2(a)(6)(v) (excluding disproportionate QNECs in applying the ADP and ACP tests), the QNEC allocation formula was amended to comply with such regulations.

(A) ☐ **Later Effective Date**. The QNEC allocation formula was amended after the general effective date for compliance with the final 401(k) and final 401(m) Regulations described above.

Effective Date: _____ **(month/day/year)** ***(cannot be later than the date the Plan was restated onto a Fidelity Prototype or Volume Submitter)***

(3) **Gap Period Income**. If not previously provided under the Plan, the Plan was amended to provide that for purposes of corrective distributions of "excess deferrals", "excess contributions", and "excess aggregate contributions", income and loss on such amounts would be calculated for the gap period between the end of the "determination year" and the date of distribution.

(4) **Hardship Withdrawal Events**. Unless a later date is specified below, if the Plan provided for hardship withdrawals upon the occurrence of a deemed immediate and heavy financial need, as described in Treasury Regulations, the Plan was amended to add the deemed needs described in Treasury Regulations Section 1.401(k)-1(d)(3)(iii)(B)(5) and (6) (funeral and casualty expenses).

(A) ☐ **Later Effective Date**. The additional deemed immediate and heavy financial needs were amended after the general effective date for compliance with the final 401(k) and final 401(m) Regulations described above.

Effective Date: _____ **(month/day/year)** ***(cannot be later than the date the Plan was restated onto a Fidelity Prototype or Volume Submitter)***

(e) ☐ ***Roth 401(k) Contributions*** - Prior to the Adoption Agreement effective date specified in Subsection 1.01(g)(1), the Plan was amended to provide for Roth 401(k) Contributions.

(1) **Effective Date**. Unless a later effective date is specified below, Roth 401(k) Contributions were permitted beginning January 1, 2006.

(A) Later effective date: _____ **(month/day/year)** ***(cannot be prior to January 1, 2006)***

(2) ☐ **Discontinuation of Roth 401(k) Contributions**. Roth 401(k) Contributions were discontinued effective as of: _____ **(month/day/year)**

(f) ☐ ***Rollovers of Roth 401(k) Contributions*** - Prior to the Adoption Agreement effective date specified in Subsection 1.01(g)(1), the Plan was amended to permit rollovers of Roth Contributions into the Plan.

(1) ☐ **Direct Rollovers**. Unless a later effective date is specified below, direct rollovers of Roth Contributions were permitted to be made to the Plan from an applicable retirement plan described in Code Section 402A(e)(1), subject to Code Section 402(c), beginning January 1, 2006.

(A) Later effective date: _____ **(month/day/year)** ***(cannot be prior to January 1, 2006)***

(B) ☐ **Discontinuation of Direct Rollovers**. Direct rollovers of Roth Contributions were discontinued effective as of: _____ **(month/day/year)**

(2) ☐ **Participant Rollovers**. Unless a later effective date is specified below, "participant rollovers" of the taxable portion of a distribution of Roth Contributions were permitted to be made to the Plan from an applicable retirement plan described in Code Section 402A(e)(1). "Participant rollovers" are rollovers other than direct rollovers, as described in Code Section 401(a)(31).

(A) Later effective date: _____ **(month/day/year)** ***(cannot be prior to January 1, 2006)***

(B) ☐ **Discontinuation of Participant Rollovers**. Direct rollovers of Roth Contributions were discontinued effective as of: _____ **(month/day/year)** ***(cannot be later than the date the Plan was restated onto a Fidelity Prototype or Volume Submitter)***

Exhibit 10.21

*****Text Omitted and Filed Separately with the Securities and Exchange Commission. Confidential Treatment Requested Under 17 C.F.R. Sections 200.80(b)(4) and 240.24b-2.**

AMENDMENT TO COLLABORATION AND LICENSE AGREEMENT

THIS AMENDMENT TO COLLABORATION AND LICENSE AGREEMENT (the "***Amendment***") is entered into as of October 5, 2009 (the "***Amendment Effective Date***") by and between **ACADIA PHARMACEUTICALS INC.**, a Delaware corporation ("***ACADIA***") with offices at 3911 Sorrento Valley Blvd., San Diego, CA 92121, and **BIOVAIL LABORATORIES INTERNATIONAL SRL**, a Barbados society with restricted liability ("***BLS***"), having its registered office at Welches, Christ Church, Barbados WI, BB17154.

WHEREAS

A. The parties previously entered into that certain Collaboration and License Agreement, dated May 1, 2009 (the "***Agreement***"), and capitalized terms that are used but not defined herein shall have the applicable meaning given such terms in the Agreement.

B. Pursuant to the Agreement the parties are developing Pimavanserin, a selective 5-HT_{2A} inverse agonist, for the treatment of Parkinson's disease psychosis ("***PDP***"), and other indications, including Alzheimer's disease psychosis ("***ADP***");

C. The first Phase III Clinical Trial with Pimavanserin for PDP, ACP-103-012, did not meet its primary endpoint;

D. The second Phase III Clinical Trial with Pimavanserin for PDP, ACP-103-014, has a similar design to ACP-103-012 and is currently ongoing;

E. The parties wish to amend certain responsibilities under the Agreement, including responsibilities with respect to the PDP and ADP Indications; and

NOW THEREFORE, in consideration of the foregoing and the covenants and premises contained in this Amendment, the parties hereby agree as follows:

PDP Program Continuation

1. ACADIA and BLS intend to continue the development of Pimavanserin for PDP, but have agreed to conclude the currently ongoing ACADIA Study, ACP-103-014 (the ***"-014 Trial***"). For greater certainty, ACADIA shall remain responsible for completing and paying for any tasks associated with concluding the -014 Trial. Based on the results of the ACP-103-012 trial, the parties are planning the design of a new Phase III Clinical Trial for Pimavanserin in PDP (the "***New PDP Trial***"), which would be a two-arm study of (i) 40mg of Pimavanserin and (ii) placebo. The PDP Development Plan (including the Budget included therein) shall be amended to reflect the New PDP Trial, subject to approval of the Development Committee.

2. The New PDP Trial shall be an Additional Pre-NDA PDP Study and shall be funded by BLS in accordance with, and subject to the other terms of, the Agreement including, without limitation, the terms of Section 4.8(a)(i) of the Agreement, to the extent not modified or amended pursuant to this Amendment. Notwithstanding the foregoing, if, following completion of the New PDP Trial according to the protocol approved by the Development Committee, the Development Committee determines that the results from the New PDP Trial indicate that the 40 mg dose did not meet the primary end-point set forth in such protocol (the "***DC PDP Determination***"), then ACADIA shall reimburse BLS for 50% of the Development Expenses incurred in conducting the New PDP Trial that do not exceed the Budget for such New PDP Trial Expenses by more than […***…] unless otherwise approved by the Development Committee (the "***New PDP Trial Expenses***"). BLS shall provide ACADIA with Quarterly Reports contemplated by Section 4.8(b) for the New PDP Trial for ACADIA's information and tracking.

3. Within […***…] days after the DC PDP Determination, BLS shall provide ACADIA with a written report setting forth in reasonable detail the New PDP Trial Expenses (together with the evidence supporting such New PDP Trial Expenses) and setting forth the amount payable by ACADIA to BLS in accordance with this Amendment. ACADIA shall pay the amount due to BLS within […***…] days after receipt of the written report.

4. For a period of one year following delivery of the written report contemplated by Section 3 of this Amendment from BLS to ACADIA, ACADIA shall have the right to cause an independent, certified public accounting firm reasonably acceptable to BLS to audit BLS' records relating to the New PDP Trial Expenses to confirm the amount of the New PDP Trial Expenses reflected in the written report. Such audit right may be exercised during normal business hours upon reasonable prior written notice. As appropriate, prompt adjustments to payments made pursuant to Section 3 of this Amendment shall be made by the parties to reflect the results of such audit. ACADIA shall bear the full cost of such audit unless such audit discloses an over-reporting by BLS of more than […***…] of the amount of New PDP Trial Expenses, in which case BLS shall bear the full cost of such audit.

5. Section 4.8(a)(i) of the Agreement shall be amended and restated to read "(i) BLS shall bear 100% of all Development Expenses, excluding […***…] Expenses related to the ACADIA Studies (other than that portion of the ACADIA Studies for which the Parties mutually agree to share costs pursuant to the Development Plan and applicable Budget), that do not exceed the Budget for such Development Expenses by more than […***…] unless otherwise approved by the Development Committee […***…]"

6. The lead-in to Section 6.2 of the Agreement shall be amended and restated to read "**Milestone Payments.** In further consideration for the licenses and rights granted to BLS hereunder, BLS shall pay to ACADIA the milestone payments set out below following the first achievement of the corresponding milestone. A Party shall notify the other Party in writing within […***…] days after the achievement of each milestone event, and ACADIA shall invoice BLS at the time of or following such notice for the applicable milestone payment. BLS shall pay to ACADIA the amounts set forth below within […***…] days after its receipt of ACADIA's invoice. The payments set forth in this Section 6.2 shall not be refundable or creditable against any other payments by BLS to ACADIA under this Agreement […***…]"

7. The lead-in to Section 4.4(b) of the Agreement shall be amended and restated to read "**Additional Pre-NDA PDP Studies.** In the event that the Development Committee determines that […***…] additional pivotal Phase III Clinical Trials of Product for the prevention or treatment of PDP are required in order to file an NDA for Product for the prevention or treatment of PDP with the FDA (the "***Additional Pre-NDA PDP Studies***"), then BLS shall have the option, which it may exercise upon written notice to ACADIA […***…] following such determination by the Development Committee, to do one of the following:".

ADP Indication

8. Section 4.5(a) of the Agreement provides that the parties will commence an ADP trial with Pimavanserin […***…]. Section 4.5(a) of the Agreement further provides that BLS shall be responsible for funding such clinical trial under the ADP Development Plan. Notwithstanding Section 4.5(a) of the Agreement, the parties hereby agree that ACADIA may proceed with a feasibility study for Pimavanserin for the prevention or treatment of ADP (the "***ACADIA ADP Trial***") at ACADIA's sole expense and that the ACADIA ADP Trial shall be deemed to be the first clinical trial for ADP referenced in Section 4.5 of the Agreement […***…].

9. The parties will prepare the ADP Development Plan (including the Budget included therein) to reflect the ACADIA ADP Trial, subject to approval of the Development Committee. The ACADIA ADP Trial shall be conducted according to a protocol agreed to by the parties and shall be funded by ACADIA and performed by ACADIA in accordance with, and subject to the other terms of, the Agreement. ACADIA shall provide BLS with Quarterly Reports for the New ADP Trial contemplated by for BLS's information and tracking.

10. If, following completion of this ADP trial according to the protocol agreed to by the parties, the Development Committee determines that the results from the ACADIA ADP Trial meet the primary end point for either or both doses being tested (the "***DC ADP Determination***"), then BLS shall fully reimburse ACADIA for all of the Development Expenses for the ACADIA ADP Trial that do not exceed the Budget for such Development Expenses by more than […***…] unless otherwise approved by the Development Committee (the "***New ADP Trial Expenses***"). For the avoidance of doubt, following completion of the ACADIA ADP Trial, BLS shall make the election called for by Section 4.5(b) of the Agreement.

11. Within […***…] days after the DC ADP Determination, ACADIA shall provide BLS with a written report setting forth in reasonable detail the New ADP Trial Expenses (together with the evidence supporting such New ADP Trial Expenses) and setting forth the amount payable by BLS to ACADIA in accordance with this Amendment. BLS shall pay the amount due to ACADIA within […***…] days after receipt of the written report.

12. For a period of one year following delivery of the written report contemplated by Section 11 of this Amendment from ACADIA to BLS, BLS shall have the right to cause an independent, certified public accounting firm reasonably acceptable to ACADIA to audit ACADIA's records relating to the New ADP Trial Expenses to confirm the amount of the New ADP Trial Expenses reflected in the written report. Such audit right may be exercised during normal business hours upon reasonable prior written notice. As appropriate, prompt adjustments to payments made pursuant to Section 12 of this Amendment shall be made by the parties to reflect the results of such audit. BLS shall bear the full cost of such audit unless such audit discloses an over-reporting by ACADIA of more than […***…] of the amount of New ADP Trial Expenses, in which case ACADIA shall bear the full cost of such audit.

General Provisions

13. Full Force and Effect. Except as specifically amended by this Amendment, the Agreement shall remain in full force and effect. If there is any inconsistency or conflict between any provision in this Amendment and any provision in the Agreement, the provision in this Amendment shall control.

14. Miscellaneous. This Amendment may be signed in counterparts, each of which shall be deemed an original, all of which taken together shall be deemed one instrument. This Amendment and all questions regarding its existence, validity, interpretation, breach or performance of this Amendment, shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, United States, without reference to its conflicts of law principles with the exception of sections 5-1401 and 5-1402 of New York General Obligations Law.

IN WITNESS WHEREOF, the parties hereto have duly executed this **AMENDMENT TO COLLABORATION AND LICENSE AGREEMENT**.

ACADIA PHARMACEUTICALS INC.

By: /s/ Uli Hacksell
Name: Uli Hacksell
Title: CEO

BIOVAIL LABORATORIES INTERNATIONAL SRL

By: /s/ William M. Wells
Name: William M. Wells
Title: President

FOURTH AMENDMENT TO LEASE
RE TERMINATION OF LEASE AS TO 3931 SORRENTO

PARTIES:	RGH HOLDINGS LIMITED PARTNERSHIP, an Alaskan limited partnership (successor-in-interest to E.G. SIRRAH LLC, a California limited liability company) P.O. Box 2790 Malibu, California 90265 ("Lessor") ACADIA PHARMACEUTICALS INC., a Delaware corporation 3911 Sorrento Valley Boulevard San Diego, California 92121 ("Lessee")
DATE:	January 22, 2010
PLACE:	Los Angeles, California

RECITALS

A. Lessor and Lessee are the current parties to a Lease dated August 15, 1997 between R.G. Harris Co. and Harris Family Revocable Trust, as Lessor, and Receptor Technology, Inc. (the "Original Lease"), as amended by an Amendment No. 1 dated October 30, 1997 (the "First Amendment"), an Amendment No. 2 dated November 1, 2005 (the "Second Amendment"), and by a Third Amendment to Lease dated November 30, 2007 (the "Third Amendment") (collectively, the "Lease"), pertaining to premises located at 3911 Sorrento Valley Boulevard (the "Original Premises" or "3911 Sorrento") and 3931 Sorrento Valley Boulevard (the "Expansion Space" or "3931 Sorrento"), San Diego, California (collectively, the "Premises"). The Lease provides Lessee with certain early termination rights as to both the Original Premises and the Expansion Space.

B. Lessee has advised Lessor that Lessee no longer requires the use of 3931 Sorrento, which was added to the Premises by the Third Amendment. 3931 Sorrento is comprised of land improved with a building (the "3931 Building") of approximately 24,000 rentable square feet and ninety-six (96) parking spaces on the parking lot adjacent to the 3931 Building. Accordingly, the parties have agreed to terminate the Lease as to 3931 Sorrento only (but not as to 3911 Sorrento) effective as of January 26, 2010, as well as to reduce the rent for 3911 Sorrento on the terms and conditions set forth in this Fourth Amendment to Lease (the "Fourth Amendment").

THEREFORE, Lessor and Lessee hereby amend the Lease in the following particulars only:

AGREEMENT

1. Termination of Lease as to 3931 Sorrento; Surrender; Security Deposit. Effective as of 11:59 p.m. on January 26, 2010 (the "3931 Sorrento Termination Date"), the Lease is hereby terminated solely as to 3931 Sorrento (including but not limited to the 96 parking spaces allocated to 3931 Sorrento), but not as to 3911 Sorrento nor the parking spaces allocated to 3911 Sorrento. Such Termination Date shall be treated for all purposes to be the expiration date of the Lease term as to 3931 Sorrento. The extension options for 3931 Sorrento under Paragraph 9 of the Third Amendment are also hereby deleted from the Lease. Notwithstanding the 3931 Sorrento Termination Date, Lessee agrees to pay Lessor the monthly rent for 3931 Sorrento through February 28, 2010. Lessee agrees to vacate and surrender to Lessor possession of 3931 Sorrento on or before the 3931 Sorrento Termination Date in the manner and condition required by Paragraph 7.4 of the Original Lease and other applicable Lease provisions, free of any occupancies, claims to occupancy, liens, Trade Fixtures (as defined in Paragraph 7.3(a) of the Original Lease) or personal property (other than the cubicles and office furniture to be surrendered with 3931 Sorrento as described below) of Lessee or of any subtenant or other third party claiming under Lessee. If Lessee fails to so surrender 3931 Sorrento by the 3931 SorrentoTermination Date, Lessor may, in addition to its other remedies, elect in writing in its sole discretion either (i) to defer the 3931 Sorrento Termination Date until 3931 Sorrento is so surrendered, or (ii) to cancel this Fourth Amendment at any time thereafter until such surrender occurs, by giving written notice of such termination to Lessee.

Without limiting the foregoing, Lessee agrees to leave and surrender 3931 Sorrento broom clean and in the same condition as existed on the Expansion Date (as defined in the Third Amendment), reasonable wear and tear excepted. In addition, Lessee shall surrender to Lessor at the same time, in "as is" condition, all cubicles and office furniture located in 3931 Sorrento as of the 3931 Sorrento Termination Date. Such cubicles and office furniture shall thereupon become the property of Lessor. The parties acknowledge that the majority of the cubicles and office furniture was left behind by the prior tenant. Lessee does not have an inventory of the items left by the prior tenant or those owned by Lessee. Lessee accordingly can make no representation or warranty regarding title to items left behind by the prior tenant or any liens and encumbrances thereon created by the prior tenant or other third parties. However, Lessee warrants to Lessor that none of the cubicles and office furniture being surrendered by Lessee is subject to liens, encumbrances or other claims against title created by or through Lessee. Lessee hereby provides written confirmation of Lessee's surrender to Lessor of Lessee's right, title and interest to all of the cubicles and office furniture being surrendered by Lessee to Lessor (whether left by the prior tenant or owned by Lessee), consistent with the foregoing provisions. Lessee also agrees to surrender to Lessor with 3931 Sorrento possession of all keys, security cards, access codes, and alarm controls for 3931 Sorrento, to the extent such items exist.

Due to Lessee's surrender of the 96 parking spaces for 3931 Sorrento on the 3931 Sorrento Termination Date, from and after such date, Lessee and its employees and invitees shall use only those parking areas allocated to the Original Premises at 3911 Sorrento.

Within 30 days following the early termination of the Lease as to 3931 Sorrento and Lessee's surrender of 3931 Sorrento to Lessor, Lessor shall return to Lessee the $32,520 additional security deposit described in Paragraph 5 of the Third Amendment, less any sums that Lessor is entitled to apply or retain pursuant to Paragraph 5 ("Security Deposit") of the Original Lease. Lessor shall continue to hold the Security Deposit attributable to 3911 Sorrento as described in Paragraph 5 of the Original Lease and Section 15 of the Second Amendment.

2. Exit Assessment; Lessor's Access to 3931 Sorrento. Without limiting Lessor's rights under Paragraphs 6 and 7 of the Original Lease or other provisions of the Lease, as amended by this Fourth Amendment, Lessee, at Lessee's sole cost and expense, shall cause to be conducted on or before the 3931 Sorrento Termination Date, a preliminary environmental site assessment by Occupational Services, Inc. of San Diego, California (or another qualified consultant pre-approved in writing by Lessor) with respect to the existence of Hazardous Substances (as defined in Paragraph 6 of the Original Lease) on or about 3931 Sorrento, and shall promptly provide to Lessor a copy of such consultant's written report. Such report may, at Lessee's election, be done by Occupational Services, Inc. as an update to its report dated November 9, 2007, regarding 3931 Sorrento, which was prepared pursuant to Section 8 of the Third Amendment. Lessee's obligations regarding Hazardous Substances as set forth in Paragraph 6.2 of the Original Lease shall survive the termination of the Lease as to 3931 Sorrento (as well as any later expiration or termination of the Lease as to 3911 Sorrento).

3. Representations. In connection with the early termination of this Lease as to 3931 Sorrento, Lessee represents that it has not made, and will not make, any assignment, sublease, transfer, conveyance, encumbrance, or other disposition of the Lease, or any interest in the Lease, as it relates to 3931 Sorrento, or of any claim, demand, obligation, liability, or cause of action arising from the Lease as it relates to 3931 Sorrento (collectively, "Claims" as used in this Paragraph 3).

4. Base Rent for Original Premises. Effective January 1, 2010, the Base Rents for the Original Premises shall be reduced by 20% from the amounts set forth in Paragraph 4 of the Second Amendment and Paragraph 4.2 of the Third Amendment. Accordingly, the Base Rents for the Original Premises (on a "triple-net" basis) for the period from January 1, 2010, through December 31, 2012, shall be as follows:

Period of Time	Prior Scheduled Monthly Base Rent For Original Premises Per Lease	Monthly Base Rent Credit	Remaining Monthly Base Rent for Original Premises after Credit
1/1/10-10/31/10	$ 63,428.05	$ 12,685.61	$ 50,742.44
11/01/10-10/31/11	$ 65,330.89	$ 13,066.18	$ 52,264.71
11/01/11-10/31/12	$ 67,290.82	$ 13,458.16	$ 53,832.66
11/01/12-12/31/12	$ 69,309.54	$ 13,861.91	$ 55,447.63

In addition to the foregoing Base Rents for 3911 Sorrento, up until February 28, 2010, Lessee shall also pay the Base Rent for 3931 Sorrento (presently $29,280.84 per month) as set forth in Paragraph 4.3 of the Third Amendment.

The reduced Base Rents set forth in this Paragraph 4 are in addition to, not in lieu of, the charges described in the Lease other than Base Rent for 3911 Sorrento (and for 3931 Sorrento, for the period up until February 28, 2010). Such other charges for which Lessee shall remain liable include, but are not limited to (i) Lessee's obligations for Real Property Taxes, insurance premiums, utility costs and other operating expenses of the Premises and the Project, and (ii) any "Amortization Rent" under Paragraph 5 of the Second Amendment.

5. Lessee's Share of Expenses. In order to reflect the deletion of 3931 Sorrento from the Premises, with respect to the period from and after February 28, 2010, Lessee's share of Real Property Taxes, insurance premiums, utility costs and other operating expenses for the Project (which consists of 3911 Sorrento and 3931 Sorrento) shall be determined without regard to Paragraph 4.4 of the Third Amendment (which allocated to Lessee the expenses attributable to 3931 Sorrento). Accordingly, for the period from and after the February 28, 2010, Lessee's share of such items shall be governed by the provisions of the Original Lease as amended by the First Amendment and the Second Amendment, and shall be reasonably calculated by Lessor based upon the percentage that the gross leasable area of the 3911 Sorrento building comprises of the total gross leasable area of the buildings in the Project (or on such other basis as is provided for a particular expense item in the Original Lease as amended by the First Amendment and the Second Amendment). Without limiting the foregoing, Lessee shall continue to pay all of the Real Property Taxes and other expenses attributable to that portion of the parking area at the Project allocated to 3911 Sorrento.

The termination of the Lease as to 3931 Sorrento shall not release Lessee from its obligations for any such expense items attributable to the period up through February 28, 2010, regardless of whether such items are first billed after that date. Such items for calendar year 2010 shall be equitably prorated, as calculated by Lessor in its reasonable discretion, to reflect the deletion of 3931 Sorrento from the Premises for purposes of such expenses as of that date.

6. Increased Termination Fee for Termination of Lease as to Original Premises. In consideration of this Fourth Amendment to Lease, and notwithstanding anything to the contrary in the Lease, if the Lease is terminated early as to the Original Premises (3911 Sorrento) pursuant to Paragraph 13A of the Second Amendment, Lessee shall pay a termination fee to Lessor equal to the Termination Fee described in Paragraph 13A of the Second Amendment plus the sum of $34,941.00 (collectively, the "Increased Termination Fee"). As of the effective date of this Fourth Amendment, references in the Second Amendment and Third Amendment to the Termination Fee shall mean the Increased Termination Fee described above in this Paragraph 6.

7. Releases. Lessee shall remain obligated to perform all of its obligations as to 3931 Sorrento under the Lease, as amended to date, attributable to the period up through the 3931 Sorrento Termination Date and Lessee's surrender to Lessor of 3931 Sorrento. Subject to Lessee's performance of its obligations under this Fourth Amendment attributable to 3931 Sorrento, Lessee shall be released from its obligations under the Lease as to 3931 Sorrento arising during and attributable to the period after the 3931 Sorrento Termination Date and Lessee's surrender to Lessor of 3931 Sorrento. Such release shall not apply to Lessee's obligations under the Lease as to 3911 Sorrento. Similary, such release shall not apply to any obligations of Lessee under this Fourth Amendment, nor to any obligations of Lessee under the Lease as to 3931 Sorrento arising during or attributable to the period up through the 3931 Sorrento Termination Date and Lessee's surrender to Lessor of 3931 Sorrento (such as (a) any taxes, insurance premiums, utility costs, and other expense items for 3931 Sorrento attributable to such period (and up through February 28, 2010, as described in Paragraph 5), regardless of whether they are first billed thereafter; and (b) any obligations of Lessee to indemnify, defend, or hold harmless Lessor pursuant to the Lease).

8. Prorated Brokerage Commissions. The parties acknowledge that no brokers represent either party in this transaction, except in connection with the application of Paragraph 10 of the Third Amendment (under which CB Richard Ellis, Inc., acting through Jerry Keeney, was designated as Lessor's Broker, and Irving Hughes, acting through Shaun Burnett, was designated as Lessee's Broker, in connection with the prior addition of 3931 Sorrento to the Premises). As required by Paragraph 10 of the Third Amendment, due to the early termination of the Lease as to 3931 Sorrento, the Additional Commission (as defined in such Paragraph 10 of the Third Amendment) shall be equitably prorated to reflect only the portion of the extended Original Term up

through the 3931 Sorrento Termination Date. Except as provided in the preceding two sentences, if Lessee has dealt with any real estate broker or other person or firm with respect to this Fourth Amendment, Lessee shall be solely responsible for the payment of any fee due such broker, person or firm, and Lessee hereby agrees to indemnify, defend and hold Lessor harmless from and against any claim, liability or expense with respect thereto. Except as provided in this Paragraph 8, if Lessor has dealt with any real estate broker or other person or firm with respect to this Fourth Amendment, Lessor shall be solely responsible for the payment of any fee due such broker, person or firm, and Lessor hereby agrees to indemnify, defend and hold Lessee harmless from and against any claim, liability or expense with respect thereto. Except as provided above in this Paragraph 8, Lessor shall not be responsible for any compensation to any brokers for their services rendered in this transaction.

9. Miscellaneous. This Fourth Amendment supersedes all prior or contemporaneous understandings, negotiations, or agreements between the parties, whether written or oral, with respect to its subject matter. This Fourth Amendment is part of and shall be attached as an addendum to the Lease. The Lease, as amended by this Fourth Amendment, may be further amended only in a writing signed by both Lessor and Lessee. All terms of the Lease which have not been expressly altered by this Fourth Amendment shall remain in full force and effect. In the event of any litigation or other proceeding between the parties (including for this purpose, but not limited to, Lessor's Broker or Lessee's Broker, as such terms are defined in the Third Amendment) arising out of or relating to this Fourth Amendment, the prevailing party shall be entitled to recover from the losing party the prevailing party's reasonable attorney fees and costs of suit, all as further provided in Paragraph 31 of the Original Lease.

10. Execution in Counterparts; Electronic Signatures. This Fourth Amendment to Lease may be executed in counterparts by the parties, and when each party (including Lessor's Broker and Lessee's Broker) has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one agreement, which shall be binding upon and effective as to all parties. Each party shall be bound by signatures transmitted by facsimile or e-mail in the same fashion as such party would be bound by original signatures. Any party delivering signatures by facsimile or e-mail transmission shall, for convenience and record-keeping purposes, provide original signatures to the other parties within 10 days after such party binds itself by facsimile or e-mail signatures.

IN WITNESS WHEREOF, the parties have executed this Fourth Amendment to Lease as of the date and at the place first written above.

LESSEE:

ACADIA PHARMACEUTICALS INC.,
a Delaware corporation

By: /s/ Thomas H. Aasen
Name: Thomas H. Aasen
Title: VP & CFO

LESSOR:

RGH HOLDINGS LIMITED PARTNERSHIP,
an Alaskan limited partnership

By: /s/ Henry S. Workman
Its: General Partner

The undersigned Brokers are executing this Fourth Amendment to Lease solely to confirm their agreement to Paragraph 8 ("Prorated Brokerage Commissions") and the last sentence of Paragraph 9 (regarding attorney fees relating to a dispute).

LESSEE'S BROKER:

IRVING HUGHES

By: /s/ Shaun Burnett
_____, Its Senior Vice President

LESSOR'S BROKER:

CB RICHARD ELLIS, INC.

By: /s/ Jerry Keeney
_____, Its SVP

Exhibit 21.1

List of Subsidiaries

NAME OF SUBSIDIARY	JURISDICTION OF INCORPORATION
ACADIA Pharmaceuticals AB	Sweden
ACADIA Pharmaceuticals A/S	Denmark

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (Nos. 333-153347 and 333-161059) and the Registration Statements on Form S-8 (Nos. 333-115956, 333-128290, 333-137557, 333-146398, 333-153346 and 333-161057) of ACADIA Pharmaceuticals Inc. of our report dated March 9, 2010 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP

PricewaterhouseCoopers LLP
San Diego, California
March 9, 2010

EXHIBIT 31.1

CERTIFICATION
Pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934,
as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Uli Hacksell, Ph.D., certify that:

1. I have reviewed this annual report on Form 10-K for the year ended December 31, 2009 of ACADIA Pharmaceuticals Inc.

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 9, 2010

/S/ ULI HACKSELL

Uli Hacksell, Ph.D.
Chief Executive Officer

EXHIBIT 31.2

CERTIFICATION
Pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934,
as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Thomas H. Aasen, certify that:

1. I have reviewed this annual report on Form 10-K for the year ended December 31, 2009 of ACADIA Pharmaceuticals Inc.

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 9, 2010

/S/ THOMAS H. AASEN

Thomas H. Aasen
Vice President and Chief Financial Officer

EXHIBIT 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of ACADIA Pharmaceuticals Inc. (the "Company") on Form 10-K for the period ended December 31, 2009, as filed with the Securities and Exchange Commission on or about the date hereof (the "Report"), I, Uli Hacksell, Ph.D., Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge, that:

(1) the Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition of the Company at the end of the period covered by the Report and results of operations of the Company for the period covered by the Report.

Date: March 9, 2010

/s/ ULI HACKSELL

Uli Hacksell, Ph.D.
Chief Executive Officer

This certification shall not be deemed "filed" for purposes of Section 18 of the Securities and Exchange Act of 1934, or the Exchange Act, or otherwise subject to the liability of Section 18 of the Exchange Act. Such certification shall not be deemed to be incorporated by reference into any filing under the Securities Act of 1933 or the Exchange Act, except to the extent that the Company specifically incorporates it by reference.

EXHIBIT 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of ACADIA Pharmaceuticals Inc. (the "Company") on Form 10-K for the period ended December 31, 2009, as filed with the Securities and Exchange Commission on or about the date hereof (the "Report"), I, Thomas H. Aasen, Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge, that:

(1) the Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition of the Company at the end of the period covered by the Report and results of operations of the Company for the period covered by the Report.

Date: March 9, 2010

/s/ THOMAS H. AASEN

Thomas H. Aasen
Vice President and
Chief Financial Officer

This certification shall not be deemed "filed" for purposes of Section 18 of the Securities and Exchange Act of 1934, or the Exchange Act, or otherwise subject to the liability of Section 18 of the Exchange Act. Such certification shall not be deemed to be incorporated by reference into any filing under the Securities Act of 1933 or the Exchange Act, except to the extent that the Company specifically incorporates it by reference.