As filed with the Securities and Exchange Commission on May 1, 2007

Registration No.

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

FORM S-1

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Cumberland Pharmaceuticals Inc.

(Exact name of registrant as specified in its charter)

Tennessee	**2834**	**62-1765329**
(State or other jurisdiction of incorporation or organization)	*(Primary Standard Industrial Classification Code Number)*	*(I.R.S. Employer Identification No.)*

2525 West End Avenue, Suite 950
Nashville, Tennessee 37203
(615) 255-0068
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

A.J. Kazimi
Chairman and CEO
2525 West End Avenue, Suite 950
Nashville, Tennessee 37203
(615) 255-0068
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Martin S. Brown, Esq.
Virginia Boulet, Esq.
Adams and Reese LLP
424 Church Street, Suite 2800
Nashville, Tennessee 37219
(615) 259-1450

Donald J. Murray, Esq.
Dewey Ballantine LLP
1301 Avenue of the Americas
New York, New York 10019-6092
(212) 259-8000

Approximate date of commencement of proposed offering to the public: As soon as practicable after this registration statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box: o

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee
Common Stock, no par value per share	$115,000,000	$3,531

(1) Estimated solely for purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

PRELIMINARY PROSPECTUS SUBJECT TO COMPLETION , 2007

Shares

Common Stock

This is the initial public offering of our common stock. No public market currently exists for our common stock. We are offering all of the shares of our common stock offered by this prospectus.

We have applied to have our common stock included for quotation on The Nasdaq Global Market under the symbol "CPIX".

Investing in our common stock involves a high degree of risk. Before buying any shares, you should carefully read the discussion of material risks of investing in our common stock in "Risk factors" beginning on page 6 of this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

	Per share	Total
Public offering price	$	$
Underwriting discounts and commissions	$	$
Proceeds, before expenses, to us	$	$

The underwriters may also purchase up to an additional shares of our common stock at the public offering price, less the underwriting discounts and commissions payable by us, to cover over-allotments, if any, within 30 days from the date of this prospectus. If the underwriters exercise this option in full, the total underwriting discounts and commissions will be $ and our total proceeds, before expenses, will be $.

The underwriters are offering the common stock as set forth under "Underwriting." Delivery of the shares will be made on or about , 2007.

UBS Investment Bank

Jefferies & Company

Wachovia Securities

Morgan Joseph

Inside front cover of prospectus to feature two product photos:

[Artwork to be submitted]

You should rely only on the information contained in this prospectus. We have not, and the underwriters have not, authorized anyone to provide you with additional information or information different from that contained in this prospectus. We are offering to sell, and seeking offers to buy, shares of our common stock only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or of any sale of shares of our common stock.

TABLE OF CONTENTS

	Page
Prospectus summary	1
Risk factors	6
Special note regarding forward-looking statements	22
Use of proceeds	23
Dividend policy	23
Capitalization	24
Dilution	25
Selected consolidated financial data	27
Management's discussion and analysis of financial condition and results of operations	28
Business	39
Management	60
Compensation	67
Certain relationships and related party transactions	77
Principal shareholders	78
Description of capital stock	80
Shares eligible for future sale	85
Material U.S. federal income and estate tax consequences to non-U.S. holders	88
Underwriting	91
Notice to investors	94
Legal matters	97
Experts	97
Where you can find additional information	97
Index to consolidated financial statements	F-1

EX-3.1 SECOND AMENDED AND RESTATED CHARTER OF CUMBERLAND PHARMACEUTICALS INC.
EX-3.2 AMENDED AND RESTATED BYLAWS OF CUMBERLAND PHARMACEUTICALS INC.
EX-4.2 WARRANT TO PURCHASE COMMON STOCK
EX-4.4 WARRANT TO PURCHASE COMMON STOCK
EX-4.5 FORM OF OPTION AGREEMENT
EX-10.1 MANUFACTURING AND SUPPLY AGREEMENT
EX-10.2 NOVATION AGREEMENT
EX-10.3 FIRST AMENDMENT TO MANUFACTURING AND SUPPLY AGREEMENT
EX-10.4 CARDINAL HEALTH CONTRACT SALES AND SERVICE
EX-10.5 FIRST AMENDMENT TO CONTRACT SALES AND SERVICE AGREEMENT
EX-10.6 CONSENT TO ASSIGNMENT
EX-10.7 DISTRIBUTION SERVICES AGREEMENT
EX-10.8 STRATEGIC ALLIANCE AGREEMENT
EX-10.9 KRISTALOSE AGREEMENT
EX-10.10 LICENSE AGREEMENT
EX-10.11 EMPLOYMENT AGREEMENT
EX-10.12 EMPLOYMENT AGREEMENT
EX-10.13 EMPLOYMENT AGREEMENT
EX-10.14 EMPLOYMENT AGREEMENT
EX-10.15 EMPLOYMENT AGREEMENT
EX-10.17 1999 STOCK OPTION PLAN
EX-10.20 FORM OF INDEMNIFICATION AGREEMENT
EX-10.21 LEASE AGREEMENT
EX-10.23 AMENDED AND RESTATED LEASE AGREEMENT
EX-10.24 FIRST AMENDMENT TO AMENDED AND RESTATED LEASE AGREEMENT
EX-21 SUBSIDIARIES OF CUMBERLAND PHARMACEUTICALS INC.
Ex-23.1 Consent of KPMG LLP

Through and including , 2007 (the 25th day after the date of this prospectus), federal securities laws may require all dealers that effect transactions in our common stock, whether or not participating in this offering, to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

Prospectus summary

This summary highlights select contents of this prospectus, and may not contain all of the information that you should consider before investing in our common stock. This summary should be read together with the more detailed information found elsewhere in this prospectus, including "Risk factors" and our consolidated financial statements and related notes beginning on page F-1. References in this prospectus to "Cumberland," "we," "us" and "our" refer to Cumberland Pharmaceuticals Inc. and our consolidated subsidiaries, unless the context indicates otherwise.

OUR COMPANY

We are a profitable and growing specialty pharmaceutical company focused on the acquisition, development and commercialization of branded prescription products. Our primary target markets are hospital acute care and gastroenterology, which are characterized by relatively concentrated physician prescriber bases. Unlike many emerging pharmaceutical and biotechnology companies, we have established a product development and commercial operating infrastructure that is scalable to accommodate our expected growth. Our management team consists of pharmaceutical industry veterans experienced in business development, clinical and regulatory affairs, and sales and marketing.

Since our inception in 1999, we have successfully funded the acquisition and development of our product portfolio with limited external investment, while maintaining profitable operations over the past three years. Our portfolio consists of two products approved by the U.S. Food and Drug Administration, or FDA, one late-stage development product candidate nearing completion of Phase III clinical trials and several early-stage development projects. We were directly responsible for the clinical development and regulatory approval of Acetadote, one of our marketed products, and are currently completing development of Amelior, our lead product candidate. We promote Acetadote and our other FDA-approved product, Kristalose, through dedicated hospital and gastroenterology sales forces, which together are comprised of 42 sales representatives and managers. We believe that our target markets are highly concentrated, and consequently can be penetrated effectively by small, dedicated sales forces without large-scale promotional activity. For the years 2004, 2005 and 2006, our net revenue was $12.0 million, $10.7 million and $17.8 million, respectively, and our net income was $558,000, $2.0 million and $4.4 million, respectively.

OUR PRODUCTS

Our key products and product candidates include:

Product	Indication	Delivery	Status
Amelior®	Pain and Fever	Injectable	Phase III
Acetadote®	Acetaminophen Poisoning	Injectable	Marketed
Kristalose®	Chronic and Acute Constipation	Oral Solution	Marketed

Amelior, our lead pipeline candidate, is an intravenous formulation of ibuprofen that we expect will be the first injectable product approved in the U.S. for the treatment of both pain and fever. Amelior is currently in Phase III clinical trials. We expect to complete clinical development by early 2008 and are preparing to submit our new drug application, or NDA, to the FDA for review. Amelior is designed to provide physicians with a safe, effective treatment alternative for patients who are unable to take oral medication for pain relief and fever reduction. If approved, we plan to market Amelior in the U.S. through our hospital sales force and in international markets through alliances with marketing partners. We believe Amelior currently represents our most significant product opportunity.

According to IMS Health, the U.S. market for injectable analgesics, or pain relievers, exceeded $302 million, or 491 million units, in 2006. This market consists primarily of the non-steroidal anti-inflammatory drug ketorolac and generic opioids. Despite having a poor safety profile, usage of

ketorolac has grown from approximately 38 million units in 2003, or 7% of the market, to approximately 43 million units in 2006, or 9% of the market, according to IMS Health. Injectable opioids such as morphine and meperidine accounted for approximately 447 million units sold in 2006. While opioids are widely used for acute pain management, they are associated with a variety of side effects including sedation, nausea, vomiting, headache, cognitive impairment and respiratory depression. Based on the results of clinical studies to date, we believe Amelior represents a potentially safer alternative to ketorolac, the only non-opioid injectable pain relief drug available in the U.S. Further, we believe Amelior is a safe and effective treatment for hospitalized patients with fever who are unable to take oral medication. There is currently no approved injectable treatment for fever in the U.S.

Acetadote is the only intravenous formulation of N-acetylcysteine, or NAC, approved in the U.S. for the treatment of acetaminophen poisoning. Though safe at recommended doses, acetaminophen can cause liver damage with excessive use. Acetaminophen overdose is the most common cause of acute liver failure in adults in the U.S. According to the American Association of Poison Control Centers' Toxic Exposure Surveillance System, acetaminophen was the leading cause of poisonings presenting to emergency departments in the U.S. in 2005, with approximately 77,000 cases treated.

NAC is accepted worldwide as the standard of care for treating acetaminophen overdose. Until our 2004 launch of Acetadote, the only FDA-approved form of NAC available in the U.S. was an oral preparation. Medical literature suggests that, for a number of patients, IV treatment is the only reasonable route of administration due to nausea and vomiting associated with the administration of oral NAC for acetaminophen overdose. Sales of Acetadote have increased consistently since we launched the product in June 2004, with wholesaler sales to hospitals growing 43% from $9 million in 2005 to $13 million in 2006. We believe that we can continue to expand market share, and that our Acetadote sales and marketing platform should help facilitate the anticipated launch of Amelior.

Kristalose, a prescription laxative product, is a crystalline form of lactulose designed to enhance patient acceptance and compliance. Based on data from IMS Health, the U.S. prescription laxative market has grown rapidly over the past few years, increasing from approximately $206 million in 2003 to $389 million in 2006, representing a compound annual growth rate of 24%. Wholesaler sales of Kristalose to pharmacies were $10.5 million in 2006. During that year, we acquired exclusive U.S. commercialization rights to Kristalose, subsequently assembling a dedicated field sales force and re-launching the product in October 2006 under the Cumberland brand. We believe that we can increase market share for Kristalose given its many positive, competitive attributes including better taste, consistency, ease of use and cost relative to competing products.

Early-stage product candidates. Our early-stage product candidates are being developed by Cumberland Emerging Technologies, Inc., or CET, our 86%-owned subsidiary. CET collaborates with leading research institutions to identify and advance the development of promising pre-clinical product candidates within our target segments. Current CET projects include an improved treatment for fluid buildup in the lungs of cancer patients and an anti-infective for treating fungal infections in immuno-compromised patients.

OUR COMPETITIVE STRENGTHS

We believe our key competitive strengths include the following:

- A significant late-stage product opportunity in Amelior;
- Strong growth potential of our existing marketed products, Acetadote and Kristalose;
- Our focus on underserved niche markets, including hospital acute care and gastroenterology;
- A profitable business with a history of fiscal discipline; and
- Extensive management expertise in business development, clinical and regulatory affairs, and sales and marketing.

OUR STRATEGY

Our objective is to develop, acquire and commercialize branded pharmaceutical products for specialty physician market segments. Our strategy to achieve this objective includes the following key elements:

- Successfully develop and commercialize Amelior, our lead product candidate in Phase III clinical trials;
- Maximize sales of our marketed products, Acetadote and Kristalose;
- Expand our dedicated hospital and gastroenterology sales forces;
- Expand our product portfolio by acquiring rights to additional marketed products and late-stage product candidates; and
- Develop a pipeline of early-stage products through CET, our majority-owned subsidiary.

RISKS AFFECTING US

Our business is subject to numerous risks that could prevent us from successfully implementing our business strategy. These and other risks are discussed further in the section entitled “Risk factors” immediately following this prospectus summary, and include the following:

- Our Amelior product candidate has not been approved for sale and may never be successfully commercialized;
- We currently market two products, Acetadote and Kristalose. An adverse development regarding either of these products could have a material and adverse impact on us;
- If any manufacturer we rely upon fails to produce our products and product candidates in the amounts we require on a timely basis, or fails to comply with stringent regulations applicable to pharmaceutical drug manufacturers, we may face delays in the commercialization of Amelior, or may be unable to meet demand for the product supplied by the manufacturer and may lose potential revenues;
- We are dependent on a variety of other third parties. If these third parties fail to perform as we expect, our operations could be disrupted and our financial results could suffer; and
- If we are unable to maintain and build an effective sales and marketing infrastructure, we will not be able to successfully commercialize and grow our products and product candidates.

CORPORATE INFORMATION

We were incorporated in Tennessee in 1999. Our principal executive offices are located at 2525 West End Avenue, Suite 950, Nashville, Tennessee 37203, and our telephone number is (615) 255-0068. Our website address is www.cumberlandpharma.com. The information on, or accessible through, our website is not part of this prospectus.

The offering

Common stock we are offering	shares
Common stock to be outstanding after this offering	shares
Use of proceeds	We estimate that the net proceeds from this offering will be approximately $ million, or approximately $ million if the underwriters exercise their over-allotment option in full, assuming an initial public offering price of $ per share. We expect to use the net proceeds from this offering primarily for potential acquisitions, product development and expansion, and general corporate purposes. We may use a portion of the net proceeds to acquire the rights to one or more marketed, FDA-approved products or one or more product candidates in late-stage development. We may use a portion of the net proceeds to expand our operations in order to prepare for the launch of one or more new products. We may also repay outstanding borrowings under our credit facilities.
Proposed Nasdaq Global Market Symbol	CPIX

The number of shares of common stock to be outstanding after this offering is based on shares outstanding as of and excludes:

- shares of common stock issuable upon exercise of options issued under our 1999 Stock Option Plan and options issued in connection with debt financings in 2001 and 2003, at a weighted average exercise price of $ per share;
- shares of common stock issuable upon exercise of outstanding warrants at a weighted average exercise price of $ and $ per share;
- shares of common stock issuable upon conversion of outstanding preferred stock; and
- shares of common stock reserved for future issuance under our current stock option plans.

Unless otherwise indicated, all information in this prospectus assumes the underwriters do not exercise their option to purchase up to shares of our common stock to cover over-allotments.

Summary consolidated financial data

The tables below summarize our financial data as of the dates and for the periods indicated. You should read the following information together with the more detailed information contained in "Selected consolidated financial data," "Management's discussion and analysis of financial condition and results of operations" and our consolidated financial statements and the accompanying notes included elsewhere in this prospectus.

Pro forma data below gives effect to the conversion of shares of our preferred stock into shares of common stock. Pro forma as adjusted data below gives effect to the sale of shares of common stock that we are offering at an assumed initial public offering price of $ per share, after deducting underwriting discounts and commissions and estimated offering expenses to be paid by us.

	Years Ended December 31,		
Statement of operations data:	**2004**	**2005**	**2006**
	(in thousands, except per share data)		
Net revenues	$ 12,032	$ 10,690	$ 17,815
Operating income	1,569	750	2,224
Net income before income taxes	558	770	1,708
Net income	558	1,954	4,404
Net income per share—basic	$ 0.12	$ 0.41	$ 0.90
Net income per share—diluted	$ 0.07	$ 0.24	$ 0.55
Weighted average shares outstanding—basic	4,541	4,748	4,899
Weighted average shares outstanding—diluted	7,741	8,045	8,016

	As of December 31, 2006		
Balance sheet data:	**Actual**	**Pro Forma**	**Pro Forma as Adjusted**
	(in thousands)		
Cash and cash equivalents	$ 6,255	$	$
Working capital	3,945		
Total assets	26,481		
Total long-term debt and other long-term obligations	10,543		
Preferred stock	2,743		
Total shareholders' equity	11,126		

Risk factors

Investing in our common stock involves a high degree of risk. You should carefully consider the following risks, together with all of the information included in this prospectus, before investing in our common stock. In addition to the risks outlined below, there may be other unforeseen risks which may not or cannot be identified at this time. If any of these risks were to occur, our business, financial condition and results of operations could be materially and adversely affected. In that case, the trading price of our common stock could decline, and you might lose all or part of your investment.

RISKS RELATED TO OUR BUSINESS

Our Amelior product candidate has not been approved for sale and may never be successfully commercialized.

We anticipate that a substantial portion of our future growth will come from sales of our Amelior product candidate. However, Amelior has neither been approved nor marketed by the U.S. Food and Drug Administration, or FDA, and it is still subject to risks associated with its clinical development.

Amelior is undergoing Phase III clinical trials to test its efficacy and safety. Delays in the completion of these clinical trials, which can result from unforeseen issues, FDA interventions, problems with enrolling patients and other reasons, could significantly delay commercial launch and affect our product development costs. Moreover, results from these clinical studies may not be as favorable as the results we obtained in prior, completed studies.

If the results of our clinical trials are favorable, we intend to submit to the FDA an application for marketing approval for Amelior. The FDA may decline to accept our application. If the FDA declines our application, it may require that we conduct additional studies and submit additional data prior to resubmitting the application. If the FDA accepts and reviews the application, it may still require that we conduct additional studies or submit other data. Conducting studies and collecting, analyzing and submitting necessary data can be time-consuming and expensive. The FDA may not act on our application during the timeframe that we expect. Moreover, the FDA might not approve our application, in which event we would not be able to sell Amelior in the U.S., or it might approve Amelior for only limited uses, in which event the market for this product could be significantly reduced, adversely affecting our commercial opportunity. In addition, new government regulations could prevent or delay regulatory approval of Amelior.

Amelior, which is injectable ibuprofen, is a non-steroidal anti-inflammatory drug, or NSAID. The widespread use of NSAIDs has meant that the adverse effects of these relatively safe drugs have become increasingly prevalent. The two main adverse drug reactions associated with NSAIDs relate to the gastrointestinal tract and the kidneys. Recent studies suggest there may also be a risk of cardiovascular adverse effects associated with NSAIDs. While we are currently studying the safety of Amelior in our clinical trials, the FDA may require additional safety data be collected prior to or after any approval of the product.

Even if Amelior is successfully developed and approved by the FDA, it may never gain significant acceptance in the marketplace and therefore never generate substantial revenue or profits for us. Physicians may determine that existing drugs are adequate to address patients' needs. For example, oral non-narcotic pain and fever reducers, as well as narcotic IV pain relievers, are widely available and commonly prescribed. If physicians determine that Amelior is safe and effective, it will still compete, on a patient-by-patient and physician-by-physician basis, with other therapeutic alternatives. Additionally, we are aware of other companies developing products that would address the same market that we are targeting for Amelior. The extent to which Amelior will be reimbursed by the U.S. government or third-

party payors is also currently unknown, and reimbursement levels of Amelior compared to those of other competitive drugs will also affect the level of market acceptance.

As a result of the foregoing and other factors, we do not know the extent to which Amelior will contribute to our future growth.

We currently market two products, Acetadote and Kristalose. An adverse development regarding either of these products could have a material and adverse impact on us.

We currently market and sell two products, Acetadote and Kristalose. Changes impacting either product in areas such as competition, government regulation, intellectual property, reimbursement and manufacturing would profoundly affect us. Similarly, a product contamination or other safety issue in either of our product markets, whether or not directly involving our products, could negatively impact us.

If any manufacturer we rely upon fails to produce our products and product candidates in the amounts we require on a timely basis, or fails to comply with stringent regulations applicable to pharmaceutical drug manufacturers, we may face delays in the commercialization of Amelior, or may be unable to meet demand for the product supplied by the manufacturer and may lose potential revenues.

We do not manufacture any of our products or product candidates, and we do not currently plan to develop any capacity to do so. Our dependence upon third parties for the manufacture of products could adversely affect our profit margins or our ability to develop and deliver products on a timely and competitive basis. If for any reason we are unable to obtain or retain third-party manufacturers on commercially acceptable terms, we may not be able to sell our products as planned. Furthermore, if we encounter delays or difficulties with contract manufacturers in producing our products, the distribution, marketing and subsequent sales of these products could be adversely affected. In either event, we may choose to or need to seek an alternative source of supply for, or abandon, a product line or sell a product line on unsatisfactory terms. Our agreement with Bioniche Teoranta, or Bioniche, for the exclusive manufacture and supply of Acetadote requires that we obtain Acetadote only from Bioniche, even if we could obtain Acetadote from another supplier on terms more favorable than the terms of our agreement with Bioniche.

We have minimum purchase obligations under our Acetadote supply agreement with Bioniche and our Kristalose supply agreement with Inalco S.p.A. and Inalco Biochemicals, Inc., or collectively Inalco. If our purchase obligations exceed demand for these products, we may be forced to either breach our contract with that manufacturer or purchase a supply of the product that we may be unable to sell. Our contract with Bioniche extends until 2011, and our contract with Inalco extends until 2021.

On February 2, 2007, Mayne Pharma Pty. Ltd., our exclusive manufacturer of Amelior, was acquired by Hospira, Inc. If Hospira encounters integration problems or if we have disagreements with Hospira, with whom we have not collaborated in the past, our supply of Amelior could be interrupted.

Amelior is manufactured at a single facility in Australia. Acetadote is manufactured at a single facility in Ireland and the active pharmaceutical ingredient for Kristalose is manufactured at a single facility in Italy. If any one of these facilities is damaged or destroyed, or if local conditions result in a work stoppage, we could suffer a delay or suspension of clinical trials, in the case of Amelior, or an inability to meet demand in the case of our marketed products. Kristalose is manufactured through a complex process involving trade secrets of the manufacturer. Accordingly, it would be particularly difficult to find a new manufacturer of Kristalose on an expedited basis.

In addition, all manufacturers of our products and product candidates must comply with current good manufacturing practices, referred to as cGMP, enforced by the FDA through its facilities inspection program. These requirements include quality control, quality assurance and the maintenance of records and documentation. Manufacturers of our product candidates may be unable to comply with cGMP requirements and with other FDA, state and foreign regulatory requirements. We have no control over our manufacturers' compliance with these regulations and standards. If our third-party manufacturers do not comply with these requirements, we could be subject to:

- fines and civil penalties;
- suspension of production or distribution;
- suspension or delay in product approval;
- product seizure or recall; and
- withdrawal of product approval.

We are dependent on a variety of other third parties. If these third parties fail to perform as we expect, our operations could be disrupted and our financial results could suffer.

We have a relatively small internal infrastructure. We rely on a variety of third parties, other than our third-party manufacturers, to help us operate our business. Other third parties on which we rely include:

- Cardinal Health Specialty Pharmaceutical Services, a logistics and fulfillment company and business unit of Cardinal, which warehouses and ships both Kristalose and Acetadote;
- Advogent Group, Inc., a spin-off of Cardinal, which provides a field sales force that is the primary selling team for Kristalose; and
- Vanderbilt University and the Tennessee Technology Development Corporation, co-owners with us of Cumberland Emerging Technologies, Inc., or CET, and the universities that collaborate with us in connection with CET's research and development programs.

If these third parties do not continue to provide services to us, or collaborate with us, we might not be able to obtain others who can serve these functions. This could disrupt our business operations, delay completion of clinical trials, regulatory approval and market launch of Amelior or any future product candidate, increase our operating expenses and otherwise adversely affect our operating results.

If we are unable to maintain and build an effective sales and marketing infrastructure, we will not be able to commercialize and grow our products and product candidates successfully.

Historically, we have relied on Cardinal, to provide sales representatives to promote our products. Recently, we exercised an option under our agreement with Cardinal to convert the hospital sales force for our products to Cumberland employees. This conversion was completed in January 2007. Our ability to maintain and increase our revenues and profitability, particularly in the near term, will depend on our ability to address any issues or inefficiencies that arise from transitioning this sales force from Cardinal employees to our employees.

As we grow, we may not be able to secure sales personnel or organizations that are adequate in number or expertise to successfully market and sell our products. This risk would be accentuated if we acquire products in areas outside of acute care/emergency medicine and gastroenterology, since our sales forces specialize in these areas. If we are unable to expand our sales and marketing capability or any other capabilities necessary to commercialize our products and product candidates, we will need to contract

with third parties to market and sell our products. If we are unable to establish and maintain adequate sales and marketing capabilities:

- we may not be able to increase our product revenue;
- we may generate increased expenses; and
- we may not continue to be profitable.

Competitive pressures could reduce our revenues and profits.

The pharmaceutical industry is intensely competitive. Our strategy is to target differentiated products in specialized markets. However, this strategy does not relieve us from competitive pressures, and can entail distinct competitive risks. For example, a new entrant into a smaller market could have a disproportionately large impact on others in the market. In addition, certain of our competitors do not aggressively promote their products in our markets. A relatively modest increase in promotional activity in our markets could result in large shifts in market share, adversely affecting us.

Kristalose competes in the U.S. with several other prescription laxative products, two of which are marketed by large, international pharmaceutical companies. Acetadote competes domestically with several orally administered prescription products for treating acetaminophen overdose. We are aware of products under development, including an intravenous acetaminophen product, which could compete with Amelior. We have limited patent protection against direct competition.

We compete with numerous pharmaceutical, specialty pharmaceutical and biotechnology companies. Our competitors may sell or develop drugs that are more effective and useful and less costly than ours, and they may be more successful in manufacturing and marketing their products. Many of our competitors have significantly greater financial and marketing resources than we do. Additional competitors may enter our markets.

The pharmaceutical industry is characterized by constant and significant investment in new product development, which can result in rapid technological change. The introduction of new products could substantially reduce our market share or render our products obsolete. The selling prices of pharmaceutical products tend to decline as competition increases, through new product introduction or otherwise, which could reduce our revenues and profitability.

Governmental and private health care payors have recently emphasized substitution of branded pharmaceuticals with less expensive generic equivalents. An increase in the sales of generic pharmaceutical products could result in a decrease in our revenues. While there are no generic equivalents competing with Amelior, Acetadote or Kristalose at this time, in the future we could face generic competition.

Our future growth depends on our ability to identify and acquire rights to products. If we do not successfully identify and acquire rights to products and successfully integrate them into our operations, our growth opportunities would be limited.

We acquired rights to Amelior, Acetadote and Kristalose. Our business strategy is to continue to acquire rights to FDA-approved products as well as pharmaceutical product candidates in the late stages of development. We do not plan to conduct basic research or early-stage product development, except to the extent of our investment in CET. We have limited resources to acquire third-party products, businesses and technologies and integrate them into our current infrastructure. Many acquisition opportunities involve competition among several potential purchasers including large multi-national pharmaceutical companies and other competitors that have access to greater financial resources than we do.

With future acquisitions, we may face financial and operational risks and uncertainties, including:

- not realizing the expected economic return or other benefits from an acquisition;
- incurring higher than expected acquisition and integration costs;
- assuming or otherwise being exposed to unknown liabilities;
- developing or integrating new products that could disrupt our business and divert our management's time and attention;
- not being able to preserve key suppliers or distributors of any acquired products;
- incurring substantial debt or issue dilutive securities to pay for acquisitions; and
- acquiring products that could substantially increase our amortization expenses.

We are not precluded from engaging in a large acquisition in the future, including an acquisition that entails the investment of substantially all of the proceeds from this offering. While large acquisitions potentially present large opportunities, they also could magnify the risks identified above.

We may not be able to engage in future product acquisitions, and those we do complete may not be beneficial to us in the long term.

Continued consolidation of distributor networks in the pharmaceutical industry as well as increases in retailer concentration may limit our ability to profitably sell our products.

We sell most of our products to large pharmaceutical wholesalers, who in turn sell to, thereby supplying, hospitals and retail pharmacies. The distribution network for pharmaceutical products has become increasingly consolidated in recent years. Today, three large wholesalers control most of the market. Further consolidation among, or any financial difficulties of, pharmaceutical wholesalers or retailers could result in the combination or elimination of warehouses, which could cause product returns to us. In addition, further consolidation or financial difficulties could also cause our customers to reduce the amounts of our products that they purchase, which would materially and adversely affect our business, financial condition and results of operations.

If governmental or third-party payors do not provide adequate reimbursement for our products, our revenue and prospects for continued profitability will be limited.

Our financial success depends, in part, on the availability of adequate reimbursement from third-party healthcare payors. Such third-party payors include governmental health programs such as Medicare and Medicaid, managed care providers and private health insurers. Third-party payors are increasingly challenging the pricing of medical products and services, while governments continue to propose and pass legislation designed to reduce the cost of healthcare. Adoption of such legislation could further limit reimbursement for pharmaceuticals. For example, in December 2003, Congress enacted a limited prescription drug benefit for Medicare beneficiaries in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. Under this program, drug prices for certain prescription drugs are negotiated by drug plans, with the goal to lower costs for Medicare beneficiaries. Future cost control initiatives could decrease the price that we would receive for any products, which would limit our revenue and profitability. In addition, legislation and regulations affecting the pricing of pharmaceuticals might change.

Reimbursement practices of third-party payors might preclude us from achieving market acceptance for our products or maintaining price levels sufficient to realize an appropriate return on our investment in product acquisition and development. If we cannot obtain adequate reimbursement levels, our business, financial condition and results of operations would be materially and adversely affected.

"Formulary" practices of third-party payors could adversely affect our competitive position.

Many managed health care organizations are now controlling the pharmaceutical products listed on their formulary lists. The benefit of having products listed on these formulary lists creates competition among pharmaceutical companies which, in turn, has created a trend of downward pricing pressure in our industry. In addition, many managed care organizations are pursuing various ways to reduce pharmaceutical costs and are considering formulary contracts primarily with those pharmaceutical companies that can offer a full line of products for a given therapy sector or disease state. Our products might not be included on the formulary lists of managed care organizations, and downward pricing pressure in our industry generally could negatively impact our operations.

Our CET joint initiative may not result in our gaining access to commercially viable products.

Our CET joint initiative with Vanderbilt University and Tennessee Technology Development Corporation is designed to help us investigate, in a cost-effective manner, early-stage products and technologies. However, we may never gain access to commercially viable products from CET for a variety of reasons, including:

- CET investigates early-stage products, which have the greatest risk of failure prior to FDA approval and commercialization;
- In some programs, we do not have pre-set rights to product candidates developed by CET. We would need to agree with CET and its collaborators on the terms of any product license to, or acquisition by, us;
- We rely principally on government grants to fund CET's research and development programs. If these grants were no longer available, we or our co-owners might be unable or unwilling to fund CET operations at current levels or at all;
- We may become involved in disputes with our co-owners regarding CET policy or operations, such as how best to deploy CET assets or which product opportunities to pursue. Disagreement could disrupt or halt product development; and
- CET may disagree with one of the various universities with which CET is collaborating on research. A disagreement could disrupt or halt product development.

The size of our organization and our activities are growing, and we may experience difficulties in managing growth.

As of April 30, 2007, we had 33 full-time employees. We may need to continue to expand our managerial, operational, financial and other resources in order to increase our marketing efforts with regard to our currently marketed products, continue our business development and product development activities and commercialize our product candidates. We have experienced, and may continue to experience, rapid growth in the scope of our operations in connection with the commercial launch of new products. Our financial performance will depend, in part, on our ability to manage any such growth effectively. Our management, personnel, systems and facilities currently in place may not be adequate to support this future growth.

We depend on our key personnel, the loss of whom would adversely affect our operations. If we fail to attract and retain the talent required for our business, our business will be materially harmed.

We are a relatively small company, and we depend to a great extent on principal members of our management and scientific staff. If we lose the services of any key personnel, in particular, A.J. Kazimi,

our Chief Executive Officer, it could have a material adverse effect on our business prospects. We currently have a key man life insurance policy covering the life of Mr. Kazimi. We have entered into agreements with each of our employees that contain restrictive covenants relating to non-competition and non-solicitation of our customers and suppliers for one year after termination of employment. Nevertheless, each of our officers and key employees may terminate his or her employment at any time without notice and without cause or good reason, and so as a practical matter these agreements do not guarantee the continued service of these employees. Our success depends on our ability to attract and retain highly qualified scientific, technical and managerial personnel and research partners. Competition among pharmaceutical companies for qualified employees is intense, and we may not be able to retain existing personnel or attract and retain qualified staff in the future. If we experience difficulties in hiring and retaining personnel in key positions, we could suffer from delays in product development, loss of customers and sales and diversion of management resources, which could adversely affect operating results.

We face potential product liability exposure, and if successful claims are brought against us, we may incur substantial liability for a product or product candidate and may have to limit its commercialization.

We face an inherent risk of product liability lawsuits related to the testing of our product candidates and the commercial sale of our products. An individual may bring a liability claim against us if one of our product candidates or products causes, or appears to have caused, an injury. If we cannot successfully defend ourselves against the product liability claim, we may incur substantial liabilities. Liability claims may result in:

- decreased demand for our products;
- injury to our reputation;
- withdrawal of clinical trial participants;
- significant litigation costs;
- substantial monetary awards to or costly settlement with patients;
- product recalls;
- loss of revenue; and
- the inability to commercialize our product candidates.

We are highly dependent upon medical and patient perceptions of us and the safety and quality of our products. We could be adversely affected if we or our products are subject to negative publicity. We could also be adversely affected if any of our products or any similar products sold by other companies prove to be, or are asserted to be, harmful to patients. Also, because of our dependence upon medical and patient perceptions, any adverse publicity associated with illness or other adverse effects resulting from the use or misuse of our products or any similar products sold by other companies could have a material adverse impact on our results of operations.

We have product liability insurance that covers our clinical trials and the marketing and sale of our products up to a $10 million annual aggregate limit, subject to specified deductibles. Our current or future insurance coverage may prove insufficient to cover any liability claims brought against us. Because of the increasing costs of insurance coverage, we may not be able to maintain insurance coverage at a reasonable cost or obtain insurance coverage that will be adequate to satisfy any liability that may arise.

We have never paid dividends on our capital stock, and we do not anticipate paying any cash dividends in the foreseeable future.

We have never paid cash dividends on our capital stock. We do not anticipate paying cash dividends to our shareholders in the foreseeable future. The availability of funds for distributions to shareholders will depend substantially on our earnings. Even if we become able to pay dividends in the future, we expect that we would retain such earnings to enhance capital and/or reduce long-term debt.

RISKS RELATING TO GOVERNMENT REGULATION

We are subject to stringent government regulation. All of our products face regulatory challenges.

Virtually all aspects of our business activities are regulated by government agencies. The manufacturing, processing, formulation, packaging, labeling, distribution, promotion and sampling, and advertising of our products, and disposal of waste products arising from such activities, are subject to governmental regulation. These activities are regulated by one or more of the FDA, the Federal Trade Commission, or the FTC, the Consumer Product Safety Commission, the U.S. Department of Agriculture and the U.S. Environmental Protection Agency, or the EPA, as well as by comparable agencies in foreign countries. These activities are also regulated by various agencies of the states and localities in which our products are sold. For more information, see “Business—Government Regulation.”

Like all pharmaceutical manufacturers, we are subject to regulation by the FDA under the authority of the Federal Food, Drug and Cosmetic Act, or the FDC Act. All “new drugs” must be the subject of an FDA-approved new drug application, or NDA, before they may be marketed in the U.S. The FDA has the authority to withdraw existing NDA approvals and to review the regulatory status of products marketed under the enforcement policy. The FDA may require an approved NDA for any drug product marketed under the enforcement policy if new information reveals questions about the drug’s safety and effectiveness. All drugs must be manufactured in conformity with cGMP, and drug products subject to an approved NDA must be manufactured, processed, packaged, held and labeled in accordance with information contained in the NDA. Since we rely on third parties to manufacture our products, cGMP requirements directly affect our third party manufacturers and indirectly affect us. The manufacturing facilities of our third-party manufacturers are continually subject to inspection by such governmental agencies, and manufacturing operations could be interrupted or halted in any such facilities if such inspections prove unsatisfactory. Our third-party manufacturers are subject to periodic inspection by the FDA to assure such compliance.

Pharmaceutical products must be distributed, sampled and promoted in accordance with FDA requirements. The FDA also regulates the advertising of prescription drugs. The FDA has the authority to request post-approval commitments that can be time-consuming and expensive to comply with.

Under the FDC Act, the federal government has extensive enforcement powers over the activities of pharmaceutical manufacturers to ensure compliance with FDA regulations. Those powers include, but are not limited to, the authority to initiate court action to seize unapproved or non-complying products, to enjoin non-complying activities, to halt manufacturing operations that are not in compliance with cGMP, and to seek civil monetary and criminal penalties. The initiation of any of these enforcement activities, including the restriction or prohibition on sales of our products, could materially adversely affect our business, financial condition and results of operations.

Any change in the FDA’s enforcement policy could have a material adverse effect on our business, financial condition and results of operations.

We cannot determine what effect changes in regulations or statutes or legal interpretation, when and if promulgated or enacted, may have on our business in the future. Such changes could, among other things, require:

- changes to manufacturing methods;
- expanded or different labeling;
- recall, replacement or discontinuance of certain products;
- additional record keeping; and
- expanded documentation of the properties of certain products and scientific substantiation.

Such changes, or new legislation, could have a material adverse effect on our business, financial condition and results of operations.

RISKS RELATING TO INTELLECTUAL PROPERTY

Our strategy to secure and extend marketing exclusivity or patent rights may provide only limited protection from competition.

We seek to secure and extend marketing exclusivity for our products through a variety of means, including FDA exclusivity and patent rights. Acetadote has been designated as an "orphan drug" and is indicated to prevent or lessen hepatic (liver) injury when administered intravenously within eight to ten hours after ingesting quantities of acetaminophen that are potentially toxic to the liver. As such, Acetadote is protected until 2011 against competition from another drug using the same active ingredient to treat the same indication. Orphan drug marketing exclusivity does not, however, protect a drug from competition by a different drug marketed for the same indications.

We do not have "composition of matter" or "use" patents for our marketed products. We do have a U.S. patent, No. 6,727,286, and some related international patents, which are directed to ibuprofen solution formulations, methods of making the same, and methods of using the same, and which are related to our formulation and manufacture of Amelior. We have applied for additional U.S. and international patent protection for our invention related to ibuprofen solution formulations, methods of making the same, and methods of using the same, but those applications may not result in issued patents. Additionally, the active ingredient in Amelior—ibuprofen—is in the public domain, and if a competitor were to develop a sufficiently distinct formulation, it could develop and seek FDA approval for an ibuprofen product that competes with Amelior. Following successful completion of our clinical studies, we also plan to seek three-year marketing exclusivity for Amelior.

Inalco manufactures Kristalose and owns two U.S. patents, Nos. 5,003,061 and 5,480,491, related to the manufacture of Kristalose. These patents are not directed to the composition or use of Kristalose and do not prevent a competitor from developing a formulation and developing and seeking FDA approval for a product that competes with Kristalose.

While we consider patent protection when evaluating product acquisition opportunities, any products we acquire in the future may not have significant patent protection. Neither the U.S. Patent and Trademark Office nor the courts have a consistent policy regarding the breadth of claims allowed or the degree of protection afforded under many pharmaceutical patents. Patent applications in the U.S. and many foreign jurisdictions are typically not published until 18 months following their priority filing date, and in some cases not at all. In addition, publication of discoveries in scientific literature often lags significantly behind actual discoveries. Therefore, neither we nor our licensors can be certain that we or they were the first to make the inventions claimed in our issued patents or pending patent applications, or that we or they were the first to file for protection of the inventions set forth in these

patent applications. In addition, changes in either patent laws or in interpretations of patent laws in the U.S. and other countries may diminish the value of our intellectual property or narrow the scope of our patent protection. Furthermore, our competitors may independently develop similar technologies or duplicate technology developed by us in a manner that does not infringe our patents or other intellectual property. As a result of these factors, our patent rights may not provide any commercially valuable protection from competing products.

If we are unable to protect the confidentiality of our proprietary information and know-how, the value of our technology and products could be adversely affected.

In addition to patents, we rely upon trade secrets, unpatented proprietary know-how and continuing technological innovation where we do not believe patent protection is appropriate or attainable. For example, the manufacturing process for Kristalose involves substantial trade secrets and proprietary know-how. We have entered into confidentiality agreements with certain key employees and consultants pursuant to which such employees and consultants must assign to us any inventions relating to our business if made by them while they are our employees, as well as certain confidentiality agreements relating to the acquisition of rights to products. Confidentiality agreements can be breached, though, and we might not have adequate remedies for any breach. Also, others could acquire or independently develop similar technology.

We depend on our licensors for the maintenance and enforcement of our intellectual property and have limited, if any, control over the amount or timing of resources that our licensors devote on our behalf.

When we license products, we often depend on our licensors to protect the proprietary rights covering those products. We have limited, if any, control over the amount or timing of resources that our licensors devote on our behalf or the priority they place on maintaining patent or other rights and prosecuting patent applications to our advantage. While any such licensor is expected to be under contractual obligations to us to diligently prosecute its patent applications and allow us the opportunity to consult, review and comment on patent office communications, we cannot be sure that it will perform as required. If a licensor does not perform and if we do not assume the maintenance of the licensed patents in sufficient time to make required payments or filings with the appropriate governmental agencies, we risk losing the benefit of all or some of those patent rights.

If the use of our technology conflicts with the intellectual property rights of third parties, we may incur substantial liabilities, and we may be unable to commercialize products based on this technology in a profitable manner or at all.

Third parties, including our competitors, could have or acquire patent rights that they could enforce against us. In addition, we may be subject to claims from others that we are misappropriating their trade secrets or confidential proprietary information. If our products conflict with the intellectual property rights of others, they could bring legal action against us or our licensors, licensees, manufacturers, customers or collaborators. If we were found to be infringing a patent or other intellectual property rights held by a third party, we could be forced to seek a license to use the patented or otherwise protected technology. We might not be able to obtain such a license on terms acceptable to us or at all. If an infringement or misappropriation legal action were to be brought against us or our licensors, we would incur substantial costs in defending the action. If such a dispute were to be resolved against us, we could be subject to significant damages, and the manufacturing or sale of one or more of our products could be enjoined.

We may be involved in lawsuits to protect or enforce our patents or the patents of our collaborators or licensors, which could be expensive and time consuming.

Competitors may infringe our patents or the patents of our collaborators or licensors. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time-consuming. In addition, in an infringement proceeding, a court may decide that a patent of ours is not valid or is unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that our patents do not cover the technology in question. An adverse result in any litigation or defense proceeding could put one or more of our patents at risk of being invalidated or interpreted narrowly and could put our patent applications at risk of not issuing.

Interference proceedings brought by the U.S. Patent and Trademark Office may be necessary to determine the priority of inventions with respect to our patent applications or those of our collaborators or licensors. Litigation or interference proceedings may fail and, even if successful, may result in substantial costs and distract our management. We may not be able, alone or with our collaborators and licensors, to prevent misappropriation of our proprietary rights, particularly in countries where the laws may not protect such rights as fully as in the U.S.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, some of our confidential information could be disclosed during this type of litigation. In addition, there could be public announcements of the results of hearings, motions or other interim proceedings or developments. If securities analysts or investors perceive these results to be negative, it could have a substantial adverse effect on the price of our common stock.

If we breach any of the agreements under which we license rights to our products and product candidates from others, we could lose the ability to continue commercialization of our products and development and commercialization of our product candidates.

We have exclusive licenses for the marketing and sale of certain products and may acquire additional licenses. Such licenses may terminate prior to expiration if we breach our obligations under the license agreement related to these pharmaceutical products. For example, the licenses may terminate if we fail to meet specified quality control standards, including cGMP with respect to the products, or commit a material breach of other terms and conditions of the licenses. Such early termination could have a material adverse effect on our business, financial condition and results of operations.

Our agreement with Inalco appoints us as the exclusive marketer, seller and distributor of Kristalose in the U.S. Either we or Inalco may terminate this agreement upon the breach of any material provision of the agreement if the breach is not cured within 45 days following written notice. If our agreement with Inalco were terminated, we would lose our right to continue commercialization of Kristalose in the U.S.

Under an agreement between us and Vanderbilt University, we have received certain clinical data to support our planned NDA submission for Amelior. Either we or Vanderbilt may terminate this agreement upon the breach of any material provision of the agreement if the breach is not cured within 45 days following written notice. If our agreement with Vanderbilt were terminated, we would lose our right to use the data to support our planned NDA submission, and this loss may hinder our ability to commercialize Amelior in accordance with our plans.

RISKS RELATED TO OUR FINANCIAL CONDITION AND RESULTS OF OPERATIONS

We have identified material weaknesses and a significant deficiency in our internal controls that, if not properly corrected, could result in material misstatements in our financial statements.

In connection with our fiscal year 2006 financial statement audit, we identified three material weaknesses, and an additional significant deficiency (not rising to the level of a material weakness), in our internal controls. A significant deficiency is a control deficiency, or a combination of control deficiencies, that adversely affects our ability to initiate, authorize, record, process, or report external financial data reliably in accordance with U.S. generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of our annual or interim financial statements that is more that inconsequential will not be prevented or detected by our employees. A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of our annual or interim financial statement will not be presented or detected by our employees. We have undertaken a remediation plan designed to correct these issues.

We summarize below the nature of the material weaknesses referenced above as well as the related remediation steps that we are implementing or plan to implement:

- *Non-Routine Transactions.* We did not maintain adequate policies and procedures related to our financial reporting in order to account for significant, non-routine transactions in accordance with U.S. generally accepted accounting principles. To remedy this material weakness, we are implementing a new policy requiring management to review quarterly the accounting treatment for all transactions and contracts entered into.
- *Financial Statement Review Process.* We lack adequate personnel resources possessing sufficient expertise in U.S. generally accepted accounting principles to effectively perform a review of the annual financial statements. To remedy this material weakness, we intend to establish a new internal position that will be primarily responsible for SEC and other external reporting requirements. This position will report to the Vice President of Finance and Accounting.
- *Taxes.* We do not have an adequate number of personnel with appropriate qualifications and training in accounting for income taxes to perform a sufficient review of the income tax provision. To remedy this material weakness, we are implementing new procedures that, among other things, require us to further review the work of our external tax provider and to increase communication and information-sharing between our external tax provider and us.

The significant deficiency relates to our policies and procedures for the review of our master listing of stock options granted. To remedy this significant deficiency, we are reviewing each transaction on our master listing against the relevant source documents and implementing new policies requiring quarterly review of the master listing by departments including our finance and accounting departments.

If we are not able to timely remedy the material weaknesses and significant deficiency described above, we may be unable to provide to our shareholders the required financial information in a timely and reliable manner, and we may misreport financial information, either of which could subject us to stockholder litigation and regulatory enforcement actions. This could materially and adversely impact our financial condition and the market value of our securities.

Our operating results are likely to fluctuate from period to period.

We are a relatively new company seeking to capture significant growth. While our revenues and operating income have increased over time, we anticipate that there may be fluctuations in our future operating results. Potential causes of future fluctuations in our operating results may include:

- new product launches, which could increase revenues but also increase sales and marketing expenses;
- acquisition activity and other one-time charges (such as for inventory expiration);
- increases in research and development expenses resulting from the acquisition of a product candidate that requires significant additional development;
- changes in the competitive, regulatory or reimbursement environment, which could drive down revenues or drive up sales and marketing or compliance costs; and
- unexpected product liability or intellectual property claims and lawsuits.

See also “Management’s discussion and analysis of financial condition and results of operations — Liquidity and capital resources.” Fluctuation in operating results, particularly if not anticipated by investors and other members of the financial community, could add to volatility in our stock price.

Our focus on acquisitions as a growth strategy has created a large amount of intangible assets whose amortization could negatively affect our results of operations.

Our total assets include intangible assets related to our acquisitions. The value of these intangible assets represents the excess of the acquisition purchase price over the fair value of the separate assets we acquired. As of December 31, 2006, intangible assets relating to product and data acquisitions represented approximately 37.1% of our total assets. We may never realize the value of these assets. Generally accepted accounting principles require that we evaluate on a regular basis whether events and circumstances have occurred that indicate that all or a portion of the carrying amount of the asset may no longer be recoverable, in which case we would write down the value of the asset and take a corresponding charge to earnings. Any determination requiring the write-off of a significant portion of unamortized intangible assets would adversely affect our results of operations.

We may need additional funding and may be unable to raise capital when needed, which could force us to delay, reduce or eliminate our product development or commercialization and marketing efforts.

We may need to raise additional funds in order to meet the capital requirements of running our business and acquiring and developing new pharmaceutical products. If we require additional funding, we may seek to sell common stock or other equity or equity-linked securities, which could result in dilution to purchasers of common stock in this offering. We may also seek to raise capital through a debt financing, which would result in ongoing debt-service payments and increased interest expense. Any financings would also likely involve operational and financial restrictions being imposed on us. We might also seek to sell assets or rights in one or more commercial products or product development programs. Additional capital might not be available to us when we need it on acceptable terms or at all. If we are unable to raise additional capital when needed, we could be forced to scale back our operations to conserve cash.

We have a relatively short history of profitability and may not be able to sustain or increase our net income levels.

We were incorporated in 1999 and incurred operating losses until 2004. We recorded our first year of profitability in 2004 and have increased profitability in each of 2005 and 2006. As of December 31, 2006, however, we still had an accumulated deficit of ($7.4) million, representing the amount by which our historical losses have exceeded our historical profits. We may not be able to maintain or improve our current levels of revenue or net income. In such event, investors are likely to lose confidence in our ability to grow, and our stock price would suffer.

RISKS RELATED TO THIS OFFERING AND AN INVESTMENT IN OUR STOCK

As a new investor, you will experience immediate and substantial dilution in the net tangible book value of your shares.

The initial public offering price of our common stock in this offering is considerably more than the net tangible book value per share of our outstanding common stock. Investors purchasing shares of common stock in this offering will pay a price that substantially exceeds the value of our tangible assets after subtracting liabilities. As a result, investors in this offering will:

- Ø incur immediate dilution of $ per share, based on an assumed initial public offering price of $ per share;
- Ø contribute % of the total amount invested to date to fund our company based on an assumed initial offering price to the public of $ per share;
- Ø but will own only % of the shares of common stock outstanding after the offering.

We may conduct substantial additional equity offerings or issue equity as consideration in an acquisition or otherwise. These future equity issuances, together with the exercise of outstanding options or warrants, could result in future dilution to investors.

The market price of our common stock may fluctuate substantially.

The initial public offering price for the shares of our common stock sold in this offering has been determined by negotiation between the representatives of the underwriters and us. This price may not reflect the market price of our common stock following this offering. The price of our common stock may decline. In addition, the market price of our common stock is likely to be highly volatile and may fluctuate substantially.

The realization of any of the risks described in these “Risk factors” could have a dramatic and material adverse impact on the market price of our common stock. In addition, securities class action litigation has often been instituted against companies whose securities have experienced periods of volatility in market price. Any such securities litigation brought against us could result in substantial costs and a diversion of management’s attention and resources, which could negatively impact our business, operating results and financial condition.

We will incur increased costs as a result of operating as a public company, and our management will be required to devote additional time to new compliance initiatives.

We will incur increased costs as a result of operating as a public company, and our management will be required to devote additional time to new compliance initiatives. As a public company, we will incur legal, accounting and other expenses that we did not incur as a private company. In addition, the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, as well as rules subsequently implemented by

the SEC and Nasdaq, have imposed various new requirements on public companies, including requiring establishment and maintenance of effective disclosure and financial controls and changes in corporate governance practices. These rules and regulations will increase our legal and financial compliance costs and will render some activities more time-consuming and costly.

The Sarbanes-Oxley Act will require, among other things, that we maintain effective internal controls for financial reporting and disclosure controls and procedures. In particular, we must perform system and process evaluation and testing of our internal controls over financial reporting to allow management and our independent registered public accounting firm to report on the effectiveness of our internal controls over financial reporting, beginning with our Annual Report on Form 10-K for the fiscal year ending December 31, 2008, as required by Section 404 of the Sarbanes-Oxley Act. Our testing, or the subsequent testing by our independent registered public accounting firm, may reveal deficiencies in our internal controls over financial reporting that are deemed to be material weaknesses. As described in a previous risk factor, we have identified certain deficiencies in the past. Our compliance with Section 404 will require that we incur substantial accounting expense and expend significant management efforts. Moreover, if we are not able to comply with the requirements of Section 404 in a timely manner, or if we or our independent registered public accounting firm identifies deficiencies in our internal controls over financial reporting that are deemed to be material weaknesses, the market price of our stock could decline and we could be subject to sanctions or investigations by Nasdaq, the SEC or other regulatory authorities, which would require additional financial and management resources.

There may not be a viable public market for our common stock.

Prior to this offering, there has been no public market for our common stock, and a regular trading market might not develop or continue after this offering. Moreover, the market price of our common stock might decline below the initial public offering price.

We will have broad discretion in how we use the proceeds of this offering, and we may not use these proceeds effectively, which could affect our results of operations and cause our stock price to decline.

We will have broad discretion over the use of proceeds from this offering. We expect that the net proceeds from this offering will be used to fund clinical trials for Amelior and other research, marketing and development activities, and to fund working capital, capital expenditures and other general corporate purposes. We may also use a portion of the net proceeds to acquire products. We have no present agreements with respect to any such product acquisitions. We will have considerable discretion in the application of the net proceeds, and you will not have the opportunity, as part of your investment decision, to assess whether the proceeds are being used appropriately. The net proceeds may be used for purposes that do not increase our operating results or market value. Until the net proceeds are used, they may be placed in investments that do not produce significant income or that lose value.

Future sales of our common stock may depress our stock price.

Sales of a substantial number of shares of our common stock in the public market after this offering or the perception that these sales may occur could cause the market price of our common stock to decline. In addition, the sale of these shares in the public market could impair our ability to raise capital through the sale of additional common or preferred stock. After this offering, we will have shares of common stock outstanding. Of these shares, all shares sold in the offering, other than shares, if any, purchased by our affiliates, will be freely tradable.

Some provisions of our second amended and restated charter, bylaws and Tennessee law may inhibit potential acquisition bids that you may consider favorable.

Our corporate documents contain provisions that may enable our board of directors to resist a change in control of our company even if a change in control were to be considered favorable by you and other shareholders. These provisions include:

- the authorization of undesignated preferred stock, the terms of which may be established and shares of which may be issued without shareholder approval;
- advance notice procedures required for shareholders to nominate candidates for election as directors or to bring matters before an annual meeting of shareholders;
- limitations on persons authorized to call a special meeting of shareholders;
- a staggered board of directors;
- a requirement that vacancies in directorships are to be filled by a majority of the directors then in office and the number of directors is to be fixed by the board of directors; and
- no cumulative voting.

These and other provisions contained in our second amended and restated charter and bylaws could delay or discourage transactions involving an actual or potential change in control of us or our management, including transactions in which our shareholders might otherwise receive a premium for their shares over then current prices, and may limit the ability of shareholders to remove our current management or approve transactions that our shareholders may deem to be in their best interests and, therefore, could adversely affect the price of our common stock.

In addition, we are subject to control share acquisitions provisions and affiliated transaction provision of the Tennessee Business Corporation Act, the applications of which may have the effect of delaying or preventing a merger, takeover or other change of control of us and therefore could discourage attempts to acquire our company. For more information, see “Description of capital stock—Anti-takeover effects of Tennessee law and provisions of our charter and bylaws.”

Special note regarding forward-looking statements

Statements in this prospectus that are not historical factual statements are “forward-looking statements.” Forward-looking statements include, among other things, statements regarding our intent, belief or expectations, and can be identified by the use of terminology such as “may,” “will,” “expect,” “believe,” “intend,” “plan,” “estimate,” “should,” “seek,” “anticipate” and other comparable terms or the negative thereof. In addition, we, through our senior management, from time to time make forward-looking oral and written public statements concerning our expected future operations and other developments. While forward-looking statements reflect our good-faith beliefs and best judgment based upon current information, they are not guarantees of future performance and are subject to known and unknown risks and uncertainties, including those mentioned in “Risk factors,” “Management’s discussion and analysis of financial condition and results of operations” and elsewhere in this prospectus. Actual results may differ materially from the expectations contained in the forward-looking statements as a result of various factors. Such factors include, without limitation:

- legislative, regulatory or other changes in the healthcare industry at the local, state or federal level which increase the costs of, or otherwise affect our operations;
- changes in reimbursement available to us by government or private payers, including changes in Medicare and Medicaid payment levels and availability of third-party insurance coverage;
- competition; and
- changes in national or regional economic conditions, including changes in interest rates and availability and cost of capital to us.

Use of proceeds

We estimate that the net proceeds to us from the sale of the shares of common stock offered hereby will be approximately $ million, assuming an initial public offering price of $ and after deducting underwriting discounts and commissions and estimated offering expenses. If the underwriters exercise their over-allotment option in full, we estimate that our net proceeds will be approximately $ million. Each $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) the net proceeds to us from this offering by approximately $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same. Depending on market conditions at the time of pricing of this offering and other considerations, we may sell fewer or more shares than the number set forth on the cover page of this prospectus.

The principal purposes of this offering are to obtain additional capital and to create a public market for our common stock. We expect to use the net proceeds from this offering primarily for potential acquisitions, product development and expansion and general corporate purposes. We may use a portion of the net proceeds to acquire the rights to one or more marketed, FDA-approved products or one or more product candidates. We may also use a portion of the net proceeds to expand our operations in order to prepare for the launch of one or more new products, including expanding our sales forces. We may also use a portion of the net proceeds of this offering to repay all or a portion of our outstanding borrowings under our credit facility. Amounts loaned under our credit facility bear interest at BBA LIBOR Daily Floating Rate plus 2.50% per annum, and the facility expires in April 2008 with respect to the revolving line of credit and in April 2009 with respect to the term loan.

The amounts we actually expend for the above-specified purposes may vary depending on a number of factors, including changes in our business strategy, the amount of our future revenues and expenses and our future cash flow. If our future revenues or cash flow are less than we currently anticipate, we may need to support our ongoing business operations with net proceeds from this offering that we would otherwise use to support acquisitions and other methods of growth.

Until we use the net proceeds from this offering for the above purposes, we intend to invest the funds in short-term, investment-grade, interest-bearing securities as directed by our investment policy. Our goals with respect to the investment of these net proceeds are capital preservation and liquidity so that such funds are readily available.

Dividend policy

We have not declared or paid any dividends on our common stock and do not anticipate paying cash dividends on our common stock for the foreseeable future. We currently intend to retain any future earnings for use in the operation of our business and to fund future growth. The payment of any dividends by us on our common or preferred stock is limited by our loan agreement with Bank of America. Any future decision to declare and pay dividends will be at the sole discretion of our board of directors.

Capitalization

The following table sets forth our capitalization as of December 31, 2006:

- on an actual basis;
- on a pro forma basis to give effect to the conversion of all of our outstanding preferred stock into shares of common stock; and
- on a pro forma as adjusted basis to give further effect to the sale of shares of common stock that we are offering at an assumed initial public offering price of $ per share, after deducting underwriting discounts and commissions and estimated offering expenses to be paid by us.

You should read the following table in conjunction with our consolidated financial statements and related notes and "Management's discussion and analysis of financial condition and results of operations" appearing elsewhere in this prospectus.

	As of December 31, 2006		
	Actual	Pro Forma	Pro Forma as Adjusted
		(in thousands)	
Cash and cash equivalents(1)	$ 6,255	$	$
Long-term debt and long-term obligations	6,657		
Shareholders' equity:			
Preferred stock, no par value; 3,000,000 shares authorized, 855,495 shares issued and outstanding, actual; and shares authorized, no shares issued or outstanding, pro forma and pro forma as adjusted(2)	2,743	—	—
Common Stock, no par value; 10,000,000 shares authorized; 4,922,075 shares issued and outstanding, actual; shares authorized, shares issued and outstanding, pro forma; and shares authorized, shares issued and outstanding on a pro forma as adjusted basis(3)	15,743		
Additional paid-in capital(1)			
Accumulated deficit	(7,360)		
Total shareholders' equity(1)	11,126		
Total capitalization(1)	$ 17,783	$	$

(1) Each $1.00 increase or decrease in the assumed initial public offering price of $ per share would increase or decrease, as applicable, the amount of cash and cash equivalents, additional paid-in capital, total shareholders' equity and total capitalization by approximately $ million, assuming the number of shares offered by us, as set forth on the cover of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions payable by us.

(2) Upon the completion of this offering, the outstanding shares of preferred stock will convert into an aggregate of shares of common stock.

(3) Excludes:

- shares of common stock issuable upon exercise of outstanding options at a weighted average exercise price of $ per share;
- shares of common stock reserved for future issuance under our 2007 Long-Term Incentive Compensation Plan and our 2007 Directors' Plan; and
- shares of common stock issuable upon the exercise of outstanding warrants at a weighted average exercise price of $ per share.

Dilution

Our net tangible book as of December 31, 2006 was $1.3 million, or $ per share. Net tangible book value per share represents the amount of our total tangible assets less total liabilities, divided by the total number of shares of common stock outstanding. Our pro forma net tangible book value as of December 31, 2006 was $ million, or $ per share of common stock. Pro forma net tangible book value per share gives effect to the conversion of all of our preferred stock into shares of our common stock, which will occur upon completion of this offering.

After giving further effect to the sale by us of shares of common stock in this offering at an assumed initial public offering price of $ per share, after taking into account the automatic conversion of our preferred stock upon completion of this offering, and after deducting underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of December 31, 2006 would have been approximately $ million, or approximately $ per share. This amount represents an immediate increase in pro forma net tangible book value of $ per share to our existing shareholders and an immediate dilution in pro forma net tangible book value of approximately $ per share to new investors purchasing shares of common stock in this offering. We determine dilution by subtracting the pro forma as adjusted net tangible book value per share after this offering from the amount of cash that a new investor paid for a share of common stock.

The following table illustrates this dilution on a per share basis:

Assumed initial public offering price per share		$
Net tangible book value per share as of December 31, 2006	$	
Effect on net tangible book value per share on conversion of preferred stock into common stock		
Pro forma net tangible book value per share as of December 31, 2006		
Increase per share attributable to this offering		
Pro forma as adjusted net tangible book value per share after this offering		
Dilution per share to new investors		$

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) our pro forma as adjusted net tangible book value as of December 31, 2006 by approximately $ million, the pro forma as adjusted net tangible book value per share after this offering by $ and the dilution in pro forma as adjusted net tangible book value to new investors in this offering by $ per share, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

Dilution

The following table summarizes, as of December 31, 2006, the differences between the number of shares purchased from us, the total consideration paid to us and the average price per share that existing shareholders and new investors paid. The table gives effect to the conversion of all of our outstanding preferred stock into shares of common stock, which will occur upon completion of this offering. The calculation below is based on an assumed initial public offering price of $ per share and before deducting underwriting discounts and commissions and estimated offering expenses that we must pay.

	Total Shares		Total Consideration		Average Price per Share
	Number	%	Number	%	
Existing shareholders		%		%	$
New investors					
Total		100.0%		100.0%	

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) total consideration paid to us by investors participating in this offering by approximately $ million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The discussion and tables above assume no exercise of the underwriters' over-allotment option. If the underwriters' over-allotment option is exercised in full, the number of shares of common stock held by existing shareholders will be further reduced to , or % of the total number of shares of common stock to be outstanding after this offering, and the number of shares of common stock held by investors participating in this offering will be further increased to , or % of the total number of shares of common stock to be outstanding after this offering.

In addition, the above discussion and table assume no exercise of stock options after December 31, 2006. As of December 31, 2006, we had outstanding options to purchase a total of shares of common stock at a weighted average exercise price of $ per share and we had reserved shares of common stock issuable upon the exercise of outstanding warrants at a weighted average exercise price of $ per share. If all such options and warrants had been exercised as of December 31, 2006, pro forma as adjusted net tangible book value per share would have been $ per share, and dilution to new investors would have been $ per share.

Selected consolidated financial data

The following consolidated statement of operations data for the years ended December 31, 2004, 2005 and 2006 and consolidated balance sheet data as of December 31, 2005 and 2006 have been derived from our audited consolidated financial statements and related notes, which are included elsewhere in this prospectus. The consolidated statements of operations data for the years ended December 31, 2002 and 2003 and the consolidated balance sheet data as of December 31, 2002, 2003 and 2004 have been derived from our audited consolidated financial statements that do not appear in this prospectus. The following selected consolidated financial data should be read in conjunction with, and is qualified by reference to, our consolidated financial statements and related notes, which were examined and reported upon by KPMG LLP, and "Management's discussion and analysis of financial condition and results of operations" appearing elsewhere in this prospectus.

	Years Ended December 31,				
Statement of operations data[1]:	**2002**	**2003**	**2004**	**2005**	**2006**
	(in thousands, except per share data)				
Net revenues	$ 2,086	$ 2,943	$ 12,032	$ 10,690	$ 17,815
Costs and expenses:					
Cost of products sold	—	—	816	533	2,399
Selling and marketing	2,100	2,726	6,802	5,647	7,349
Research and development	934	1,658	746	1,158	2,233
General and administrative	2,279	2,265	2,358	2,588	2,999
Amortization of product license rights	—	—	—	—	515
Other	—	5	6	13	96
Total costs and expenses	5,313	6,654	10,729	9,940	15,592
Gain on insurance recovery	—	—	266	—	—
Operating income (loss)	(3,227)	(3,710)	1,569	750	2,224
Interest income	3	8	1	89	209
Interest expense	73	765	1,012	63	722
Other expense (income)	(9)	2	—	6	3
Net income before minority interest and income taxes	(3,289)	(4,469)	558	770	1,708
Minority interest in net loss of consolidated subsidiary	7	—	—	—	—
Income tax benefit	—	—	—	1,184	2,697
Net income (loss)	$ (3,282)	$ (4,469)	$ 558	$ 1,954	$ 4,404
Net income (loss) per share—basic	$ (0.80)	$ (1.05)	$ 0.12	$ 0.41	$ 0.90
Net income (loss) per share—diluted	$ (0.80)	$ (1.05)	$ 0.07	$ 0.24	$ 0.55
Weighted average shares outstanding—basic	4,116	4,261	4,541	4,748	4,899
Weighted average shares outstanding—diluted	4,116	4,261	7,741	8,045	8,016

(1) The sum of the individual amounts may not agree due to rounding.

	As of December 31,				
Balance sheet data:	**2002**	**2003**	**2004**	**2005**	**2006**
	(in thousands)				
Cash and cash equivalents	$ 1,790	$ 771	$ 516	$ 5,536	$ 6,255
Working capital	(485)	(3,110)	262	5,640	3,945
Total assets	1,946	2,083	4,507	10,173	26,481
Total long-term debt and other long-term obligations	2,358	3,108	2,436	2,398	10,543
Preferred stock	2,743	2,743	2,743	2,743	2,743
Total shareholders' equity (deficit)	(1,762)	(3,433)	(22)	6,234	11,126

Management's discussion and analysis of financial condition and results of operations

The following discussion and analysis of our financial position and results of operations should be read together with our audited consolidated financial statements and related notes appearing elsewhere in this prospectus. This discussion and analysis may contain forward-looking statements that involve risks and uncertainties. You should review the "Risk factors" section of this prospectus for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements described in the following discussion and analysis.

OVERVIEW

We are a specialty pharmaceutical company focused on the acquisition, development and commercialization of branded, prescription products. We are building our product portfolio primarily by acquiring rights to FDA-approved and late-stage development products and marketing them to specialty physician segments. Our primary target markets are hospital acute care and gastroenterology. Our current portfolio consists of two marketed products and one late-stage development product nearing completion of Phase III clinical trials.

We pursued the development of Acetadote for the treatment of acetaminophen poisoning and acquired rights to clinical data to support its approval. Approval of the product was obtained in January 2004 and we began to market Acetadote in the second quarter of 2004 and launched the product with a dedicated hospital sales force. In March 2006, we received approval from the FDA for the use of Acetadote in pediatric patients.

We gained access to marketed gastroenterology products by negotiating co-promotion agreements with the original developers of these products. These agreements allowed us to enter the gastroenterology market with minimal up-front costs and limited ongoing operating risk. In 2005, we made a strategic decision to de-emphasize our reliance on co-promotion agreements as a primary growth driver. In April 2006, we acquired exclusive commercial rights in the U.S. to Kristalose, a gastroenterology product we had previously co-promoted under an arrangement with Bertek Pharmaceuticals Inc., a subsidiary of Mylan Laboratories Inc. In October 2006, we re-launched Kristalose under the Cumberland brand with a dedicated field sales force targeting gastroenterologists and other high prescribers of laxative products.

Our research and development expenses have grown consistently because of our program to develop Amelior. We expect research and development expenses to increase in 2007 as we continue our clinical work related to Amelior. We plan to complete the Amelior clinical work in early 2008.

We have funded our operations with private equity capital of approximately $14 million during the past six years. We have supplemented this equity funding by re-investing our profits and utilizing our credit facilities in order to support our operations.

Prior to 2007, our sales forces were contracted to us by a third party. In January 2007, we brought the hospital sales force in-house via our newly-formed, wholly-owned subsidiary, Cumberland Pharma Sales Corp. We continue to outsource the dedicated gastroenterology sales force. All expenses associated with the sales forces are included in selling and marketing expense.

In 2000, we formed CET with Vanderbilt University and Tennessee Technology Development Corporation to identify early-stage drug development activities. CET partners with universities and other research organizations to advance promising, early-stage product candidates through the development process and on to commercialization.

Our operating results have fluctuated in the past and are likely to fluctuate in the future. These fluctuations can result from competitive factors, new product acquisitions or introduction, the nature, scope and result of our research and development programs, pursuit of our growth strategy and other factors. As a result of these fluctuations, our historical financial results are not necessarily indicative of future results.

We were incorporated in 1999 and have been headquartered in Nashville, Tennessee since inception.

CRITICAL ACCOUNTING POLICIES AND SIGNIFICANT JUDGMENTS AND ESTIMATES

Accounting Estimates and Judgments

The preparation of the consolidated financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates, judgments and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the period. We base our estimates on past experience and on other factors we deem reasonable given the circumstances. Past results help form the basis of our judgments about the carrying value of assets and liabilities that are not determined from other sources. Actual results could differ from those estimates. These estimates, judgments and assumptions are most critical with respect to our accounting for revenue recognition, provision for income taxes, stock-based compensation, research and development accounting, and intangible assets.

Revenue Recognition

Our revenue is derived primarily from the product sales of Acetadote and Kristalose. Revenue is recognized when persuasive evidence of an arrangement exists, delivery has occurred, the fee is fixed and determinable and collectibility is probable. Delivery is considered to have occurred upon either shipment or arrival at destination on shipping terms. When these conditions are satisfied, we recognize gross revenue, which is the price we charge generally to our wholesalers for a particular product. We record allowances for estimated chargebacks, discounts and damaged goods, and accruals for rebates and fees for services. Allowances and accruals are established by management as its best estimate at the time of sale based on each product's historical experience adjusted to reflect known changes in the factors that impact such reserves. Allowances for chargebacks and discounts, and accruals for rebates and returns are established based on the contractual terms with customers; analysis of historical levels of discounts, returns, chargebacks and rebates; communications with customers and purchased information about the rate of prescriptions being written and the levels of inventory remaining in the distribution channel, if known, as well as expectations about the market for each product and anticipated introduction of competitive products.

The allowances for chargebacks and accruals for rebates and returns are established by product, and are the most significant estimates used in the recognition of our revenue from product sales. If the actual amount of cash discounts taken, chargebacks, rebates and expired product returns differ from the amounts estimated by management, material differences may result from the amount of our revenue recognized from product sales.

From January 2006 through part of April 2006, we recorded contract sales revenue which was based on co-promotion agreements primarily with Bertek Pharmaceuticals Inc., for the sales of Kristalose. Co-promotion fees were calculated based on a percent of gross sales or similar calculation. Contract sales revenue is included in net revenues.

Other income, which is included in net revenues, includes rental and grant income. Rental income and grant income were three percent of net revenues in 2006.

Income Taxes

We provide for deferred taxes using the asset and liability approach. Under this method, deferred tax assets and liabilities are recognized for the future tax consequences attributable to operating loss and tax credit carry-forwards and differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Our principal differences are related to the timing of deductibility of certain items such as depreciation, amortization and expense for options issued to non-employees. Deferred tax assets and liabilities are measured using management's estimate of tax rates expected to apply to taxable income in the years in which management believes those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income, and tax planning strategies in making this assessment. In order to fully utilize the deferred tax asset of $4.0 million as of December 31, 2006, we will need to generate future taxable income of approximately $11.8 million prior to the expiration of the net operating loss carry-forwards in 2025.

Stock-Based Compensation

Prior to January 1, 2006 we applied the intrinsic-value-based method of accounting prescribed by Accounting Principles Board (APB) Opinion No. 25, *Accounting for Stock issued to Employees*, and related interpretations including FIN No. 44, *Accounting for Certain Transactions involving Stock Compensation an interpretation of APB Opinion No. 25*, to account for our stock options issued under the 1999 Stock Option Plan. Under this method, compensation expense is recorded on the date of grant only if the current market price of the underlying stock exceeded the exercise price. Statement of Financial Accounting Standards, or SFAS, No. 123, *Accounting for Stock-Based Compensation* and Financial Accounting Standards Boards, or FASB No. 148, *Accounting for Stock-Based Compensation—Transition and Disclosure, an amendment of FASB Statement No. 123*, established accounting and disclosure requirements using a fair-value-based method of accounting for stock-based employee compensation plans. As permitted by then-existing accounting standards, we elected to continue to apply the intrinsic-value-based method of accounting described above, and adopted only the disclosure requirements of SFAS No. 123, as amended.

Effective January 1, 2006, we adopted SFAS, No. 123(R), Share-Based Payment, which revises SFAS No. 123, *Accounting for Stock-Based Compensation* and supersedes Accounting Principles Board, or APB, Opinion No. 25, *Accounting for Stock Issued to Employees*. SFAS 123(R) requires that share-based payment transactions with employees be recognized in the financial statements based on their fair value and recognized as compensation expense over the vesting period. We adopted SFAS 123(R) effective January 1, 2006, prospectively for new equity awards issued subsequent to December 31, 2005.

Information on employee and non-employee stock options granted in 2006 is summarized as follows:

Grants made during quarter ended	Number of Stock Options Granted	Weighted Average Exercise Price	Average Intrinsic Value per Share	Weighted Average Fair Value of Option (per Share)
March 31, 2006	12,000	$18.00	$4.00	$8.36
June 30, 2006	24,300	$18.74	$3.26	$9.90
September 30, 2006	9,075	$18.00	$4.00	$11.16
December 31, 2006	2,600	$18.00	$4.00	$11.01

Under SFAS No. 123(R), we calculate the fair value of stock option grants using the Black-Scholes option-pricing model. The assumptions used in the Black-Scholes model ranged from two months to ten years for the expected term, 37%-63% for the expected volatility, 4.34% to 5.08% for the risk free rate and zero percent for dividend yield for the year ended December 31, 2006. Future option expense could be impacted by changes in our model assumptions.

For employee stock option grants, the weighted average expected option terms for 2006 represent the application of the simplified method as defined in SEC Staff Accounting Bulletin (or SAB), No. 107 issued in March of 2005. The simplified method defines the expected life as the average of the contractual term of the options and the weighted average vesting period for the option. For non-employee stock option grants, the expected option terms for 2006 represent the contractual term.

Estimated volatility for 2006 was determined in accordance of SAB No. 107 and was determined by reviewing historical volatility of similar public companies.

As of December 31, 2006, we had approximately $322,000 of unrecognized share-based compensation expense related to unvested option awards. Additionally, as of December 31, 2006, we had outstanding vested options to purchase 3,899,088 shares of our common stock and unvested options to purchase 105,890 shares of our common stock. Furthermore, as of December 31, 2006, we had outstanding 34,479 warrants to purchase shares of our common stock.

Research and Development

We account for research and development costs and accrue expenses, based on estimates of work performed, patient enrollment or fixed-fee-for-services. As work is performed and/or invoices are received, we adjust our estimates and accruals. To date, our accruals have been within our estimates. Total research and development costs are a function of studies being conducted and will increase or decrease depending on the level of activity in any particular year.

Intangible Assets

Intangible assets include license agreements, product rights and other identifiable intangible assets. We assess the impairment of identifiable intangible assets whenever events or changes in circumstances indicate that the carrying value may not be recoverable. In determining the recoverability of our intangible assets, we must make assumptions regarding estimated future cash flows and other factors. If the estimated undiscounted future cash flows do not exceed the carrying value of the intangible assets, we must determine the fair value of the intangible assets. If the fair value of the intangible assets is less than the carrying value, an impairment loss will be recognized in an amount equal to the difference.

RESULTS OF OPERATIONS

The following table sets forth, for the periods indicated, certain items from our statement of operations expressed as a percentage of net revenues, as well as the period-to-period change in these items.

	Years Ended December 31,			% Change	
	2004	2005	2006	2004-2005	2005-2006
Net revenues	100.0%	100.0%	100.0%	(11.2%)	66.7%
Costs and expenses:					
Cost of products sold	6.8	5.0	13.5	(34.7)	349.9
Selling and marketing	56.5	52.8	41.2	(17.0)	30.1
Research and development	6.2	10.8	12.5	55.2	92.9
General and administrative	19.6	24.2	16.8	9.7	15.9
Amortization of product license rights	—	—	2.9	—	—
Other	0.1	0.1	0.5	117.4	614.9
Total costs and expenses	89.2	93.0	87.5	(7.4)	56.9
Gain on insurance recovery	2.2	0.0	0.0	(100.0)	0.0
Operating income	13.0	7.0	12.5	(52.2)	196.5
Interest income	0.0	0.8	1.2	—(1)	133.8
Interest expense	8.4	0.6	4.1	(93.8)	—(1)
Other expense	0.0	0.1	0.0	—	(50.3)
Net income before income taxes	4.6	7.2	9.6	38.0	121.7
Income tax benefit	0.0	11.1	15.1	—	127.7
Net income(2)	4.6	18.3	24.7	250.1	125.4

(1) Not meaningful.

(2) The sum of the individual amounts do not agree to the total due to rounding.

Description of operating accounts

Net revenues consist of net product revenue, revenue from co-promotion agreements and other revenue. Net product revenue consists primarily of gross revenue less discounts and allowances, such as cash discounts, rebates, chargebacks and returns. Revenue from co-promotion agreements includes product promotion fees. Other income includes rental and grant income.

Cost of products sold consists primarily of the cost of each unit of product sold. Cost of products sold also includes expense for slow moving or expired product.

Selling and marketing expense consists primarily of expense relating to the promotion, distribution and sale of products, including salaries and related costs.

Research and development expense consists primarily of clinical trial expenses, salary and wages and related costs of materials and supplies, and certain activities of third-party providers participating in our clinical studies.

General and administrative expense includes finance and accounting expenses, executive expenses, office expenses and business development expenses, including salaries and related costs.

Amortization of product license rights resulted from our acquisition of the exclusive U.S. commercialization rights to Kristalose.

Interest income consists primarily of interest income earned on cash deposits.

Interest expense consists primarily of interest incurred on debt and other long-term obligations.

Income tax benefit consists primarily of the realization of our deferred tax assets less taxes incurred on income.

Year ended December 31, 2006 compared to year ended December 31, 2005

Net revenues. Net revenues in 2006 totaled $17.8 million, representing an increase of $7.1 million, or 66.7%, over net revenues in 2005 of $10.7 million. This increase was primarily due to additional product revenue from sales of Kristalose, as well as continued growth of Acetadote. In April 2006, we entered into an agreement to acquire the exclusive U.S. commercial rights to Kristalose and began recording revenue based on shipments of the product. Prior to April 2006, we co-promoted Kristalose and recorded a co-promotion fee based on a percentage of the product's sales. In 2005, revenue was reduced by $2.0 million for promotional costs owed to a wholesaler. Additionally, unlike prior years, in 2006, we did not offer any special purchasing opportunities to our customers prior to product price increases.

Cost of products sold. Cost of products sold in 2006 totaled $2.4 million, representing an increase of $1.9 million, or 349.9%, over cost of products sold in 2005 of $533,000. Cost of products sold as a percentage of net revenues was 13.5% and 5.0% in 2006 and 2005, respectively. The majority of the increase was due to recording the cost of products sold associated with Kristalose beginning in April 2006. Prior to that date, we recorded no Kristalose cost of products sold because of the co-promotion arrangement referred to above. Acetadote cost of products sold, as a percentage of Acetadote net revenue, was not materially different between 2006 and 2005.

Selling and marketing. Selling and marketing expense in 2006 totaled $7.3 million, representing an increase of $1.7 million, or 30.1%, over selling and marketing expense in 2005 of $5.6 million. Selling and marketing expense as a percentage of net revenues was 41.2% and 52.8% in 2006 and 2005, respectively. The increase was primarily due to the launch of our new dedicated gastroenterology field sales force as well as other sales and marketing costs associated with the re-launch of Kristalose. We anticipate selling and marketing expense will grow, as we expand both sales forces as well as our product lines.

Research and development. Research and development expense in 2006 totaled $2.2 million, representing an increase of $1.1 million, or 92.9%, over research and development expense in 2005 of $1.2 million. Research and development expense as a percentage of net revenues was 12.5% and 10.8% in 2006 and 2005, respectively. This increase was primarily due to increased clinical studies activities associated with the development of Amelior. Research and development expense is expected to continue to grow in 2007, as we work to complete our final studies of Amelior prior to submission for approval to the FDA.

General and administrative. General and administrative expense in 2006 totaled $3.0 million, representing an increase of $412,000, or 15.9%, over general and administrative expense in 2005 of $2.6 million. General and administrative expense as a percentage of net revenues was 16.8% and 24.2% in 2006 and 2005, respectively. The dollar increase in general and administrative expense was primarily due to an increase in salaries and related expenses from 2005, as a result of the addition of personnel to support our growth. We expect general and administrative expense to increase in future

periods as we continue to add staff, expand our infrastructure and support the requirements of a public company.

Amortization of product license rights. Amortization of product license rights totaled $515,000 in 2006. This expense is a result of amortization associated with our acquisition of the exclusive U.S. commercialization rights to Kristalose. We expect to incur annual amortization expense relating to these product license rights through March 2021.

Interest income. Interest income in 2006 totaled $209,000 compared to interest income in 2005 of $89,000. The majority of the increase in interest income was due to larger cash balances in 2006.

Interest expense. Interest expense in 2006 totaled $722,000 compared to interest expense in 2005 of $63,000. The majority of the increase in interest expense was due to interest expense associated with debt incurred to finance the acquisition of Kristalose. In 2005, we had minimal debt and thus, minimal interest expense.

Income tax benefit. Net income tax benefit in 2006 totaled $2.7 million compared to net income tax benefit in 2005 of $1.2 million. The increase was due to full recording of our deferred tax asset after determining that it was more likely than not that we would realize the benefits of the deferred tax asset.

Year ended December 31, 2005 compared to year ended December 31, 2004

Net revenues. Net revenues in 2005 totaled $10.7 million, representing a decrease of $1.3 million, or 11.2%, over net revenues in 2004 of $12.0 million. This decrease was primarily due to promotional costs owed to a wholesaler. This was partially off-set by a full year of sales of Acetadote in 2005, versus nine months in 2004. In 2005, two products accounted for all product sales, and there were two additional products for which we received a portion of product revenue based on promotion agreements. In 2004 and 2005, we provided our key customers the opportunity to purchase additional product prior to implementing a price increase. Certain customers took advantage of this opportunity and purchased additional product. The last year we offered such an incentive to our customers was 2005.

Cost of products sold. Cost of products sold in 2005 totaled $533,000, representing a decrease of $283,000, or 34.7%, over cost of products sold in 2004 of $816,000. Cost of products sold as a percentage of net revenues was 5.0% and 6.8% in 2005 and 2004, respectively. The majority of the decrease was due to a change in the product mix, which in 2004 included a higher ratio of gastroenterology products as compared to 2005. Gastroenterology products tend to have a higher manufacturing cost per unit than our other products.

Selling and marketing. Selling and marketing expense in 2005 totaled $5.6 million representing a decrease of $1.2 million, or 17.0%, over selling and marketing expense in 2004 of $6.8 million. Selling and marketing expense as a percentage of net revenues was 52.8% and 56.5% in 2005 and 2004, respectively. The decrease was due to lower royalty costs, a reduction in marketing costs relative to 2004 when we launched Acetadote, reduced distribution costs and reduced sales force expenses.

Research and development. Research and development expense in 2005 totaled $1.2 million, representing an increase of $412,000 or 55.2%, over research and development expense in 2004 of $746,000. Research and development expense as a percentage of net revenues was 10.8% and 6.2% in 2005 and 2004, respectively. This increase was primarily due to increased expenses relating to clinical studies associated with the development of Amelior.

General and administrative. General and administrative expense in 2005 totaled $2.6 million, representing an increase of $230,000, or 9.7%, over general and administrative expense in 2004 of

$2.4 million. General and administrative expense as a percentage of net revenues was 24.2% and 19.6% in 2005 and 2004, respectively. This increase was primarily due to increased stock option expense for consulting services as well as increased salaries and related expenses.

Interest income. Interest income in 2005 totaled $89,000 compared to interest income in 2004 of $1,000. The majority of the increase in interest income in 2005 resulted from higher levels of cash and cash equivalents.

Interest expense. Interest expense in 2005 totaled $63,000 compared to interest expense in 2004 of $1.0 million. The majority of the decrease in interest expense in 2005 resulted from lower levels of outstanding debt as 2004 had significant interest expense associated with convertible debt which was converted to equity in 2004.

Income tax benefit. Net income tax benefit in 2005 totaled $1.2 million. We had no income tax benefit in 2004. The existence of the income tax benefit was due to initial, partial recording of our deferred tax asset after determining that it was more likely than not that we would realize at least a portion of benefits of the deferred tax asset.

LIQUIDITY AND CAPITAL RESOURCES

As of December 31, 2006, cash and cash equivalents was $6.3 million, working capital was $3.9 million and our current ratio (current assets to current liabilities) was 1.5 to 1. Management expects funds for our operating and capital requirements will be provided by continuing revenue and existing cash balances, as well as from collaborative agreements and other financing arrangements. As of December 31, 2006, we also had the ability to make additional draws of up to $3 million on our line of credit and will have substantial proceeds from this offering.

The following table summarizes our net increase (decrease) in cash and cash equivalents for the years ended December 31, 2004, 2005 and 2006:

	Years Ended December 31,		
	2004	2005	2006
	(in thousands)		
Net cash provided by (used in):			
Operating activities	$ (1,439)	$ 2,416	$ 2,163
Investing activities	(51)	(318)	(6,553)
Financing activities	1,236	2,922	5,109
Net increase (decrease) in cash and cash equivalents	$ (255)(1)	$ 5,020	$ 719

(1) The sum of the individual amounts do not agree to the total due to rounding.

Net cash provided by operating activities was $2.2 million for the year ended December 31, 2006. During this time, net income of $4.4 million was partially offset by net changes in assets and liabilities of $713,000 and adjustments to reconcile net income to net cash for depreciation, amortization, stock-based compensation, and deferred tax benefit.

Net cash used in investing activities was $6.6 million for the year ended December 31, 2006. This use of cash was primarily due to a payment of $6.5 million for the acquisition of exclusive U.S. rights to Kristalose.

Net cash provided by financing activities was $5.1 million for the year ended December 31, 2006, including $5.5 million of proceeds from the issuance of long-term debt to fund the acquisition of rights to Kristalose.

In April 2006, we entered into an agreement with Inalco to acquire exclusive U.S. commercial rights for Kristalose. In order to complete this transaction, we obtained funding from Bank of America in the form of a three-year term loan for $5.5 million and a new two-year revolving line of credit agreement, both with an interest rate of LIBOR plus 2.5% (7.83% as of December 31, 2006). The borrowings are collateralized by a first lien against all of our assets. We are paying off the term loan in quarterly installments, with the final payment due in 2009. This agreement contains various covenants, all of which we were in compliance with as of December 31, 2006. In addition to the three-year term loan, we deferred $4.5 million of the purchase price, with $1.5 million due in 2007 and $3.0 million due in 2009.

In conjunction with this line of credit agreement and term loan agreement, we issued to the lender warrants to purchase up to 1,979 shares of common stock at $18.00 per share. The warrants expire in April 2016. The estimated fair value of such warrants of $25,680, as determined using the Black-Scholes model, has been recorded in the accompanying financial statements as permanent equity in accordance with Emerging Issues Task Force, or EITF, No. 00-19, *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock.*

In conjunction with the Kristalose agreement with Inalco, we are obligated to purchase a minimum amount of Kristalose inventory each year. We expect our normal inventory purchasing to be above the required minimum amount.

As part of our agreement with Bioniche, our supplier of Acetadote, we are obligated to purchase a minimum amount of Acetadote inventory each year beginning in 2007, through 2011. We expect that our normal inventory purchasing to be above the required minimum amount.

In the second quarter of 2005, we received approximately $2.0 million from various investors in exchange for convertible promissory notes with a maturity date six months from the date of issuance. The notes bore interest at a fixed annual rate of 3.5%. In the fourth quarter of 2005, and pursuant to the terms of the notes, the principal value plus all elected accrued interest was converted into shares of our common stock.

In April 2005, we conducted a private placement of our common stock in which we issued 100,000 shares of common stock for total gross proceeds of $1.8 million, with net proceeds of $1.7 million. The purpose of this offering was to provide funding to advance product agreements, to complete product development and for general corporate purposes.

In May 2004, we issued 43,000 shares of our common stock to S.C.O.U.T. Healthcare Fund, L.P., or S.C.O.U.T., for cash consideration of $516,000.

On October 21, 2003, we amended our $1.0 million, one-year revolving line of credit. Under the terms of the amended agreement, we had borrowing capacity up to the lesser of $3.5 million or 80% of our eligible receivables, plus 50% of our eligible inventory. The agreement was extended to March 2006. The agreement contained various provisions and covenants with which we were in compliance at December 31, 2005.

On September 5, 2003, we received $1.0 million from S.C.O.U.T. in the form of a convertible promissory note with a maturity date of September 5, 2004. The note bore interest at a fixed annual rate of 10%. Pursuant to the terms of the note, on its maturity date the principal value of the note plus all accrued interest automatically converted into 91,667 shares of our common stock.

During 2000, we signed an agreement with a third party to cover a variety of development efforts related to a specific pharmaceutical drug, including preparation of submissions to the FDA. Under the terms of the agreement, we deferred a portion of each bill from the third party. One-third of the deferred amount accrued interest at an annual rate of 12.5% and was due after eighteen months. The remaining two-thirds will be due upon specific milestone events. Upon meeting the first milestone, an amount equal to one-third of the original deferred amount, or approximately $205,000, will become due and payable. Upon completion of the final milestone event, an amount equal to five times one-third of the original deferred amount, or approximately $1 million, will become due and payable to the third party. Since the application of these factors is contingent upon specific events which may or may not occur in the future and which have not occurred as of December 31, 2006, the expense for these factors has not been recorded.

The following table sets forth a summary of our contractual cash obligations as of December 31, 2006.

	Payments Due by Year				
Contractual obligations	2007	2008	2009	2010	2011+
			(in thousands)		
Amounts reflected in the balance sheet:					
Line of credit	$ —	$ 826	$ —	$ —	$ —
Term loan	1,833	1,833	917	—	—
Other contractual obligations	2,078	411	3,000	—	—
Other cash obligations not reflected in the balance sheet					
Operating leases	375	487	492	460	47
Purchase obligations[1]	2,084	2,384	2,684	2,984	809

(1) Represents minimum purchase obligations under Kristalose and Acetadote manufacturing agreements.

OFF-BALANCE SHEET ARRANGEMENTS

During 2004, 2005 and 2006, we did not engage in any off-balance sheet arrangements.

RECENT ACCOUNTING PRONOUNCEMENTS

In September 2005, the EITF issued EITF Issue No. 04-13, *Accounting for Purchases and Sales of Inventory with the Same Counterparty.* EITF No. 04-13 provides guidance as to when purchases and sales of inventory with the same counterparty should be accounted for as a single exchange transaction. EITF No. 04-13 also provides guidance as to when a non-monetary exchange of inventory should be accounted for at fair value. EITF No. 04-13 will be applied to new arrangements entered into, and modifications or renewals to existing arrangements occurring after January 1, 2007. The application of EITF No. 04-13 is not expected to have a significant impact on our financial statements.

In September 2006, the FASB issued FASB Statement No. 157, *Fair Value Measurement*, or Statement 157. SFAS 157 defines fair value, establishes a framework for the measurement of fair value, and enhances disclosures about fair value measurements. The Statement does not require any new fair value measures. The Statement is effective for fair value measures already required or permitted by other standards for fiscal years beginning after November 15, 2007. We are required to adopt Statement 157 beginning on January 1, 2008. Statement 157 is required to be applied prospectively, except for certain financial instruments. Any transition adjustment will be recognized as an adjustment to opening retained earnings in the year of adoption. We are currently evaluating the impact of adopting Statement 157 on our results of operations and financial position.

In July 2006, the FASB issued FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes*, an interpretation of FASB Statement 109 (FIN 48). FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements and prescribes a threshold of more-likely-than-not for recognition of tax benefits of uncertain tax positions taken or expected to be taken in a tax return. FIN 48 also provides related guidance on measurement, de-recognition, classification, interest and penalties, and disclosure. The provisions of FIN 48 are effective for us as of January 1, 2007, with any cumulative effect of the change in accounting principle recorded as an adjustment to opening retained earnings. We are in the process of assessing the impact of adopting FIN 48 on our results of operations and financial position.

RECENTLY ADOPTED ACCOUNTING STANDARDS

In March 2005, the FASB issued Statement No. 123R (which replaces Statement No. 123 issued in 1995), *Share-Based Payments*, which addresses accounting for transactions in which an entity exchanges its equity instruments for goods or services, with a primary focus on transactions in which an entity obtains employee services in share-based payment transactions. This Statement is a revision of Statement No. 123 and supersedes APB Opinion No. 25, *Accounting for Stock Issued to Employees*, and its related implementation guidance. For nonpublic companies, this Statement requires measurement of the cost of employee services received in exchange for stock compensation based on the grant-date fair value of the employee stock options. Incremental compensation costs arising from subsequent modifications of awards after the grant date must be recognized. This Statement was effective for us as of January 1, 2006.

QUANTITATIVE AND QUALITATIVE DISCLOSURE OF MARKET RISKS

Our exposure to market risk is related to interest rates on our cash on deposit in highly liquid money market accounts. The main objective of our cash investment activities is to preserve principal while maximizing interest income through low risk investments. Derivative instruments are not included in our investment portfolio. Our investment policy focuses on principal preservation and liquidity.

While we operate primarily in the U.S., we do have foreign currency exposure considerations. Acetadote is manufactured by a supplier that denominates supply prices in Canadian dollars. Additionally, much of our research and development is performed abroad. Foreign currency transactions in U.S. dollars totaled approximately $1.4 million in 2006.

Business

OVERVIEW

We are a profitable and growing specialty pharmaceutical company focused on the acquisition, development and commercialization of branded prescription products. Our primary target markets are hospital acute care and gastroenterology, which are characterized by relatively concentrated physician prescriber bases. Unlike many emerging pharmaceutical and biotechnology companies, we have established a product development and commercial operating infrastructure that is scalable to accommodate our expected growth. Our management team consists of pharmaceutical industry veterans with significant experience in business development, clinical and regulatory affairs, and sales and marketing.

Since our inception in 1999, we have successfully funded the acquisition and development of our product portfolio with limited external investment and maintained profitable operations over the past three years. Our portfolio consists of two products approved by the U.S. Food and Drug Administration, or FDA, one late-stage development product candidate nearing completion of Phase III clinical trials and several early-stage development projects. We were directly responsible for the clinical development and regulatory approval of Acetadote, one of our marketed products, and are currently completing development of Amelior, our lead product candidate. We promote Acetadote and our other FDA-approved product, Kristalose, through dedicated hospital and gastroenterology sales forces, which are comprised of 42 sales representatives and managers.

Our key products and product candidates include:

Product	Indication	Delivery	Status
Amelior®	Pain and Fever	Injectable	Phase III
Acetadote®	Acetaminophen Poisoning	Injectable	Marketed
Kristalose®	Chronic and Acute Constipation	Oral Solution	Marketed

Amelior, our lead pipeline candidate, is an intravenous formulation of ibuprofen that we expect will be the first injectable product approved in the U.S. for the treatment of both pain and fever. Amelior is currently in Phase III clinical trials. We expect to complete clinical development by early 2008 and are preparing to submit our new drug application, or NDA, to the FDA for review. Amelior is designed to provide physicians with a safe, effective treatment alternative for patients who are unable to take oral medication for pain relief or fever reduction. If approved, we plan to market Amelior in the U.S. through our hospital sales force and in international markets through alliances with marketing partners. We believe Amelior currently represents our most significant product opportunity.

Injectable analgesics, or pain relievers, currently available in the U.S. include opioids, such as morphine and meperdine, and ketorolac, a non-steroidal anti-inflammatory drug, or NSAID. While opioids accounted for over 91% of market volume, with approximately 447 million units sold in 2006, they are known to cause undesirable side effects including nausea, vomiting and cognitive impairment. Ketorolac is the only non-opioid injectable analgesic approved for sale in the U.S. and has also been known to cause unwanted side effects. Despite strong safety warnings from the FDA, use of ketorolac in the U.S. has grown from approximately 38 million units sold in 2003 (7% of the market) to approximately 43 million units sold in 2006 (9% of the market) according to IMS Health Inc., or IMS Health. Based on the results of clinical studies to date, we believe Amelior represents a potentially safer alternative therapy to ketorolac. Further, we believe Amelior is a safe and effective treatment for hospitalized patients with fever who are unable to take oral medication. There is currently no approved injectable treatment for fever in the U.S.

Acetadote is an intravenous formulation of N-acetylcysteine, or NAC, indicated for the treatment of acetaminophen poisoning. According to the American Association of Poison Control Centers' Toxic Exposure Surveillance System, acetaminophen was the leading cause of poisonings presenting to emergency departments in the U.S., with approximately 77,000 cases treated in 2005. In January 2004, Acetadote received FDA approval as an orphan drug, a designation which provides for seven years of marketing exclusivity from date of approval. Since its launch in June 2004, we have consistently grown product sales for Acetadote, with wholesaler sales to hospitals growing 43% to $13 million in 2006. We believe that we can continue to expand market share, and that our Acetadote sales and marketing platform should help facilitate the commercial launch of Amelior.

Kristalose, a prescription laxative product, is a crystalline form of lactulose designed to enhance patient acceptance and compliance. Based on data from IMS Health, the market for prescription laxatives in the U.S. grew from approximately $206 million in 2003 to $389 million in 2006, driven largely by new product introductions and increased promotional activity by our competitors. Wholesaler sales of Kristalose to pharmacies were $10.5 million in 2006. We acquired exclusive U.S. commercialization rights to Kristalose during that year, assembled a new dedicated field sales force and re-launched the product in October 2006 under the Cumberland brand. We believe that Kristalose has competitive advantages over competing prescription laxatives, and that the potential for growth of this product is significant.

Early-stage product candidates. Our early-stage product candidates are being developed through Cumberland Emerging Technologies, Inc., or CET, our 86%-owned subsidiary. CET collaborates with leading research institutions to identify and pursue promising pre-clinical programs within our target market segments. We have negotiated rights to develop and commercialize these product candidates. Current CET projects include an improved treatment for fluid buildup in the lungs of cancer patients and an anti-infective for treating fungal infections in immuno-compromised patients. In conjunction with these research institutions, we have obtained grant funding to support the development of these programs.

OUR COMPETITIVE STRENGTHS

Significant late-stage product opportunity in Amelior

We believe Amelior currently represents our most significant product opportunity based on the large potential markets for intravenous treatment of pain and fever, as well as clinical results for the product to date. We have conducted several clinical trials to support this product and expect to complete Phase III clinical studies by early 2008. Based on our clinical results to date, we believe Amelior represents a potentially safer alternative to ketorolac, which is the only injectable non-opioid analgesic currently on the U.S. market, with approximately 43 million units sold in 2006. We have retained exclusive commercialization rights for Amelior in the U.S. and plan to market the product through our existing hospital sales force.

Strong growth potential of our existing marketed products, Acetadote and Kristalose

We believe that there is significant opportunity to increase sales of our two currently approved products, Acetadote and Kristalose. Since its launch in June 2004, we have consistently grown product sales for Acetadote. During 2006, hospital purchases of Acetadote from wholesalers grew 43% to $13 million. Kristalose competes in the high growth U.S. prescription laxatives market which, based on data from IMS Health, grew from approximately $206 million in 2003 to $389 million in 2006, or a compound annual growth rate of approximately 24%. After acquiring exclusive U.S. rights to Kristalose in April 2006, we assembled an experienced, dedicated sales force and designed a new marketing

program, re-launching the product in October 2006. We believe both Kristalose and Acetadote have favorable competitive profiles, and that we can increase market share for each.

Focus on underserved niche markets

We focus our efforts on specialty physician segments where we believe we can leverage our industry expertise and sales capability to deliver products that address unmet medical needs. Currently, our primary target markets are hospital acute care and gastroenterology. We consider these markets attractive because of their relatively concentrated prescriber bases, which allow us to reach target prescribers with a small number of sales representatives. Moreover, we believe these markets are less prone to competition from larger pharmaceutical companies than other pharmaceutical sectors.

Profitable business with a history of fiscal discipline

We have been profitable since 2004, during which time we have generated sufficient cash flows to fund our development and marketing programs without the need for significant external financing. As an emerging pharmaceutical company with limited resources, we have historically focused on product opportunities with relatively low acquisition, development, and commercialization costs. Further, we believe that our third-party manufacturing and distribution relationships allow us to outsource these functions efficiently while directing most of our resources to our core competencies of business development, clinical and regulatory affairs, and sales and marketing.

Integrated specialty pharmaceutical company with extensive management expertise

Our executives have significant pharmaceutical industry experience in business development, clinical and regulatory affairs, and sales and marketing. This team is augmented by our Pharmaceutical and Medical Advisory Boards, which consist of highly experienced healthcare professionals.

- Ø Our business development team is led by our CEO and our Director of Business Development and is comprised of a multi-disciplinary group of executives. This team sources product opportunities independently as well as through our international network of pharmaceutical and medical industry insiders. Their efforts have resulted in acquisition, license, co-promotion and strategic alliance agreements, and have provided us with rights to our current portfolio. This group is also responsible for acquiring rights to early-stage product candidates through CET.
- Ø Our clinical, regulatory affairs and product development team is led by three professionals with substantial experience advancing late-stage clinical candidates successfully through the FDA approval process. This team was directly responsible for obtaining FDA approval for Acetadote and is responsible for our development of Amelior. We have established internal capabilities to develop proprietary product formulations, design and manage our clinical trials, prepare all regulatory submissions and manage our medical call center.
- Ø Our sales and marketing team is managed by five executives who have broad experience marketing branded pharmaceuticals. They manage the dedicated hospital and gastroenterology sales forces that promote our products and that together are comprised of 42 sales representatives and managers. Our executives also direct our national marketing campaigns and manage relationships with key accounts.

OUR STRATEGY

Our objective is to develop, acquire and commercialize branded pharmaceutical products for specialty physician market segments. Specifically, we plan to:

Successfully develop and commercialize Amelior, our Phase III product candidate

Amelior is in late-stage Phase III clinical development for the treatment of pain and fever. We have gathered positive data regarding the safety and efficacy of this product, and we expect to complete clinical trials in early 2008. We believe that there is significant market potential for Amelior in both pain and fever. We intend to penetrate the U.S. hospital market with our existing hospital sales force and to commercialize the product internationally through alliances with marketing partners.

Maximize sales of our marketed products

Over the past three years, we have employed an effective marketing campaign resulting in consistent sales growth for our product Acetadote. We intend to expand our hospital sales force in anticipation of a potential launch of Amelior. We believe we can leverage this expanded sales force to increase Acetadote sales. We are also supporting several studies to explore other potential indications for Acetadote. In October 2006, we re-launched Kristalose under the Cumberland brand with a new marketing program and dedicated sales force, which we expect to expand significantly over time. This marketing program is designed to enhance brand awareness through increased promotional activity and highlights Kristalose's many positive, competitive attributes. In addition to our sales efforts, we may also pursue co-promotion arrangements with third parties to support growth of our products.

Expand sales force operations

We intend to continue building our sales and marketing infrastructure in order to drive prescription volume and product sales. We currently utilize two distinct sales teams:

- Ø We promote Acetadote, and plan to promote Amelior, through our dedicated hospital sales team consisting of 16 representatives and managers covering approximately 1,400 major U.S. medical centers. We expect to significantly increase this sales force in order to fully capitalize on the market potential of Acetadote and Amelior.
- Ø We promote Kristalose through a dedicated field sales force of 26 sales representatives and managers to approximately 6,400 gastroenterologists and other high prescribers of laxatives. We believe that we can increase the market for Kristalose significantly by investing in our marketing program and significantly expanding this sales force.

Expand our product portfolio by acquiring rights to additional products and late-stage product candidates

We intend to build a portfolio of complementary, niche products largely through product acquisitions. We focus on under-promoted, FDA-approved drugs with existing brand recognition as well as late-stage development products which address unmet medical needs, a strategy which we believe helps minimize our exposure to the significant risk, cost and time associated with drug discovery and research. We plan to continue to target products that are competitively differentiated, have valuable trademarks or other intellectual property, and allow us to leverage our existing infrastructure. We also plan to explore opportunities to seek approval for new uses of existing pharmaceutical products.

Develop a pipeline of early-stage products through CET

In order to build our product pipeline, we are supplementing our acquisition and late-stage development activities with the early-stage drug development activities of CET, our majority-owned subsidiary. CET partners with universities and other research organizations to cost-effectively develop promising, early-stage product candidates. Current pre-clinical projects nearing clinical-stage development include:

- a treatment for fluid buildup in the lungs of cancer patients, in collaboration with Vanderbilt University, and
- a highly purified anti-infective for treating fungal infections in immuno-compromised patients, in collaboration with the University of Mississippi.

INDUSTRY

The hospital market

According to IMS Health, U.S. hospitals accounted for approximately $31 billion, or 11%, of U.S. pharmaceutical sales in 2006. IMS Health also reports that in 2006, marketing and promotional efforts focused on hospital-use drugs represented only about $662 million, or 3%, of approximately $21 billion total pharmaceutical industry spending on promotional activity. The majority of promotional spending is directed towards large outpatient markets promoting drugs intended for chronic use rather than short-term use in the hospital setting. We believe the lack of promotional emphasis on the hospital marketplace indicates that the hospital market is underserved. We also believe that the hospital market is highly concentrated, with a small number of large institutions responsible for a majority of pharmaceutical spending, and consequently that it can be penetrated effectively without large-scale promotional activity by a small, dedicated sales force.

Market for injectable analgesics

Therapeutic agents used to treat pain are collectively known as analgesics. Physicians prescribe injectable analgesics for hospitalized patients who have high levels of acute pain, require rapid pain relief or cannot take oral analgesics.

According to IMS Health, the U.S. market for injectable analgesics exceeded $302 million, or 491 million units, in 2006. This market is comprised principally of generic opioids and the NSAID ketorolac. Injectable opioids such as morphine, meperidine, hydromorphone and fentanyl accounted for approximately 447 million units sold in 2006. While opioids are widely used for acute pain management, they are associated with a variety of unwanted side effects including sedation, nausea, vomiting, constipation, headache, cognitive impairment and respiratory depression. Respiratory depression, if not monitored closely, can be deadly. Opioid-related side effects can warrant dosing limitations, which may reduce overall effectiveness of pain relief. Side effects from opioids can cause a need for further medication or treatment, and can increase lengths of stay in post-anesthesia care units as well as overall hospital stay, which can lead to increased costs for hospitals and patients.

Despite having a poor safety profile, usage of ketorolac, the only non-opioid injectable analgesic available in the U.S., has grown from approximately 38 million units in 2003, or 7% of the market, to approximately 43 million units in 2006, representing 9% of the market, according to IMS Health. The FDA specifically warns that ketorolac should not be used in various patient populations that are at-risk for bleeding, as a prophylactic analgesic prior to major surgery or for intraoperative administration when stoppage of bleeding is critical.

Fever

Significant fever is generally defined as a temperature of greater than 102 degrees Fahrenheit. High fevers can cause hallucinations, confusion, convulsions and death. Hospitalized patients are subject to increased risk for developing fever, especially from exposure to infectious agents. Patients with endotracheal intubation, sedation, reduced gastric motility, nausea or recent surgery are frequently unable to ingest, digest, absorb, or tolerate oral products to reduce fever. Treatment for these patients ranges from rectal delivery of medication to physical cooling measures such as tepid baths, ice packs and cooling blankets. In the U.S., there is currently no FDA-approved intravenous medication for the treatment of fever.

Acetaminophen poisoning

Acetaminophen is one of the most widely used drugs for oral treatment of pain and fever in the U.S. and can be found in many common over-the-counter, or OTC products and prescription narcotics. Though safe at recommended doses, the drug can cause liver damage with excessive use. According to the American Association of Poison Control Centers' Toxic Exposure Surveillance System, acetaminophen poisoning is the leading cause of toxic drug ingestions in the U.S. In 2005, approximately 77,000 people were treated and 333 people died due to acetaminophen poisoning in the U.S.

In a study published in 2005 that examined acute liver failure, researchers concluded that acetaminophen poisoning was responsible for acute liver failure in over half the patients examined in 2003, up from 28% in 1998. While an estimated 48% of cases were due to the accidental use of acetaminophen over several days, causing chronic liver failure, an estimated 44% of the cases were intentional overdoses, causing acute liver failure.

According to the FDA, four grams of acetaminophen is the daily maximum dosage recommended for adults. Ingesting eight grams of acetaminophen in a single day causes a significant number of people, whose livers have been previously stressed by a virus, medication or alcohol, to experience more serious complications. When used in conjunction with opiates, acetaminophen can be effective in relieving pain after surgery or injury; however, some patients who take acetaminophen/opiate combination drugs on a chronic basis eventually require increasing amounts to achieve the same level of pain relief, which can also lead to liver failure.

Market for the treatment of Acetaminophen overdose

NAC is widely accepted as the standard of care for acetaminophen overdose. Throughout Europe and much of the rest of the world, NAC has been available in an injectable formulation for over 25 years. Until the 2004 approval of Acetadote, however, the only FDA-approved form of NAC available in the U.S. was an oral preparation. Prior to the approval of Acetadote, many U.S. hospitals prepared an off-label, IV form of NAC from the oral solution to treat patients suffering from acetaminophen poisoning. For a number of these patients, an IV product is the only reasonable route of administration due to nausea and vomiting associated with the administration of oral NAC for the overdose. Moreover, IV treatment requires fewer doses and a shorter treatment protocol, reducing treatment from three days to one day.

Acetaminophen poisoning treatment is typically initiated in the emergency department and continued in the intensive care unit. NAC is marketed to emergency physicians and nurses, critical care physicians, clinical and medical toxicologists and poison control centers. According to *The Medical Letter on Drugs and Therapeutics*, NAC is virtually 100% effective in preventing severe liver damage, renal failure and death if administered within eight to ten hours of the overdose.

Business

The gastrointestinal market

According to the National Institute of Diabetes, Digestive and Kidney Diseases, gastrointestinal diseases result in approximately 50 million physician visits and 14 million hospitalizations annually. Many of these physician visits are to one of the only 11,700 gastroenterologists in the U.S.

There are over 40 common, well-defined gastrointestinal conditions recognized in the U.S., including constipation, chronic liver disease and cirrhosis, gastroesophageal reflux disease, infectious diarrhea, irritable bowel syndrome, lactose intolerance, pancreatitis and peptic ulcers. Because the market for gastrointestinal diseases is broad in patient scope, yet relatively narrow in physician base, we believe that it is an attractive specialty focus which can provide a wide variety of product opportunities but can be penetrated with a modest sales force.

Market for treatment of constipation

Constipation is a common condition in the U.S., affecting approximately 20% of the population each year. While many occurrences are non-recurring, a significant number are chronic in nature and require some treatment to control or resolve.

Constipation treatments are sold in both the OTC, and prescription segments. We believe that the prescription laxative market in which Kristalose competes has historically consisted of a few highly promoted brands including MiraLax® (polyethylene glycol 3350), which is now being sold as an OTC product, Amitiza and Zelnorm®, which is used for multiple indications including constipation, as well as several generic forms of liquid lactulose and polyethylene glycol 3350. Zelnorm was removed from the market in March 2007 due to adverse safety findings, and is pending further FDA review. According to data from IMS Health, this market grew from approximately $206 million in 2003 to $389 million in 2006, a compound annual growth rate of approximately 24%. This increase in sales resulted primarily from new product introductions and increased promotion of branded products.

PRODUCTS

Our key products and product candidates include:

Product	Indication	Delivery	Status
Amelior®	Pain and Fever	Injectable	Phase III
Acetadote®	Acetaminophen Poisoning	Injectable	Marketed
Kristalose®	Chronic and Acute Constipation	Oral Solution	Marketed

Amelior

Amelior is an intravenous formulation of ibuprofen. We expect Amelior will be the first injectable non-opioid product available in the U.S. for the treatment of pain and fever. The product is currently in Phase III clinical trials, and we are preparing for our NDA submission to the FDA for regulatory approval. If approved, we believe Amelior will provide physicians with a safe, effective treatment alternative for acute care patients requiring an intravenous product for pain relief or fever reduction. We have retained the U.S. marketing rights for Amelior and, if approved, plan to market it in the U.S. through our hospital sales force. We plan to commercialize the product outside of the U.S. through alliances with international marketing partners.

Ibuprofen, an NSAID, is a widely-used product now taken orally for pain relief and fever reduction, but is currently unavailable in an injectable formulation for this use. In May 1999, we acquired from Vanderbilt University an exclusive, worldwide license to data on the use of intravenous ibuprofen.

Published in the *New England Journal of Medicine* in March 1997, this data indicated that intravenous ibuprofen was effective in reducing high fever in critically ill patients who were largely unable to receive oral medication. Following discussion with and recommendation by the FDA, we implemented a development program for Amelior designed to obtain approval for a dual indication for the product—reduction of pain and treatment of fever.

We expect Amelior will be administered primarily to hospitalized patients who are unable to receive analgesics or antipyretics orally. We believe Amelior represents our most significant product opportunity to date.

Development history

We have actively managed the development of Amelior by implementing the following steps:

- We obtained exclusive rights to an investigator IND which contains supportive safety and efficacy data in which hospitalized adult patients with sepsis received intravenous ibuprofen.
- We developed a patented formulation for Amelior as well as a proprietary manufacturing process.
- We completed a clinical study to establish the pharmacokinetic equivalence of oral and intravenous ibuprofen in February 2001, a study to establish safe administration of the optimized dilution of Amelior's IV preparation in March 2002, and a study to demonstrate that the product is effective in reducing fever in hospitalized adult malaria patients in July 2002.
- We completed a dose-ranging study to determine the optimum dose to treat fever in hospitalized adult patients in August 2005.
- We completed enrollment for a dose-ranging study to determine the product's effectiveness in controlling pain in post-surgical adult patients in October 2006.
- In January 2007, we initiated a pivotal study to demonstrate the product's effectiveness in controlling pain in post-surgical adult patients. In April 2007, a subsequent study was initiated to support the product's use in additional surgical populations.
- Over four years of stability studies for Amelior have been successfully completed.
- A study to obtain data to support pediatric use is ongoing.
- An integrated safety database is being built, combining both published experience with data from these new studies.

We intend to complete clinical development of Amelior by early 2008.

Commercialization strategy

We intend to expand our existing U.S. hospital sales force to promote Amelior to physicians, nurses and pharmacy directors, principally in the hospital setting. We believe that we can achieve our commercial goals by utilizing our experienced sales organization, and supporting them with an internal marketing infrastructure that targets high-use institutions. We have an international strategic alliance with Mayne Pharma Pty. Ltd., which will manufacture commercial supplies of Amelior. We intend to partner with third-parties to reach markets outside the U.S. or to expand our reach to physician groups outside the hospital where applicable.

Acetadote

Acetadote is N-acetylcysteine, or NAC, for the intravenous treatment of acetaminophen overdose. Until we obtained FDA approval for Acetadote in 2004, the only FDA-approved form of NAC available in

the U.S. was an oral preparation. Medical literature suggested that many hospitals prepared an off-label, IV form of NAC from the oral solution for easier administration and accuracy in dosing. Given this market dynamic, we concluded that a medical need existed for an FDA-approved, injectable formulation of NAC for the U.S. market.

We actively managed the development and regulatory approval of Acetadote by implementing the following steps:

- We held initial discussions with the FDA to design a development plan.
- Acetadote was granted orphan drug status in October 2001, which provides for seven years of marketing exclusivity from date of marketing approval.
- We submitted our NDA in July 2002.
- We submitted a complete response to FDA initial review questions in July 2003.
- We received FDA marketing approval for Acetadote in January 2004 for the treatment of acetaminophen overdose.
- Acetadote was launched in June 2004.
- Early in 2006, the FDA-approved revised labeling for the product, which included an expanded indication for dosing in pediatric patients.

In connection with the FDA's approval of Acetadote, we committed to certain post-marketing activities for the product. Our first phase IV commitment (pediatric) was completed and accepted by the FDA in December 2004. Our second phase IV commitment (clinical) was completed and accepted by the FDA in August 2006. We anticipate completing our third and final phase IV commitment (manufacturing) for Acetadote in 2007. We are also supporting a number of studies to explore other potential indications for the product.

We believe Acetadote has clinical and financial benefits relative to oral NAC, including ease of administration, minimizing nausea and vomiting associated with oral NAC, accurate dosage control, shorter treatment protocol and reduction in overall cost of acetaminophen overdose management. Acetadote makes NAC administration easier to tolerate for patients and easier to administer for medical providers. We believe Acetadote also offers a significant cost benefit to both patient and hospital by reducing the treatment regimen, usually from three days to one day.

Acetadote is manufactured for us by Bioniche Teoranta at its FDA-approved manufacturing facility in Ireland.

Kristalose

Kristalose is a prescription laxative administered orally for the treatment of constipation. In patients with a history of chronic constipation, lactulose therapy increases the number of bowel movements per day and the number of days on which they occur. Lactulose is a product with a long history of use as a laxative, and as a treatment for hepatic encephalopathy, which is a deterioration of the liver resulting in a build-up of ammonia. Kristalose is an innovative, dry powder crystalline formulation of lactulose which is designed to enhance patient compliance and acceptance.

We co-promoted Kristalose from 2002 until April 2006 under an agreement with Bertek Pharmaceuticals, Inc., the branded division of Mylan Laboratories, Inc. Following Mylan's discontinuance of Bertek operations in 2006, we acquired exclusive U.S. commercialization rights to Kristalose. We re-launched Kristalose under the Cumberland brand in October 2006 with a dedicated, contract sales force of 26 sales representatives and managers. We direct our sales efforts to physicians

who are the most prolific writers of prescription laxatives. These physicians include gastroenterologists, pediatricians, internists and colon and rectal surgeons.

We believe Kristalose offers competitive advantages over other laxative products. Packaged in single dose packets, Kristalose is very portable, is reconstituted in as little as four ounces of water, is clear, virtually tasteless, does not change the viscosity of the water and contains almost no calories, all of which we believe cause Kristalose to compare favorably to liquid lactulose products. Compared to polyethylene glycol 3350 products, we believe Kristalose has a fast onset of action and a better pregnancy category rating. Compared with Zelnorm® and Amitiza®, Kristalose has fewer potential side effects or contraindications and is less expensive.

Kristalose is manufactured for us by Inalco S.p.A. at an FDA-approved facility in Italy.

Early-stage product candidates

Our early-stage product candidates are being developed by CET, which collaborates with leading research institutions to identify and pursue promising pre-clinical programs. Two of the more advanced CET development programs are:

- In collaboration with Vanderbilt University, we are currently developing a new treatment for fluid buildup in the lungs of cancer patients. The product candidate is a protein therapeutic being designed to treat “pleural effusion,” a condition which occurs when cancer spreads to the surface of the lung and chest cavity, causing fluid to accumulate and patients to suffer shortness of breath and chest pain. An estimated 100,000 patients are affected by this condition each year. Currently, the substances used in treating this cause pain and have only a 60-90% success rate. Vanderbilt University researchers believe they have found a method of treating this condition which may involve less pain, a higher success rate and faster healing time, resulting in significantly shorter hospital stays.
- In collaboration with the University of Mississippi, we are developing a highly purified, injectable anti-infective used to treat fungal infections in immuno-compromised patients. This product candidate’s active ingredient is currently FDA-approved in a different formulation, and while it is the therapeutic of choice for infectious disease specialists in treating such fungal infections, it can produce serious side effects related to renal toxicity, often resulting in dosage limitations or discontinued use. University of Mississippi researchers have developed what they believe is a purer and safer form of the anti-infective.

BUSINESS DEVELOPMENT

Since inception, we have had an active business development program focused on acquiring rights to marketed products and product candidates that fit our strategy and target markets. We source our business development leads both through our senior executives and our international network of pharmaceutical and medical industry insiders. These opportunities are reviewed and considered on a regular basis by a multi-disciplinary team of our managers against a list of selection criteria. We have historically focused on product opportunities with relatively low acquisition, development and commercialization costs, employing a variety of deal structures.

We intend to continue to build a portfolio of complementary, niche products largely through product acquisitions. Our primary targets are under-promoted, FDA-approved drugs with existing brand recognition and late-stage development products that address unmet medical needs in the hospital acute care and gastroenterology markets. We also plan to explore opportunities to acquire rights to and seek approval for new uses of pharmaceutical products. We believe that by focusing mainly on approved or

late-stage products, we can minimize the significant risk, cost and time associated with drug development. We have completed three material acquisitions including:

- exclusive, worldwide rights from Vanderbilt University to data for intravenous ibuprofen to support our FDA submission for Amelior;
- exclusive, worldwide rights to clinical data supporting the safety and efficacy of Acetadote, which served as a key component of our FDA submission and approval; and
- exclusive U.S. commercial rights to Kristalose.

Our business development team is also responsible for identifying appropriate CET product candidates and negotiating with our university partners to secure rights to these candidates. Through CET, we are collaborating with a growing list of research institutions including:

- Vanderbilt University;
- University of Mississippi, School of Pharmacy; and
- University of Tennessee Research Foundation.

Since 2004, these collaborations secured nearly $1 million in National Institutes of Health grant funding for the development of promising new products and several additional proposals have been submitted or are awaiting review.

CLINICAL AND REGULATORY AFFAIRS

We have established in-house capabilities for the management of our clinical, professional and regulatory affairs. Our team develops and manages our clinical trials, prepares regulatory submissions, manages ongoing product-related regulatory responsibilities and manages our medical information call center. They were responsible for devising the regulatory and clinical strategy and obtaining FDA approval for Acetadote and are responsible for ongoing development of Amelior.

Clinical development

Our in-house clinical development personnel are responsible for:

- creating clinical development strategies;
- designing and monitoring our clinical trials;
- creating case report forms and other study-related documents;
- overseeing clinical work contracted to third parties; and
- overseeing CET grant funding proposals.

Regulatory and quality affairs

Our internal regulatory and quality affairs team is responsible for:

- preparing and submitting NDAs and fulfilling post-approval marketing commitments;
- maintaining investigational and marketing applications through the submission of appropriate reports;
- submitting supplemental applications for additional label indications, product line extensions and manufacturing improvements;
- evaluating regulatory risk profiles for product acquisition candidates, including compliance with manufacturing, labeling, distribution and marketing regulations;

- monitoring applicable third-party service providers for quality and compliance with current Good Manufacturing Practices, Good Laboratory Practices, and Good Clinical Practices, and performing periodic audits of such vendors; and
- maintaining systems for document control, product and process change control, customer complaint handling, product stability studies and annual drug product reviews.

Professional and medical affairs

Our clinical and regulatory team provides in-house, medical information support for our marketed products. This includes interacting directly with healthcare professionals to address any product or medical inquiries through our medical information call center. Our call center was previously operated by the Rocky Mountain Poison and Drug Center, or RMPDC. In 2006, we expanded our clinical and regulatory capabilities and brought our call center in-house in an effort to ensure the highest level of quality and service. The RMPDC continues to supplement our efforts by providing after-hours support for our call center and assisting us with our adverse event collection/reporting and global pharmacovigilance activities. In addition to coordinating the call center, our clinical/regulatory group generates medical information letters, provides informational memos to our sales forces and assists with ongoing training for the sales forces.

SALES AND MARKETING

Our sales and marketing team has broad industry experience in selling branded pharmaceuticals. They manage the dedicated hospital and gastroenterology sales forces, which are comprised of 42 sales representatives and managers, direct our national marketing campaigns and maintain key national account relationships. We promote our products to hospitals and office-based physicians across the U.S. and plan to commercialize our products internationally through marketing alliances.

In January 2007, we converted our hospital sales force, which had previously been contracted to us by Cardinal Health Inc., or Cardinal, to Cumberland employees through our newly-formed, wholly-owned subsidiary, Cumberland Pharma Sales Corp. The hospital sales team is comprised of 16 sales representatives and managers, covering approximately 1,400 major medical centers across the U.S. The gastroenterology-focused team, formed in September 2006 with our re-launch of Kristalose, is a field sales force comprised of 26 representatives and managers and covering approximately 6,400 high prescribers of laxatives. This gastroenterology sales force is contracted to us by Advogent Group, Inc., or Advogent. Under our agreement, we pay Advogent a monthly fee, a portion of which is used to compensate the sales force. We also reimburse Advogent for bonuses and expense reimbursement paid to the sales force. This agreement terminates in August 2008. We have the option, with Advogent's consent, to extend the contract for one additional year. We also have the option to bring this sales force in-house. We expect to expand both sales forces significantly over the next several years.

Our sales and marketing executives conduct ongoing market analyses to evaluate marketing campaigns and promotional programs. The evaluations include development of product profiles, testing of the profiles against the needs of the market, determining what additional product information or development work is needed to effectively market the products and preparing financial forecasts. We utilize professional branding and packaging as well as promotional items to support our products, including direct mail, sales brochures, journal advertising, educational and reminder leave-behinds, patient educational pieces and product sampling. We also attend regular trade shows to promote broad awareness of our products.

Our National Accounts group is responsible for key large buyers and related marketing programs. This group supports sales and marketing efforts by maintaining relationships with our wholesaler customers as well as with third-party payors such as Group Purchasing Organizations, Pharmacy Benefit Managers, Hospital Buying Groups, state and federal government purchasers and influencers and health insurance companies.

International Sales and Marketing

Consistent with our strategy to outsource non-core functions, we have licensed to third parties the right to distribute Amelior outside the U.S. We have granted Alveda Pharmaceuticals Inc., or Alveda, an exclusive license to distribute Amelior in Canada subject to receipt of regulatory approval. Alveda is obligated to make payments to us upon Amelior's achieving specified regulatory milestones in Canada and to pay us a royalty based on Canadian sales of Amelior. This license terminates five years after regulatory approval is obtained in Canada for the later of the fever or pain indications. We have granted Mayne Pharma (SEA) Pte Limited an exclusive license to market and distribute Amelior in Southeast Asia subject to the receipt of regulatory approval. Mayne Pharma (SEA) Pte Limited is obligated to make payments to us upon Amelior's achieving specified regulatory milestones in Southeast Asia as well royalty payments. The initial term of the agreement expires on the fifth anniversary of Amelior obtaining regulatory approval in Southeast Asia.

MANUFACTURING AND DISTRIBUTION

We outsource certain non-core, capital-intensive functions, including manufacturing and distribution. Our executives have years of experience in these areas and manage these third-party relationships with a focus on quality assurance.

Manufacturing

Our key manufacturing relationships include:

- In July 2000, we established an international manufacturing alliance with Australia-based Mayne Pharma Pty. Ltd., or Mayne. Mayne sources active pharmaceutical ingredients, or APIs, and manufactures Amelior exclusively for us under an agreement that expires on the fifth anniversary of FDA approval of Amelior, subject to early termination upon 45 days prior notice in the event of uncured material breach by us or Mayne. The agreement will automatically renew for successive three-year terms unless Mayne or we provide at least 12 months prior written notice of non-renewal. Under the agreement, we pay Mayne a transfer price per unit of Amelior supplied. In addition, we reimburse Mayne for agreed-upon development, regulatory and inspection and audit costs. We have also granted Mayne a right of first negotiation with respect to the manufacture of all future pharmaceutical products we intend to sell and the distribution of these products in Australia, New Zealand, Canada and mutually agreed Southeast Asian and Latin American countries.
- Bioniche Teoranta, or Bioniche, sources APIs and manufactures Acetadote exclusively for us for sale in the U.S. at its FDA-approved manufacturing facility in Ireland. Our relationship with Bioniche began in January 2002. Bioniche manufactures and packages Acetadote for us, and we purchase Acetadote exclusively from Bioniche, pursuant to an agreement expiring in January 2011. This agreement is subject to early termination upon prior written notice in the event of an uncured material default by us or Bioniche. We have an option to renew the agreement for a five-year term upon expiration. Under the agreement, we pay Bioniche a transfer price per unit of Acetadote supplied, which transfer price is subject to annual adjustment, and a royalty based on our net sales of the product. In addition, we are required to purchase minimum quantities of Acetadote.

- Inalco S.p.A. and Inalco Biochemicals, Inc., or collectively Inalco, from which we licensed exclusive U.S. commercialization rights to Kristalose in April 2006, source APIs and provide us with a manufacturing supply for the product under an agreement that expires in 2021. The agreement renews automatically for successive three-year terms unless we or Inalco provide written notice of intent not to renew at least 12 months prior to expiration of a term. Either we or Inalco may terminate this agreement upon at least 45 days prior written notice in the event of uncured material breach. Under the agreement, we are required to pay Inalco a transfer price per unit of Kristalose supplied and a royalty based on our net sales of Kristalose. In addition, we are required to purchase minimum quantities of Kristalose.

Distribution

Like many other pharmaceutical companies, we employ an outside contractor to facilitate our distribution efforts. Since August 2002, Specialty Pharmaceutical Services, or SPS, (formerly CORD Logistics, Inc.) has exclusively handled all aspects of our product logistics efforts, including warehousing, shipping, customer billing and collections. A division of Cardinal, SPS is located just outside of Nashville, Tennessee, and has a well-established infrastructure. We maintain ownership of finished products until their sale to our customers.

INTELLECTUAL PROPERTY

We seek to protect our products from competition through a combination of patents, trademarks, trade secrets, FDA exclusivity and contractual restrictions on disclosure. Proprietary rights, including patents, are an important element of our business. We seek to protect our proprietary information by requiring our employees, consultants, contractors and other advisors to execute agreements providing for protection of our confidential information on commencement of their employment or engagement, through which we seek to protect our intellectual property. We also require confidentiality agreements from entities that receive our confidential data or materials.

Amelior

We are the owner of U.S. Patent No. 6,727,286, which is directed to ibuprofen solution formulations, methods of making the same, and methods of using the same, and which expires in 2021. This U.S. patent is associated with our completed international application No. PCT/US01/42894. We have filed for international patent protection in association with this PCT application in various countries, some of which have been allowed and some of which remain pending.

We have applied for additional protection for our invention related to ibuprofen solution formulations, methods of making the same and methods of using the same through U.S. application No. 10/739,050 and international application No. PCT/US04/39770, both of which remain pending.

We have an exclusive, worldwide license to clinical data for intravenous ibuprofen from Vanderbilt University, in consideration for royalty and other payment obligations that are conditioned upon approval by the FDA of Amelior.

If Amelior is approved by the FDA, we intend to seek three years marketing exclusivity from the FDA based on the clinical studies we have sponsored to pursue approval of the product.

Acetadote

Acetadote was approved by the FDA in January 2004 as an orphan drug for the intravenous treatment of acetaminophen overdose. As an orphan drug, Acetadote is entitled to seven years of marketing

exclusivity for the treatment of this approved indication. We have applied for patent protection for a new formulation of Acetadote through U.S. patent application No. 11/209,804, as well as through international application No. PCT/US06/20691, both of which are directed to acetylcysteine compositions, methods of making the same and methods of using the same. In addition, we have an exclusive, worldwide license to NAC clinical data from Newcastle Master Misercordiae Hospital in Australia. We have no expected outstanding payment obligations pursuant to this contract.

Kristalose

We are the exclusive licensee of two U.S. patents owned by Inalco relating to Kristalose. The first, U.S. Patent No. 5,003,061, is directed to a method for preparing high-purity crystalline lactulose. The second, U.S. Patent No. 5,480,491, is directed to a process for preparation of crystalline lactulose. Our license rights include an exclusive license to use related Inalco know-how and the Kristalose trademark to manufacture, market and distribute Kristalose in the U.S. Under our agreement with Inalco, Inalco is solely responsible for prosecuting and maintaining both the patents and know-how that we license from them. Our license expires in 2021 and is subject to earlier termination for material breach. Our payment obligations under this agreement are described under “Manufacturing and Distribution — Manufacturing.”

COMPETITION

The pharmaceutical industry is characterized by intense competition and rapid innovation. Our continued success in developing and commercializing pharmaceutical products will depend, in part, upon our ability to compete against existing and future products in our target markets. Competitive factors directly affecting our markets include but are not limited to:

- product attributes such as efficacy, safety, ease-of-use and cost-effectiveness;
- brand awareness and recognition driven by sales and marketing and distribution capabilities;
- intellectual property and other exclusivity rights;
- availability of resources to build and maintain developmental and commercial capabilities;
- successful business development activities;
- extent of third-party reimbursements; and
- establishment of advantageous collaborations to conduct development, manufacturing or commercialization efforts.

A number of our competitors possess research and development and sales and marketing capabilities as well as financial resources greater than ours. These competitors, in addition to emerging companies and academic research institutions, may be developing, or in the future could develop, new technologies that could compete with our current and future products or render our products obsolete.

Amelior

We are developing Amelior for the treatment of pain and fever, primarily in a hospital setting. A variety of products already address the acute pain market.

- Morphine, the most commonly used product for the treatment of acute, post-operative pain, is manufactured and distributed by several generic pharmaceutical companies.
- Depodur® is an extended release injectable formulation of morphine that is marketed by SkyePharma PLC.

- Other generic injectable opioids, including fentanyl, meperidine and hydromorphone.
- Ketorolac (brand name Toradol®), an injectable NSAID, is also manufactured and distributed by several generic pharmaceutical companies.

We are aware of other product candidates in development to treat acute pain including injectable NSAIDs, novel opioids, new formulations of existing therapies and extended release anesthetics. We believe the companies developing injectable, non-narcotic analgesics for the treatment of post-surgical pain are the primary potential competitors to Amelior. Cadence Pharmaceuticals Inc. is developing an injectable formulation of acetaminophen for the treatment of pain and fever, and Javelin Pharmaceuticals Inc. is developing an injectable form of an NSAID, diclofenac.

In addition to the injectable analgesic products above, many companies are developing analgesics for specific indications such as migraine and neuropathic pain, oral extended-release forms of existing narcotic and non-narcotic products, and products with new methods of delivery such as transdermal.

We are not aware of any approved injectable products indicated for the treatment of fever in the U.S. There are, however, numerous drugs available to physicians to reduce fevers in hospital settings via oral administration to the patient, including acetaminophen, ibuprofen and aspirin. These drugs are manufactured by numerous pharmaceutical companies.

Acetadote

Acetadote is our injectable formulation of NAC for the treatment of acetaminophen overdose. NAC is accepted worldwide as the standard of care for acetaminophen overdose. Despite the availability of injectable NAC outside the United States, Acetadote, to our knowledge, is the only injectable NAC product approved in the U.S. to treat acetaminophen overdose. Our competitors in the acetaminophen overdose market are those companies selling orally administered NAC including, but not limited to, Geneva Pharmaceuticals, Inc., Bedford Laboratories division of Ben Venue Laboratories, Inc., Roxane Laboratories, Inc. and Hospira Inc.

Kristalose

Kristalose is a dry powder crystalline prescription formulation of lactulose indicated for the treatment of constipation. The U.S. constipation therapy market includes various prescription and OTC products. The prescription products which we believe are our primary competitors are Amitiza® and liquid lactuloses:

- Amitiza is indicated for the treatment of chronic idiopathic constipation in adults and is marketed by Sucampo Pharmaceuticals Inc. and Takeda Pharmaceutical Company Limited; and
- Liquid lactulose products are marketed by a number of pharmaceutical companies.

In addition, Kristalose competed with the prescription product Zelnorm® until it was pulled from the market in March 2007 due to adverse safety findings. Indicated for treatment of chronic idiopathic constipation in persons under aged 65 and produced by Novartis Pharma AG, Zelnorm is under further review by the FDA.

There are several hundred OTC products used to treat constipation marketed by numerous pharmaceutical and consumer health companies. MiraLax® (polyethylene glycol 3350), previously a prescription product, is indicated for the treatment of constipation and is manufactured and marketed by Braintree Laboratories, Inc. and other generic pharmaceutical firms. Under an agreement with Braintree, Schering-Plough introduced MiraLax as an OTC product in February 2007.

EMPLOYEES

As of April 30, 2007, we had 33 full-time employees, which included 16 hospital sales representatives and managers. We also have a dedicated gastroenterology field sales force under contract that is comprised of 26 dedicated sales representatives and managers. We believe that employing experienced, independent contractors and consultants is a cost-efficient and effective way to accomplish our goals. A number of additional individuals have provided or are currently providing services to us pursuant to agreements between the individuals or their employers and us. None of our employees are represented by a collective bargaining unit. We believe that we have positive relationships with our employees.

FACILITIES

We currently lease approximately 6,300 square feet of office space in Nashville, Tennessee for our headquarters under an agreement expiring in December 2010. We have an option to renew this lease for a five-year term upon expiration. We also have entered into an occupancy agreement for approximately 9,000 square feet of additional office space adjoining our headquarters. This occupancy agreement will be replaced by a sublease for the same space, effective June 1, 2007. The sublease expires in October 2010. We believe that these facilities are adequate to meet our current needs for office space. We currently do not plan to purchase or lease facilities for manufacturing, packaging or warehousing, as such services are provided to us by third-party contract groups.

Under an agreement expiring in May 2011, CET leases approximately 6,900 square feet of office and wet laboratory space in Nashville, Tennessee. CET uses this space to operate the CET Life Sciences Center for product development work to be carried out in collaboration with universities, research institutions and entrepreneurs. CET has an option to lease up to 20,000 square feet at the Life Sciences Center should it need additional space. The CET Life Sciences Center provides laboratory and office space, equipment and infrastructure to early-stage life sciences companies and university spin-outs.

GOVERNMENT REGULATION

Pharmaceutical companies are subject to extensive regulation by national, state, and local agencies in countries in which they do business. The manufacture, distribution, marketing and sale of pharmaceutical products is subject to government regulation in the U.S. and various foreign countries. Additionally, in the U.S., we must follow rules and regulations established by the FDA requiring the presentation of data indicating that our products are safe and efficacious and are manufactured in accordance with cGMP regulations. If we do not comply with applicable requirements, we may be fined, the government may refuse to approve our marketing applications or allow us to manufacture or market our products and we may be criminally prosecuted.

We and our manufacturers and clinical research organizations may also be subject to regulations under other federal, state and local laws, including the Occupational Safety and Health Act, the Resource Conservation and Recovery Act, the Clean Air Act and import, export and customs regulations as well as the laws and regulations of other countries.

FDA Approval Process

The steps required to be taken before a new prescription drug may be marketed in the U.S. include:

- completion of pre-clinical laboratory and animal testing;
- the submission to the FDA of an investigational new drug application, or IND, which must be evaluated and found acceptable by the FDA before human clinical trials may commence;

- performance of adequate and well-controlled human clinical trials to establish the safety and efficacy of the proposed drug for its intended use; and
- submission and approval of a NDA.

The sponsor of the drug typically conducts human clinical trials in three sequential phases, but the phases may overlap. In Phase I clinical trials, the product is tested in a small number of patients or healthy volunteers, primarily for safety at one or more dosages. In Phase II clinical trials, in addition to safety, the sponsor evaluates the efficacy of the product on targeted indications, and identifies possible adverse effects and safety risks in a patient population. Phase III clinical trials typically involve testing for safety and clinical efficacy in an expanded population at geographically-dispersed test sites.

The FDA requires that clinical trials be conducted in accordance with the FDA's good clinical practices (GCP) requirements. The FDA may order the partial, temporary or permanent discontinuation of a clinical trial at any time or impose other sanctions if it believes that the clinical trial is not being conducted in accordance with FDA requirements or presents an unacceptable risk to the clinical trial patients. The institutional review board (IRB), or ethics committee (outside of the U.S.), of each clinical site generally must approve the clinical trial design and patient informed consent and may also require the clinical trial at that site to be halted, either temporarily or permanently, for failure to comply with the IRB's requirements, or may impose other conditions.

The results of the pre-clinical and clinical trials, together with, among other things, detailed information on the manufacture and composition of the product and proposed labeling, are submitted to the FDA in the form of an NDA for marketing approval. The FDA reviews all NDAs submitted before it accepts them for filing and may request additional information rather than accepting an NDA for filing. Once the submission is accepted for filing, the FDA begins an in-depth review of the NDA. Under the policies agreed to by the FDA under the Prescription Drug User Fee Act, or PDUFA, the FDA has ten months in which to complete its initial review of a standard NDA and respond to the applicant. The review process and the PDUFA goal date may be extended by three months if the FDA requests or the NDA sponsor otherwise provides additional information or clarification regarding information already provided in the submission within the last three months of the PDUFA goal date. If the FDA's evaluations of the NDA and the clinical and manufacturing procedures and facilities are favorable, the FDA may issue an approval letter. The FDA may also issue an approvable letter setting forth further conditions that must be met in order to secure final approval of the NDA. If and when those conditions have been met to the FDA's satisfaction, the FDA will issue an approval letter. An approval letter authorizes commercial marketing of the drug for certain indications. According to the FDA, the median total approval time for NDAs approved during calendar year 2004 was approximately 13 months for standard applications. If the FDA's evaluations of the NDA submission and the clinical and manufacturing procedures and facilities are not favorable, it may refuse to approve the NDA and issue a not-approvable letter.

The time and cost of completing these steps and obtaining FDA approval can vary dramatically depending on the drug. However, to complete these steps for a novel drug can take many years and cost millions of dollars.

Section 505(b)(2) New Drug Applications

As an alternate path for FDA approval of new indications or new formulations of previously-approved products, a company may file a Section 505(b)(2) NDA, instead of a "stand-alone" or "full" NDA. Section 505(b)(2) of the FDC Act was enacted as part of the Drug Price Competition and Patent Term Restoration Act of 1984, otherwise known as the Hatch-Waxman Amendments. Section 505(b)(2) permits the submission of an NDA where at least some of the information required for approval comes

from studies not conducted by or for the applicant and for which the applicant has not obtained a right of reference. Some examples of products that may be allowed to follow a 505(b)(2) path to approval are drugs which have a new dosage form, strength, route of administration, formulation or indication.

We successfully secured FDA approval of a 505(b)(2) NDA for Acetadote in January 2004. We also plan to pursue marketing approval for Amelior pursuant to the 505(b)(2) pathway.

Upon approval of a "full" or 505(b)(2) NDA, a drug may be marketed only for the FDA-approved indications in the approved dosage forms. Further clinical trials are necessary to gain approval for the use of the product for any additional indications or dosage forms. The FDA may also require post-market reporting and may require surveillance programs to monitor the side effects of the drug, which may result in withdrawal of approval after marketing begins.

Special Protocol Assessment Process

The special protocol assessment, or SPA, process generally involves FDA evaluation of a proposed Phase III clinical trial protocol and a commitment from the FDA that the design and analysis of the trial are adequate to support approval of an NDA, if the trial is performed according to the SPA and meets its endpoints. The FDA's guidance on the SPA process indicates that SPAs are designed to evaluate individual clinical trial protocols primarily in response to specific questions posed by the sponsors. In practice, the sponsor of a product candidate may request an SPA for proposed Phase III trial objectives, designs, clinical endpoints and analyses. A request for an SPA is submitted in the form of a separate amendment to an IND, and the FDA's evaluation generally will be completed within a 45-day review period under applicable PDUFA goals, provided that the trials have been the subject of discussion at an end-of-Phase II and pre-Phase III meeting with the FDA, or in other limited cases.

On June 14, 2004, we submitted a request for SPA of our Amelior Phase III clinical study. During a meeting with the FDA on September 29, 2004, the FDA confirmed that the efficacy data from our study of post-operative pain with a positive outcome will be considered sufficient to support a 505(b)(2) application for the pain indication. Final determinations by the FDA with respect to a product candidate, including as to the scope of its "labeling", are made after a complete review of the applicable NDA and are based on the entire data in the application. Moreover, notwithstanding any SPA, FDA approval of an NDA is subject to future public health concerns unrecognized at the time of protocol assessment.

Orphan Drug Designation

The Orphan Drug Act of 1983, or Orphan Drug Act, encourages manufacturers to seek approval of products intended to treat "rare diseases and conditions" with a prevalence of fewer than 200,000 patients in the U.S. or for which there is no reasonable expectation of recovering the development costs for the product. For products that receive orphan drug designation by the FDA, the Orphan Drug Act provides tax credits for clinical research, FDA assistance with protocol design, eligibility for FDA grants to fund clinical studies, waiver of the FDA application fee, and a period of seven years of marketing exclusivity for the product following FDA marketing approval. Acetadote received Orphan Drug designation in October 2001 and was approved by the FDA for the intravenous treatment of moderate to severe acetaminophen overdose in January 2004. As an orphan drug, Acetadote is entitled to marketing exclusivity until January 2011 for the treatment of this approved indication. This exclusivity would not prevent a product with a different formulation from competing with Acetadote, however.

The Hatch-Waxman Act

The Hatch-Waxman Act provides three years of marketing exclusivity for the approval of new and supplemental NDAs, including Section 505(b)(2) NDAs, for, among other things, new indications, dosages or strengths of an existing drug, if new clinical investigations that were conducted or sponsored by the applicant are essential to the approval of the application. It is under this provision that we expect to receive three years marketing exclusivity for Amelior.

Other regulatory requirements

Regulations continue to apply to pharmaceutical products after FDA approval occurs. Post-marketing safety surveillance is required in order to continue to market an approved product. The FDA also may, in its discretion, require post-marketing testing and surveillance to monitor the effects of approved products or place conditions on any approvals that could restrict the commercial applications of these products.

If we seek to make certain changes to an FDA-approved product, such as promoting or labeling a product for a new indication, making certain manufacturing changes or product enhancements or adding labeling claims, we will need FDA review and approval before the change can be implemented. While physicians may use products for indications that have not been approved by the FDA, we may not label or promote the product for an indication that has not been approved. Securing FDA approval for new indications or product enhancements and, in some cases, for manufacturing and labeling claims, is generally a time-consuming and expensive process that may require us to conduct clinical trials under the FDA's IND regulations. Even if such studies are conducted, the FDA may not approve any change in a timely fashion, or at all. In addition, adverse experiences associated with use of the products must be reported to the FDA, and FDA rules govern how we can label, advertise or otherwise commercialize our products.

In addition to FDA restrictions on marketing of pharmaceutical products, several other types of state and federal laws have been applied to restrict certain marketing practices in the pharmaceutical industry in recent years. These laws include anti-kickback statutes and false claims statutes. The federal health care program anti-kickback statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving remuneration to induce or in return for purchasing, leasing, ordering or arranging for the purchase, lease or order of any health care item or service reimbursable under Medicare, Medicaid or other federally financed health care programs. This statute has been interpreted to apply to arrangements between pharmaceutical manufacturers on the one hand and prescribers, purchasers and formulary managers on the other. Violations of the anti-kickback statute are punishable by imprisonment, criminal fines, civil monetary penalties and exclusion from participation in federal health care programs.

Federal false claims laws prohibit any person from knowingly presenting, or causing to be presented, a false claim for payment to the federal government, or knowingly making, or causing to be made, a false statement to have a false claim paid. Recently, several pharmaceutical and other health care companies have been prosecuted under these laws for allegedly inflating drug prices they report to pricing services, which in turn were used by the government to set Medicare and Medicaid reimbursement rates, and for allegedly providing free product to customers with the expectation that the customers would bill federal programs for the product.

Outside of the U.S., our ability to market our products will also depend on receiving marketing authorizations from the appropriate regulatory authorities. The foreign regulatory approval process includes all of the risks associated with the FDA approval process described above. The requirements

governing the conduct of clinical trials and marketing authorization vary widely from country to country.

LEGAL PROCEEDINGS

Except as described below, we are not a party to litigation or other legal proceedings.

During the second quarter of 2006, our Chief Executive, a Vice President of ours, and we were named as co-defendants in Parniani v. Cardinal Health, Inc. et al., Case No. 0:06-cv-02514-PJS-JJG in the U.S. District Court in the District of Minnesota for unspecified damages based on workers' compensation and related claims. A former employee of a third-party service provider to us filed the complaint. The service provider, which is also named as a co-defendant, has agreed to assume control of our defense at its cost pursuant to a contract between it and us. The service provider is seeking dismissal of the lawsuit against us, our Chief Executive, and our Vice President, among other co-defendants. Based upon the information available to us to date, we believe that all asserted claims against us and the individual defendants are without merit. However, if any of the claims are deemed meritorious by judicial determination, we expect to be indemnified by the service provider so that resolution of this matter is not expected to have a material adverse effect on our future financial results or financial condition.

Management

OFFICERS AND DIRECTORS

The following table sets forth the names and ages of our directors, executive officers and key managers as of April 30, 2007:

Name	Age	Position
A.J. Kazimi	49	Chairman and Chief Executive Officer
Martin E. Cearnal(1),(2)	62	Director
Dr. Robert G. Edwards	79	Director
Dr. Lawrence W. Greer(1),(2)	62	Director
Thomas R. Lawrence(1),(2)	67	Director
Jean W. Marstiller	57	Senior Vice President and Corporate Secretary
Dr. Gordon R. Bernard	55	Senior Vice President and Medical Director
Leo Pavliv	46	Vice President, Operations
J. William Hix	59	Vice President, Sales & Marketing
David L. Lowrance	39	Vice President and Chief Financial Officer
James L. Herman	52	Senior Director, National Accounts and Corporate Compliance Officer
Elizabeth C. Gerken	38	Director, Business Development
Bruce J. Kent	44	Senior Manager, District Sales
Amy D. Rock	36	Senior Manager, Regulatory Affairs

(1) Member of Audit Committee

(2) Member of Compensation Committee

A.J. Kazimi, Chairman and Chief Executive Officer. Mr. Kazimi founded our company in 1999 and has served as our Chief Executive Officer and Chairman of our Board of Directors since inception. His career includes 20 years in the biopharmaceutical industry. Prior to joining our company, he spent eleven years from 1987 to 1998 helping to build Therapeutic Antibodies Inc., a biopharmaceutical company, where as President and Chief Operating Officer he made key contributions to the company's growth from its start-up phase through its initial public offering and product launches. Mr. Kazimi oversaw operations in three countries and was personally involved with the company's product development strategies, licensing and distribution agreements, and the raising of more than $100 million through equity and debt financings. From 1984-1987, Mr. Kazimi worked at Brown-Forman Corporation, rising through a series of management positions and helping to launch several new products. Mr. Kazimi currently serves on the board of directors for Aegis Sciences Corporation, a federally certified forensic toxicology laboratory; the Tennessee Biotechnology Association; and Aetos Technologies Inc., a technology development company associated with Auburn University. He also serves as Chairman and Chief Executive Officer of Cumberland Emerging Technologies, Inc., or CET. He holds a B.S. from the University of Notre Dame and an M.B.A. from the Vanderbilt Owen Graduate School of Management.

Martin E. Cearnal, Director. Mr. Cearnal has served as a member of our board of directors since 2004. He is the former President and Chief Executive Officer of Physicians World, which became the largest provider of continuing medical education during his tenure from 1985 to 2000. Physicians World was acquired by Thomson Healthcare in 2000. Mr. Cearnal served as President of Thomson Physicians World from 2000 to 2003, and Executive Vice President-Chief Strategy Officer for Thomson Medical Education from 2003 through 2005. Since 2006, he has been Executive Vice President-Chief Strategy Officer for Jobson Medical Information. Mr. Cearnal has 40 years experience in the Healthcare industry

and has been involved with the launches of such noteworthy pharmaceutical products as Lipitor®, Actos®, Intron-A®, Straterra®, Botox® and Humira®. Mr. Cearnal spent 17 years at Revlon Healthcare in a variety of domestic and international pharmaceutical marketing roles culminating in his position as Vice President, Marketing for the International Operations. He serves the industry through leadership and participation in several organizations, including the Healthcare Marketing & Communications Council and the Alliance for Continuing Medical Education. Mr. Cearnal also serves as a member of our Audit Committee and our Compensation Committee. He has a BS degree from Southeast Missouri State University.

Dr. Robert G. Edwards, Director. Dr. Edwards has served as a member of our board of directors since 1999. From 1991 to 1999, he was Chairman and Managing Director of the Australasian subsidiary of Therapeutic Antibodies Inc., overseeing operations in Australia, New Zealand and Southeast Asia. Dr. Edwards also served as Deputy Director of the Institute for Medical & Veterinary Science in South Australia, President of the Royal College of Pathologists of Australasia, and member of the Australian National Health & Medical Research Council. He currently serves as a director for CET, and is chairman of the CET Scientific Advisory Board. Dr. Edwards holds a Primary Degree from London University, Master of Human Physiology from London University and an M.D. from the University of Adelaide.

Dr. Lawrence W. Greer, Director. Dr. Greer has served as a member of our board of directors since 1999. Since 2002, he has been Senior Managing Partner of Greer Capital Advisors of Birmingham, Alabama. Dr. Greer serves as investment advisor to two private equity funds and general partner for two additional private equity funds, including the S.C.O.U.T. Healthcare Fund from which we have received equity financing. Dr. Greer and his firm are established leaders in private healthcare investments in the mid-south. Previously, he served as Vice President-Investments of Dunn Investment Company, where he was responsible for management of a marketable securities portfolio plus personal management of a portfolio of 15 private equity investments. He is the former Chairman of Southern BioSystems which was acquired by DURECT Corporation in 2001. Dr. Greer has also worked as an independent consultant in healthcare administration and finance. Dr. Greer serves as the chairman of the Audit Committee of our board of directors, as a member of our Compensation Committee, and is an Audit Committee financial expert. He also served as the chairman of the Audit Committee for the Southtrust (Bank) Funds Board of Trustees for several years. Dr. Greer holds a B.S. from Tulane University, D.D.S. from Emory University and an M.B.A. from Emory University.

Thomas R. Lawrence, Director. Mr. Lawrence has served as a member of our board of directors since 1999. Since 2003 he has been Chairman and Chief Executive Officer of Aetos Technologies Inc., a corporation formed in 2003 by Auburn University to market technological breakthroughs by its faculty. From 1998 to 2003, Mr. Lawrence advised business clients on matters of marketing and corporate governance through his firm Capital Consultants. He previously served as Co-Founder and Managing Partner of Delta Capital Partners in Memphis from 1989 to 1998. The partnership made investments in ten early-stage companies which, by 1998, were valued at more than $30 million. Prior to the formation of Delta, Mr. Lawrence founded several companies in the areas of commercial leasing and venture capital financing. He also worked for most of the 1980s as an Institutional Sales Representative and Commercial Leasing Specialist with the Investment Banking Group of Union Planters Bank in Memphis, where he was responsible for the structure and sale of over $1 billion in securities. Mr. Lawrence serves as the chairman of our Compensation Committee, as a member of our Audit Committee and as a director for CET. He holds a B.S. from Mississippi State University.

Jean W. Marstiller, Senior Vice President and Corporate Secretary. Ms. Marstiller joined our Company in 1999. She oversees our administrative operations, human resources, site services and information systems, and became our Corporate Secretary in 2007. She has 17 years biopharmaceutical industry

experience and was formerly Director of Administrative Operations at Therapeutic Antibodies Inc., where she worked from 1989 until 1998. In that capacity, she oversaw administrative services, information systems, and human resources. Ms. Marstiller was employed by Brown-Forman Corporation from 1982 until 1987, where she held management level positions in the areas of finance and operations. She holds a B.E. from Vanderbilt University and attended the Vanderbilt Owen Graduate School of Management.

Dr. Gordon R. Bernard, Senior Vice President and Medical Director. Dr. Bernard has served as our medical director since 1999. Dr. Bernard is the Assistant Vice-Chancellor for Research at Vanderbilt University, and also the Melinda Owen Bass Professor of Medicine and former Chief of the Division of Allergy, Pulmonary and Critical Care Medicine at Vanderbilt. In addition, he is the Medical Director of the Vanderbilt Institutional Review Board and Chairman of Vanderbilt's Pharmacy and Therapeutics Committee, which is responsible for approving the Vanderbilt Medical Center Formulary of approved drugs and therapeutics. Dr. Bernard also chairs the National Institutes of Health, Acute Respiratory Distress Syndrome Clinical Trials Network. He holds a B.S. from the University of Southwestern Louisiana and an M.D. from Louisiana State University.

Leo Pavliv, Vice President, Operations. Mr. Pavliv has served as our Vice President, Operations since 2003, and is responsible for Cumberland's overall drug development, including manufacturing and quality operations. He has 23 years of experience developing pharmaceutical and biological products. From 1997 to 2003 he worked at Cato Research, a contract research organization, most recently as Vice President of Pharmaceutical Development where he oversaw development of a wide variety of products throughout the development cycle. Prior to 1997, he held various scientific and management positions at both large pharmaceutical and smaller biopharmaceutical firms including Parke-Davis from 1984 to 1986, Agouron Pharmaceuticals from 1992 to 1997, ProCyte from 1989 to 1992, and Interferon Sciences from 1986 to 1989. He is a registered pharmacist (R.Ph.) and is regulatory affairs certified (RAC). Mr. Pavliv holds a B.S., Pharmacy, and an M.B.A. from Rutgers University.

J. William Hix, Vice President, Sales and Marketing. Mr. Hix is responsible for all our sales and marketing efforts. He joined us in 2004 to form and manage our national sales force promoting our acute care product line to hospitals, poison control centers and physicians. He was also instrumental in the design and implementation of our field sales force which is responsible for promoting our products in the gastroenterology market. Mr. Hix brings significant industry experience to our company having spent 30 years at Novartis/CIBA-GEIGY Pharmaceutical Corporation from 1974 to 2004. There, his responsibilities ranged from field sales, sales management, sales operations, planning and promotion to marketing support and operations. He holds a B.S. from the University of Memphis and an M.B.A. from Our Lady of the Lake University.

David L. Lowrance, Vice President and Chief Financial Officer. Mr. Lowrance is responsible for overseeing all our accounting and financial activities, including financial reporting and planning. He has been with us since 2003 and has 17 years of accounting and financial experience in both international business and manufacturing. From 1994 to 2003, he spent eight years with two global conglomerates, including four years as Senior Vice President for Icore International, a division of Smiths Group, PLC. Prior to that, Mr. Lowrance worked as a senior accountant for Ernst & Young, LLP from 1990 to 1994. He is a Certified Public Accountant, or CPA, and holds a B.B.A. from the University of Georgia.

James L. Herman, Senior Director, National Accounts and Corporate Compliance Officer. Mr. Herman handles all national accounts sales, including wholesalers and retail chain buying offices, managed care home offices and federal government accounts. He is also charged with overseeing our corporate compliance efforts. He has been with us since 2003 and has 17 years pharmaceutical industry experience. From 1998 to 2003, he was with Solvay Pharmaceuticals and served as Director of

Managed Care as well as Director of Trade Affairs and Customer Service. From 1990 to 1998, Mr. Herman was with Schwarz Pharma, where he held national sales leadership positions in National Accounts and Managed Care. He holds a B.S. from Indiana University and an M.B.A. from Cardinal Stritch University.

Elizabeth C. Gerken, Director, Business Development. Ms. Gerken has served as our head of business development since 2001. She coordinates all business development activities and is actively engaged in the identification of product opportunities, the process of due diligence and the negotiation of deal terms for our agreements. Ms. Gerken has 15 years pharmaceutical industry experience. She worked at Eli Lilly and Company from 1992 to 2000 with management roles in strategic planning, brand management, sales management, and business development. She holds a B.E. from Vanderbilt University and an M.B.A. from the Vanderbilt Owen Graduate School of Management.

Bruce J. Kent, Senior Manager, District Sales. Mr. Kent joined us in July 2006 to form and launch our field sales force. He is responsible for managing that group of sales representatives which promotes our gastroenterology product line. Mr. Kent has 19 years of pharmaceutical industry experience. Beginning his career with CIBA Pharmaceuticals in 1988, he spent 15 years with the company now known as Novartis Pharmaceuticals, where he held positions of increasing responsibility in sales, sales management, managed healthcare, business analysis, and ebusiness. Prior to joining our company, Mr. Kent was the Executive Director of Sales for Rx Sample Solutions and the head of the Northeast Regional Office from 2004 to 2006. He holds a B.S. from the Pennsylvania State University.

Amy Dix Rock, Ph.D., Senior Manager, Regulatory Affairs. Dr. Rock joined our company in 2001 and built our Regulatory Affairs Department and infrastructure. In addition to managing all interactions between our company and the FDA, Dr. Rock oversees the preparation of pre-approval and post-approval regulatory submissions. Her additional responsibilities include involvement in protocol development and clinical trials management, overseeing our medical call center and supporting our corporate compliance initiatives. She holds a B.A. from Washington University, a PhD in Immunology from the University of Kentucky, and an M.B.A. from the Vanderbilt Owen Graduate School of Management.

ADVISORY BOARDS

In order to augment the efforts of our management and directors, we have established two key advisory boards to support our management and directors.

Pharmaceutical Advisory Board

Our Board of Pharmaceutical Advisors is comprised of eight individuals who have spent their careers in the pharmaceutical industry. This group includes former senior executives from a number of the major pharmaceutical firms including Warner-Lambert Co. and its Parke-Davis division, Pfizer, Inc., Bristol-Myers Squibb Company, and CIBA Geigy Corp. These individuals each advise members of our company's management on a wide variety of issues based on their expertise. These industry advisors are helping to build our company by actively contributing to many areas of our business such as strategy, business development, human resources, marketing, international activities, accounting and logistics.

Medical Advisory Board

We have also established a Board of Medical Advisors to support our product development efforts. This board includes six physicians with representatives from the U.S. and international medical communities who are leaders in the fields of emergency, critical care and infectious disease medicine as well as toxicology and cardiology. These individuals meet as a group with our management to help us identify

unmet medical needs and underserved patient populations in our target areas. They also help us identify and evaluate relevant product opportunities.

BOARD COMPOSITION

Our board of directors currently consists of five directors who are divided into three classes serving staggered three-year terms. Dr. Robert G. Edwards is a Class I director who will serve until our 2008 annual meeting of shareholders. Dr. Lawrence W. Greer and Thomas R. Lawrence are Class II directors who will serve until our 2009 annual meeting. A.J. Kazimi and Martin E. Cearnal are Class III directors who will serve until our 2010 annual meeting. Upon expiration of the term of a class of directors, directors in that class will be eligible to be elected for a new three-year term at the annual meeting of shareholders in the year in which their term expires. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors. This classification of directors could have the effect of increasing the length of time necessary to change the composition of a majority of our board of directors. In general, at least two annual meetings of shareholders will be necessary for shareholders to effect a change in a majority of the members of our board of directors.

DIRECTOR INDEPENDENCE

In December 2006 and in February 2007, our board of directors undertook reviews of the independence of the directors and considered whether any director had a material relationship with us that could compromise his ability to exercise independent judgment in carrying out his responsibilities. As a result of this review, our board of directors determined that Dr. Lawrence W. Greer and Martin E. Cearnal are “independent” as defined under applicable National Association of Securities Dealers Automated Quotation System, or NASDAQ, rules and SEC rules and regulations. We expect that a majority of our board will be independent within a year following this offering as required by the Sarbanes-Oxley Act of 2002, SEC rules and regulations and NASDAQ rules.

BOARD COMMITTEES

The standing committees of our board consist of an audit committee and a compensation committee. Both committees will have three members following this offering, two of whom will be independent. We expect that all directors on our audit and compensation committees will be independent within a year following this offering.

Audit committee

The members of our audit committee are Dr. Lawrence W. Greer, Martin E. Cearnal and Thomas R. Lawrence. The Chair of the audit committee is Dr. Greer, who has been affirmatively determined by our board of directors to be independent in accordance with applicable rules. In addition, the board of directors has determined that Dr. Greer is an “audit committee financial expert,” as such term is described in Item 407 of Regulation S-K.

The primary function of the audit committee is to assist our board of directors in fulfilling its oversight responsibilities by reviewing the financial reports and certain financial information provided by us to any governmental body or the public, reviewing our systems of internal controls regarding finance, accounting, legal compliance and ethics that we have established and overseeing our auditing, accounting and financial reporting processes generally. Consistent with this function, we expect the audit committee to encourage continuous improvement of, and to foster adherence to, our policies, procedures and practices at all levels, to be responsible for managing the relationship with our

independent registered public accountants, and to provide a forum for discussion with the independent registered public accountants and our board.

Some of the audit committee's responsibilities include:

- Ø appointing, determining the compensation for and overseeing our relationship with our independent registered public accountants;
- Ø overseeing, reviewing and evaluating our financial statements, the audits of our financial statements, our accounting and financial reporting processes, the integrity of our financial statements, our disclosure controls and procedures and our internal audit functions;
- Ø reviewing and approving the services provided by our independent registered public accountants, including the scope and results of their audits and pre-approving permissible non-audit services to be performed by them;
- Ø resolving disagreements between management and our independent registered public accountants;
- Ø overseeing our compliance with legal and regulatory requirements and compliance with ethical standards adopted by us;
- Ø establishing and maintaining whistleblower procedures; and
- Ø evaluating periodically our Standards of Business Conduct and Ethics, Code of Ethics for Senior Financial Officers and Procedures for Complaints and Concerns Regarding Accounting, Internal Accounting Controls and Auditing Matters.

Compensation committee

The members of our compensation committee are Dr. Lawrence W. Greer, Martin E. Cearnal, and Thomas R. Lawrence. The Chair of the compensation committee is Thomas R. Lawrence. The responsibilities of the compensation committee include:

- Ø reviewing and recommending to the board of directors the compensation and benefits of all of our executive officers and directors;
- Ø evaluating the performance of the principal executive officer;
- Ø administering our equity incentive plans;
- Ø establishing and reviewing general policies relating to compensation and benefits of our employees;
- Ø reviewing and evaluating the compensation discussion and analysis prepared by management; and
- Ø preparing an executive compensation report for publication in our annual proxy statement.

COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION

Thomas R. Lawrence, the Chair of our compensation committee, is the Chairman of Aetos Technologies, Inc., a corporation formed in 2003 by Auburn University to market technological breakthroughs by its faculty. Mr. Kazimi, our Chairman and Chief Executive Officer, serves on the board of directors of Aetos Technologies. Other than this relationship, none of our executive officers serves as a member of the board of directors or compensation committee of any other entity that has one or more executive officers who serve on our board of directors or compensation committee.

CODES OF CONDUCT AND CORPORATE GOVERNANCE

We are currently in the process of developing a Corporate Compliance Program. Within this program, we plan to maintain internal processes and review procedures that ensure our business activities are

conducted in compliance with applicable federal and state laws, statutes, regulations or program requirements, including guidance documents drafted specifically by governing entities for the healthcare and pharmaceutical industries, consistent with advancing, preserving and protecting public health.

To help ensure compliance, we plan to conduct regular, periodic compliance audits by internal and external auditors and compliance staff, who have expertise in federal and state healthcare laws and regulations.

Our codes of conduct consist of a Standards of Business Conduct and Ethics, a Code of Ethics for Senior Financial Officers, an Insider Information, Trading or Dealing and Stock Tipping Policy and Procedures for Complaints and Concerns Regarding Accounting, Internal Accounting Controls, and Auditing Matters. As part of our corporate compliance program, in 2006 we established a compliance hotline to enable employees, directors and other representatives to report compliance violations, including violations of our codes of conduct.

Standards of Business Conduct and Ethics

Our board of directors has adopted a Standards of Business Conduct and Ethics which establish the standards of ethical conduct applicable to all of our directors, officers, employees, key advisors, consultants and contract organizations. The code of ethics addresses, among other things, compliance with laws and regulations, business practices, conflicts of interest, employment policies and reporting procedures. Suspected violations of this code may be reported on a confidential, anonymous basis through the compliance hotline. The audit committee oversees this process, tracks the complaints and resolutions and reports the significant results to the full board of directors. The code is distributed to all employees and directors. All employees and directors must sign, date and return a certification stating that they received, understand and will comply with the code.

Code of Ethics for Senior Financial Officers

In 2006, we adopted a Code of Ethics for Senior Financial Officers. The code is designed to deter wrongdoing and to promote honest and ethical conduct, full and accurate disclosure in periodic reports, and compliance with laws and regulations by our senior management who has financial responsibility. We expect that any suspected violations of this code will be reported to the audit committee. Any waiver of this code may only be authorized by our audit committee and will be disclosed as required by applicable law.

Insider Information, Trading or Dealing and Stock Tipping Policy

We are committed to fair trading for publicly traded securities and have established standards of conduct for directors, employees and others who obtain material or price-sensitive, non-public information through their work with us. The policy is distributed to all employees. Non-compliance with the policy may be submitted on a confidential, anonymous basis through the compliance hotline.

Procedures for Complaints and Concerns Regarding Accounting, Internal Accounting Controls, and Auditing Matters

In 2006, we established Procedures for Complaints and Concerns Regarding Accounting, Internal Accounting Controls and Auditing Matters to encourage any person who has a reasonable basis for a complaint or concern regarding our financial statement disclosures, accounting matters, internal accounting controls or auditing matters to promptly submit a complaint or concern. Complaints may be submitted on a confidential, anonymous basis through the compliance hotline. The audit committee oversees this process, immediately reviews the complaints and oversees all necessary investigations. The audit committee tracks the complaints and resolutions and reports the significant results to the full board of directors.

Compensation

COMPENSATION DISCUSSION AND ANALYSIS

We provide what we believe is a competitive total compensation package to our executive management team through a combination of base salary, long-term equity incentive compensation plan and broad-based benefits programs.

We place significant emphasis on performance-based incentive compensation programs. This Compensation Discussion and Analysis explains our compensation philosophy, policies and practices with respect to our chief executive officer, chief financial officer, and the other three most highly-compensated executive officers or the named executive officers.

The objectives of our executive compensation program

Our compensation committee is responsible for establishing and administering the policies governing the compensation for our executive officers. Our executive officers are appointed by our board of directors.

Our executive compensation programs are designed to achieve the following objectives:

- attract and retain talented and experienced executives;
- motivate and reward executives whose knowledge, skills and performance are critical to our success;
- align the interests of our executive officers and shareholders by motivating executive officers to increase shareholder value and rewarding executive officers when shareholder value increases;
- provide a competitive compensation package in which total compensation is primarily determined by company and individual results and the creation of shareholder value;
- ensure fairness among the executive management team by recognizing the contributions each executive makes to our success; and
- compensate our executives to manage our business to meet our long-range objectives.

The compensation committee meets outside the presence of all of our executive officers, including the named executive officers, to consider appropriate compensation for our CEO. For all other named executive officers, the committee meets outside the presence of all executive officers except our CEO. Mr. Kazimi annually reviews each other named executive officer's performance with the committee and makes recommendations to the compensation committee with respect to the appropriate base salary and the grants of long-term equity incentive awards for all executive officers. Based in part on these recommendations from our CEO, the compensation committee approves the annual compensation package of our executive officers other than our CEO. The compensation committee also annually analyzes Mr. Kazimi's performance and determines his base salary and grants of long-term equity incentive awards based on its assessment of his performance.

When making decisions on setting base salary and initial grants of long-term equity incentive awards for new executive officers, the compensation committee considers the importance of the position to us, the past salary history of the executive officer and the contributions to be made by the executive officer to us.

We use the following principles to guide our decisions regarding executive compensation:

- provide compensation opportunities targeted at market median levels;
- require performance goals to be achieved or common stock price to increase in order for the majority of the target pay levels to be earned;
- offer a comprehensive benefits package to all full-time employees; and

ø provide fair and equitable compensation.

Our executive compensation programs

Overall, our executive compensation programs are designed to be consistent with the objectives and principles set forth above. The basic elements of our executive compensation programs are base salary, long-term equity incentive plan awards, retirement savings opportunities and health and welfare benefits. Each of these elements is summarized below.

Base salary

Annually we review salary ranges and individual salaries for our executive officers. We establish the base salary for each executive officer based on consideration of median pay levels in the market and internal factors, such as the individual's performance and experience, and the pay of others on the executive team.

The base salaries paid to our named executive officers are set forth below in the Summary Compensation Table. For the fiscal year ended December 31, 2006, base cash compensation to our named executive officers was approximately $1,079,090, with our CEO receiving approximately $293,130 of that amount. We believe that the base salary paid to our executive officers during 2006 achieves our executive compensation objectives, compares favorably to market pay levels and is within our target of providing a base salary at the market median.

In 2007, adjustments to our executive officers' total compensation were made based on an analysis of current market pay levels of peer companies and in published surveys. In addition to the market pay levels, factors taken into account in making any changes for 2007 included the contributions made by the executive officer, the performance of the executive officer, the role and responsibilities of the executive officer and the relationship of the executive officer's base pay to the base salary of our other executives.

Long-term equity incentive compensation

We award long-term equity incentive grants to executive officers, including the named executive officers, as part of our total compensation package. These awards are consistent with our pay for performance principles and align the interests of the executive officers to the interests of our shareholders. The compensation committee reviews and recommends to the board of directors the amount of each award to be granted to each named executive officer and the board of directors approves each award. Long-term equity incentive awards to our executives were made pursuant to our 1999 Stock Option Plan, or the 1999 Plan, until April 2007, and thereafter, pursuant to our Long-Term Incentive Compensation Plan.

1999 Stock Option Plan

Our 1999 Plan provides for the grant of incentive stock options and nonqualified stock options. Grants can be made under the 1999 Plan to any of our employees, directors and consultants. The 1999 Plan is administered by a committee designated by our board of directors. The committee, in its sole discretion, granted options under the 1999 Plan to certain persons rendering services to us. Except as otherwise determined by the committee and stated in the applicable option agreement, the exercise price per share of each option granted under the 1999 Plan will be the fair market value per share, as defined in the 1999 Plan. In general, the fair market value per share is determined by our board of directors.

Compensation

An option may generally be exercised until the tenth anniversary of the date that we granted the option. Option holders who exercise their options may pay for their shares in cash, check or such other consideration as is deemed acceptable by us.

As of , there were outstanding options to purchase a total of shares of common stock pursuant to the 1999 Plan. The exercise price per share under such options ranges from $ to $.

Under the 1999 Plan, all executive officers were granted incentive option agreements for common stock at exercise prices equal to fair market value at time of issuance, except Mr. Kazimi's, whose exercise price is 110% of fair market value at time of issuance. Each option agreement has a term of ten years, except for Mr. Kazimi's option agreements, which have five-year terms. All agreements have defined vesting schedules.

Long-Term Incentive Compensation Plan

The purposes of the Long-Term Incentive Compensation Plan are:

- to encourage our employees and consultants to acquire stock and other equity-based interests; and
- to replace the 1999 Plan without impairing the vesting or exercise of any option granted thereunder.

The Long-Term Incentive Compensation Plan authorizes the issuance of each of the following incentives:

- incentive stock options (options that meet Internal Revenue Service requirements for special tax treatment);
- non-statutory stock options (all stock options other than Incentive Stock Options);
- stock appreciation rights (right to receive any excess in fair market values of shares over a specified exercise price);
- restricted stock (shares subject to transfer and forfeiture limitations); and
- performance shares (contingent awards comprised of stock and/or cash and paid only if specified performance goals are met).

The compensation committee administers the Long-Term Incentive Compensation Plan. The compensation committee is authorized to select participants, determine the type and number of awards to be granted, determine and later amend, subject to certain limitations, the terms of any award, interpret and specify the rules and regulations relating to the Long-Term Incentive Compensation Plan and make all other necessary determinations.

Employees and consultants other than non-employee directors are eligible to participate. We may cancel unvested or unpaid incentives for terminated employees and consultants to the extent permitted by law.

Upon the occurrence of a change of control event, as defined in the Long-Term Incentive Compensation Plan, all outstanding options will automatically become exercisable in full, and restrictions and conditions for other issued incentives will generally be deemed terminated or satisfied. In addition, our board of directors may amend or terminate the Long-Term Incentive Compensation Plan, subject to shareholder approval, to comply with tax or regulatory requirements.

Retirement savings opportunity

Effective January 1, 2006, we established a 401(k) plan covering all employees meeting certain minimum service and age requirements. The plan allows all qualifying employees to contribute the

maximum tax-deferred contribution allowed by the Internal Revenue Code. The non-Highly Compensated Employees, or non-HCEs, do not have a minimum or maximum percentage limit that they can defer. The HCEs, however, are limited to what they can defer based on prior year's testing. Hardship distributions are permitted under well-defined circumstances. We do not currently match employee contributions nor provide profit sharing at this time; however, the plan is designed so that matching or profit sharing can be arranged at any time.

Health and welfare benefits

All full-time employees, including our named executive officers, may participate in our health and welfare benefits programs, including medical, dental and vision care coverage, disability insurance and life insurance.

Employment agreements, severance benefits and change in control provisions

We have entered into employment agreements in 2007 with A.J. Kazimi, our Chairman and CEO; Jean W. Marstiller, our Senior Vice President, Administrative Services and Corporate Secretary; Leo Pavliv, our Vice President, Operations; J. William Hix, our Vice President, Sales and Marketing; and David L. Lowrance, our Vice President and CFO. The following is a summary of the material provisions of those employment agreements.

The employment agreements provide for an annual base salary of $303,390 for Mr. Kazimi, $170,000 for Ms. Marstiller, $211,000 for Mr. Pavliv, $180,000 for Mr. Hix, and $158,400 for Mr. Lowrance. In addition, the employment agreements provide that the individuals may be eligible for any bonus program which has been approved by our board of directors. Any such bonus is discretionary and will be subject to the terms of the bonus program, the terms of which may be modified from year-to-year in the sole discretion of our board of directors. During the period of employment under these agreements, each of our executives will be entitled to additional benefits, including eligibility to participate in any company-wide employee benefits programs approved by our board of directors and reimbursement of reasonable expenses.

Each executive's employment is at-will and may be terminated by us at any time, with or without notice and with or without cause. Similarly, each executive may terminate his or her employment with us at any time, with or without notice. The employment agreements do not provide for any severance payments in the event the employment is terminated for cause nor any severance benefits in the event the employment is terminated as a result of his or her death or permanent disability.

The employment agreements also include non-competition, non-solicitation and nondisclosure covenants on the part of the executives. During the term of each executive's employment with us and for one year after the executive ceases to be employed by us, the employment agreements provide that he or she may not compete with our business in any manner, unless the executive discloses all facts to our board of directors and receives a release allowing him or her to engage in a specific activity. Pursuant to the employment agreements, the executives also agree for a period of one year after the executive ceases to be employed by us, he or she will not solicit business related to the development or sales of pharmaceuticals products from any entity, organization or person which is contracted with us, which has been doing business with us, or a firm which the executive knew we were going to solicit business from at the time the executive ceased to be employed. Also, the executives may not solicit our employees. The employment agreements also impose obligations regarding confidential information and state that any discoveries or improvements that are conceived, developed or otherwise made by the executives, or with others, are deemed our sole property. The employment agreements do not contain any termination or change in control provisions.

Compensation

SUMMARY COMPENSATION TABLE

The following table sets forth information, for the fiscal year ended December 31, 2006, regarding the aggregate compensation we paid to our named executive officers:

Name and Principal Position	Year	Salary ($)	Bonus ($)	Stock Awards ($)	Option Awards ($)	Change in Pension Value and Nonqualified Deferred Compensation Earnings ($)	All Other Compensation ($)	Total ($)
A.J. Kazimi Chairman and CEO	2006	293,130	96,255	—	20,825	—	—	410,210
James D. Aderhold *former* V.P., Sales & Marketing	2006	194,000	40,000	—	17,940	—	—	251,940
Leo Pavliv V.P., Operations	2006	192,500	42,000	—	—	—	—	234,500
J. William Hix V.P., Sales & Marketing	2006	137,800	25,000	—	—	—	—	162,800
Jean W. Marstiller Senior V.P. and Corporate Secretary	2006	135,160	40,000	—	15,180	—	—	190,340
David L. Lowrance V.P. and CFO	2006	126,500	28,500	—	—	—	—	155,000

GRANTS OF PLAN-BASED AWARDS TABLE

The following table sets forth information regarding grants of compensatory awards we paid to our named executive officers during the fiscal year ended December 31, 2006:

Name	Grant Date	All Other Stock Awards: Number of Shares of Stock or Units (#)	All Other Option Awards: Number of Securities Underlying Options (#)	Exercise or Base Price of Option Awards ($/Sh)	Grant Date Fair Value of Stock and Option Awards
A.J. Kazimi	6/30/06	—	10,000	19.80	8.33
James D. Aderhold	6/30/06	—	6,500	18.00	11.04
Leo Pavliv	—	—	—	—	—
J. William Hix	—	—	—	—	—
Jean W. Marstiller	6/30/06	—	5,500	18.00	11.04
David L. Lowrance	—	—	—	—	—

Our executive compensation policies and practices, pursuant to which the compensation set forth in the Summary Compensation Table and the Grants of Plan-Based Awards Table was paid or awarded, are described above under, “Compensation Discussion and Analysis.” A summary of certain material terms of our compensation plans and arrangements is set forth above under “Compensation Discussion and Analysis—Employment Agreements, Severance Benefits and Change in Control Provisions.”

OUTSTANDING EQUITY AWARDS TABLE

The following table sets forth information regarding unvested stock and unexercised option awards held by our named executive officers as of December 31, 2006:

	Option Awards					Stock Awards			
Name	Number of Securities Underlying Unexercised Options(#) Exercisable	Number of Securities Underlying Unexercised Options(#) Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options(#)	Option Exercise Price($)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested(#)	Market Value of Shares or Units of Stock That Have Not Vested($)	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested(#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested($)
A.J. Kazimi(1)	292,500	—	—	0.22	01/23/09	—	—	—	—
	2,048,545	—		1.10	09/15/09				
	3,465	—		3.25	12/18/11				
	6,154	—		3.58	01/04/07				
	3,000	—		7.70	01/31/08				
	1,700	—		13.20	04/01/09				
	15,900	10,600		13.20	01/15/10				
	2,500	7,500		19.80	06/30/11				
James D. Aderhold(2)	5,000	—	—	1.00	12/27/09	—	—	—	—
	186,300	—		3.25	01/08/11				
	4,505	—		3.25	12/18/11				
	9,650	—		3.25	01/04/12				
	1,400	—		7.00	01/31/13				
	525	—		12.00	04/01/14				
	6,000	4,000		12.00	01/15/15				
	1,625	4,875		18.00	06/30/16				
Leo Pavliv(3)	2,500	—	—	1.00	12/27/09	—	—	—	—
	9,000	—		1.85	05/15/10				
	1,500	—		3.25	09/30/11				
	80,000	—		7.00	04/14/13				
	—	20,000		12.00	01/15/15				
J. William Hix(4)	29,000	—	—	12.00	05/03/14	—	—	—	—
Jean W. Marstiller(5)	72,840	—	—	0.20	01/23/09	—	—	—	—
	140,000	—		1.00	09/15/09				
	4,615	—		3.25	01/04/12				
	200	—		7.00	01/31/13				
	5,000	—		12.00	04/01/14				
	4,500	3,000		12.00	01/15/15				
	1,375	4,125		18.00	06/30/16				
David L. Lowrance(6)	45,000	—	—	7.00	01/30/13	—	—	—	—
	2,000	—		12.00	04/01/14				
	—	12,500		12.00	01/15/15				

(1) A.J. Kazimi:
292,500 Options granted on January 23, 1999; vested immediately.
2,048,545 Option granted on September 15, 1999; vested 20% equally each December 31 over 5 year period 1999-2003.
3,465 Options granted on December 18, 2001; vested immediately.
6,154 Options granted on January 4, 2002; vested immediately.
3,000 Options granted on January 31, 2003; vested December 31, 2003.
1,700 Options granted on April 1, 2004; vested immediately.
26,500 Options granted on January 15, 2005; 5,300 options or 20% vested immediately; 20% more vested each December 31, 2005 and 2006; the remaining options will vest equally each December 31, 2007 and 2008.
10,000 Options granted on June 30, 2006; 25% vested on December 31, 2006; the remainder of options vest 25% equally each December 31, 2007, 2008, 2009.

(2) James D. Aderhold:
5,000 Options granted on December 27, 1999; vested on December 31, 2000.
186,300 Options granted on January 8, 2001; 36,300 vested immediately; 50,000 options vested each December 31, 2001, 2002, 2003.
4,505 Options granted on December 18, 2001; vested immediately.
9,650 Options granted on January 4, 2002; vested immediately.
1,400 Options granted on January 31, 2003; vested immediately.
525 Options granted on April 1, 2004; vested immediately.
10,000 Options granted on January 15, 2005; 2,000 options vested immediately; 2,000 options vested each December 31, 2005 and 2006; 2,000 options will vest each December 31, 2007 and 2008.
6,500 Options granted on June 30, 2006; 25% or 1,625 options vested on December 31, 2006. The remaining options vest 1,625 each December 31, 2007, 2008 and 2009.

(3) Leo Pavliv:
2,500 Options granted on December 27, 1999; vested immediately.
9,000 Options granted on May 15, 2000; vested immediately.
1,500 Options granted on September 30, 2001; vested immediately.
80,000 Options granted on April 14, 2003; 25% vested each December 31 over the 4 year period 2003-2006.
20,000 Options granted on January 15, 2005; all options will vest on December 31, 2009.

(4) J. William Hix:
29,000 Options granted on May 3, 2004; 5,000 vested immediately; 8,000 options vested each December 31 2004, 2005, 2006.

(5) Jean W. Marstiller:
72,840 Options granted on January 23, 1999; vested immediately.
140,000 Options granted on September 15, 1999; 25,000 vested immediately; 23,000 vested each December 31, 1999-2003.
4,615 Options granted on January 4, 2002; vested immediately.
200 Options granted on January 31, 2003; vested immediately.
5,000 Options granted on April 1, 2004; vested immediately.
7,500 Options granted on January 15, 2005; 1,500 vested immediately; 1,500 vested each December 31, 2005 and 2006; 1,500 will vest each December 31, 2007 and 2008.
5,500 Options granted on June 30, 2006; 1,375 vested December 31, 2006; 1,375 will vest each December 31, 2007, 2008, 2009.

(6) David L. Lowrance:
45,000 Options granted on January 30, 2003; 5,000 vested immediately; 10,000 options vested each December 31, 2003-2006.
2,000 Options granted on April 1, 2004; vested immediately.
12,500 Options granted on January 15, 2005; all options will vest on December 31, 2009.

OPTION EXERCISES AND STOCK VESTED

The following table sets forth information regarding the exercise and vesting of stock and option awards held by our named executive officers during the fiscal year ended December 31, 2006:

	Option Awards		Stock Awards	
Name	Number of Shares Acquired on Exercise(#)	Value Realized on Exercise($)	Number of Shares Acquired on Vesting(#)	Value Realized on Vesting($)
A.J. Kazimi	6,154	113,357	—	—
James D. Aderhold	5,000	105,000	—	—
Leo Pavliv	—	—	—	—
J. William Hix	—	—	—	—
Jean W. Marstiller	7,830	139,374	—	—
David L. Lowrance	—	—	—	—

PENSION BENEFITS TABLE

We do not have any plan that provides for payments or other benefits at, following, or in connection with retirement.

NONQUALIFIED DEFERRED COMPENSATION TABLE

We do not have any plan that provides for the deferral of compensation on a basis that is not tax qualified.

DIRECTOR COMPENSATION TABLE

The following table sets forth information regarding the aggregate compensation we paid to the members of our board of directors during the fiscal year ended December 31, 2006:

Name	Fees Earned or Paid in Cash ($)	Stock Awards ($)	Option Awards ($)	Non-Equity Incentive Plan Compensation ($)	Change in Pension Value and Nonqualified Deferred Compensation Earnings	All Other Compensation ($)	Total ($)
Martin E. Cearnal(1)	2,500	24,000	—	—	—	—	26,500
Dr. Robert G. Edwards(2)	26,500	24,000	—	—	—	128,420	178,920
Dr. Lawrence W. Greer(3)	26,500	69,000	—	—	—	—	95,500
Thomas R. Lawrence(4)	26,500	54,000	—	—	—	16,500	97,000

(1) For service as a director in 2006, Mr. Cearnal received fees equal to $26,500, paid as follows: $2,500 cash, and shares of our common stock valued at $24,000. These amounts exclude options to purchase 2,000 shares of our common stock that vested in 2006.

(2) For service as a director in 2006, Dr. Edwards received fees equal to $50,500, paid as follows: $26,500 cash, and shares of our common stock valued at $24,000. For consulting services provided in 2006 Dr. Edwards received other compensation of $128,420, paid as follows: $20,420 cash, and shares of our common stock valued at $108,000.

(3) For service as a director in 2006, Dr. Greer received fees equal to $50,500, paid as follows: $26,500 cash, and shares of our common stock valued at $24,000. In addition, for service as chairman of the Audit Committee of the board of directors, Dr. Greer received a fee equal to $45,000 paid in shares of our common stock valued at $45,000.

(4) For service as a director in 2006, Mr. Lawrence received fees equal to $50,500, paid as follows: $26,500 cash, and shares of our common stock valued at $24,000. In addition, for service as chairman of the Compensation Committee of the board of directors, Mr. Lawrence received a fee of $30,000 cash. For consulting services provided in 2006, Mr. Lawrence received other compensation of $16,500, paid entirely in cash.

Compensation

Director compensation

Compensation to each outside director for service on the board of directors including board committee responsibilities for 2007 will consist of a total fee in the amount of $75,500. All fees will be paid in a combination of cash and equity, as we and each director shall agree. Cash fees will include $2,500 paid in the first quarter of 2007 and the remainder accrued and paid on either a monthly or quarterly basis. Directors will not receive separate compensation for attendance at board meetings, board committee meetings or other company related activities. In addition, outside directors will be reimbursed for all reasonable and necessary business expenses incurred in the performance of their service on the board of directors.

As part of their director compensation for 2007, Martin E. Cearnal and Dr. Lawrence W. Greer have elected to take equity. Martin E. Cearnal will be granted 3,318 shares of common stock and Dr. Lawrence W. Greer will be granted 2,200 shares of common stock.

Long-term equity incentive awards to our directors were made pursuant to the 1999 Plan until April 2007, and thereafter, pursuant to the 2007 Directors' Compensation Plan, or the Directors' Plan.

The purposes of the Directors' Plan are:

- to strengthen our ability to attract, motivate, and retain qualified independent directors; and
- to replace the 1999 Plan without impairing the vesting or exercise of any option granted to any director thereunder.

The Directors' Plan authorizes the issuance to non-employee directors of each of the following types of awards:

- options (all options to be issued under the Directors' Plan will not meet IRS requirements for special tax treatment and therefore are non-qualified options);
- restricted stock grants (shares subject to various restrictions and conditions as determined by our compensation committee); and
- stock grants (award of shares or our common stock with full and unrestricted ownership rights).

The compensation committee of our board of directors will administer the Directors' Plan, if it is adopted. In the event of a change of control of our company (as defined in the Directors' Plan), all outstanding options would automatically become exercisable in full, and restrictions and conditions for other issued awards shall generally be deemed terminated or satisfied. Our board of directors may amend or terminate the Directors' Plan, subject to shareholder approval if necessary, to comply with tax or regulatory requirements.

INDEMNIFICATION OF DIRECTORS AND EXECUTIVE OFFICERS AND LIMITATION OF LIABILITY

Our charter and bylaws provide for indemnification of our directors to the fullest extent permitted by the Tennessee Business Corporation Act, as amended from time to time. Our directors shall not be liable to us or our shareholders for monetary damages for breach of their fiduciary duty of care. The Tennessee Business Corporation Act provides that a Tennessee corporation may indemnify its directors and officers against expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with any proceeding, whether criminal or civil, administrative or investigative if, in connection with the matter in issue, the individual's conduct was in good faith, and the individual reasonably believed: in the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in its best interest; and in all other cases, that the individual's behavior was at least not opposed to its best interest; and in the case of a criminal

proceeding, the individual had no reason to believe the individual's conduct was unlawful. In addition, we have entered into indemnification agreements with our directors. These provisions and agreements may have the practical effect in certain cases of eliminating the ability of our shareholders to collect monetary damages from directors. We believe that these contractual agreements and the provisions in our charter and bylaws are necessary to attract and retain qualified persons as directors.

DIRECTORS AND OFFICERS INSURANCE

We maintain a directors' and officers' insurance policy that provides coverage to our directors and officers relating to certain potential liabilities. The directors' and officers' insurance policy, provided by The Hartford with a coverage amount of up to $3,000,000, covers "wrongful act" or "securities" claims.

Certain relationships and related party transactions

Other than compensation agreements and other arrangements which are described in “Compensation” and the transactions described below, since January 1, 2004, there has not been, and there is not currently proposed, any transaction or series of similar transactions to which we were or will be a party in which the amount involved exceeded or will exceed $120,000 and in which any related party, including any director, executive officer, holder of five percent or more of any class of our capital stock or any member of their immediate families had or will have a direct or indirect material interest.

All of the transactions set forth below were approved by a majority of the board of directors, including a majority of any independent and disinterested members of the board of directors. We believe that all of the transactions set forth below had terms no less favorable to us than we could have obtained from unaffiliated third parties. In connection with this offering, we have adopted a written policy which requires all future transactions between us and any related persons (as defined in Item 404 of Regulation S-K) be approved in advance by our audit committee.

In September 2003, we borrowed $1,000,000 from S.C.O.U.T. in the form of a convertible promissory note with a maturity date of September 2004. The President and majority shareholder of the general partner of S.C.O.U.T., Dr. Lawrence W. Greer, serves on our board of directors. Pursuant to the terms of the note, on its maturity date, S.C.O.U.T. converted the principal value of the note plus all interest accrued at a fixed rate of ten percent per annum into 91,667 shares of our common stock at a price of $12.00 per share.

In April 2004, S.C.O.U.T. purchased 43,000 shares of our common stock at a price of $12.00 per share and a five-year warrant to purchase 20,000 of our common stock at an exercise price of $12.00 per share.

Board members were granted a total of 12,409, 23,120 and 15,600 shares of common stock in 2006, 2005 and 2004, respectively, for services rendered as directors and consultants. The amounts recorded for such services were $249,000, $277,000, and $187,000 in 2006, 2005 and 2004, respectively. Additionally, two board members received a total of 11,000 options with an exercise price of $18.00 per share in 2005 and 16,780 options with an exercise price of $12.00 per share in 2004. No options were issued to board members in 2006.

In connection with this offering, we have adopted a written policy, the Policy and Procedures with Respect to Related Person Transactions. Our board of directors has determined that our audit committee is best suited to review and approve all future related person transactions. The Policy and Procedures with Respect to Related Person Transactions covers a transaction, arrangement, or relationship in which we or any of our subsidiaries is or will be a participant and the amount involved exceeds $120,000 per year, and in which any related person has or will have a direct or indirect interest. The Policy and Procedures with Respect to Related Person Transactions defines a related person as:

- any person who is, or at any time since the beginning of our last fiscal year was, a director or executive officer of ours or a nominee to become a director of ours;
- any person who is known to be the beneficial owner of more than 5% of any class of our voting securities;
- any immediate family member of any of the foregoing persons; and
- any firm, corporation or other entity in which any of the foregoing persons is employed or is a partner or principal or in a similar position or in which such person has a 5% or greater beneficial ownership interest.

No member of our audit committee shall review or approve a related person transaction in which he or an immediate family member of his is the related person. The audit committee shall approve only those related person transactions that are in, or are not inconsistent with, the best interests of us and our shareholders.

Principal shareholders

The following table sets forth information known to us with respect to beneficial ownership of shares of our common stock as of February 28, 2007 by (i) each of our directors, (ii) each of our named executive officers; (iii) all of our directors and executive officers as a group; and (iv) each person or group of affiliated persons known to us to be the beneficial owner of 5% or more of our outstanding common stock.

Beneficial ownership and percentage ownership are determined in accordance with the rules of the SEC. This information does not necessarily indicate beneficial ownership for any other purpose. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, shares of common stock underlying options or warrants held by that person that are currently exercisable or will become exercisable within 60 days of February 28, 2007 are deemed outstanding and are included in the number of shares beneficially owned, while the shares are not deemed outstanding for purposes of computing percentage ownership of any other person. To our knowledge, except as indicated in the footnotes to this table and subject to community property laws where applicable, the persons named in the table have sole voting and investment power with respect to all shares of our common stock shown as beneficially owned by them.

As of February 28, 2007, there were 228 holders of record of our common stock and 42 holders of record of preferred stock, which will automatically be converted into common stock at the completion of this offering. For purposes of calculating amounts beneficially owned by a shareholder before the offering, the number of shares deemed issued and outstanding was 4,938,845 shares of common stock as of February 28, 2007. The percentage of beneficial ownership after this offering is based on shares of common stock. For purposes of calculating the percentage beneficially owned after the offering, the number of shares deemed outstanding includes all shares deemed to be outstanding before the offering, all shares into which our outstanding shares of preferred stock will be converted as a result of the offering and all shares being sold in the offering.

Unless otherwise indicated, the address for each person listed is c/o Cumberland Pharmaceuticals Inc., 2525 West End Ave., Suite 950, Nashville, Tennessee 37203.

Principal shareholders

Executive officers and directors	Number of Shares Beneficially Owned	Percentage of Shares Beneficially Owned	
		Before Offering	After Offering
A.J. Kazimi(1)	3,647,317	49.92%	
Thomas R. Lawrence(2)	122,288	2.47%	
Robert G. Edwards(3)	220,473	4.37%	
Lawrence W. Greer(4)	408,090	8.15%	
Martin E. Cearnal(5)	61,801	1.25%	
James D. Aderhold, Jr.(6)	223,809	4.34%	
Leo Pavliv(7)	93,000	1.85%	
Jean W. Marstiller(8)	317,273	6.14%	
Gordon R. Bernard(9)	56,592	1.15%	
David L. Lowrance(10)	47,000	*	
J. William Hix(11)	29,000	*	
Directors and executive officers as a group (11 persons)	4,878,459		
5% Shareholders			
Douglas J. Marchant(12)	350,000	7.09%	
Mr. and Mrs. J. Kenneth Hazen(13)(14)	300,000	6.07%	
S.C.O.U.T. Healthcare Fund, L.P.(15)(16)	348,184	7.05%	

* Less than 1.0% of the outstanding common stock.

(1) Includes 2,367,610 shares that Mr. Kazimi has the right to acquire upon the exercise of outstanding stock options.

(2) Includes 19,233 shares Mr. Lawrence has the right to acquire upon exercise of outstanding stock options.

(3) Includes 107,904 shares Dr. Edwards has the right to acquire upon exercise of outstanding stock options.

(4) Includes (i) 306,624 shares owned of record by S.C.O.U.T., a limited partnership with respect to which Dr. Greer is the President and majority Shareholder of the general partner, (ii) 21,560 shares S.C.O.U.T. has the right to acquire upon exercise of outstanding stock options, (iii) 20,000 shares S.C.O.U.T. has the right to acquire immediately from us pursuant to a warrant, and (iv) 26,000 shares Dr. Greer has the right to acquire immediately upon exercise of outstanding stock options.

(5) Includes (i) 11,700 shares Mr. Cearnal has the right to acquire upon exercise of outstanding stock options and (ii) 7,700 shares Mr. Cearnal will receive upon conversion of his preferred stock.

(6) Includes 215,005 shares Mr. Aderhold has the right to acquire upon exercise of outstanding stock options.

(7) Includes 93,000 shares Mr. Pavliv has the right to acquire upon exercise of outstanding stock options.

(8) Includes 228,530 shares Ms. Marstiller has the right to acquire upon exercise of outstanding stock options.

(9) Includes 2,308 shares Dr. Bernard has the right to acquire upon exercise of outstanding stock options.

(10) Includes 47,000 shares Mr. Lowrance has the right to acquire upon exercise of outstanding stock options.

(11) Includes 29,000 shares Mr. Hix has the right to acquire upon exercise of outstanding stock options.

(12) The address for Mr. Marchant is 60 Germantown Court, Suite 220, Cordova, Tennessee, 38018.

(13) The address for Mr. and Mrs. J. Kenneth Hazen is 260 St. Andrews Fairway, Memphis, Tennessee, 38111.

(14) The number of shares reflected above as beneficially held by Mr. and Mrs. J. Kenneth Hazen are held jointly.

(15) Includes (i) 21,560 shares S.C.O.U.T. has the right to acquire upon exercise of outstanding stock options, and (ii) 20,000 shares S.C.O.U.T. has the right to acquire immediately from us pursuant to a warrant.

(16) The address for S.C.O.U.T. is 2200 Woodcrest Place, Suite 309, Birmingham, Alabama, 35209.

Description of capital stock

GENERAL

Our authorized capital stock consists of one hundred million shares of common stock, no par value, three million shares of Series A preferred stock, no par value, and twenty million shares of undesignated preferred stock, no par value.

COMMON STOCK

As of , shares of common stock were issued and outstanding (which does not include shares of common stock issuable upon exercise of outstanding stock options issued pursuant to our 1999 Plan or other options or warrants to purchase common stock, and which does not include shares of common stock issuable upon conversion of all outstanding shares of our preferred stock). We plan to issue additional stock options to our directors, employees and consultants, and we may issue shares of common stock to sellers of rights to certain pharmaceutical products. Giving effect to the sale of shares offered hereby and the conversion of all outstanding shares of our preferred stock, there would be shares of common stock outstanding following this offering.

The holders of shares of common stock are entitled to one vote per share on any matter that comes before the shareholders. Cumulative voting is not authorized. Holders of shares of common stock do not have preemptive rights to purchase securities that we may subsequently issue. Subject to preferences that may be applicable to any outstanding preferred stock, the holders of common stock are entitled to receive such dividends as may be declared by our board of directors out of funds legally available for payment as dividends. However, we do not anticipate paying any dividends in the foreseeable future to holders of our common stock. In the event of a liquidation, dissolution, or winding up of our affairs, the holders of outstanding shares will be entitled to share pro rata according to their respective interests in our assets and funds remaining after payment of all of our debts and other liabilities and the liquidation preference of any outstanding preferred stock. All of the shares of common stock currently outstanding are fully paid and nonassessable.

PREFERRED STOCK

Our board of directors is authorized, without approval of our shareholders, to provide for the issuance of shares of preferred stock in one or more series, to establish the number of shares in each series, and to fix the designations, powers, preferences, and rights of each such series and the qualifications, limitations, or restrictions. Among the specific matters that may be determined by our board are:

- the designation of each series;
- the number of shares of each series;
- the rights in respect of dividends, if any;
- whether dividends, if any, shall be cumulative or non-cumulative;
- the terms of redemption, repurchase obligation or sinking fund, if any;
- the rights in the event of any voluntary or involuntary liquidation, dissolution or winding up of our affairs;
- rights and terms of conversion, if any;
- restrictions on the creation of indebtedness, if any;
- restrictions on the issuance of additional preferred stock or other capital stock, if any;

- Ø restrictions on the payment of dividends on shares ranking junior to the preferred stock; and
- Ø voting rights, if any.

Upon completion of this offering, no shares of preferred stock will be outstanding and we have no current plans to issue preferred stock. The issuance of shares of preferred stock, or the issuance of rights to purchase preferred stock, could be used to discourage an unsolicited acquisition proposal. For example, a business combination could be impeded by the issuance of a series of preferred stock containing class voting rights that would enable the holder or holders of such series to block any such transaction. Alternatively, a business combination could be facilitated by the issuance of a series of preferred stock having sufficient voting rights to provide a required percentage vote of our shareholders. In addition, under some circumstances, the issuance of preferred stock could adversely affect the voting power and other rights of the holders of common stock. Although prior to issuing any series of preferred stock our board is required to make a determination as to whether the issuance is in the best interests of our shareholders, our board could act in a manner that would discourage an acquisition attempt or other transaction that some, or a majority, of our shareholders might believe to be in their best interests or in which our shareholders might receive a premium for their stock over prevailing market prices of such stock. Our board of directors does not at present intend to seek shareholder approval prior to any issuance of currently authorized preferred stock, unless otherwise required by law or applicable stock exchange requirements.

OUTSTANDING OPTIONS AND WARRANTS

As of , in addition to outstanding options to acquire shares of common stock issued pursuant to our 1999 Plan, we have issued options to purchase shares of our common stock in connection with two debt financing rounds in 2001 and 2003. These options have ten-year terms with exercise prices of $ and $ per share, respectively. Total options outstanding as of have an average exercise price of $ per share. We have also issued warrants to purchase 32,500 shares of our common stock at a price of $12.00 per share to Bank of America and to S.C.O.U.T., a consulting and investment company in which Dr. Lawrence W. Greer, one of our directors, is a principal, and warrants to purchase 1,979 shares of our common stock at a price of $18.00 per share to Bank of America.

ANTI-TAKEOVER EFFECTS OF TENNESSEE LAW AND PROVISIONS OF OUR CHARTER AND BYLAWS

The Tennessee Business Combination Act, the Tennessee Investor Protection Act, the Tennessee Greenmail Act and the Tennessee Control Share Acquisition Act provide certain anti-takeover protections for Tennessee corporations.

The Tennessee Business Combination Act

The Tennessee Business Combination Act, or TBCA, governs all Tennessee corporations. It imposes a five-year standstill on transactions such as mergers, share exchanges, sales of assets, liquidations and other interested party transactions between Tennessee corporations and “interested shareholders” and their associates or affiliates, unless the business combination is approved by the board of directors before the interested shareholder goes above the 10% ownership threshold. Thereafter, the transaction either requires a two-thirds vote of the shareholders other than the interested shareholder or satisfaction of certain fair price standards.

The TBCA also provides for additional exculpatory protection for the board of directors in resisting mergers, exchanges and tender offers if a Tennessee corporation’s charter specifically opts-in to such

provisions. A Tennessee corporation's charter may specifically authorize the members of a board of directors, in the exercise of their judgment, to give due consideration to factors other than price and to consider whether a merger, exchange, tender offer or significant disposition of assets would adversely affect the corporation's employees, customers, suppliers, the communities in which the corporation operates, or any other relevant factor in the exercise of their fiduciary duty to the shareholders.

Our charter expressly opts-in and provides for exculpation of the board of directors to the full extent permitted under the TBCA. The opt-in will have the effect of protecting us from unwanted takeover bids, because the board of directors is permitted by the charter to take into account all relevant factors in performing its duly authorized duties and acting in good faith and in our best interests.

The Tennessee Investor Protection Act

The Tennessee Investor Protection Act, or TIPA, generally requires the registration, or an exemption from registration, before a person can make a tender offer for shares of a Tennessee corporation which, if successful, will result in the offeror beneficially owning more than 10% of any class of shares. Registration requires the filing with the Tennessee Commissioner of Commerce and Insurance of a registration statement, a copy of which must be sent to the target company, and the public disclosure of the material terms of the proposed offer. Additional requirements are imposed under that act if the offeror beneficially owns 5% or more of any class of equity securities of the target company, any of which was purchased within one year prior to the proposed takeover offer. TIPA also prohibits fraudulent and deceptive practices in connection with takeover offers, and provides remedies for violations.

TIPA does not apply to an offer involving a vote by holders of equity securities of the offeree company, pursuant to its charter, on a share exchange, consolidation or sale of corporate assets in consideration of the issuance of securities of another corporation, or on a sale of its securities in exchange for cash or securities of another corporation. Also exempt from TIPA are tender offers which are open on substantially equal terms to all shareholders, are recommended by the board of directors of the target company, and include full disclosure of all terms.

The Tennessee Greenmail Act

The Tennessee Greenmail act, or TGA, prohibits us from purchasing or agreeing to purchase any of our securities, at a price higher than fair market value, from a holder of 3% or more of any class of its securities who has beneficially owned the securities for less than two years. We can, however, make this purchase if the majority of the outstanding shares of each class of voting stock issued by us approves the purchase or if we make an offer of at least equal value per share to all holders of shares of the same class of securities as those held by the prospective seller.

The Tennessee Control Share Acquisition Act

Sections 48-103-301 through 48-103-312 of the Tennessee Control Share Acquisition Act, or TCSA, limit the voting rights of shares owned by a person above certain percentage thresholds, unless the non-interested shareholders of the corporation approve the acquisition above the designated threshold. However, the TCSA only applies to corporations whose charter or bylaws contain an express declaration that control share acquisitions are to be governed by the TCSA. In addition, the charter or bylaws must specifically provide for the redemption of control shares or appraisal rights for dissenting shareholders in a control share transaction.

Our charter makes all of the express declarations necessary to avail us of the full protection under the TCSA. The provisions described above will have the general effect of discouraging, or rendering more

difficult, unfriendly takeover or acquisition attempts. Consequently, such provisions would be beneficial to current management in an unfriendly takeover attempt but could have an adverse effect on shareholders who might wish to participate in such a transaction. However, management believes that such provisions are advantageous to shareholders in that they will permit management and the shareholders to carefully consider and understand a proposed acquisition and may require a higher level of shareholder participation in the decision.

Pursuant to Section 48-103-308 of the TCSA, we, at our option, may redeem from an acquiring person all, but not less than all, control shares acquired in a control share acquisition, at any time during the period ending 60 days after the last acquisition of control shares by that person, for the fair value of those shares, if (1) no control acquisition statement has been filed, or (2) a control acquisition statement has been filed and the shares are not accorded voting rights by the shareholders of this corporation pursuant to Section 48-103-307. For these purposes, fair value shall be determined as of the effective date of the vote of the shareholders denying voting rights to the acquiring person, if a control acquisition statement is filed, or if no control acquisition statement is filed, as of the date of the last acquisition of control shares by the acquiring person in a control share acquisition.

Pursuant to Section 48-103-309 of the TCSA, if control shares acquired in a control share acquisition are accorded voting rights and the acquiring person has acquired control shares that confer upon that person a majority or more of all voting power entitled to vote generally with respect to the election of directors, all this corporation's shareholders of record, other than the acquiring person, who have not voted in favor of granting those voting rights to the acquiring person shall be entitled to an appraisal of the fair market value of their shares in accordance with Chapter 23 of the Tennessee Business Corporation Act.

Our corporate documents contain provisions that may enable our board of directors to resist a change in control of our company even if a change in control were to be considered favorable by you and other shareholders. These provisions include:

- the authorization of undesignated preferred stock, the terms of which may be established and shares of which may be issued without shareholder approval;
- advance notice procedures required for shareholders to nominate candidates for election as directors or to bring matters before an annual meeting of shareholders;
- limitations on persons authorized to call a special meeting of shareholders;
- a staggered board of directors;
- a requirement that vacancies in directorships are to be filled by a majority of the directors then in office and the number of directors is to be fixed by the board of directors; and
- no cumulative voting.

These and other provisions contained in our second amended and restated charter and bylaws could delay or discourage transactions involving an actual or potential change in control of us or our management, including transactions in which our shareholders might otherwise receive a premium for their shares over then current prices, and may limit the ability of shareholders to remove our current management or approve transactions that our shareholders may deem to be in their best interests and, therefore, could adversely affect the price of our common stock.

TRANSFER AGENT AND REGISTRAR

The transfer agent and registrar for our common stock is Mellon Investor Services.

NASDAQ GLOBAL MARKET LISTING

We have applied for our common stock to be quoted on The Nasdaq Global Market under the trading symbol “CPIX”.

Shares eligible for future sale

Immediately prior to this offering, there was no public market for our common stock. Future sales of substantial amounts of common stock in the public market, or the perception that such sales may occur, could adversely affect the market price of our common stock and could impair our ability to raise capital in the future through the sale of our securities. Although we have applied to have our common stock approved for quotation on The Nasdaq Global Market, we cannot assure you that there will be an active public market for our common stock.

Upon completion of this offering, we will have outstanding an aggregate of shares of common stock, assuming the issuance of shares of common stock offered in our initial public offering, conversion of our outstanding shares of preferred stock and no exercise of options after December 31, 2006. Of these shares, the shares sold in this offering will be freely tradable without restriction or further registration under the Securities Act, except for any shares purchased by our "affiliates," as that term is defined in Rule 144 under the Securities Act, whose sales would be subject to certain limitations and restrictions described below. See "—Lock-Up Agreements." Persons who may be deemed affiliates generally include individuals or entities that control, are controlled by or are under common control with us and may include our officers, directors and significant shareholders.

The remaining shares of common stock held by existing shareholders were issued and sold by us in reliance on exemptions from the registration requirements of the Securities Act. Of these shares, shares will be subject to "lock-up" agreements described below on the effective date of this offering. Upon expiration of the lock-up agreements 180 days after the effective date of this offering, shares will become eligible for sale, subject in most cases to the limitations of Rule 144. In addition, holders of stock options could exercise such options and sell certain of the shares issued upon exercise as described below. See "—Lock-Up Agreements."

Days after date of this prospectus	Shares eligible for sale	Comment
Upon effectiveness		Shares sold in the offering
Upon effectiveness		Freely tradable shares saleable under Rule 144(k) that are not subject to the lock-up
90 Days		Shares saleable under Rules 144 and 701 that are not subject to a lock-up
180 Days		Lock-up released; shares saleable under Rules 144 and 701
Thereafter		Restricted securities held for one year or less

EMPLOYEE BENEFIT PLANS

As of December 31, 2006, there were a total of shares of common stock subject to outstanding options under our 1999 Option Plan, approximately of which were vested and exercisable.

Immediately after the completion of this offering, we intend to file registration statements on Form S-8 under the Securities Act to register all of the shares of common stock issued or reserved for future issuance under the 1999 Option Plan and the 2007 Long-Term Incentive Compensation Plan. On the date which is 180 days after the effective date of this offering, a total of approximately shares of common stock subject to outstanding options will be vested and exercisable. After the effective dates of the registration statements on Form S-8, shares purchased under the 1999 Option Plan and the 2007 Long-Term Incentive Compensation Plan generally would be available for resale in the public market.

LOCK-UP AGREEMENTS

We, all of our directors and executive officers and their affiliates, and holders of shares of our outstanding stock have agreed that, without the prior written consent of UBS Securities LLC, we and they will not directly or indirectly, sell, offer, contract or grant any option to sell (including without limitation any short sale), pledge, transfer, establish an open "put equivalent position" or liquidate or decrease a "call equivalent position" or otherwise dispose of or transfer (or enter into any transaction which is designed to, or might reasonably be expected to, result in the disposition of), including the filing (or participation in the filing) of a registration statement with the SEC in respect of, any shares of common stock, options or warrants to acquire shares of common stock, or securities exchangeable or exercisable for or convertible into shares of common stock currently or hereafter owned either of record or beneficially by such persons (except for the S-8 filings referred to in the previous paragraph), or publicly announce an intention to do any of the foregoing, for a period commencing on the date hereof and continuing through the close of trading on the date 180 days after the date of this prospectus, other than permitted transfers described below. In addition, we and they agree that, without the prior written consent of UBS Securities LLC, we and they will not, during such period, make any demand for or exercise any right with respect to, the registration of any shares of common stock or any security convertible into or exercisable or exchangeable for common stock.

The 180-day restricted period described in the preceding two paragraphs will be extended if:

- during the last 17 days of the 180-day restricted period we issue an earnings release or announce material news or a material event relating to us occurs; or
- prior to the expiration of the 180-day restricted period, we announce that we will release earnings results during the 16-day period beginning on the last day of the 180-day period,

in which case the restrictions described in the preceding two paragraphs will continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release, the announcement of material news or the occurrence of a material event.

UBS Securities LLC, in its sole discretion, may release the common stock and other securities subject to the lock-up agreements described above in whole or in part at any time with or without notice. When determining whether or not to release common stock and other securities from lock-up agreements, UBS Securities LLC will consider, among other factors, the holder's reasons for requesting the release, the number of shares of common stock and other securities for which the release is being requested and market conditions at the time.

RULE 144

In general, under Rule 144 as currently in effect, beginning 90 days after the date of this prospectus, a person who has beneficially owned shares of our common stock for at least one year, including an affiliate, would be entitled to sell in "broker's transactions" or to market makers, within any three-month period, a number of shares that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately shares immediately after this offering; or
- the average weekly trading volume in our common stock on The Nasdaq Global Market during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such sale.

Sales under Rule 144 are generally subject to the availability of current public information about us.

Shares eligible for future sale

RULE 144(K)

Under Rule 144(k), a person who is not deemed to have been an affiliate of ours at any time during the three months preceding a sale, and who has beneficially owned the shares proposed to be sold for at least two years, is entitled to sell such shares without having to comply with the manner of sale, public information, volume limitation or notice filing provisions of Rule 144. Therefore, unless otherwise restricted, “144(k) shares” may be sold immediately upon the completion of this offering.

RULE 701

In general, under Rule 701, any of our employees, directors, officers, consultants or advisors who purchases shares from us in connection with a compensatory stock or option plan or other written agreement before the effective date of this offering is entitled to sell such shares 90 days after the effective date of this offering in reliance on Rule 144, without having to comply with the holding period and notice filing requirements of Rule 144 and, in the case of non-affiliates, without having to comply with the public information, volume limitation or notice filing provisions of Rule 144.

The SEC has indicated that Rule 701 will apply to typical stock options granted by an issuer before it becomes subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, along with the shares acquired upon exercise of such options, including exercises after the date of this prospectus.

Material U.S. federal income and estate tax consequences to non-U.S. holders

GENERAL

The following is a general summary of the material U.S. federal income and estate tax consequences of the ownership and disposition of our common stock that may be relevant to a non-U.S. holder (as defined below). The summary is based on provisions of the Internal Revenue Code of 1986, as amended, U.S. Treasury regulations promulgated thereunder, rulings and pronouncements of the Internal Revenue Service, or IRS, and judicial decisions, all as in effect on the date of this prospectus and all of which are subject to change (possibly on a retroactive basis) or to differing interpretations. We have not sought, and will not seek, any ruling from the IRS with respect to the tax consequences discussed in this prospectus, and there can be no assurance that the IRS will not take a position contrary to the tax discussion below or that any such position would not be sustained.

This summary is limited to non-U.S. holders that purchase our common stock issued pursuant to this offering and that hold our common stock as a capital asset, which generally is property held for investment. This summary also does not address the tax considerations arising under the laws of any foreign, state or local jurisdiction, or under U.S. federal estate or gift tax laws except as specifically described below. In addition, this summary does not address tax considerations that may be applicable to a non-U.S. holder in light of its particular circumstances or to non-U.S. holders that may be subject to special tax rules, including, without limitation:

- banks, insurance companies or other financial institutions;
- partnerships or other pass through entities;
- U.S. expatriates;
- tax-exempt organizations;
- tax-qualified retirement plans;
- dealers in securities or currencies;
- traders in securities that elect to use a mark-to-market method of accounting for their securities holdings; or
- persons that will hold common stock as a position in a hedging transaction, “straddle” or “conversion transaction” for tax purposes.

For purposes of this summary, the term “non-U.S. holder” means a beneficial owner of our common stock that is not, for U.S. federal income tax purposes:

- an individual citizen or resident of the U.S.;
- a corporation, or other entity treated as a corporation for U.S. federal income tax purposes, that is created or organized under the laws of the United States or any political subdivision of the United States;
- an estate whose income, regardless of its source, is includible in gross income for U.S. federal income tax purposes;
- a trust (1) if a U.S. court is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions regarding the trust, or (2) that has in effect a valid election to be treated as a U.S. person; or
- a partnership, or other entity treated as a partnership for U.S. federal income tax purposes.

Material U.S. federal income and estate tax consequences to non-U.S. holders

If a partnership or other entity classified as such for U.S. federal income tax purposes holds shares of our common stock, the tax treatment of a partner or owner will generally depend on the status of the partner or owner and the activities of the partnership or other entity. It is advised that partnerships (and other entities classified as such for U.S. federal income tax purposes) owning shares of our common stock, and holders of interests in such entities, consult their tax advisors.

Any non-U.S. holder of our common stock should consult their tax advisor regarding the tax consequences of purchasing, holding, and disposing of these shares of stock.

DIVIDENDS

As previously discussed, we do not anticipate paying dividends on our common stock in the foreseeable future. If we pay dividends on our common stock, however, those payments will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. To the extent those payments exceed our current and accumulated earnings and profits, the payments will constitute a return of capital and first reduce the non-U.S. holder's adjusted tax basis, but not below zero, and then will be treated as gain from the sale of stock, as described below under the heading "Gain on Disposition of Common Stock." Any amount treated as a dividend paid to a non-U.S. holder will ordinarily be subject to a 30% U.S. federal withholding tax, or a lower rate if an applicable income tax treaty so provides. A non-U.S. holder will be required to satisfy certain certification and disclosure requirements in order to claim a reduced rate of withholding pursuant to an applicable income tax treaty.

Dividends that are effectively connected with a non-U.S. holder's conduct of trade or business within the United States (and, where an applicable tax treaty so requires, are attributable to a permanent establishment or fixed base in the U.S.) will not be subject to U.S. federal withholding tax, provided certain certification and disclosure requirements are met, but instead generally will be taxed in the same manner as if the non-U.S. holder were a U.S. person. Additionally, non-U.S. holders that are corporations receiving such dividends may be subject to an additional branch profits tax at a rate of 30%, or at a lower rate if provided by an applicable income tax treaty.

Non-U.S. holders are encouraged to consult their tax advisors regarding any claim to benefits under an applicable income tax treaty and the method of claiming the benefits of the treaty. A refund or credit for any non-U.S. holder that is subject to a reduced U.S. federal withholding income tax rate may be obtained by timely filing a claim for a refund with the IRS.

GAIN ON DISPOSITION OF COMMON STOCK

A non-U.S. holder of our common stock generally will not be taxed on gain recognized upon disposition unless:

- Ø the non-U.S. holder is present in the U.S. for 183 days or more during the taxable year of the disposition and has met certain other requirements.
- Ø the income or gain is effectively connected with the non-U.S. holder's conduct of trade or business within the U.S. and, if an applicable income tax treaty so requires, is attributable to a permanent establishment or fixed base of the non-U.S. holder in the U.S.; or
- Ø we are or have been a "United States real property holding corporation" for U.S. federal income tax purposes at any time within the shorter of the five-year period preceding such disposition or your holding period for our common stock, and certain other requirements are met. We believe that we are not, and that we will not become, a United States real property holding corporation.

If you are an individual described in the first bullet point immediately above you will be subject to a flat 30% tax on the amount by which gain resulting from the disposition of our common stock and any other U.S.-source capital gains realized in the same taxable year exceed the U.S.-source capital losses recognized in that taxable year, unless an applicable income tax treaty provides for an exemption or lower rate. If you are an individual described in the second bullet point immediately above you will be subject to tax on the net gain derived from the sale under regular graduated U.S. federal income tax rates. If you are a corporation described in the second bullet point immediately above, you will be subject to tax on the net gain generally in the same manner as if you were a U.S. corporation for U.S. federal income tax purposes, and may also be subject to the branch profits tax equal to 30%, or such lower rate as may be specified by an applicable income tax treaty, on your effectively connected earnings and profits.

U.S. FEDERAL ESTATE TAX

Common stock owned or treated as owned by a non-U.S. holder who is an individual will be included in that non-U.S. holder's gross estate for U.S. federal estate tax purposes unless an applicable estate tax or other treaty provides otherwise and such non-U.S. holder therefore may be subject to U.S. federal estate tax.

U.S. INFORMATION REPORTING AND BACKUP WITHHOLDING

We must report to you and to the Internal Revenue Service on an annual basis the amount of dividends paid to you and any related taxes withheld from those dividends. Copies of the information returns reporting dividends and the related tax withheld may also be made available to the tax authorities in the country in which you reside under the provisions of an applicable income tax treaty.

Backup withholding generally will not apply to payments of dividends made by us or our paying agents, in their capacities as such, to a non-U.S. holder of our common stock if the holder has provided the required certification that it is not a U.S. person or certain other requirements are met.

In general, backup withholding and information reporting will not apply to proceeds from the disposition of our common stock paid to a non-U.S. holder if the holder has provided the required certification that it is a non-U.S. holder.

Backup withholding is not an additional tax. Any amounts withheld may be refunded or credited against the holder's U.S. federal income tax liability, if any, provided that the required information is furnished to the IRS in a timely manner.

Non-U.S. holders should consult their tax advisors regarding the application of the information reporting and backup withholding rules to them.

Prospective non-U.S. holders of our common stock should consult their tax advisors with respect to the particular tax consequences to them of owning and disposing of our common stock, including the consequences under the laws of any state, local or foreign jurisdiction or under any applicable tax treaty.

Underwriting

We are offering the shares of our common stock described in this prospectus through the underwriters named below. UBS Securities LLC, Jefferies & Company, Inc., Wachovia Capital Markets, LLC and Morgan Joseph & Co. Inc. are the representatives of the underwriters. UBS Securities LLC is the sole book-running manager of this offering. We have entered into an underwriting agreement with the representatives. Subject to the terms and conditions of the underwriting agreement, each of the underwriters has severally agreed to purchase the number of shares of common stock listed next to its name in the following table.

Underwriters	Number of Shares
UBS Securities LLC	
Jefferies & Company, Inc.	
Wachovia Capital Markets, LLC	
Morgan Joseph & Co. Inc.	
Total	

The underwriting agreement provides that the underwriters must buy all of the shares if they buy any of them. However, the underwriters are not required to take or pay for the shares covered by the underwriters' over-allotment option described below.

Our common stock is offered subject to a number of conditions, including:

- receipt and acceptance of our common stock by the underwriters, and
- the underwriters' right to reject orders in whole or in part.

We have been advised by the representatives that the underwriters intend to make a market in our common stock, but that they are not obligated to do so and may discontinue making a market at any time without notice.

In connection with this offering, certain of the underwriters or securities dealers may distribute prospectuses electronically.

OVER-ALLOTMENT OPTION

We have granted the underwriters an option to buy up to an aggregate of additional shares of our common stock. The underwriters may exercise this option solely for the purpose of covering over-allotments, if any, made in connection with this offering. The underwriters have 30 days from the date of this prospectus to exercise this option. If the underwriters exercise this option, they will each purchase additional shares approximately in proportion to the amounts specified in the table above.

COMMISSIONS AND DISCOUNTS

Shares sold by the underwriters to the public will initially be offered at the initial offering price set forth on the cover of this prospectus. Any shares sold by the underwriters to securities dealers may be sold at a discount of up to $ per share from the initial public offering price. Any of these securities dealers may resell any shares purchased from the underwriters to other brokers or dealers at a discount of up to $ per share from the initial public offering price. If all the shares are not sold at the initial public offering price, the representatives may change the offering price and the other selling terms. Upon execution of the underwriting agreement, the underwriters will be obligated to purchase the shares at

the prices and upon the terms stated therein and, as a result, will thereafter bear any risk associated with changing the offering price to the public or other selling terms. The representatives of the underwriters have informed us that they do not expect to sell more than an aggregate of shares of common stock to accounts over which such representatives exercise discretionary authority.

The following table shows the per share and total underwriting discounts and commissions we will pay to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase up to an additional shares.

	No exercise	Full exercise
Per share	**$**	**$**
Total	**$**	**$**

We estimate that the total expenses of this offering payable by us, not including the underwriting discounts and commissions, will be approximately $ million.

NO SALES OF SIMILAR SECURITIES

We, our executive officers and directors and shareholders owning substantially all of our stock have entered into lock-up agreements with the underwriters. Under these agreements, subject to certain exceptions, we and each of these persons may not, without the prior written approval of UBS Securities LLC, offer, sell, contract to sell or otherwise dispose of, directly or indirectly, or hedge our common stock or securities convertible into or exchangeable or exercisable for our common stock. These restrictions will be in effect for a period of 180 days after the date of this prospectus. At any time and without public notice, UBS Securities LLC may, in its sole discretion, release some or all of the securities from these lock-up agreements.

INDEMNIFICATION

We have agreed to indemnify the underwriters against certain liabilities, including certain liabilities under the Securities Act. If we are unable to provide this indemnification, we have agreed to contribute to payments the underwriters may be required to make in respect of those liabilities.

NASDAQ GLOBAL MARKET QUOTATION

We have applied to have our common stock approved for quotation on The Nasdaq Global Market under the trading symbol "CPIX".

PRICE STABILIZATION, SHORT POSITIONS

In connection with this offering, the underwriters may engage in activities that stabilize, maintain or otherwise affect the price of our common stock, including:

- stabilizing transactions;
- short sales;
- purchases to cover positions created by short sales;
- imposition of penalty bids; and
- syndicate covering transactions.

Stabilizing transactions consist of bids or purchases made for the purpose of preventing or retarding a decline in the market price of our common stock while this offering is in progress. These transactions

may also include making short sales of our common stock, which involve the sale by the underwriters of a greater number of shares of common stock than they are required to purchase in this offering, and purchasing shares of common stock on the open market to cover positions created by short sales. Short sales may be "covered short sales," which are short positions in an amount not greater than the underwriters' over-allotment option referred to above, or may be "naked short sales," which are short positions in excess of that amount.

The underwriters may close out any covered short position by either exercising their over-allotment option, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the over-allotment option.

Naked short sales are in excess of the over-allotment option. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market that could adversely affect investors who purchased in this offering.

The underwriters also may impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased shares sold by or for the account of that underwriter in stabilizing or short covering transactions.

As a result of these activities, the price of our common stock may be higher that the price that otherwise might exist in the open market. If these activities are commenced, they may be discontinued by the underwriters at any time. The underwriters may carry out these transactions on The Nasdaq Global Market, in the over-the-counter market or otherwise.

DETERMINATION OF OFFERING PRICE

Prior to this offering, there was no public market for our common stock. The initial public offering price will be determined by negotiation by us and the representatives of the underwriters. The principal factors to be considered in determining the initial public offering price include:

- the information set forth in this prospectus and otherwise available to representatives;
- our history and prospects, and the history of and prospects for the industry in which we compete;
- our past and present financial performance and an assessment of our management;
- our prospects for future earnings and the present state of our development;
- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and demand for, publicly traded common stock of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

AFFILIATIONS

Certain of the underwriters and their affiliates may from time to time provide certain commercial banking, financial advisory, investment banking and other services for us for which they were and will be entitled to receive separate fees. The underwriters and their affiliates may from time to time in the future engage in transactions with us and perform services for us in the ordinary course of their business.

Notice to investors

EUROPEAN ECONOMIC AREA

In relation to each Member State of the European Economic Area, or EEA, which has implemented the Prospectus Directive (each, a Relevant Member State), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State, or the Relevant Implementation Date, our common stock will not be offered to the public in that Relevant Member State prior to the publication of a prospectus in relation to our common stock that has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive, except that, with effect from and including the Relevant Implementation Date, our common stock may be offered to the public in that Relevant Member State at any time:

- to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;
- to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than €43,000,000 and (3) an annual net turnover of more than €50,000,000, as shown in its last annual or consolidated accounts; or
- in any other circumstances which do not require the publication by us of a prospectus pursuant to Article 3 of the Prospectus Directive.

As used above, the expression “offered to the public” in relation to any of our common stock in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and our common stock to be offered so as to enable an investor to decide to purchase or subscribe for our common stock, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression “Prospectus Directive” means Directive 2003/71/ EC and includes any relevant implementing measure in each Relevant Member State.

The EEA selling restriction is in addition to any other selling restrictions set out below.

UNITED KINGDOM

Our common stock may not be offered or sold and will not be offered or sold to any persons in the United Kingdom other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses and in compliance with all applicable provisions of the Financial Services and Markets Act 2000, or the FSMA, with respect to anything done in relation to our common stock in, from or otherwise involving the United Kingdom. In addition, each underwriter has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of our common stock in circumstances in which Section 21(1) of the FSMA does not apply to us. Without limitation to the other restrictions referred to herein, this prospectus is directed only at (1) persons outside the United Kingdom, (2) persons having professional experience in matters relating to investments who fall within the definition of “investment professionals” in Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005; or (3) high net worth bodies corporate, unincorporated associations and partnerships and trustees of high value trusts as described in Article 49(2) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. Without limitation to the other restrictions referred to herein, investment or investment activity to which this prospectus relates is available only to, and will be engaged in only with, such persons, and persons within the United Kingdom who receive this

communication (other than persons who fall within (2) or (3) above) should not rely or act upon this communication.

FRANCE

No prospectus (including any amendment, supplement or replacement thereto) has been prepared in connection with the offering of our common stock that has been approved by the Autorité des marchés financiers or by the competent authority of another State that is a contracting party to the Agreement on the European Economic Area and notified to the Autorité des marchés financiers; no common stock has been offered or sold and will be offered or sold, directly or indirectly, to the public in France except to permitted investors, consisting of persons licensed to provide the investment service of portfolio management for the account of third parties, qualified investors (investisseurs qualifiés) acting for their own account and/or corporate investors meeting one of the four criteria provided in Article 1 of Decree N7 2004-1019 of September 28, 2004 and belonging to a limited circle of investors (cercle restreint d'investisseurs) acting for their own account, with "qualified investors" and "limited circle of investors" having the meaning ascribed to them in Article L. 411-2 of the French Code Monétaire et Financier and applicable regulations thereunder; none of this prospectus or any other materials related to the offer or information contained therein relating to our common stock has been released, issued or distributed to the public in France except to Permitted Investors; and the direct or indirect resale to the public in France of any common stock acquired by any Permitted Investors may be made only as provided by articles L. 412-1 and L. 621-8 of the French Code Monétaire et Financier and applicable regulations thereunder.

ITALY

The offering of shares of our common stock has not been cleared by the Italian Securities Exchange Commission (Commissione Nazionale per le Società e la Borsa, or the CONSOB) pursuant to Italian securities legislation and, accordingly, shares of our common stock may not and will not be offered, sold or delivered, nor may or will copies of this prospectus or any other documents relating to shares of our common stock or the offering be distributed in Italy other than to professional investors (operatori qualificati), as defined in Article 31, paragraph 2 of CONSOB Regulation No. 11522 of July 1, 1998, as amended, or Regulation No. 11522.

Any offer, sale or delivery of shares of our common stock or distribution of copies of this prospectus or any other document relating to shares of our common stock or the offering in Italy may and will be effected in accordance with all Italian securities, tax, exchange control and other applicable laws and regulations, and, in particular, will be: (i) made by an investment firm, bank or financial intermediary permitted to conduct such activities in Italy in accordance with the Legislative Decree No. 385 of September 1, 1993, as amended, or the Italian Banking Law, Legislative Decree No. 58 of February 24, 1998, as amended, Regulation No. 11522, and any other applicable laws and regulations; (ii) in compliance with Article 129 of the Italian Banking Law and the implementing guidelines of the Bank of Italy; and (iii) in compliance with any other applicable notification requirement or limitation which may be imposed by CONSOB or the Bank of Italy.

Any investor purchasing shares of our common stock in the offering is solely responsible for ensuring that any offer or resale of shares of common stock it purchased in the offering occurs in compliance with applicable laws and regulations.

This prospectus and the information contained herein are intended only for the use of its recipient and are not to be distributed to any third party resident or located in Italy for any reason. No person

resident or located in Italy other than the original recipients of this document may rely on it or its content.

In addition to the above (which shall continue to apply to the extent not inconsistent with the implementing measures of the Prospective Directive in Italy), after the implementation of the Prospectus Directive in Italy, the restrictions, warranties and representations set out under the heading "European Economic Area" above shall apply to Italy.

GERMANY

Shares of our common stock may not be offered or sold or publicly promoted or advertised by any underwriter in the Federal Republic of Germany other than in compliance with the provisions of the German Securities Prospectus Act (Wertpapierprospektgestz—WpPG) of June 22, 2005, as amended, or of any other laws applicable in the Federal Republic of Germany governing the issue, offering and sale of securities.

SPAIN

Neither the common stock nor this prospectus have been approved or registered in the administrative registries of the Spanish National Securities Exchange Commission (Comisión Nacional del Mercado de Valores). Accordingly, our common stock may not be offered in Spain except in circumstances which do not constitute a public offer of securities in Spain within the meaning of articles 30bis of the Spanish Securities Markets Law of 28 July 1988 (Ley 24/1988, de 28 de Julio, del Mercado de Valores), as amended and restated, and supplemental rules enacted thereunder.

SWEDEN

This is not a prospectus under, and has not been prepared in accordance with the prospectus requirements provided for in, the Swedish Financial Instruments Trading Act [lagen (1991:980) om handel med finasiella instrument] nor any other Swedish enactment. Neither the Swedish Financial Supervisory Authority nor any other Swedish public body has examined, approved, or registered this document.

SWITZERLAND

The common stock may not and will not be publicly offered, distributed or re-distributed on a professional basis in or from Switzerland and neither this prospectus nor any other solicitation for investments in our common stock may be communicated or distributed in Switzerland in any way that could constitute a public offering within the meaning of Articles 1156 or 652a of the Swiss Code of Obligations or of Article 2 of the Federal Act on Investment Funds of March 18, 1994. This prospectus may not be copied, reproduced, distributed or passed on to others without the underwriters' prior written consent. This prospectus is not a prospectus within the meaning of Articles 1156 and 652a of the Swiss Code of Obligations or a listing prospectus according to article 32 of the Listing Rules of the Swiss Exchange and may not comply with the information standards required thereunder. We will not apply for a listing of our common stock on any Swiss stock exchange or other Swiss regulated market and this prospectus may not comply with the information required under the relevant listing rules. The common stock offered hereby has not and will not be registered with the Swiss Federal Banking Commission and has not and will not be authorized under the Federal Act on Investment Funds of March 18, 1994. The investor protection afforded to acquirers of investment fund certificates by the Federal Act on Investment Funds of March 18, 1994 does not extend to acquirers of our common stock.

Legal matters

The validity of the shares of common stock issued in this offering will be passed upon for us by the law firm of Adams and Reese LLP, Nashville, Tennessee. Dewey Ballantine LLP, New York, New York is counsel to the underwriters in connection with this offering.

Experts

The consolidated financial statements and schedule of the Company as of December 31, 2006 and 2005, and for each of the years in the three-year period ended December 31, 2006, have been included herein and in the registration statement in reliance upon the report of KPMG LLP, independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing. The audit report covering the December 31, 2006 financial statements refer to a change in accounting for stock-based compensation.

Where you can find additional information

We filed a registration statement on Form S-1 with the Commission with respect to the registration of the common stock offered for sale with this prospectus. This prospectus, which constitutes part of the registration statement, does not contain all of the information set forth in the registration statement and the exhibits to the registration statement. For further information about us, the common stock we are offering by this prospectus and related matters, you should review the registration statement, including the exhibits filed as a part of the registration statement. Statements contained in this prospectus about the contents of any contract or any other document that is filed as an exhibit to the registration statement are not necessarily complete, and we refer you to the full text of the contract or other document filed as an exhibit to the registration statement. A copy of the registration statement and the exhibits that were filed with the registration statement may be inspected without charge at the public reference facilities maintained by the Securities and Exchange Commission Headquarters Office, 100 F Street, N.E., Washington, D.C. 20549, and copies of all or any part of the registration statement may be obtained from the SEC upon payment of the prescribed fee. Information on the operation of the public reference facilities may be obtained by calling the SEC at 1-800-SEC-0330. The SEC maintains a world wide web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC. The address of the site is *http://www.sec.gov*.

Upon completion of this offering, we will become subject to the information and periodic reporting requirements of the Exchange Act, and, in accordance with such requirements, will file periodic reports, proxy statements and other information with the SEC. These periodic reports, proxy statements and other information will be available for inspection and copying at the regional offices, public reference facilities and web site of the SEC referred to above.

CUMBERLAND PHARMACEUTICALS INC. AND SUBSIDIARIES

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

	Page
Report of KPMG LLP, Independent Registered Public Accounting Firm	F-2
Consolidated Balance Sheets as of December 31, 2005 and December 31, 2006	F-3
Consolidated Statements of Operations and Comprehensive Income for the three years ended December 31, 2004, December 31, 2005, and December 31, 2006	F-4
Consolidated Statements of Shareholders' Equity for the three years ended December 31, 2004, December 31, 2005, and December 31, 2006	F-5
Consolidated Statements of Cash Flows for the three years ended December 31, 2004, December 31, 2005, and December 31, 2006	F-6
Notes to the Consolidated Financial Statements	F-7

Report of Independent Registered Public Accounting Firm

The Board of Directors
Cumberland Pharmaceuticals Inc.:

We have audited the accompanying consolidated balance sheets of Cumberland Pharmaceuticals Inc. and subsidiaries (the Company) as of December 31, 2005 and 2006, and the related consolidated statements of income, shareholders' equity (deficit) and comprehensive income, and cash flows for each of the years in the three-year period ended December 31, 2006. In connection with our audits of the consolidated financial statements, we have also audited the financial statement Schedule II—Valuation and Qualifying Accounts for each of the years in the three-year period ended December 31, 2006. These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Cumberland Pharmaceuticals Inc. and subsidiaries as of December 31, 2005 and 2006, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2006, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the consolidated financial statements taken as a whole, present fairly, in all material respects, the information set forth herein.

As discussed in notes 2 and 9 to the consolidated financial statements, effective January 1, 2006, the Company adopted the fair value method of accounting for stock-based compensation as required by Statement of Financial Accounting Standards No. 123(R), *Share-Based Payments.*

KPMG LLP

April 23, 2007

Consolidated balance sheets

December 31, 2005 and 2006

		2005	2006
ASSETS			
Current assets:			
Cash and cash equivalents	$	5,535,985	6,255,398
Accounts receivable, net of allowances		2,414,813	5,120,462
Inventories		546,382	671,098
Prepaid assets		60,040	142,569
Deferred tax assets		12,492	405,443
Other current assets		21,185	48,352
Total current assets		8,590,897	12,643,322
Property and equipment, net		373,944	365,774
Intangible assets, net		36,975	9,834,270
Deferred tax assets		1,171,508	3,611,861
Other assets		—	25,897
Total assets	$	10,173,324	26,481,124
LIABILITIES AND SHAREHOLDERS' EQUITY			
Current liabilities:			
Current portion of long-term debt	$	281,209	1,833,332
Current portion of other long-term obligations		1,127,455	2,052,501
Accounts payable		990,123	3,372,936
Accrued interest		2,205	101,913
Other accrued liabilities		549,723	1,337,472
Total current liabilities		2,950,715	8,698,154
Long-term debt, excluding current portion		—	3,575,951
Other long-term obligations, excluding current portion		988,961	3,081,359
Total liabilities		3,939,676	15,355,464
Commitments and contingencies (see notes)			
Shareholders' equity:			
Preferred stock—no par value. Authorized 3,000,000 shares; $2,780,359 or $3.25 per share liquidation preference; issued and outstanding 855,495 shares at both December 31, 2005 and 2006		2,742,994	2,742,994
Common stock—no par value. Authorized 10,000,000 shares; issued and outstanding 4,890,149 and 4,922,075 shares at December 31, 2005 and 2006, respectively		15,255,029	15,742,590
Accumulated deficit		(11,764,375)	(7,359,924)
Total shareholders' equity		6,233,648	11,125,660
Total liabilities and shareholders' equity	$	10,173,324	26,481,124

See accompanying notes to consolidated financial statements.

Consolidated Statements of Income

Years ended December 31, 2004, 2005, and 2006

	2004	2005	2006
Revenues:			
Net product revenue	$ 8,869,358	8,224,670	16,980,898
Revenue from co-promotion agreements	2,874,544	1,812,242	286,624
Other revenue	288,308	652,752	547,958
Net revenues	12,032,210	10,689,664	17,815,480
Costs and expenses:			
Cost of products sold	816,345	533,263	2,399,133
Selling and marketing	6,802,482	5,647,254	7,348,540
Research and development	745,932	1,157,881	2,232,984
General and administrative	2,357,968	2,587,861	2,999,347
Amortization of product license rights	—	—	515,181
Other	6,205	13,489	96,433
Total costs and expenses	10,728,932	9,939,748	15,591,618
Gain on insurance recovery	265,588	—	—
Operating income	1,568,866	749,916	2,223,862
Interest income	969	89,239	208,677
Interest expense	1,011,631	63,204	721,804
Other expense	—	5,632	2,800
Net income before income taxes	558,204	770,319	1,707,935
Income tax benefit	—	1,184,000	2,696,516
Net income	$ 558,204	1,954,319	4,404,451
Net income per share—basic	$ 0.12	0.41	0.90
Net income per share—diluted	0.07	0.24	0.55
Weighted average shares outstanding—basic	4,541,076	4,747,866	4,898,595
Weighted average shares outstanding—diluted	7,741,140	8,045,045	8,016,426

See accompanying notes to consolidated financial statements.

Consolidated statements of shareholders' equity (deficit) and comprehensive income

Years ended December 31, 2004, 2005, and 2006

	Preferred stock		Common stock		Accumulated deficit	Total shareholders' equity (deficit)
	Shares	Amount	Shares	Amount		
Balance, December 31, 2003	855,495	$ 2,742,994	4,444,852	$ 8,101,251	$ (14,276,898)	$ (3,432,653)
Issuance of common stock, net of proceeds allocated to common stock warrants issued with the common stock	—	—	43,000	373,850	—	373,850
Issuance of common stock warrants in consideration with issuance of common stock	—	—	—	142,150	—	142,150
Issuance of common stock upon conversion of note payable	—	—	111,489	1,337,868	—	1,337,868
Issuance of common stock for services received	—	—	25,267	303,204	—	303,204
Stock options granted for services received	—	—	—	43,928	—	43,928
Exercise of options and related tax benefit, net of mature shares redeemed for the exercise price	—	—	18,799	—	—	—
Options granted to note holders	—	—	—	454,453	—	454,453
Issuance of common stock options upon extension of notes payable	—	—	—	151,074	—	151,074
Change in fair value of embedded conversion feature	—	—	—	45,534	—	45,534
Net and comprehensive income	—	—	—	—	558,204	558,204
Balance, December 31, 2004	855,495	2,742,994	4,643,407	10,953,312	(13,718,694)	(22,388)
Issuance of common stock	—	—	100,000	1,789,364	—	1,789,364
Offering costs settled with stock options	—	—	—	(51,806)	—	(51,806)
Issuance of common stock upon conversion of note payable	—	—	112,916	2,032,488	—	2,032,488
Issuance of common stock for services received	—	—	25,001	300,012	—	300,012
Stock options granted for services received	—	—	—	226,709	—	226,709
Exercise of options and related tax benefit, net of mature shares redeemed for the exercise price	—	—	8,825	4,950	—	4,950
Net and comprehensive income	—	—	—	—	1,954,319	1,954,319
Balance, December 31, 2005	855,495	2,742,994	4,890,149	15,255,029	(11,764,375)	6,233,648
Issuance of common stock for services received	—	—	13,759	273,298	—	273,298
Stock options granted for services received	—	—	—	37,751	—	37,751
Exercise of options and related tax benefit, net of mature shares redeemed for the exercise price	—	—	18,167	46,747	—	46,747
Stock-based compensation—employee stock options grants	—	—	—	104,085	—	104,085
Issuance of common stock warrants	—	—	—	25,680	—	25,680
Net and comprehensive income	—	—	—	—	4,404,451	4,404,451
Balance, December 31, 2006	855,495	$ 2,742,994	4,922,075	$ 15,742,590	$ (7,359,924)	$ 11,125,660

See accompanying notes to consolidated financial statements.

Consolidated statements of cash flows

Years ended December 31, 2004, 2005, and 2006

	2004	2005	2006
Cash flows from operating activities:			
Net income	$ 558,204	1,954,319	4,404,451
Adjustments to reconcile net income to net cash (used in) provided by operating activities:			
Depreciation and amortization expense	44,006	53,537	587,742
Deferred tax benefit	—	(1,184,000)	(2,833,304)
Non-employee stock grant expense	303,204	300,012	273,298
Non-employee stock option grant expense	43,928	174,903	37,751
Stock-based compensation — employee stock options	—	—	104,085
Excess tax benefit derived from exercise of stock options	—	—	(37,747)
Non-cash interest expense	785,433	—	339,593
Net changes in assets and liabilities affecting operating activities:			
Accounts receivable	(2,789,172)	584,603	(2,705,649)
Inventory	(6,905)	254,492	(124,716)
Prepaid and other current assets	(10,275)	(36,743)	(71,844)
Accounts payable, accrued interest, and other accrued liabilities	501,699	(518,922)	3,308,017
Deferred revenue	(699,718)	—	—
Other long-term obligations	(169,784)	833,806	(1,118,422)
Net cash provided by (used in) operating activities	(1,439,380)	2,416,007	2,163,255
Cash flows from investing activities:			
Purchase of intangible assets-license	—	—	(6,479,658)
Additions to property and equipment	(50,271)	(301,908)	(59,714)
Additions to trademarks and patents	(839)	(16,591)	(13,558)
Net cash used in investing activities	(51,110)	(318,499)	(6,552,930)
Cash flows from financing activities:			
Proceeds from issuance of note payable	—	—	5,500,000
Costs of financing for long-term debt and credit facility	—	—	(65,733)
Principal payments on notes payable	(278,000)	—	(916,668)
Net borrowings (repayments) on line of credit	997,577	(871,839)	544,742
Proceeds from issuance of convertible note	—	1,999,998	—
Proceeds from exercise of stock options	—	4,950	9,000
Excess tax benefit from stock compensation	—	—	37,747
Proceeds from issuance of stock and warrants	516,000	1,789,364	—
Net cash provided by financing activities	1,235,577	2,922,473	5,109,088
Net (decrease) increase in cash and cash equivalents	(254,913)	5,019,981	719,413
Cash and cash equivalents, beginning of year	770,917	516,004	5,535,985
Cash and cash equivalents, end of year	$ 516,004	5,535,985	6,255,398
Supplemental disclosure of cash flow information:			
Cash paid during the year for:			
Interest	$ 123,482	63,809	377,202
Income taxes	—	18,000	55,659
Non-cash investing and financing activities:			
Liability for license acquired (note 6)	—	—	4,500,000
Deferred financing costs (note 5)	—	—	25,680
Settlement of notes payable including accrued interest with issuance of common stock (notes 5)	1,337,868	2,032,488	—

See accompanying notes to consolidated financial statements.

Notes to consolidated financial statements

(1) ORGANIZATION AND BASIS OF PRESENTATION

Cumberland Pharmaceuticals Inc. and its subsidiaries (the Company or Cumberland) is a specialty pharmaceutical company, which was incorporated in Tennessee on January 6, 1999. Its mission is to provide high quality products to address underserved medical needs. Cumberland is focused on acquiring rights to, developing, and commercializing branded prescription products for the acute care and gastroenterology markets.

The Company's corporate operations and product acquisitions have been funded by a combination of equity and debt financings. The Company focuses its resources on maximizing the commercial potential of its products, as well as developing new product candidates, and has outsourced manufacturing and distribution to carefully selected entities with the appropriate expertise and infrastructure to support these activities.

In order to create access to a pipeline of early-stage product candidates, the Company formed a subsidiary, Cumberland Emerging Technologies (CET), which assists universities and other research organizations to help bring biomedical projects from the laboratory to the marketplace. The Company's ownership in CET is 86%. The remaining interest is owned by Vanderbilt University and the Tennessee Technology Development Corporation. During 2002, CET's losses reduced its equity to a deficit position. Accordingly, the Company reduced minority interest to zero and has recorded 100% of the losses associated with the joint venture since that time in accordance with Accounting Research Bulletin No. 51, *Consolidated Financial Statements.* These losses amounted to approximately $92,000, $22,000, and $172,000 at December 31, 2004, 2005, and 2006, respectively. The Company will recover the cumulative loss of $445,000 before any income is allocated to the minority interest holders.

In December 2006, the Company created a new, wholly-owned subsidiary, Cumberland Pharma Sales Corp., that includes the Company's newly acquired hospital sales force who promote the Company's products, Acetadote® and Kristalose®.

These consolidated financial statements are stated in U.S. dollars and are prepared under U.S. generally accepted accounting principles. The accompanying consolidated financial statements include the accounts of the Company and its majority owned subsidiaries. All significant inter-company balances and transfers have been eliminated.

(2) SIGNIFICANT ACCOUNTING POLICIES

(a) Cash and Cash Equivalents

For the purpose of the consolidated statements of cash flows, cash and cash equivalents include highly liquid investments with original maturities of three months or less when purchased.

(b) Accounts Receivable

Trade accounts receivable are recorded at the invoiced amount and do not bear interest. The Company records allowances for uncollectible amounts, cash discounts, chargebacks, and credits to be taken by customers for product damaged in shipment based on historical experience. The Company reviews its customer balances on an individual account basis for collectibility. As of December 31, 2005 and 2006, the allowance for uncollectible amounts, cash discounts, chargebacks, and credits for damaged product was $184,334 and $298,913, respectively.

Cash discounts are reductions to invoiced amounts offered to customers for payment within a specified period of time from the date of the invoice. The majority of the Company's products are distributed

through independent pharmaceutical wholesalers. In conjunction with recognizing a sale to a wholesaler, "Net Product revenue" and "Accounts Receivables" take into account the sale of the product at the wholesale acquisition cost and an accrual to reflect the difference between the wholesale acquisition cost and the estimated average end-user contract price. This accrual is calculated on a product specific basis and is based on the estimated number of outstanding units sold to wholesalers that will ultimately be sold under end-user contracts. When the wholesaler sells the product to the end user at the agreed upon end-user contract price, the wholesaler charges the Company ("chargeback") for the difference between the wholesale acquisition price and the end-user contract price and that chargeback is offset against the initial accrual balance.

The Company's estimate of the allowance for damaged product is based upon historical experience of claims made for damaged product. The Company recognizes revenue for its product when the shipment is received by the customer. At this time, the Company records a reduction in revenue for the estimate of product damaged in shipment as the damaged product may not always be discovered upon receipt of the product by the customer.

Accrued balances for discounts, chargebacks, and credits for damaged product are recorded as a reduction to "Accounts Receivable." The majority of the 2006 allowance relates to anticipated chargebacks.

(c) Inventories

The Company utilizes third parties to manufacturer and package finished goods for sale, takes title to the finished goods at the time of shipment from the manufacturer, and warehouses such goods until distribution and sale. The Company's inventory was comprised completely of finished goods at December 31, 2005 and 2006. Inventories are stated at the lower of cost or market. Cost is determined using the first-in, first-out method (FIFO).

In 2004, the Company recorded the net impact of an insurance recovery of $265,588 related to the settlement of an insurance claim for $73,815 of damaged inventory. The cost of the inventory included in cost of products sold has been offset by a portion of the insurance proceeds.

(d) Prepaid Assets

Prepaid assets consist of the prepaid premium for directors' and officers' insurance, product liability insurance, prepaid consulting services, etc. The Company expenses or amortizes all prepaid amounts as used or over the period of benefit on a straight-line basis, as applicable.

(e) Property and Equipment

Property and equipment, including leasehold improvements, are stated at cost. Depreciation is provided using the straight-line method over the estimated useful lives of the assets, ranging from three to 15 years. Leasehold improvements are amortized over the shorter of the initial lease term plus its renewal options, if renewal is reasonably assured, or the remaining useful life of the related asset. Upon retirement or disposal of assets, the asset and accumulated depreciation accounts are adjusted accordingly and any gain or loss is reflected in operations. Repairs and maintenance costs are expensed as incurred. Improvements that extend an asset's useful life are capitalized.

(f) Intangible Assets

The Company's intangible assets consist of costs incurred related to licenses, trademarks, and patents.

In 2006, the Company acquired the exclusive U.S. commercialization rights (licenses) to Kristalose®. The cost of acquiring the licenses of products that are approved for commercial use are capitalized and are amortized ratably over the estimated life of the products. At the time of acquisition, the product life is estimated based upon the term of the license agreement, patent life or market exclusivity of the products and our assessment of future sales and profitability of the product. We assess this estimate regularly during the amortization period and adjust the asset value or useful life when appropriate. The total purchase price, which includes the cost of the U.S. commercialization rights and other related costs of obtaining these licenses, is being amortized on a straight-line basis over 15 years, which is management's estimate of the asset's useful life.

Trademarks are amortized on a straight-line basis over 10 years, which is management's estimate of the asset's useful life.

Patents consist of outside legal costs associated with obtaining patents for products that have already been approved for marketing by the Food and Drug Administration (FDA). Upon issuance of a patent, the finite useful economic life of the patent (or family of patents) is determined, and the patent is amortized over such useful life. If it becomes probable that a patent will not be issued, related costs associated with the patent application will be expensed at that time. All costs associated with obtaining patents for products that have not been approved for marketing by the FDA are expensed as incurred.

When the Company acquires license agreements, product rights, and other identifiable intangible assets, it records the aggregate purchase price as an intangible asset. The Company allocates the purchase price to the fair value of the various intangible assets in order to amortize their cost as an expense in the consolidated statements of income, over the estimated useful life of the related asset.

(g) Long-Lived Assets

In accordance with Statement of Financial Accounting Standards (SFAS) No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, long-lived assets, such as property, plant, and equipment, and purchased intangible assets subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If circumstances require a long-lived asset be tested for possible impairment, the Company first compares undiscounted cash flows expected to be generated by an asset to the carrying value of the asset. If the carrying value of the long-lived asset is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying value exceeds its fair value. Fair value is determined through various valuation techniques including discounted cash flow models, quoted market values and third-party independent appraisals, as considered necessary. Assets to be disposed of would be separately presented in the balance sheet and reported at the lower of the carrying amount or fair value less costs to sell, and no longer depreciated. The assets and liabilities of a disposed group classified as held for sale would be presented separately in the appropriate asset and liability sections of the balance sheet. The Company recorded no impairment charges during the three-year period ended December 31, 2006.

(h) Revenue Recognition

The Company recognizes revenue in accordance with the Security and Exchange Commission's (SEC) Staff Accounting Bulletin No. 101, *Revenue Recognition in Financial Statements* as amended by Staff Accounting Bulletin No. 104 (together, SAB 101), and SFAS No. 48, *Revenue Recognition When Right of Return Exists* (SFAS 48). Revenue is realized or realizable and earned when all of the following criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the seller's price to the buyer is fixed and determinable; and (4) collectibility is

reasonably assured. SFAS 48 states that revenue from sales transactions where the buyer has the right to return the product shall be recognized at the time of sale only if (1) the seller's price to the buyer is substantially fixed or determinable at the date of sale, (2) the buyer has paid the seller, or the buyer is obligated to pay the seller and the obligation is not contingent on resale of the product, (3) the buyer's obligation to the seller would not be changed in the event of theft or physical destruction or damage of the product, (4) the buyer acquiring the product for resale has economic substance apart from that provided by the seller, (5) the seller does not have significant obligations for future performance to directly bring about resale of the product by the buyer, and (6) the amount of future returns can be reasonably estimated.

The Company's net product revenue reflects reduction of gross product revenue at the time of initial sales recognition for estimated allowances for chargebacks, discounts, and damaged goods and accruals of rebates, product returns, and administrative fees for product promotion and fee for services. Allowances of $184,334 and $298,913 as of December 31, 2005 and 2006, respectively, for chargebacks, discounts and allowances for product damaged in shipment reduce accounts receivable, and accrued balances of $83,056 and $742,678 as of December 31, 2005 and 2006, respectively, for rebates, product returns, and administrative fees increase other accrued expenses.

As discussed in 2(b) above, the allowances for chargebacks, discounts, and damaged goods are determined on a product-by-product basis, and are established by management as the Company's best estimate at the time of sale based on each product's historical experience adjusted to reflect known changes in the factors that impact such allowances. These are established based on the contractual terms with direct and indirect customers and analysis of historical levels of chargebacks, discounts, and credits claimed for damaged product.

Other organizations, such as managed care providers, pharmacy benefit management companies, and government agencies, may receive rebates from the Company based on negotiated contracts to carry our product or reimbursements for filled prescriptions. These entities represent indirect customers of the Company. In addition, the Company may provide rebates to the end user. In conjunction with recognizing a sale to a wholesaler, sales revenues are reduced and accrued expenses are increased by our estimates of the rebates that will be owed.

Consistent with industry practice, the Company maintains a return policy that allows customers to return product within a specified period prior to and subsequent to the expiration date. The Company's estimate of the provision for returns of expired product is based upon historical experience with actual returns.

The Company has also entered into agreements with key wholesalers, resulting in product promotion and fee service costs. In accordance with Emerging Issues Task Force (EITF) No. 01-9, *Accounting for Consideration Given by a Vendor (Including a Reseller of the Vendor's Products)* (EITF 01-9), these administrative costs have been netted against product revenues.

For the first quarter of 2006 and the years ended December 31, 2004 and 2005, the Company had two products for which it received a co-promotion fee under the related co-promotion agreements. The Company recognized the promotional fees as revenue from co-promotion agreements during the period in which the sales of the respective product occurred.

Other revenue is primarily comprised of revenue generated by CET through consulting services, development funding, either from private sector investment or through federal Small Business (SBIR/STTR) grant programs, and lease income generated by CET's Life Sciences Center, a research center that provides scientists with access to flexible lab space and other resources to develop their products. The Company has received two grants for medical research and a grant related to the product Acetadote®.

Revenue related to grants is recognized when all conditions related to such grants have been met. Grant revenue totaled approximately $50,000, $253,000, and $375,000 for the years ended December 31, 2004, 2005, and 2006, respectively.

(i) Income Taxes

The Company provides for deferred taxes using the asset and liability approach. Under this method, deferred tax assets and liabilities are recognized for future tax consequences attributable to operating loss and tax credit carryforwards, as well as differences between the carrying amounts of existing assets and liabilities and their respective tax bases. The Company's principal differences are related to timing of deductibility of certain items, such as depreciation, amortization, and expense for options issued to nonemployees. Deferred tax assets and liabilities are measured using enacted tax rates, which are expected to apply to taxable income in the years such temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period of enactment.

(j) Stock Option Plan

Prior to January 1, 2006, the Company applied the intrinsic-value-based method of accounting prescribed by Accounting Principles Board (APB) Opinion No. 25, *Accounting for Stock Issued to Employees*, and related interpretations and provided the required pro-forma disclosures of SFAS No. 123, *Accounting for Stock-Based Compensation* (SFAS 123) and SFAS No. 148, *Accounting for Stock-Based Compensation—Transition and Disclosure-an Amendment of FASB Statement No. 123.* Under this method, compensation expense is recorded only if the current market price of the underlying stock exceeded the exercise price on the date of grant. All options granted by the Company had an exercise price equal to or greater than the market price of the underlying stock on the date of grant.

Effective January 1, 2006, the Company adopted the requirements of SFAS No. 123 (revised), *Share-Based Payment* (SFAS 123R), utilizing the prospective method of adoption. Under this approach, SFAS 123R applies to new awards and the modification, repurchase, or cancellation of outstanding awards beginning on January 1, 2006. Under the prospective method of adoption, compensation cost recognized in 2006 includes only share-based compensation cost for all share-based payments granted subsequent to January 1, 2006. The cost is based on the grant-date fair value estimated in accordance with the provisions of SFAS 123R and is recognized as expense over the employee's requisite service period. The Company calculates the fair value of employee options using the Black-Scholes option pricing model. No compensation cost for share-based payments granted prior to, but not yet vested as of January 1, 2006 has been recognized. Because the Company used the minimum value method for purposes of estimating fair value under SFAS No. 123 prior to January 1, 2006, no pro forma disclosures (as required by SFAS 123 related to 2004 and 2005) are permitted under SFAS 123R.

(k) Research and Development

Research and development costs are expensed in the period incurred. Research and development costs are comprised mainly of clinical trial expenses, salary and wages, and other related costs such as materials and supplies. Development expense includes activities performed by third-party providers participating in the Company's clinical studies. The Company accounts for these costs based on estimates of work performed, patient enrollment, or fixed fee for services.

(l) Advertising Costs

Advertising costs, including samples and print materials, are expensed as incurred and amounted to $777,010, $479,361, and $738,647 in 2004, 2005, and 2006, respectively.

(m) Distribution Costs

The Company expenses distribution costs as incurred. Distribution costs included in sales and marketing expenses amounted to $610,424, $365,331, and $436,115 in 2004, 2005, and 2006, respectively.

(n) Earnings per Share

The Company accounts for net income per share in accordance with Statement of Financial Accounting Standards No. 128, *Earnings per Share*. Basic net income per share is calculated by dividing net income by the weighted average number of shares outstanding. Except where the result would be antidilutive to income from continuing operations, diluted earnings per share is calculated by assuming the conversion of convertible instruments and the elimination of related interest expense, and the exercise of stock options, as well as their related income tax benefits.

The following table reconciles the numerator and the denominator used to calculate diluted net income per share:

	Year ended December 31		
	2004	2005	2006
Numerator:			
Net income	$ 558,204	1,954,319	4,404,451
Denominator:			
Weighted average shares outstanding—basic	4,541,076	4,747,866	4,898,595
Preferred stock shares	855,495	855,495	855,495
Dilutive effect of stock options and warrants	2,344,569	2,441,684	2,262,336
Weighted average shares outstanding—diluted	7,741,140	8,045,045	8,016,426

The number of outstanding stock options that are excluded from the above calculation, as their impact would be anti-dilutive, was 18,038 for the year ended December 31, 2006. There were no anti-dilutive outstanding options as of December 31, 2004 and 2005. The convertible promissory notes were excluded from the diluted computation in 2004, as they were anti-dilutive.

(o) Comprehensive Income

Total comprehensive income was comprised solely of net income for all periods presented.

(p) Accounting Estimates

The preparation of the consolidated financial statements in conformity with U.S. generally accepted accounting principles requires management of the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the period. Significant items subject to estimates and assumptions include those related to chargebacks, rebates, discounts, credits for damaged product, and returns, the valuation and determination of useful lives of

intangible assets and the rate such assets are amortized, and the realization of deferred tax assets. Actual results could differ from those estimates.

(q) Recently Issued Accounting Standards

In September 2005, the Emerging Issues Task Force issued EITF No. 04-13, *Accounting for Purchases and Sales of Inventory with the Same Counterparty* (EITF 01-14). EITF 04-13 provides guidance as to when purchases and sales of inventory with the same counterparty should be accounted for as a single exchange transaction. EITF 04-13 also provides guidance as to when a nonmonetary exchange of inventory should be accounted for at fair value. EITF 04-13 will be applied to new arrangements entered into, and modifications or renewals to existing arrangements occurring after January 1, 2007. The application of EITF 04-13 is not expected to have a material impact on the Company's consolidated financial statements.

In July 2006, the Financial Accounting Standards Board (FASB) issued FIN No. 48, *Accounting for Uncertainty in Income Taxes-an interpretation of FASB Statement 109* (FIN 48). FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements and prescribes a threshold of more-likely-than-not for recognition of tax benefits of uncertain tax positions taken or expected to be taken in a tax return. FIN 48 also provides related guidance on measurement, derecognition, classification, interest and penalties, and disclosure. The provisions of FIN 48 will be effective for the Company on January 1, 2007, with any cumulative effect of the change in accounting principle recorded as an adjustment to opening retained earnings. The Company is in the process of assessing the impact of adopting FIN 48 on its results of operations and financial position.

In September 2006, the FASB issued SFAS No. 157, *Fair Value Measurement* (SFAS 157). SFAS 157 defines fair value, establishes a framework for the measurement of fair value, and enhances disclosures about fair value measurements. The Statement does not require any new fair value measures. The Statement is effective for fair value measures already required or permitted by other standards for fiscal years beginning after November 15, 2007. The Company is required to adopt SFAS 157 beginning on January 1, 2008. SFAS 157 is required to be applied prospectively, except for certain financial instruments. Any transition adjustment will be recognized as an adjustment to opening retained earnings in the year of adoption. The Company is currently evaluating the impact of adopting SFAS 157 on its results of operations and financial position.

(3) PROPERTY AND EQUIPMENT

Property and equipment consist of the following at December 31:

	Range of useful lives	2005	2006
Computer hardware and software	3-5 years	$ 97,862	119,143
Office equipment	3-15 years	23,521	24,167
Furniture and fixtures	5-10 years	119,328	140,866
Leasehold improvements	15 years	273,016	289,265
		513,727	573,441
Less accumulated depreciation and amortization		(139,783)	(207,667)
		$ 373,944	365,774

Depreciation and amortization expense during 2004, 2005, and 2006 was $39,216, $48,862, and $67,884, respectively, and is included in the consolidated statements of income in general and administrative expense.

(4) INTANGIBLE ASSETS

Intangible assets consist of the following at December 31:

	2005	2006
Trademarks	$ 46,986	46,986
Less accumulated amortization	(26,323)	(31,000)
Total trademarks	20,663	15,986
License	—	10,303,595
Less accumulated amortization	—	(515,181)
Total license	—	9,788,414
Patents	16,312	29,870
	$ 36,975	9,834,270

Amortization expense, excluding amortization of product license rights of $515,181 in 2006, for fiscal years 2004, 2005, and 2006 was $4,790, $4,675, and $4,677, respectively, and is reflected in general and administrative expenses on the accompanying consolidated statements of income. Amortization expense, including the amortization of product licenses, is expected to be approximately $690,000 in each of the years 2007 through 2011.

In April 2006, the Company completed a transaction to acquire exclusive U.S. commercial rights (product licenses) for Kristalose® for fair value of $10,303,595. This amount includes cash paid on the effective date of the agreement of $6,500,000, installment payments discounted using an interest rate of 7.33% of $1,397,560 and $2,426,377 due April 7, 2007 and April 7, 2009, respectively, and acquisition costs of $13,775, and is net of the fair value of services received by the Company in 2006 of $34,117 under a transition agreement. The fair value of these services was included in selling and marketing expenses.

(5) LONG-TERM DEBT

A summary of long-term debt is as follows at December 31:

	2005	2006
Revolving line of credit	$ 281,209	825,951
Term note payable	—	4,583,332
	281,209	5,409,283
Less current portion	281,209	1,833,332
	$ —	3,575,951

In August and September 2003, the Company issued nine unsecured promissory notes (the notes) with a combined face value of $500,000 to several investors with original maturity dates of 130 days. One of the notes in the amount of $100,000 was issued to a member of the Company's Board of Directors, and the transaction is considered to be a related party transaction. These notes bore interest at the

contractual rate of 12% per annum for the first 30 days and 15% per annum thereafter. In addition to the contractual interest rate, if the Company had not paid all amounts due under the notes, the Company agreed to grant stock options at the rate of 770 shares of common stock per $50,000 face value of the notes on each of (i) the 30 day after the issuance of the notes and (ii) on a continuing basis, each successive 30-day period thereafter, or portion thereof, as the notes remained outstanding. The holders of the notes had, at their option, until the maturity date of the notes, the right to convert all or a portion of unpaid principal and interest into shares of the Company's common stock at an exercise price of one share per $12. In accordance with the terms of the note agreements, the Company also agreed to issue stock options upon the issuance of the notes to purchase shares of the Company's common stock at an exercise price of $12 per share and at the rate of 1,540 shares of common stock per $50,000 face value of the notes.

The aggregate fair value of the stock options granted upon the issuance of the notes was $153,538. In accordance with Accounting Principles Board Opinion No. 14, *Accounting for Convertible Debt and Debt Issued with Stock Purchase Warrants*, the portion of the proceeds of the notes which is allocable to the options was recorded as paid-in capital. The allocation of value between the notes and the options of $346,462 and $153,538, respectively, was based on the fair value of the stock options at time of issuance, since the instruments qualified for equity classification under EITF No. 00-19, *Accounting for Derivative Instruments Indexed to, and Potentially Settled in, a Company's Own Stock.* The discount on the instruments created by an allocation of value to the options resulted in an effective conversion price less than the fair market value of the Company's common stock on the day the debt was issued (commitment date). In accordance with EITF No. 98-5, *Accounting for Convertible Securities with Beneficial Conversion Features or Contingently Adjustable Conversion Ratios*, and EITF No. 00-27, *Application of Issue No. 98-5 to Certain Convertible Instruments*, this difference was the per share beneficial conversion feature and resulted in an additional discount on the notes of $153,538. The total of the discounts on the notes of $307,076 was accreted back to the notes redemption value based on the effective-interest method over the term of the notes. The Company amended the note agreements in January 2004 to extend the maturity date an additional 130 days. The modification was not considered to be substantial under EITF No. 96-19, *Debtors Accounting for a Modification or Exchange of Debt Instruments* (EITF 96-19), and was accounted for as a modification of the original debt. In accordance with EITF 96-19, since the modification of the terms did not result in a debt extinguishment, the change in the fair value of the embedded conversion feature at the modification date (difference between the fair value of the embedded conversion option immediately before and after the modifications) of $45,534 should be accounted for as an additional debt discount resulting in an effect on the subsequent recognition of interest expense for the associated debt. The amendments provided for an additional 1,540 stock options per $50,000 face value of the notes upon extension of the notes. The fair value of the stock options, $151,074, was recognized as additional interest expense over the extension period. The modified notes had a 15% contractual interest rate and contained similar provisions for granting 770 stock options per $50,000 face value of the notes of each 30-day anniversary of the notes being outstanding in the event of nonpayment on the agreed-upon due dates. The following is a summary of the settlement of the notes in May 2004.

	Principal	Accrued interest	Total
Settled in 19,822 shares of common stock	$ 222,000	15,864	237,864
Settled in cash	278,000	37,053	315,053
	$ 500,000	52,917	552,917

During 2004, interest expense of $1,011,631 included $710,794 recorded by the Company as a result of the notes, which included interest based on the contractual interest rate of the notes of $29,167, the accretion of the discounts on the notes of $227,174 resulting from the fair value of the options granted when the notes were issued and modified and the beneficial conversion feature, and the fair value of the options issued at each thirty day anniversary of $454,453.

At December 31, 2003, the Company's revolving line of credit provided that the Company could borrow the lesser of $3.5 million or 80% of eligible accounts receivable, plus 50% of eligible inventory. The interest rate on the line was LIBOR, plus 4% and 2.5% at December 31, 2003 and 2004, respectively (5.13% and 4.92% as of December 31, 2003 and 2004, respectively). In 2004, the remaining unamortized discount related to the value of stock warrants to purchase 12,500 shares of common stock at an exercise price of $12 per share that were issued when the Company modified this line of credit in 2003 was $103,806 and was included in interest expense. The warrants, which were outstanding and exercisable as of December 31, 2006 and expire October 2013, were valued utilizing the Black-Scholes model, with a expected term of 10 years, 0% dividend yield, expected volatility of 79%, and a risk-free interest rate of 4.26%.

In April 2006, the Company completed a transaction with Inalco Biochemicals, Inc. and Inalco S.p.A. (collectively Inalco) to acquire exclusive U.S. commercial rights for Kristalose®. In order to complete this transaction, funding was obtained from Bank of America in the form of a three-year term loan for $5,500,000 and a new two-year revolving line of credit agreement, both with an interest rate of LIBOR plus 2.5% (7.83% as of December 31, 2006). The term loan is being paid off in quarterly installments of $458,334, with final payment due in 2009. The Company can borrow under the revolving line of credit through April 2008 the lesser of $4.0 million or 80% of eligible accounts receivable, plus 50% of eligible inventory. The Company must pay an annual commitment fee of 1/2 of 1% on the unused portion of the commitment. The credit agreement provides that borrowings are collateralized by a first priority lien on all of the Company's assets, except for the Company's equity interest in Cumberland Emerging Technologies, Inc. The credit agreement contains an adverse subjective acceleration clause and also requires that the Company maintain a lockbox. However, cash received in the lockbox is not required to be applied against amounts borrowed under the line of credit. This credit agreement contains various covenants and the Company was in compliance with all covenants at December 31, 2006. As of December 31, 2005 and 2006, the Company has borrowed $281,209 and $825,951, respectively, under its revolving line of credit and had additional credit available under the revolving line of credit of approximately $2,982,000 at December 31, 2006. In conjunction with these agreements, the Company issued warrants to purchase up to 1,979 share of common stock at an exercise price of $18 per share, which expire in April 2016 and are outstanding and exercisable as of December 31, 2006. The estimated fair value of these warrants of $25,680, as determined using the Black-Scholes model utilizing a expected term of 10 years, risk-free interest rate of 4.89%, volatility of 60%, and 0% dividend yield, has been recorded in the accompanying consolidated financial statements as equity and deferred financing costs.

On September 4, 2003, the Company borrowed $1,000,000 from S.C.O.U.T. Healthcare Fund, L.P. (S.C.O.U.T.) in the form of an uncollateralized convertible promissory note with a maturity date of September 3, 2004. This transaction is a related party transaction as the general partner of S.C.O.U.T. serves on the Board of Directors of the Company. The note bore interest at a fixed annual rate of 10%. Pursuant to the terms of the note, on its maturity date, the principal value of the note plus any accrued interest totaling $1,100,004 automatically converted into 91,667 shares of common stock of the Company. Total interest expense under this note in 2004 was $67,670.

In the second quarter of 2005, the Company received approximately $2,000,000 from various individuals and companies in exchange for uncollateralized convertible promissory notes with maturity

dates six months from the date of issuance. The notes bore interest at a fixed annual rate of 3.5%. In the fourth quarter of 2005, and pursuant to the terms of the note, the principal value of the note of $2,000,000, plus all accrued interest of $32,488, converted into 112,916 shares of the Company's common stock. Accrued interest of $2,205 was paid in cash at the request of the noteholder.

Future maturities of debt at December 31, 2006, by year and in the aggregate, were as follow:

2007	$ 1,833,332
2008	2,659,281
2009	916,670
Total debt payments	$ 5,409,283

Interest expense associated with the Company's long-term debt and other long-term obligations consist of the following components for the years ended December 31.

	2004	2005	2006
Noncash interest expense:			
Amortization of deferred financing costs—revolving line of credit	$ —	—	14,433
Amortization of deferred financing costs—term note payable	103,806	—	13,231
Options grant expense—unsecured promissory notes	454,453	—	—
Accretion of discount—unsecured promissory notes	227,174	—	—
Accretion of discount—deferred purchase price	—	—	210,220
Accretion of discount—product promotion costs	—	—	101,709
	785,433	—	339,593
Contractual interest expense:			
Revolving line of credit and term note payable	75,841	57,967	351,875
Uncollateralized convertible promissory notes	67,670	34,693	—
Unsecured promissory notes	29,167	—	—
Other long-term obligations	53,520	(29,456)	30,336
	226,198	63,204	382,211
Total interest expense	$ 1,011,631	63,204	721,804

(6) OTHER LONG-TERM OBLIGATIONS

Other long-term obligations consist of the following components at December 31:

	2005	2006
Deferred purchase price, net of discount of $465,843	$ —	4,034,157
Third-party development costs	410,846	410,846
Third-party sales force costs	329,169	—
Product promotional costs	1,376,401	578,111
Other	—	110,746
	2,116,416	5,133,860
Less current portion	1,127,455	2,052,501
	$ 988,961	3,081,359

In April 2006, the Company entered into an agreement with Inalco Biochemicals, Inc. and Inalco S.p.A. (collectively Inalco) to acquire exclusive U.S. commercialization rights (the rights) for Kristalose®. In order to complete this transaction, funding was obtained from Bank of America in the form of a term loan and a new revolving line of credit. Additionally, in accordance with the terms of the agreement, the Company has deferred a portion of this purchase price. The following is a summary of amounts deferred under the agreement as of December 31, 2006:

First installment paid upon the effective date of the agreement	$	6,500,000
Second installment of $1,500,000 due on April 7, 2007, net of $25,610 discount using an effective interest rate of 7.33%, as of December 31, 2006		1,474,390
Third installment of $3,000,000 due on April 7, 2009, net of $440,233 discount using an effective interest rate of 7.33%, as of December 31, 2006		2,559,767
		10,534,157
Less amounts previously paid		6,500,000
Deferred purchase price, net of unaccreted discount	$	4,034,157

During 2000, the Company signed an agreement with a third party to cover a variety of development efforts related to a specific pharmaceutical drug, including preparation of submissions to the FDA. In accordance with the agreement, the Company was billed, and the Company expensed, approximately $1,010,000 during the fiscal years 2001 through 2003. As of December 31, 2006, the Company has paid approximately $600,000 of this balance and has accrued approximately $410,000 as a long-term obligation. The balance of approximately $410,000 is due in the following timeframe (a) approximately $205,000 due no later than submission of an application to the FDA, and (b) approximately $205,000 due no later than FDA approval. If neither the submission of the FDA application nor FDA approval occurs due to the Company terminating the project, the $410,000 will become due and payable and will accrue interest at 12.5% until paid.

The agreement also calls for contingent payments upon certain milestones. Upon meeting the first milestone, New Drug Application (NDA) submission for the pharmaceutical drug and FDA acceptance of the submission for review, a contingent payment of approximately $205,000 will become due and payable. Upon meeting the second milestone, FDA approval, a contingent payment of approximately $1,005,000 will become due and payable as follows: approximately $800,000 immediately and approximately $205,000 in twelve monthly installments starting on the date the milestone is met. Since the payments are contingent on specific events which may or may not occur in the future, and which have not occurred or are deemed probable of occurring as of December 31, 2006, the contingent liability for these amounts of approximately $1,200,000 has not been recorded.

In connection with the aforementioned agreement, the Company granted 50,000 stock options with contingent vesting clauses to purchase the Company’s common stock at an exercise price of $3.25. Vesting for 20,000 of these options was contingent upon an NDA submission for the product candidate and FDA acceptance of the submission for review on or before a target date of July 30, 2003. If the NDA submission were to occur three months after the target date, 12,000 options would vest. If the submission for the product occurred between three and six months after this target, 5,000 options would vest. None of the 20,000 options vested since the milestone was not met within six months subsequent to the target date. The third party will have the ability to vest in 30,000 options if FDA approval occurs within 13 months after the NDA is accepted for review. If approval occurs within 14 and 15 months after acceptance for review, the third party will vest in 15,000 options. If approval occurs between 15 and 18 months after acceptance, the third party will vest in 7,500 options. No options will vest after 18 months. As of December 31, 2006, the NDA submission for the product candidate has not been submitted to the FDA for review. Because vesting for these options is contingent

on events, which may or may not occur in the future, and which have not occurred as of December 31, 2006, the expense for these options has not been accounted for in the accompanying consolidated financial statements.

The Company outsources certain sales force activities through an agreement with a third party. Under the terms of the original two-year agreement, the third party would bill the Company for services performed regardless of whether or not the services led to the generation and collection of co-promotion fees. However, the agreement provided for deferral of payment for certain amounts during the initial 12 months of the program, which ended in November 2002. Beginning in the 13th month (December 2002), the cumulative deferred amounts became due no later than the 24th month of the program (November 2003), payable in monthly installments of principal and interest. However, the Company amended the agreement in April 2003 to extend the due date of such deferred amounts to January 31, 2004. In February 2004, the Company amended the agreement to extend the due date of such deferred amounts to June 30, 2004, at which time the full amount deferred was due. In 2005, the Company agreed to make equal monthly payments to pay off the balance owed. The amounts due under this agreement at December 31, 2005 and 2006 were $329,169 and $0, respectively. Total fees billed by the third party under this and similar agreements, including various amendments, and expensed by the Company totaled approximately $2,960,000, $3,082,000, and $3,393,000 in 2004, 2005, and 2006, respectively.

In 2005, the Company entered into an agreement with a key wholesaler for settlement of amounts owed under a contract in the amount of $2,100,000 to be paid in installments over 28 months. The Company recorded this liability based on its net present value of the payments of $1,976,000 using an interest rate of 10%. At December 31, 2005 and 2006, the Company had recorded liabilities of approximately $1,376,000 and $578,000, respectively, related to this arrangement. In 2006, interest expense includes accretion of the discount of $101,709 related to this liability.

As stated above in note 5, interest expense associated with the Company's other long-term obligations in 2004, 2005, and 2006 was $53,520, $(29,456), and $30,336, respectively. In 2005, amounts owed to a vendor were forgiven and the accrued interest balance was reduced by that amount.

(7) Income Taxes

Income tax benefit includes the following components:

	2004	2005	2006
Current:			
Federal	$ —	—	(121,359)
State	—	—	(15,429)
	—	—	(136,788)
Deferred:			
Federal	—	1,146,580	2,861,859
State	—	37,420	(28,555)
	—	1,184,000	2,833,304
	$ —	1,184,000	2,696,516

The Company's effective income tax rate for 2004, 2005, and 2006 reconciles with the federal statutory tax rate as follows:

	2004	2005	2006
Federal tax expense at statutory rate	(34)%	(34)%	(34)%
State income tax expense (net of federal income tax benefit)	(3)	(3)	(2)
Permanent differences	(51)	1	—
Other	—	(2)	—
Change in deferred tax asset valuation allowance	88	192	194
Net income tax benefit	—%	154%	158%

Components of the net deferred tax assets are as follows at December 31:

	2004	2005	2006
Net operating loss and tax credits	$ 4,096,939	3,520,054	2,834,870
Depreciation and amortization	(15,000)	(9,914)	71,412
Allowance for accounts receivable	76,000	97,032	30,841
Inventory write-off	—	73,271	175,961
Deferred charges	179,900	358,302	399,010
Investment income	—	(10,448)	(10,448)
Employee stock-based compensation	—	—	37,747
Expense for options and stock grants to nonemployees	488,126	505,489	517,523
Total deferred tax assets	4,825,965	4,533,786	4,056,916
Less deferred tax asset valuation allowance	(4,825,965)	(3,349,786)	(39,612)
Net deferred tax assets	$ —	1,184,000	4,017,304

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income, and tax planning strategies in making this assessment. In order to fully realize the deferred tax asset, the Company will need to generate future taxable income of approximately $11,816,000 prior to the expiration of the net operating loss carryforwards in 2025. Taxable income for the years ended December 31, 2004, 2005, and 2006 was $1,616,571, $1,969,198, and $2,139,954, respectively. In the fiscal years 2004, 2005, and 2006, the valuation allowance was reduced by $490,198, $1,476,179, and $3,310,174, respectively, resulting in corresponding credits to deferred income tax expense. Based upon the level of taxable income over the last three years and projections for future taxable income over the periods in which the deferred tax assets are deductible, management believes it is more likely than not that the Company will realize the benefits of these deductible differences, net of the existing valuation allowances, at December 31, 2006. The valuation allowance at December 31, 2006 represents the deferred tax assets associated with CET that the Company believes are not more likely than not will be utilized. The amount of the deferred tax asset considered realizable, however, could be reduced in the near term if estimates of future taxable income during the carryforward period are reduced.

The Company has federal net operating loss carryforwards of approximately $6,255,000 at December 31, 2006 that expire between 2022 and 2025. The Company also has state net operating losses of approximately $9,615,000 that expire between 2016 and 2025. The Company has federal credit carryforwards of approximately $323,000 that expire starting in 2021.

(8) SHAREHOLDERS' EQUITY

(a) Preferred Stock

Preferred stock shareholders are entitled to vote with the holders of common stock, as each preferred share is entitled to the number of votes the holder would be entitled to if converted to shares of common stock immediately prior to the vote. They are also entitled to receive dividends on an equal basis with holders of common stock on an if-converted equivalent.

Preferred stock shareholders are entitled to receive a $3.25 per share liquidation preference in the event of the dissolution, liquidation, or winding up of the Company. If assets are insufficient to permit full payment, preferred holders are entitled to ratable distribution of the available assets. Preferred shares are convertible, at the option of the holder, at any time after issuance, at the rate of one share of common stock for each share of preferred stock. The preferred stock will automatically be converted into common stock in the event of an underwritten public offering of the Company's common stock or in the event of a consolidation, merger, or sale of substantially all of the assets of the Company. In addition, preferred shareholders are entitled to adjustment of the ratio of conversion of Series A Preferred Stock into common stock to reduce dilution in the event that the Company issued additional equity securities at a purchase price of less than $3.25 per share.

(b) Common Stock and Warrants

In April 2004, the Company issued 43,000 shares of common stock to a related party at a purchase price of $12 per share for total proceeds of $516,000. Simultaneously with the issuance of the shares of stock, the Company issued a stock purchase warrant with a fair value of $196,200 to purchase 20,000 shares of common stock at an exercise price of $12 per share at any time within seven years of issuance. The warrants, all of which are outstanding as of December 31, 2006, were valued using the Black-Scholes model using the following assumptions: 0% dividend yield, 77% volatility, and 3.90% risk-free interest rate. The shares of stock and the stock warrants were recorded at their relative fair value of $142,150 and $373,850, respectively.

In March 2005, the Company initiated a private placement offering of its common stock. The purpose of this offering was for working capital and for other general corporate purposes, including, but not limited to, the acquisition and development of pharmaceutical products. The offering was a private, limited offering by the Company in reliance upon exemptions from the federal registration provisions of the Securities Act of 1933, as amended, promulgated by the SEC under Regulation D. This offering was completed in 2005, and the Company issued 100,000 shares of common stock at $18 per share, for total net proceeds of $1,789,364 (gross proceeds of $1,800,000 net of cash offering costs of $10,636). The Company issued 3,500 stock options with a fair value of $51,806 to a non-employee as compensation for consulting services associated with the private placement. The fair value of these options has been recorded as additional offering costs and as stock options granted for services received.

In 2004 and 2005, the Company issued 111,489 and 112,916 shares of common stock, respectively, upon conversion of certain promissory notes into shares of the Company's common stock. See note 5 for a more in-depth discussion of these transactions.

During 2004, 2005, and 2006, the Company issued 25,267, 25,001, and 13,759 shares of common stock, respectively, valued at $303,204, $300,012, and $273,298, respectively, to executives, related parties, and advisors as compensation for services, and is included in general and administrative expenses in the consolidated statements of income. Included in these amounts are shares of common stock granted to board members of 15,600, 23,120, and 12,409 in 2004, 2005, and 2006, respectively, for consulting services rendered. The expense associated with these grants to board members was

$187,200, $277,400, and $248,998 in 2004, 2005, and 2006, respectively. In addition, the Company issued 18,799, 8,825, and 18,167 net shares of common stock to key executives and an advisor, who exercised options in 2004, 2005, and 2006, respectively.

As disclosed in notes 5 and 8(b), at December 31, 2006, the Company had outstanding warrants to acquire 34,479 shares of its common stock. See notes 5 and 8(b) for further information.

(9) STOCK OPTIONS

The Company has adopted the Cumberland Pharmaceuticals Inc. 1999 Stock Option Plan (the Plan) that includes both incentive stock options and nonqualified stock options to be granted to employees, officers, consultants, directors, and affiliates of the Company. The Company has reserved 4,050,000 shares of no par value common stock for issuance under this Plan.

Incentive stock options must be granted with an exercise price not less than the fair market value of the common stock on the grant date. The options granted to shareholders owning more than 10% of the common stock on the grant date must be granted with an exercise price not less than 110% of the fair market value of the common stock on the grant date.

The options are exercisable on the date(s) established by each grant; however, options granted to officers or directors are not exercisable until at least six months after grant date. The maximum exercise life of an option is ten years from grant date and is five years for stock options issued to 10% shareholders. Vesting is determined on a grant-by-grant basis, in accordance with the terms of the Plan and the related grant agreements.

Options granted in connection with financing arrangements discussed in note 5 were separately approved by the board of directors and do not reduce the amount of options available for issuance under the Plan.

Stock option activity for the three-year period ended December 31, 2006 was as follows:

	Number of shares	Weighted average exercise price per share
Options outstanding, December 31, 2003	3,901,133	$ 1.89
Options granted	170,625	12.01
Options exercised	(19,150)	0.22
Options expired	(20,000)	3.25
Options outstanding, December 31, 2004	4,032,608	2.34
Options granted	131,350	12.98
Options exercised	(9,555)	1.89
Options outstanding, December 31, 2005	4,154,403	2.68
Options granted	47,975	18.38
Options exercised	(19,484)	1.93
Options expired	(4,500)	18.00
Options forfeited	(173,416)	5.26
Options outstanding, December 31, 2006	4,004,978	2.74

Of the options outstanding in 2004, 2005, and 2006, 2,361,518, 2,388,018, and 2,391,864, respectively, were options issued to one key executive.

The following table summarizes information concerning currently outstanding and exercisable options:

Year	Range of Exercise Prices	Number outstanding and expected to vest	Remaining contractual life	Weighted average exercise price	Options exercisable
1999	$0.20-0.22	422,840	2.06 years	$ 0.21	422,840
1999	1.00-1.10	2,355,379	2.70 years	1.09	2,355,379
2000	1.85	94,200	3.55 years	1.85	94,200
2001	3.25	401,078	4.22 years	3.25	401,078
2002	3.25-3.58	162,108	5.03 years	3.26	162,108
2002	6.25	6,775	5.48 years	6.25	6,775
2003	6.25-12.00	227,923	6.32 years	8.21	227,923
2004	12.00-13.20	160,625	7.36 years	12.01	160,625
2005	12.00-18.00	131,075	7.15 years	12.97	58,110
2006	18.00-19.80	42,975	7.48 years	18.42	10,050
		4,004,978			3,899,088

The fair value of employee options granted during 2006 were estimated using the Black-Scholes option pricing model and the following assumptions:

Dividend yield	0%
Expected term (years)	3-7
Expected volatility (range)	47%-54%
Risk-free interest rate (range)	4.68%-5.08%

The Company determined the expected life of share options based on the simplified method allowed by *SEC Staff Accounting Bulletin No. 107.* Under this approach, the expected term is presumed to be the average between the weighted average vesting period and the contractual term. The expected volatility over the term of the respective option was based on the volatility of similar entities. In evaluating similarity, the Company considered factors such as industry, stage of life cycle, size, and financial leverage. The risk-free rate is based on a zero-coupon U.S. Treasury bond with a term substantially equal to the corresponding option's expected term. The Company has never declared or paid any cash dividends and does not presently plan to pay cash dividends in the foreseeable future. The Company has reviewed historical termination behavior and does not anticipate any further forfeitures on options granted during 2006.

The fair value of non-employee options was estimated using the Black-Scholes option pricing model and the following assumptions.

	2004	2005	2006
Dividend yield	0%	0%	0%
Expected term (years)	10	10	.17-10
Expected volatility (range)	77%	77%	37%-63%
Risk-free interest rate (range)	3.90%	4.13%-4.39%	4.34%-4.42%

The Company determined the above assumptions utilizing the same methodology as noted above for employees, except for the expected term, which was calculated to be the contractual terms of the options in accordance with SFAS 123R.

As previously discussed in item (j) of note 2, there was no expense recorded in 2006 and there will be no expense in future years associated with unvested employee stock option awards outstanding as of January 1, 2006 due to the Company utilizing the prospective method upon adoption of SFAS 123R.

The weighted average grant date fair value of share options granted during the year ended December 31, 2004, 2005, and 2006 was approximately $12.00, $12.73, and $18.00, respectively. The Company received cash from the exercise of stock options of $4,950 and $9,000 during 2005 and 2006, respectively. Upon exercise, the Company issues new shares of stock. During the years ended December 31, 2004, 2005, and 2006, the aggregate intrinsic value of options exercised under the Plan was $225,587, $153,899, and $357,730, respectively, determined as of the date of option exercise.

During the year ended December 31, 2006, the Company recognized $141,836 of compensation expense related to stock options and recognized a corresponding tax benefit of $37,747. This amount consists of non-employee stock option expense of $37,751 and employee stock option expense of $104,085. Such expense is presented as a component of general and administrative expenses. At December 31, 2006, there was approximately $321,535 of unrecognized compensation cost related to share-based payments granted in 2006, which is expected to be recognized over a period of four years. This amount consists of non-employee unrecognized compensation cost of $55,077 and employee unrecognized compensation cost of $266,458.

The Company issued a total of 18,780, 23,800, and 12,000 stock options to non-employees for services rendered by these individuals in 2004, 2005, and 2006 as compensation for assisting the Company's management and supporting operations. The amount of compensation expense recorded for such services was $43,928, $226,709, and $37,751, in 2004, 2005, and 2006, respectively. Such expense is presented as a component of general and administrative expenses. Included in these amounts are options to purchase 16,780 shares of common stock at an exercise price of $12.00 in 2004 and options to purchase 11,000 shares of common stock at an exercise price of $18.00 in 2005 and that were granted to two board members.

(10) LEASES

The Company is obligated under long-term real estate leases for office space expiring at various times through December 2011. The Company also subleases a portion of the space under these leases. Rent expense is recognized over the expected term of the lease, including renewal option periods, on a straight-line basis. Rent expense for 2004, 2005, and 2006 was $139,587, $151,479, and $286,037, respectively, and sublease income was $45,035, $49,131, and $71,173, respectively. Future minimum lease payments under non-cancelable operating leases (with initial or remaining lease terms in excess of one year) are:

Year ending December 31:	
2007	$ 375,461
2008	487,015
2009	492,278
2010	460,490
2011	46,711
Total minimum lease payments	$ 1,861,955

Minimum lease payments have not been reduced by minimum sublease rentals of $49,880 and $7,860 in 2007 and 2008, respectively, under non-cancelable subleases.

During December of 2006, the Company signed a lease agreement for additional office space at its West End location. The lease agreement begins June 1, 2007 and ends on October 31, 2010. The additional cost of this agreement is approximately $223,000 per year and has been included in the table above.

(11) MANUFACTURING AND SUPPLY AGREEMENTS

The Company utilizes one supplier to manufacture each of its products and product candidates. Although there are a limited number of manufacturers of pharmaceutical products, management believes that they could utilize other suppliers to manufacture their prescription products on comparable terms. A change in suppliers, any problems with such manufacturing operations or capacity, or contract disputes with the suppliers, however, could cause a delay in manufacturing and a possible loss of sales, which would affect operating results adversely.

The Company's manufacturing and supply agreements with the manufacturers of its products contain minimum purchase obligations. For 2007, these obligations require the Company to purchase approximately $2.1 million of product, $2.4 million during 2008, $2.7 million during 2009, $3.0 million during 2010, and $800,000 during 2011. Beginning in April 2011 and continuing through the life of the agreement, one of the manufacturing and supply agreements requires minimum purchases of not less than 65% of the average purchases in each of the three immediately preceding annual periods.

The Company's purchases under these agreements are reflected in the cost of products sold in the accompanying consolidated statements of income.

(12) CONTINGENCIES

The Company is currently party to one legal proceeding brought about by an employee of a third-party contract sales organization that does business with the Company. The lawsuit asserts a multitude of claims arising out of the contract sales organization's decision to separate employment after the employee claimed to have suffered a workers' compensation injury. The Company filed a Motion to Dismiss all of the claims against the Company and its representatives. The oral arguments were heard on the motion in November 2006. In December 2006, the Magistrate Judge recommended the Company's Motion to Dismiss be granted on all claims.

(13) EMPLOYMENT AGREEMENTS

Effective January 1, 2006, the Company entered into employment agreements with its full-time and part-time employees. Each employment agreement provides for a salary basis for services performed, a potential annual bonus, and, if applicable, a grant of incentive options to purchase the Company's common shares pursuant to an option agreement. Two of the employment agreements address expense reimbursements for relevant and applicable licenses and continuing education. Employment agreements are amended each successive one-year period, unless terminated.

(14) MARKET CONCENTRATIONS

The Company currently focuses on acquiring, developing, and commercializing branded prescription products for the acute care and gastroenterology markets. The Company's principal financial instruments subject to potential concentration of credit risk are accounts receivable, which are unsecured, and cash equivalents. The Company's cash equivalents consist primarily of money market

funds. Certain bank deposits may at times be in excess of the Federal Deposit Insurance Corporation (FDIC) insurance limits.

The Company's primary customers are wholesale pharmaceutical distributors in the U.S. Total revenues from customers representing 10% or more of total revenues for the respective years are summarized as follows:

	2004	2005	2006
Customer 1	34%	34%	22%
Customer 2	13	33	20
Customer 3	27	13	25

Additionally, 92% and 67% of the Company's accounts receivable balances were due from these three customers at December 31, 2005 and 2006, respectively.

(15) EMPLOYEE BENEFIT PLAN

The Company sponsors an employee benefit plan that was established January 1, 2006, the Cumberland Pharmaceuticals 401(k) Plan (the Plan) under section 401(k) of the Internal Revenue Code of 1986, as amended, for the benefit of all employees over the age of 21, having been employed by the Company for at least six months. The Plan provides that participants may contribute up to the maximum amount of their compensation as set forth by the Internal Revenue Service each year. Employee contributions are invested in various investment funds based upon elections made by the employee. There were no contributions made by the Company to the Plan in 2006.

(16) SUBSEQUENT EVENTS

Beginning January 1, 2007, the Company's newly formed subsidiary, Cumberland Pharma Sales Corp., began full operations for the purpose of employing the newly acquired hospital sales force, which promotes the Company's products, Acetadote® and Kristalose® in the acute care market. Previously, this sales force was contracted through a third-party contract sales organization. In October 2006, the Company notified the contract sales organization that it was exercising its right to convert the sales force to the Company's employees and would, therefore, not renew the contract sales agreement which expired on December 31, 2006.

In January 2007, the Company's board of directors approved the Long-Term Incentive Compensation Plan, which was subsequently approved by the shareholders in April 2007. The purposes of the Long-Term Incentive Compensation Plan are to encourage the Company's employees and consultants to acquire stock and other equity-based interests and is intended to replace the Cumberland Pharmaceuticals Inc. 1999 Stock Option Plan without impairing the vesting or exercise of any option granted thereunder.

Schedule II—valuation and qualifying accounts

Column A Description	Column B Balance at beginning of period	Column C Charged to costs and expenses	Column C Charged to other accounts describe	Column D Deductions — describe(1)	Column E Balance at end of period
Allowance for uncollectible amounts, cash discounts, chargebacks, and credits issued for damaged products:					
For the period ended:					
December 31, 2004	$ —	$ 1,134,053	$ —	$ (944,094)	$ 189,959
December 31, 2005	189,959	616,908	—	(622,533)	184,334
December 31, 2006	184,334	1,449,564	—	(1,334,985)	298,913
Valuation allowance for deferred tax assets:					
For the period ended:					
December 31, 2004	$ 5,316,163	$ (490,198)	$ —	$ —	$ 4,825,965
December 31, 2005	4,825,965	(1,476,179)(2)	—	—	3,349,786
December 31, 2006	3,349,786	(3,310,174)(3)	—	—	39,612

(1) Write-off of uncollectible accounts, net of recoveries, discounts, chargebacks, and credits taken by customers.

(2) Includes a $1,184,000 reduction in the valuation allowance reflecting the Company's belief that the future recognition of this amount of deferred tax assets is more likely than not. Remaining decrease is due to the utilization of deferred tax assets.

(3) Includes a $2,833,303 reduction in the valuation allowance reflecting the Company's belief that the future recognition of this amount of deferred tax assets is more likely than not. Remaining decrease is due to the utilization of deferred tax assets.


CUMBERLAND®
PHARMACEUTICALS

Part II

Information not required in prospectus

ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The expenses relating to the registration of the shares of common stock being offered hereby, other than underwriting discounts and commissions, will be borne by us. Such expenses are estimated to be as follows:

Item	Amount
SEC registration fee	$
NASD filing fee	$
NASDAQ listing fee	$
Printing expenses	$
Legal fees and expenses	$
Accounting fees and expenses	$
Transfer agent and registrar expenses	$
Total	$

ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Our charter and bylaws provide for indemnification of our directors to the fullest extent permitted by the Tennessee Business Corporation Act, as amended from time to time. Our directors shall not be liable to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director. The Tennessee Business Corporation Act provides that a Tennessee corporation may indemnify its directors and officers against expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with any proceeding, whether criminal or civil, administrative or investigative if, in connection with the matter in issue, the individual's conduct was in good faith, and the individual reasonably believed: in the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in its best interest; and in all other cases, that the individual's behavior was at least not opposed to its best interest; and in the case of a criminal proceeding, the individual had no reason to believe the individual's conduct was unlawful. In addition, we have entered into indemnification agreements with our directors. These provisions and agreements may have the practical effect in certain cases of eliminating the ability of our shareholders to collect monetary damages from directors. We believe that these contractual agreements and the provisions in our charter and bylaws are necessary to attract and retain qualified persons as directors.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES.

In September 2003, we borrowed $500,000 from nine existing and accredited shareholders pursuant to uncollateralized secured notes payable with original maturity dates of 130 days. These notes bore interest at 12% for the first 30 days and 15% thereafter. The holders of the notes had, at their option, until the maturity date of the notes payable, the right to convert all or a portion of the unpaid principal and interest into shares of our common stock at a rate of $12.00 per share. We also issued to these lenders options to purchase shares of our common stock, at an exercise price of $12.00 per share, and at the rate of 1,540 shares of common stock per $50,000 face value of the notes. If we had not prepaid all amounts due and owing under the notes, we agreed to grant additional options at the rate of 770 shares of common stock per $50,000 face value on each of (i) the 30th day after the date of the notes and (ii) on a continuing basis, each successive 30-day period thereafter, or portion thereof, as the notes remained outstanding. At December 31, 2003, the notes payable had not been prepaid, so we granted options to acquire an additional 30,800 shares. We amended the notes agreements in January 2004 to extend the maturity date 130 days. The amendments granted an additional option to

purchase 1,540 shares per $50,000 face value upon extension of the notes and contained similar provisions for granting options in the event of nonpayment on the agreed-upon due dates. Based on the extension of the maturity date, to purchase a total of 61,600 shares were earned by the holders of the notes in 2004. We repaid these notes or settled these notes in shares in May 2004. The issuance of these securities was exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act.

In September 2003, we borrowed $1,000,000 from S.C.O.U.T. Healthcare Fund, L.P., or S.C.O.U.T., in the form of a convertible promissory note with a maturity date of September 2004. The President and majority shareholder of the general partner of S.C.O.U.T., Dr. Lawrence W. Greer, serves on our board of directors. Pursuant to the terms of the note, on its maturity date, S.C.O.U.T. converted the principal value of the note plus all interest accrued at a fixed rate of ten percent per annum into 91,667 shares of our common stock at a price of $12.00 per share.

On April 15, 2004, we issued 43,000 common shares at $12.00 per share, for an aggregate consideration of $516,000 and a five-year warrant to purchase 20,000 common shares at $12.00 per share to S.C.O.U.T., which represented to us that it was an accredited investor. This issuance was exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act.

By an offering memorandum dated April 1, 2005, we offered 100,000 shares of our common stock at a purchase price of $18.00 per share. Thirty investors subscribed for 100,000 shares in the aggregate, for an aggregate consideration of $1,800,000. This issuance was exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act.

By an offering memorandum dated May 5, 2005, we received approximately $2,000,000 from approximately 41 investors in exchange for uncollateralized convertible promissory notes with a maturity date six months from the date of issuance. Upon maturity, the principal and accrued interest payable on the notes converted into 112,916 shares of common stock at a rate of $18.00 per share. This issuance was exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act.

Since January 1, 2004, we have granted options to purchase 287,610 shares of our common stock under the 1999 Option Plan to our employees, directors and consultants at exercise prices ranging from $12.00 to $22.00 per share. Of these, an aggregate of 775 shares of our common stock were issued upon the exercise of stock options.

Since January 1, 2004, we also issued an aggregate of 75,645 shares of common stock as compensation for services pursuant to contracts. Restricted-stock legends were affixed to the securities issued in these transactions. Our board of directors determined that the fair value of the services received equaled the value of the stock granted with values ranging from $12.00 to $22.00 per share. The issuances of common stock in connection with awards of restricted stock were exempt either pursuant to Rule 701 or pursuant to Section 4(2) of the Securities Act as transactions by an issuer not involving a public offering.

ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.

(a)

No.	Description
1.1*	Form of Underwriting Agreement.
3.1	Second Amended and Restated Charter of Cumberland Pharmaceuticals Inc.
3.2	Amended and Restated Bylaws of Cumberland Pharmaceuticals Inc.

Part II

No.	Description
4.1*	Specimen Common Stock Certificate of Cumberland Pharmaceuticals Inc.
4.2	Warrant to Purchase Common Stock of Cumberland Pharmaceuticals Inc., issued to Bank of America, N.A. on October 21, 2003.
4.3*	Stock Purchase Warrant, issued to S.C.O.U.T. Healthcare Fund L.P. on April 15, 2004.
4.4	Warrant to Purchase Common Stock of Cumberland Pharmaceuticals Inc., issued to Bank of America, N.A. on April 6, 2006.
4.5#	Form of Option Agreement under 1999 Stock Option Plan of Cumberland Pharmaceuticals Inc.
4.6*#	Form of Option Agreement under 2007 Long-Term Incentive Compensation Plan of Cumberland Pharmaceuticals Inc.
4.7*#	Form of Agreement under 2007 Directors' Compensation Plan of Cumberland Pharmaceuticals Inc.
5.1*	Opinion of Adams and Reese LLP.
10.1†	Manufacturing and Supply Agreement for N-Acetylcysteine, dated January 15, 2002, by and between Bioniche Life Sciences, Inc. and Cumberland Pharmaceuticals Inc.
10.2	Novation Agreement, dated January 27, 2006, by and among Bioniche Life Sciences, Inc., Bioniche Pharma Group Ltd., and Cumberland Pharmaceuticals Inc.
10.3†	First Amendment to Manufacturing and Supply Agreement for N-Acetylcysteine, dated November 16, 2006, by and between Bioniche Teoranta and Cumberland Pharmaceuticals Inc.
10.4†	Cardinal Health Contract Sales and Services for Cumberland Pharmaceuticals Inc. Dedicated Sales Force Agreement, dated May 16, 2006, by and between Cardinal Health PTS, LLC and Cumberland Pharmaceuticals Inc.
10.5†	First Amendment to Contract Sales and Service Agreement, dated July 19, 2006, by and between Cardinal Health PTS, LLC and Cumberland Pharmaceuticals Inc.
10.6	Consent to Assignment by Cardinal Health PTS, LLC to PG Holding Corporation of all of their rights, title, interests and obligations under that certain Cardinal Health Contract Sales and Services for Cumberland Pharmaceuticals Inc. Dedicated Sales Force Agreement, dated May 16, 2006, by and between Cardinal Health PTS, LLC and Cumberland Pharmaceuticals Inc., as amended by that certain First Amendment to Contract Sales and Service Agreement, dated July 19, 2006, by and between Cardinal Health PTS, LLC and Cumberland Pharmaceuticals Inc.
10.7†	Distribution Services Agreement, dated August 3, 2000, by and between CORD Logistics, Inc. and Cumberland Pharmaceuticals Inc.
10.8†	Strategic Alliance Agreement, dated July 21, 2000, by and between F.H. Faulding & Co. Limited and Cumberland Pharmaceuticals Inc.
10.9†	Kristalose Agreement, dated April 7, 2006, by and among Inalco Biochemicals, Inc., Inalco S.p.A., and Cumberland Pharmaceuticals Inc.
10.10†	License Agreement, dated May 28, 1999, by and between Vanderbilt University and Cumberland Pharmaceuticals Inc.
10.11#	Employment Agreement effective as of January 1, 2007 by and between A.J. Kazimi and Cumberland Pharmaceuticals Inc.

Part II

No.	Description
10.12#	Employment Agreement effective as of January 1, 2007 by and between Jean W. Marstiller and Cumberland Pharmaceuticals Inc.
10.13#	Employment Agreement effective as of January 1, 2007 by and between Leo Pavliv and Cumberland Pharmaceuticals Inc.
10.14#	Employment Agreement effective as of January 1, 2007 by and between J. William Hix and Cumberland Pharmaceuticals Inc.
10.15#	Employment Agreement effective as of January 1, 2007 by and between David L. Lowrance and Cumberland Pharmaceuticals Inc.
10.16*†	Second Amended and Restated Loan Agreement by and between Cumberland Pharmaceuticals Inc. and Bank of America, N.A., dated April 6, 2006.
10.17#	1999 Stock Option Plan of Cumberland Pharmaceuticals Inc.
10.18*#	2007 Long-Term Incentive Compensation Plan of Cumberland Pharmaceuticals Inc.
10.19*#	2007 Directors' Compensation Plan of Cumberland Pharmaceuticals Inc.
10.20	Form of Indemnification Agreement between Cumberland Pharmaceuticals Inc. and all members of its Board of Directors.
10.21†	Lease Agreement, dated September 10, 2005, by and between Nashville Hines Development, LLC and Cumberland Pharmaceuticals Inc.
10.22*†	Sublease Agreement, dated December 14, 2006, by and between Robert W. Baird & Co. Incorporated and Cumberland Pharmaceuticals Inc.
10.23†	Amended and Restated Lease Agreement, dated November 11, 2004, by and between The Gateway to Nashville LLC and Cumberland Emerging Technologies, Inc.
10.24	First Amendment to Amended and Restated Lease Agreement, dated August 23, 2005, by and between The Gateway to Nashville LLC and Cumberland Emerging Technologies, Inc.
21	Subsidiaries of Cumberland Pharmaceuticals Inc.
23.1	Consent of KPMG LLP.
23.2*	Consent of Adams and Reese, LLP (contained in Exhibit 5).
24	Powers of Attorney (contained on the signature page hereto).

* To be filed by amendment.

# Indicates a management contract or compensatory plan.

† Confidential treatment has been requested for portions of this exhibit. These portions have been omitted from the Registration Statement and submitted separately to the Securities and Exchange Commission.

(b) See Schedule II—Valuation and qualifying accounts included in our audited financial statements included elsewhere in this registration statement.

All other schedules have been omitted because they are not applicable.

ITEM 17. UNDERTAKINGS.

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers, and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this Registration Statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this Registration Statement as of the time it was declared effective.

2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Nashville, State of Tennessee, on the 1st day of May, 2007.

CUMBERLAND PHARMACEUTICALS INC.

By: /s/ A.J. KAZIMI
A.J. Kazimi
Chairman and CEO
(Principal Executive Officer)

Signatures and Power of Attorney

Each person whose signature appears below constitutes and appoints A. J. Kazimi and David L. Lowrance, and each of them individually, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post effective amendments) to this registration statement and any additional registration statements to be filed pursuant to Rule 462(b) under the Securities Act of 1933, and to file the same, with all exhibits thereto and other documents in connection therewith, with the SEC, 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 connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ A.J. KAZIMI A.J. Kazimi	Chairman and CEO (Principal Executive Officer)	May 1, 2007
/s/ DAVID L. LOWRANCE David L. Lowrance	Vice President and CFO (Principal Financial and Accounting Officer)	May 1, 2007
/s/ ROBERT G. EDWARDS Robert G. Edwards	Director	May 1, 2007
/s/ THOMAS R. LAWRENCE Thomas R. Lawrence	Director	May 1, 2007
/s/ LAWRENCE W. GREER Lawrence W. Greer	Director	May 1, 2007
/s/ MARTIN E. CEARNAL Martin E. Cearnal	Director	May 1, 2007

Exhibit Index

No.	Description
1.1*	Form of Underwriting Agreement.
3.1	Second Amended and Restated Charter of Cumberland Pharmaceuticals Inc.
3.2	Amended and Restated Bylaws of Cumberland Pharmaceuticals Inc.
4.1*	Specimen Common Stock Certificate of Cumberland Pharmaceuticals Inc.
4.2	Warrant to Purchase Common Stock of Cumberland Pharmaceuticals Inc., issued to Bank of America, N.A. on October 21, 2003.
4.3*	Stock Purchase Warrant, issued to S.C.O.U.T. Healthcare Fund L.P. on April 15, 2004.
4.4	Warrant to Purchase Common Stock of Cumberland Pharmaceuticals Inc., issued to Bank of America, N.A. on April 6, 2006.
4.5#	Form of Option Agreement under 1999 Stock Option Plan of Cumberland Pharmaceuticals Inc.
4.6*#	Form of Option Agreement under 2007 Long-Term Incentive Compensation Plan of Cumberland Pharmaceuticals Inc.
4.7*#	Form of Agreement under 2007 Directors' Compensation Plan of Cumberland Pharmaceuticals Inc.
5.1*	Opinion of Adams and Reese LLP.
10.1†	Manufacturing and Supply Agreement for N-Acetylcysteine, dated January 15, 2002, by and between Bioniche Life Sciences, Inc. and Cumberland Pharmaceuticals Inc.
10.2	Novation Agreement, dated January 27, 2006, by and among Bioniche Life Sciences, Inc., Bioniche Pharma Group Ltd., and Cumberland Pharmaceuticals Inc.
10.3†	First Amendment to Manufacturing and Supply Agreement for N-Acetylcysteine, dated November 16, 2006, by and between Bioniche Teoranta and Cumberland Pharmaceuticals Inc.
10.4†	Cardinal Health Contract Sales and Services for Cumberland Pharmaceuticals Inc. Dedicated Sales Force Agreement, dated May 16, 2006, by and between Cardinal Health PTS, LLC and Cumberland Pharmaceuticals Inc.
10.5†	First Amendment to Contract Sales and Service Agreement, dated July 19, 2006, by and between Cardinal Health PTS, LLC and Cumberland Pharmaceuticals Inc.
10.6	Consent to Assignment by Cardinal Health PTS, LLC to PG Holding Corporation of all of their rights, title, interests and obligations under that certain Cardinal Health Contract Sales and Services for Cumberland Pharmaceuticals Inc. Dedicated Sales Force Agreement, dated May 16, 2006, by and between Cardinal Health PTS, LLC and Cumberland Pharmaceuticals Inc., as amended by that certain First Amendment to Contract Sales and Service Agreement, dated July 19, 2006, by and between Cardinal Health PTS, LLC and Cumberland Pharmaceuticals Inc.
10.7†	Distribution Services Agreement, dated August 3, 2000, by and between CORD Logistics, Inc. and Cumberland Pharmaceuticals Inc.
10.8†	Strategic Alliance Agreement, dated July 21, 2000, by and between F.H. Faulding & Co. Limited and Cumberland Pharmaceuticals Inc.
10.9†	Kristalose Agreement, dated April 7, 2006, by and among Inalco Biochemicals, Inc., Inalco S.p.A., and Cumberland Pharmaceuticals Inc.
10.10†	License Agreement, dated May 28, 1999, by and between Vanderbilt University and Cumberland Pharmaceuticals Inc.

No.	Description
10.11#	Employment Agreement effective as of January 1, 2007 by and between A.J. Kazimi and Cumberland Pharmaceuticals Inc.
10.12#	Employment Agreement effective as of January 1, 2007 by and between Jean W. Marstiller and Cumberland Pharmaceuticals Inc.
10.13#	Employment Agreement effective as of January 1, 2007 by and between Leo Pavliv and Cumberland Pharmaceuticals Inc.
10.14#	Employment Agreement effective as of January 1, 2007 by and between J. William Hix and Cumberland Pharmaceuticals Inc.
10.15#	Employment Agreement effective as of January 1, 2007 by and between David L. Lowrance and Cumberland Pharmaceuticals Inc.
10.16*†	Second Amended and Restated Loan Agreement by and between Cumberland Pharmaceuticals Inc. and Bank of America, N.A., dated April 6, 2006.
10.17#	1999 Stock Option Plan of Cumberland Pharmaceuticals Inc.
10.18*#	2007 Long-Term Incentive Compensation Plan of Cumberland Pharmaceuticals Inc.
10.19*#	2007 Directors' Compensation Plan of Cumberland Pharmaceuticals Inc.
10.20	Form of Indemnification Agreement between Cumberland Pharmaceuticals Inc. and all members of its Board of Directors.
10.21†	Lease Agreement, dated September 10, 2005, by and between Nashville Hines Development, LLC and Cumberland Pharmaceuticals Inc.
10.22*†	Sublease Agreement, dated December 14, 2006, by and between Robert W. Baird & Co. Incorporated and Cumberland Pharmaceuticals Inc.
10.23†	Amended and Restated Lease Agreement, dated November 11, 2004, by and between The Gateway to Nashville LLC and Cumberland Emerging Technologies, Inc.
10.24	First Amendment to Amended and Restated Lease Agreement, dated August 23, 2005, by and between The Gateway to Nashville LLC and Cumberland Emerging Technologies, Inc.
21	Subsidiaries of Cumberland Pharmaceuticals Inc.
23.1	Consent of KPMG LLP.
23.2*	Consent of Adams and Reese, LLP (contained in Exhibit 5).
24	Powers of Attorney (contained on the signature page hereto).

* To be filed by amendment.

# Indicates a management contract or compensatory plan.

† Confidential treatment has been requested for portions of this exhibit. These portions have been omitted from the Registration Statement and submitted separately to the Securities and Exchange Commission.

EXHIBIT 3.1

SECOND AMENDED AND RESTATED CHARTER

OF

CUMBERLAND PHARMACEUTICALS INC.

Cumberland Pharmaceuticals Inc. (the "Company"), a corporation organized and existing under and by virtue of the Tennessee Business Corporation Act, as amended (the "Act"), does hereby certify:

I. That the Company was incorporated upon the filing of its charter (the "Original Charter") with the Secretary of State of the State of Tennessee (the "Tennessee Secretary of State") on January 7, 1999.

II. That the Company filed an Amended and Restated Charter (the "Restated Charter") with the Tennessee Secretary of State on October 12, 2000.

III. That the Company filed a Charter Amendment to the Restated Charter with the Tennessee Secretary of State on June 5, 2003 that changed the principal office address and registered office address of the Company.

IV. That the Board of Directors of the Company (the "Board of Directors") proposed and recommended, on January 16, 2007, the amendments (the "Amendments") to the shareholders of the Company (the "Shareholders) included in the Second Amended and Restated Charter (the "Second Restated Charter") set forth below as the charter of the Company (the "Charter").

V. That the Shareholders adopted, on April 18, 2007, the Amendments included in the Second Restated Charter as the Company's Charter.

VI. That the Charter has been duly adopted in accordance with Sections 48-20-103 and 48-20-107 of the Act.

The adopted Restated Charter of Cumberland Pharmaceuticals Inc. is as follows:

1. The name of the Company is Cumberland Pharmaceuticals Inc.

2. The Company is for profit.

3. The duration of the Company is perpetual.

4. The street address of the Company's principal office is:

2525 West End Avenue, Suite 950
Nashville, Tennessee 37203
County of Davidson

5. (a) The name of the Company's initial registered agent is A.J. Kazimi.

(b) The street address of the Company's initial registered office in Tennessee is:

2525 West End Avenue, Suite 950
Nashville, Tennessee 37203
County of Davidson

6. The name and address of the incorporator is:

Martin S. Brown, Jr.
Adams and Reese LLP
424 Church Street, Suite 2800
Nashville, Tennessee 37219

7. The purpose for which the Company is organized is to engage in any lawful act or activity for which corporations may be organized under the Act.

8. The maximum number of shares of stock the Company is authorized to issue is (i) One Hundred Million (100,000,000) shares of common stock, no par value per share ("Common Stock"), (ii) Twenty Million (20,000,000) shares of preferred stock, no par value per share ("Preferred Stock") and (iii) Three Million (3,000,000) shares of Series A Preferred Stock, no par value per share ("Series A Preferred Stock" and collectively with Common Stock and Preferred Stock, the "Capital Stock").

The following is a description of each of the classes of stock of the Company and a statement of the powers, preferences and rights of such stock, and the qualifications, limitations and restrictions thereof:

A. Common Stock.

1. Voting Rights. Each holder of Common Stock shall be entitled to one vote per share of Common Stock on all matters to be voted on by the shareholders of the Company.

2. Dividends and Rights Upon Liquidation. Dividends shall be declared and paid on Common Stock from funds lawfully available therefore as and when determined by the Board of Directors and subject to any preferential dividend rights of any then outstanding Preferred Stock. In the event of a voluntary or involuntary dissolution or liquidation of the Company, after distribution in full of the preferential amounts, if any, to be distributed to the holders of Preferred Stock, the holders of Common Stock shall, subject to the additional rights, if any, of the holders of Preferred Stock fixed in accordance with the provisions of this Charter, be entitled to receive all of the remaining assets of the Company, tangible and intangible, of whatever kind available for distribution to shareholders ratably in proportion to the number of shares of Common Stock held by them respectively.

B. Preferred Stock.

1. Authorization and Issuance. Twenty million (20,000,000) shares of Preferred Stock, no par value per share. Shares of Preferred Stock may be issued from time to time in one or more classes or series, each such class or series to be so designated as to distinguish the shares thereof from the shares of all other series and classes. The Board of Directors is hereby vested with the authority to divide Preferred Stock into classes or series and to fix and determine the relative rights, preferences, qualifications and limitations of the shares of any class or series so established.

C. Series A Preferred Stock.

1. Designation. There shall be a series of Preferred Stock designated as Series A Convertible Preferred Stock (the "Series A Preferred Stock"). The number of shares initially constituting the Series A Preferred Stock shall be Three Million (3,000,000), which number may be decreased by the Board of Directors without a vote of shareholders; provided, however, that such number may not be decreased below the number of then-outstanding shares of Series A Preferred Stock.

2. Voting Rights. Except as otherwise provided by law, each holder of issued and outstanding Series A Preferred Stock shall be entitled to vote on each matter on which the shareholders of the Company are entitled to vote. Each share of Series A Preferred Stock shall have the number of votes equal to the number of shares of Common Stock into which such share is convertible under Section 5 hereof on the applicable record date for the meeting at which a vote is taken or as of the date on which any written consent of shareholders is being solicited, and such number of shares of Common Stock shall be included in determining the number of shares voting or entitled to voted on any such matter. Except as otherwise required by law and except for any matter on which holders of Series A Preferred Stock have the right to vote separately as a class either hereunder or under applicable law, holders of Series A Preferred Stock shall vote together as a single class with holders of Common Stock.

3. Dividends. No dividend may be declared or paid or set aside for payment to, or other distribution made upon, the Common Stock or on any other stock of the Company ranking junior to or on parity with the Series A Preferred Stock as to dividends unless the same dividends are declared and paid (or declared and a sum sufficient for the payment thereof set apart for such payment) with respect to the Series A Preferred Stock. The amount of such dividends payable to the holders of the Series A Preferred Stock shall equal the amount that would be payable with respect to such Series A Preferred Stock had it been converted into Common Stock in accordance with the terms and provisions of Section 5 hereof as of the date of such dividend.

4. Liquidation. In the event of any liquidation, dissolution, or winding up of the Company, whether voluntary or involuntary, holders of each share of Series A Preferred Stock shall be entitled to be paid out of the assets of the Company available for distribution to holders of the Company's capital stock an amount per share equal to Three Dollars and Twenty-Five Cents ($3.25) (the "Preference Amount"). The Preference Amount shall be paid to the

holders of the Series A Preferred Stock with respect to such liquidation, dissolution, or winding up before any sums shall be paid or any assets distributed to the holders of shares of Common Stock or to the holders of any other stock of the Company ranking junior to the Series A Preferred Stock as to liquidation preferences, but after the payment of liquidation amounts to the holders of any other stock of the Company ranking senior to the Series A Preferred Stock as to liquidation preferences. If the assets of the Company shall be insufficient to permit the payment in full of the Preference Amount to the holders of the Series A Preferred Stock, then the entire assets of the Company available for such distribution shall be distributed ratably among the holders of the Series A Preferred Stock and the holders of any other class of stock of the Company ranking on a parity with the Senior A Preferred Stock as to liquidation preferences. After the Preference Amount shall have been paid in full to the holders of the Series A Preferred Stock (or funds necessary for such payment shall have been set aside by the Company in trust for the account of holders of the Series A Preferred Stock so as to be available for such payment), the holders of the Series A Preferred Stock shall not be entitled to participate in any further distributions by the Company and shall have no further rights or claims to any of the assets of the Company. Whenever the Preference Amount shall be paid in property other than cash, the value of such distribution shall be the fair value thereof determined in good faith by the Board of Directors of the Company.

In case the outstanding shares of Series A Preferred Stock shall be subdivided into a greater number of shares of Series A Preferred Stock or, conversely, in case outstanding shares of Series A Preferred Stock shall be combined into a smaller number of shares of Series A Preferred Stock, the Preference Amount in effect immediately prior to each such subdivision or combination shall be adjusted simultaneously with the effectiveness of such subdivision or combination in such a manner so as to equate the amount to be paid to the holders of the subdivided or combined shares of Series A Preferred Stock upon liquidation with the amount that would have been paid to the holders of Series A Preferred Stock upon liquidation absent the subdivision or combination.

5. Conversion of Series A Preferred Stock.

(i) Right to Convert and Conversion Ratio; Anti-Dilution. At any time and from time to time, any holder of Series A Preferred Stock may convert all or any portion of the Series A Preferred Stock held by such holder into fully paid and nonassessable shares of Common Stock. The conversion of Series A Preferred Stock shall be automatic upon completion of a Public Offering or the approval by the shareholders of the Company of a Qualified Sale (as defined hereinafter). As used herein, a "Public Offering" shall be defined as an underwritten public offering of the Company's equity securities pursuant to an effective registration statement filed with the United States Securities and Exchange Commission. As used herein, a "Qualified Sale" shall be defined as a sale (whether in the form of a merger, consolidation or sale of substantially all assets) of the Company in which the holders of shares of Series A Preferred Stock would receive at least Three Dollars and Twenty-Five Cents ($3.25) for each share of Series A Preferred Stock or for that number of shares of Common Stock into which each share of Series A Preferred Stock is convertible, as the case may be. The conversion of any shares of Series A Preferred Stock shall be conditioned upon the completion of the Public Offering or Qualified Sale, in which case such conversion shall not be effective

until the consummation of the Public Offering or Qualified Sale. Each share of Series A Preferred Stock shall be converted (the "Conversion") into one (1) share of Common Stock (the "Conversion Ratio"). Upon the happening of an Extraordinary Capital Stock Event (as hereinafter defined), the Conversion Ratio, simultaneously with the happening of such Extraordinary Capital Stock Event, shall be appropriately adjusted such that the proportionate interest of the holders of the Series A Preferred Stock in the Common Stock upon Conversion shall be maintained. The Conversion Ratio, as so adjusted, shall be readjusted upon the happening of any successive Extraordinary Capital Stock Event(s). "Extraordinary Capital Stock Event" shall mean (w) the issuance, other than through a Public Offering or Qualified Sale of additional shares of Capital Stock, or other securities convertible into shares of Capital Stock, without consideration or for a consideration per share less than Three Dollars and Twenty-Five Cents ($3.25), (x) the issuance of additional shares of Capital Stock as a dividend or other distribution on all outstanding shares of Capital Stock, (y) a stock split or subdivision of outstanding shares of Capital Stock into a greater number of shares of Capital Stock, or (z) a reverse stock split or combination of outstanding shares of Capital Stock into a smaller number of shares of Capital Stock. If the Conversion Ratio is adjusted, the Company shall file at its principal executive offices and shall mail within thirty (30) days after the date upon which such adjustment shall be made, by registered or certified mail to each registered holder of shares of Series A Preferred Stock, a statement signed by a responsible financial officer of the Company specifying the adjusted Conversion Ratio and setting forth in reasonable detail the method of calculation of such adjustment and the facts requiring the adjustment and upon which the calculation is based.

(ii) Procedure for Conversion. The certificate(s) for shares of Series A Preferred Stock surrendered for Conversion shall be accompanied by proper assignment thereof to the Company or in blank. As promptly as practicable after delivery of the shares to the Company, the Company shall issue and deliver to the holder of the shares of Series A Preferred Stock being converted, or on its written order, such certificate(s) as it may request of the number of whole shares of Common Stock issuable upon the Conversion of such shares of Series A Preferred Stock in accordance with the provisions of this Section 5(ii), and cash, as provided in Section 5(iii) herein, in respect of any fraction of a share of Common Stock issuable upon such Conversion. Such Conversion shall be deemed to have been effected immediately prior to the close of business on the date of the Conversion (the "Conversion Date"), and at such time the rights of the holder as holder of the converted shares of Series A Preferred Stock shall cease and the person(s) in whose name(s) any certificate(s) for shares of Common Stock shall be issuable upon such Conversion shall be deemed to have become the holder(s) of record of the shares of Common Stock represented thereby.

(iii) Cash in Lieu of Fractional Shares. No fractional shares of Common Stock shall be issued upon the Conversion of shares of Series A Preferred Stock. Instead of any fractional shares of Common Stock that otherwise would be issuable upon Conversion of Series A Preferred Stock, the Company shall pay to the holder of the shares of Series A Preferred Stock that were converted a cash adjustment in respect of such fractional shares in an amount equal to the same fraction of the fair market value price per share of the

Common Stock (as determined in a reasonable manner prescribed by the Board of Directors) at the close of business on the Conversion Date. The determination as to whether any fractional shares are issuable shall be based upon the total number of shares of Series A Preferred Stock being converted at any one time by any holder thereof, not upon each share of Series A Preferred Stock being converted.

(iv) Reservation of Common Stock. The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the Conversion of the shares of the Series A Preferred Stock, such number of its shares of Common Stock as from time to time shall be sufficient to effect the Conversion of all outstanding shares of the Series A Preferred Stock, and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the Conversion of all then outstanding shares of the Series A Preferred Stock, the Company shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(v) No Charge for Conversion. The issuance of certificates for shares of Common Stock upon the Conversion of any shares of the Series A Preferred Stock shall be made without charge to the converting holder for such certificates or for any tax in respect of the issuance of such certificates, and such certificates shall be issued in the name of, or in such names as may be directed by, the holder of the Series A Preferred Stock; provided, however, that the Company shall not be required to pay any taxes or other governmental charges which may be payable in respect of any transfer involved in the issuance and delivery of any such certificate in a name other than that of the holder of the Series A Preferred Stock, and the Company shall not be required to issue or deliver such certificates unless or until the person or persons requesting the issuance thereof shall have paid to the Company the amount of such tax or other governmental charge or shall have established to the reasonable satisfaction of the Company that such tax or other governmental charge has been paid or provided for. The Company may also require, as a condition to the issuance and delivery of any such certificate, an opinion of counsel acceptable to the Company to the effect that the proposed transfer does not require registration under federal or any state securities law.

(vi) Notices of Record Date. In the event of any:

a. taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or any right to subscribe for, purchase, or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right;

b. capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company, a merger, or a sale; or

c. voluntary or involuntary dissolution, liquidation, or winding up the Company;

then and in each such event the Company shall mail or cause to be mailed to each holder of Series A Preferred Stock a notice specifying (i) the record date for such dividend, distribution, or right and a description of such dividend, distribution, or right, (ii) the date on which any such reorganization, reclassification, recapitalization, merger, or sale is expected to become effective, and (iii) the time, if any, that is to be fixed, as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such reorganization, reclassification, recapitalization, merger, sale, dissolution, liquidation, or winding up. Such notice shall be mailed at least ten (10) days prior to the date specified in such notice on which such action is to be taken.

(vii) Dividend Payment Upon Conversion. At the date of any Conversion, the Company shall pay to the holder of record of any Series A Preferred Stock surrendered for or subject to Conversion any cumulated but unpaid dividends on the shares so converted. This payment shall be made by the Company in cash or in marketable securities of the Company or another issuer having a fair market value on the date of payment in an amount equal to the cumulated dividend so paid. For purposes hereof, "marketable securities" shall mean equity securities of an issuer which have been registered under the Securities Exchange Act of 1934, as amended, and which are listed on a national securities exchange or included in an interdealer quotation system which reports last sale information.

(viii) No Reissuance of Series A Preferred Stock. No share(s) of Series A Preferred Stock acquired by the Company by reason of Conversion or otherwise shall be reissued, and, upon Conversion, all such shares shall be canceled, retired, and eliminated from the shares that the Company shall be authorized to issue. The Company from time to time may take such appropriate corporate action as may be necessary to reduce the authorized number of shares of the Series A Preferred Stock accordingly.

(ix) No Impairment. The Company will not, by amendment of its Charter or through any reorganization, transfer of assets, consolidation, merger, share exchange, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of the Series A Preferred Stock set forth herein, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of the Series A Preferred Stock against dilution or other impairment.

9. The management of the business and the conduct of the affairs of the Company shall be vested in its Board of Directors. The number of directors which shall constitute the whole Board of Directors shall be fixed exclusively by one or more resolutions adopted from time to time by the Board of Directors.

The Board of Directors shall be divided into three classes designated as Class I, Class II, and Class III, respectively. Directors shall be assigned to each class in accordance with one or more resolutions adopted by the Board of Directors. At the first annual meeting of shareholders following the date of this Charter (the "Effective Date"), the term of office of the Class I directors shall expire and the Class I directors shall be elected for a full term of three years. At the second annual meeting of shareholders following the Effective Date, the term of office of the Class II directors shall expire and the Class II directors shall be elected for a full term of three years. At the third annual meeting of shareholders following the Effective Date, the term of office of the Class III directors shall expire and the Class III directors shall be elected for a full term of three years. At each succeeding annual meeting of shareholders, directors shall be elected for a full term of three years to succeed the directors of the class whose terms expire at such annual meeting.

Notwithstanding the foregoing provisions of this Paragraph 9, each director shall serve until his or her successor is duly elected and qualified or until his or her death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

Any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other causes shall be filled by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors. Newly created directorships resulting from any increase in the number of directors shall, unless the Board of Directors determines by resolution that any such newly created directorship shall be filled by the shareholders, be filled only by the affirmative vote of the directors then in office, even though less than a quorum of the Board of Directors. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified.

In furtherance and not in limitation of the powers conferred by the Act, the Board of Directors is expressly authorized to make, alter, amend or repeal the Bylaws of the Corporation.

10. The Company shall indemnify every person who is or was a party or is or was threatened to be made a party to any action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a director or officer or is or was serving at the request of the Company as a director or officer, against all expense, liability, and loss (including counsel fees, judgments, fines, ERISA excise taxes, penalties, and amounts paid in settlement) actually and reasonably incurred or suffered in connection with such action, suit, or proceeding, to the fullest extent permitted by applicable law, as in effect on the date hereof and as hereafter amended. Such indemnification may include advancement of expenses in advance of final disposition of such action, suit, or proceeding, subject to the provision of any applicable statute.

The indemnification and advancement of expenses provisions of this Paragraph 10 shall not be exclusive of any other right that any person (and his or her heirs, executors, and administrators) may have or hereafter acquire under any statute, this Charter, the Company's

Bylaws, resolution adopted by the shareholders, resolution adopted by the Board of Directors, agreement, or insurance, purchased by the Company or otherwise, both as to action in his or her official capacity and as to action in another capacity. The Company is hereby authorized to provide for indemnification and advancement of expenses through its Bylaws, resolution of shareholders, resolution of the Board of Directors, or agreement, in addition to that provided by this Charter.

11. To the fullest extent permitted by the Act as in effect on the date hereof and as hereafter amended from time to time, a director of the Company shall not be liable to the Company or its shareholders for monetary damages for breach of fiduciary duty as a director. If the Act or any successor statute is amended after adoption of this provision to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Company shall be eliminated or limited to the fullest extent permitted by the Act, as so amended from time to time. Any repeal or modification of this Paragraph 11 by the shareholders of the Company shall not adversely affect any right or protection of a director of the Company existing at the time of such repeal or modification with respect to events occurring prior to such time.

Dated this 23 day of April, 2007.

/s/ A.J. Kazimi
A.J. Kazimi, Chairman of the Board of
Directors and Chief Executive Officer

EXHIBIT 3.2

AMENDED AND RESTATED BYLAWS

OF

CUMBERLAND PHARMACEUTICALS INC.

ARTICLE I

NAME

The affairs of the corporation shall be conducted using the name Cumberland Pharmaceuticals Inc., or such other name or names as the board of directors may from time to time authorize.

ARTICLE II

MEETINGS

Section 1. Annual Meetings. An annual meeting of shareholders for the purposes of electing directors and transacting such other business as may properly come before the meeting shall be held at such date and time as shall be designated from time to time by the Board of Directors, the Chairman of the Board, or the Chief Executive.

Section 2. Special Meetings. A special meeting of shareholders may be called for any purpose or purposes by the Board of Directors, and shall be called by the Chairman of the Board or the Chief Executive whenever shareholders owning at least thirty three (33) percent of the votes entitled to be cast on any issue proposed to be considered at a proposed special meeting sign, date, and deliver to the Secretary one (1) or more written demands for the meeting describing the purpose or purposes for which the meeting is to be held, including all statements necessary to make any statement of such purpose not incomplete, false or misleading, and include any other information specified in the rules and regulations of the Securities and Exchange Commission and which written request shall be accompanied by a certified check for fifty thousand dollars ($50,000) payable to the Company to help cover the Company's expenses in connection with such meeting, including the preparation of proxy materials or information statements and the mailing of notices and proxy materials to shareholders. Only business within the purpose or purposes described in the meeting notice may be conducted at a special shareholders' meeting.

Section 3. Place of Meetings. Annual and special meetings of shareholders shall be held at the principal office of the corporation or at such other place, either within or without the State of Tennessee, as the Board of Directors, the Chairman of the Board, or the Chief Executive shall designate.

Section 4. Notice of Meetings. Notice stating the date, time, and place of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is being called, shall be provided to each shareholder entitled to vote at such meeting no fewer than ten (10) days nor more than two (2) months before the date of such meeting. In the case of special meetings of shareholders, the notice of meeting shall include the purpose or purposes for which the meeting is being called. Notice may be in writing, or oral if reasonable in the circumstance, and notice shall be deemed provided when received or, if mailed, when deposited in the United States mail addressed to the shareholder at his or her address as it appears in the Corporation's current record of shareholders, with first class postage affixed thereon. When a meeting is adjourned to another date, time, or place, it shall not be necessary to provide any notice of the adjourned meeting if the new date, time, or place to which the meeting is adjourned is announced at the meeting at which the adjournment is taken, and at the adjourned meeting any business may be transacted that might have been transacted at the original meeting. If after the adjournment, however, the Board of Directors fixes a new record date for the adjourned meeting pursuant to Section 8 of this Article II, a new notice of the adjourned meeting shall be provided.

Section 5. Waiver of Notice. A shareholder may waive in writing any notice required by these Bylaws, provided that the waiver must be signed by the shareholder entitled to the notice and must be delivered to the corporation for inclusion in the minutes or for filing with the corporate records. A shareholder's attendance at a meeting (i) waives objection to lack of notice or defective notice of the meeting unless the shareholder at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting and (ii) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

Section 6. Quorum and Voting. The holders of a majority of shares entitled to vote, whether present in person or represented by proxy, shall constitute a quorum. Once a share is represented for any purpose at a meeting, the holder of such share is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting, unless a new record date is or must be set for the adjourned meeting. A meeting may be adjourned despite the absence of a quorum. If a quorum exists, action on a matter, other than the election of directors, is approved by the shareholders if the votes cast favoring the action exceeds the votes cast opposing the action.

Section 7. Proxies. A shareholder may vote his or her shares in person or by proxy and may appoint a proxy to vote or otherwise act for him or her by signing a proxy or other appointment form, either personally or by his or her attorney-in-fact. An appointment of a proxy is effective when received by the Secretary or other officer or agent of the corporation authorized to tabulate votes. An appointment is valid for eleven (11) months unless another period is expressly provided in the proxy or other appointment form. An appointment of a proxy is revocable by the shareholder unless the proxy or other appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest, as provided in the Tennessee Business Corporation Act.

Section 8. Action Without a Meeting. Any action required or permitted to be taken at a meeting of the shareholders may be taken without a meeting. If all shareholders entitled to vote on the action consent to taking such action without a meeting, the affirmative vote of the number of shares that would be necessary to authorize or take such action at a meeting is the act of the shareholders. The action must be evidenced by one (1) or more written consents describing the action taken, signed by each shareholder entitled to vote on the action in one (1) or more counterparts, and indicating each shareholder's vote or abstention on the action, and such written consent or consents must be delivered to the corporation for inclusion in the minutes or for filing with the corporate records. A consent effected as provided in this section shall have the effect of a meeting vote and may be described as such in any document.

Section 9. Record Date. For the purpose of determining the shareholders entitled to notice of or entitled to vote at any meeting of shareholders, or for the purpose of determining the shareholders entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other purpose, the Board of Directors may fix a future date as the record date for such purpose, provided that such record date shall not be more than seventy (70) days before the meeting or action requiring a determination of shareholders. If no record date is fixed by the Board of Directors: (i) the record date shall be at the close of business on the day next preceding the day on which notice of the meeting is given, or, if notice is waived, at the close of business on the eleventh day next preceding the day on which such meeting is held; (ii) the record date for the determination of shareholders entitled to consent to an action in writing without a meeting shall be at the close of business on the eleventh day next preceding the date on which the first shareholder, being entitled so to do, signs such a consent; and (iii) the record date for the determination of shareholders for any other purpose shall be at the close of business on the date on which the Board of Directors adopts the resolution or resolutions relating thereto. A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the Board of Directors fixes a new record date, which it shall do if the meeting is adjourned to a date more than four (4) months after the date fixed for the original meeting.

Section 10. List of Shareholders. After a record date has been fixed for a meeting, the Secretary shall prepare or cause to be prepared a complete list of the shareholders entitled to notice of the meeting, arranged in alphabetical order by class of stock and series, if any, and showing the address of each shareholder and the number of shares registered in the name of the shareholder. The shareholders' list shall be available for inspection by any shareholder, beginning two (2) business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the Corporation's principal office or at the place identified in the meeting notice in the city where the meeting will be held. If the right to vote at any meeting is challenged, the person presiding may rely on such list as evidence of the right of the person challenged to vote at such meeting.

Section 11. Presiding Officer and Secretary. Meetings of the shareholders shall be presided over by the Chairman, or if the Chairman is not present or if the Corporation shall not have a Chairman, by the Chief Executive or the President, or if neither the Chairman, Chief Executive, President is present, by a chairman chosen by the Board of Directors. The Secretary or, in the Secretary's absence, an Assistant Secretary shall act as secretary of every meeting, but if neither the

Secretary nor an Assistant Secretary is present, a majority of the shareholders entitled to vote at such meeting shall choose any person present to act as secretary of the meeting.

Section 12. Notice of Nominations. Nominations for the election of directors may be made by the Board of Directors or a committee appointed by the Board of Directors authorized to make such nominations or by any shareholder entitled to vote in the election of directors generally. Any such shareholder nomination may be made, however, only if written notice of such nomination has been given, either by personal delivery or the United States mail, postage prepaid, to the Secretary of the Corporation not later than (a) with respect to an election to be held at an annual meeting of shareholders, one hundred twenty days (120) in advance of the anniversary date of the proxy statement for the previous year's annual meeting, and (b) with respect to an election to be held at a special meeting of shareholders for the election of directors called other than by written request of a shareholder, the close of business on the tenth (10th) day following the date on which notice of such meeting is first given to shareholders, and (c) in the case of a special meeting of shareholders duly called upon the written request of a shareholder to fill a vacancy or vacancies (then existing or proposed to be created by removal at such meeting), within ten business days of such written request. In the case of any nomination by the Board of Directors or a committee appointed by the Board of Directors authorized to make such nominations, compliance with the proxy rules of the Securities and Exchange Commission shall constitute compliance with the notice provisions of the preceding sentence.

In the case of any nomination by a shareholder, each such notice shall set forth: (a) as to each person whom the shareholder proposes to nominate for election or re-election as a director, (i) the name, age, business address, and residence address of such person, (ii) the principal occupation or employment of such person, (iii) the class and number of shares of the Corporation which are beneficially owned by such person, and (iv) any other information relating to such person that is required to be disclosed in solicitations of proxies with respect to nominees for election as directors, pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (including without limitation such person's written consent to being named in the proxy statement as a nominee and to serving as a director, if elected); and (b) as to the shareholder giving the notice (i) the name and address, as they appear on the Corporation's books, of such shareholder, and (ii) the class and number of shares of the Corporation which are beneficially owned by such shareholder; and (c) a description of all arrangements or understandings between the shareholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the shareholder. The presiding officer of the meeting may refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedure.

Section 13. Notice of New Business. At an annual meeting of the shareholders only such new business shall be conducted, and only such proposals shall be acted upon, as have been properly brought before the meeting. To be properly brought before the annual meeting such new business must be (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (b) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (c) otherwise properly brought before the meeting by a shareholder. For a proposal to be properly brought before an annual meeting by a shareholder, the shareholder must have given timely notice thereof in writing to the Secretary of the Corporation, and the proposal and

the shareholder must comply with Rule 14a-8 under the Securities Exchange Act of 1934. To be timely, a shareholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation within the time limits specified by Rule 14a-8.

A shareholder's notice to the Secretary shall set forth as to each matter the shareholder proposes to bring before the annual meeting (a) a brief description of the proposal desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (b) the name and address, as they appear on the Corporation's books, of the shareholder proposing such business, (c) the class and number of shares of the Corporation which are beneficially owned by the shareholder, and (d) any financial interest of the shareholder in such proposal.

Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at an annual meeting except in accordance with the procedures set forth in this Section 13. The presiding officer of the meeting shall, if the facts warrant, determine and declare to the meeting that new business or any shareholder proposal was not properly brought before the meeting in accordance with the provisions of this Section 13, and if he or she should so determine, he or she shall so declare to the meeting and any such business or proposal not properly brought before the meeting shall not be acted upon at the meeting. This provision shall not prevent the consideration and approval or disapproval at the annual meeting of reports of officers, directors and committees, but in connection with such reports, no new business shall be acted upon at such annual meeting unless stated and filed as herein provided.

Section 14. Conduct of Meetings. Meetings of the shareholders generally shall follow accepted rules of parliamentary procedure subject to the following:

(a) The presiding officer of the meeting shall have absolute authority over the matters of procedure, and there shall be no appeal from the ruling of the presiding officer. If, in his or her absolute discretion, the presiding officer deems it advisable to dispense with the rules of parliamentary procedure as to any meeting of shareholders or part thereof, he or she shall so state and shall state the rules under which the meeting or appropriate part thereof shall be conducted.

(b) If disorder should arise which prevents the continuation of the legitimate business of the meeting, the presiding officer may quit the chair and announce the adjournment of the meeting, and upon so doing, the meeting will immediately be adjourned.

(c) The presiding officer may ask or require that anyone not a bona fide shareholder or proxy leave the meeting.

(d) The resolution or motion shall be considered for vote only if proposed by a shareholder or a duly authorized proxy and seconded by a shareholder or duly authorized proxy other than the individual who proposed the resolution or motion.

(e) Except as the President, Chief Executive, or Chairman may permit, no matter shall be presented to the meeting which has not been submitted for inclusion in the agenda at least thirty (30) days prior to the meeting.

ARTICLE III

DIRECTORS

Section 1. Management. All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, the Board of Directors.

Section 2. Number. The number of directors of the corporation shall be as fixed from time to time by the Board of Directors.

Section 3. Election and Term of Office. A plurality of all the votes cast at a meeting of shareholders duly called and at which a quorum is present shall be sufficient to elect a Director. Each share may be voted for as many individuals as there are Directors to be elected and for whose election the share is entitled to be voted. Each director, including a director elected to fill a vacancy, shall hold office until the next annual meeting of shareholders and until his or her successor is elected and qualified, or until his or her earlier death, resignation, or removal.

Except as prohibited by law or by the Charter, any nominee for election as a Director at a meeting of shareholders duly called and at which a quorum is present, in an uncontested election, who receives a greater number of votes cast "withheld" for his or her election than "for" such election (a "Majority Withhold Vote") shall tender his or her resignation to the Board of Directors, or an applicable committee of the Board, for consideration following certification of such vote.

The Board of Directors shall promptly consider the resignation offer, and a range of possible responses based on any facts or circumstances it considers relevant. The independent Directors who did not receive a Majority Withhold Vote shall appoint a committee amongst themselves to consider the resignation offers and will make a determination on how to proceed within 90 days following certification of the stockholder vote. The Company will publicly disclose each such resignation and the related action taken by the Board of Directors.

The Board of Directors expects that any Director whose resignation is under consideration to abstain from participating in any decision regarding that resignation. However, if the only Directors who did not receive a Majority Withhold Vote in the same election constitute three or fewer Directors, all Directors may participate in the action regarding whether to accept the resignation offers.

An election will be deemed to be uncontested if no stockholder provides notice of an intention to nominate one or more candidates to compete with the Board of Directors' nominees in a Director election in the manner required by these Bylaws, or if any such shareholders have withdrawn all such nominations by the day before the mailing of notice of the meeting to shareholders.

A majority of the votes cast at a meeting of shareholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by statute or by the Charter. Notwithstanding the foregoing, unless otherwise provided by statute or by the Charter, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders.

Section 4. Resignation. Any director may resign at any time by delivering written notice to the Board of Directors, the Chairman of the Board, the Chief Executive, or the corporation. A resignation shall be effective when notice thereof is so delivered, unless the notice specifies a later effective date.

Section 5. Removal. One or more directors may be removed with or without cause by a vote of the shareholders or with cause by a vote of a majority of the number of directors then prescribed. A director may be removed only at a meeting called for the purpose, and the notice of the meeting must state that the purpose, or one (1) of the purposes, of the meeting is the removal of a director or directors.

Section 6. Annual and Other Regular Meetings. An annual meeting of the Board of Directors shall be held on the date of the annual meeting of shareholders, at the place of such annual meeting of shareholders. The Board of Directors may provide for the holding of other regular meetings of the Board of Directors, and may fix the dates, times, and places thereof.

Section 7. Special Meetings. A special meeting of the Board of Directors shall be held whenever called by the Chairman of the Board, the Chief Executive, or any three (3) directors, at such date, time, and place as may be specified by the person or persons calling the meeting.

Section 8. Notice. Notice of an annual or other regular meeting of the Board of Directors need not be provided. Notice stating the date, time, and place of any special meeting of the Board of Directors shall be provided to each director in writing, or it may be provided orally if reasonable in the circumstances, no fewer than two (2) days before such meeting. Notice shall be deemed provided when received or, if mailed, five (5) days after it is deposited in the United States mail addressed to the director at his or her address as it appears in the corporation's current record of directors, with first class postage affixed thereon. Notice of an adjourned meeting need not be given if the time and place to which such meeting is adjourned are fixed at the meeting at which the adjournment is taken and if the period of adjournment does not exceed one (1) month in any one (1) adjournment. At the adjourned meeting, the Board of Directors may transact any business that might have been transacted at the original meeting.

Section 9. Waiver of Notice. A director may waive in writing any notice required by these Bylaws, provided that the waiver must be signed by the director entitled to the notice and must be filed with the minutes or corporate records. A director's attendance at or participation in a meeting waives any required notice to him of the meeting unless the director at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 10. Quorum and Voting. A majority of the number of directors then in office shall constitute a quorum for the transaction of business, provided that at no time shall a quorum consist of fewer than one-third (1/3) of the number of directors then prescribed. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the Board of Directors. A director who is present at a meeting of the Board of Directors when corporate action is taken is deemed to have assented to the action taken unless: (i) the director objects at the beginning of the meeting (or promptly upon his or her arrival) to holding the meeting or transacting business at the meeting; (ii) the director's dissent or abstention from the action taken is entered in the minutes of the meeting; or (iii) the director delivers written notice of his or her dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Section 11. Telephone Meetings. Any or all directors may participate in a meeting of the Board of Directors by use of conference telephone or similar communications equipment by means of which all persons participating in the meeting may simultaneously hear each other during the meeting, and participation in such a meeting shall constitute presence in person at such a meeting.

Section 12. Action Without a Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting. If all directors consent to taking such action without a meeting, the affirmative vote of the number of directors that would be necessary to authorize or take such action at a meeting is the act of the Board of Directors. The action must be evidenced by one (1) or more written consents describing the action taken, signed by each director in one (1) or more counterparts, and indicating each director's vote or abstention on the action, and such written consent or consents shall be included in the minutes or filed with the corporate records reflecting the action taken. Any action taken under this section shall be effective when the last director signs the consent, unless the consent specifies a different effective date. A consent effected as provided in this section shall have the effect of a meeting vote and may be described as such in any document.

Section 13. Committees. Unless the Charter otherwise provides, the Board of Directors may create one (1) or more committees, each consisting of one (1) or more members. All members of committees of the Board of Directors which exercise powers of the Board of Directors must be members of the Board of Directors and serve at the pleasure of the Board of Directors.

The creation of a committee and appointment of a member or members to it must be approved by the greater of (i) a majority of all directors in office when the action is taken or (ii) the number of directors required by the Charter or these Bylaws to take action.

Unless otherwise provided in the Act, to the extent specified by the Board of Directors or in the Charter, each committee may exercise the authority of the Board of Directors. All such committees and their members shall be governed by the same statutory requirements regarding meetings, action without meetings, notice and waiver of notice, quorum and voting requirements as are applicable to the Board of Directors and its members.

Section 14. Reliance Upon Information, Opinions, Reports, or Statements. To the full extent allowed by law, a director shall be, in the performance of his or her duties, protected in relying in good faith upon information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by (i) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented; (ii) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or (iii) a committee of the Board of Directors of which he or she is not a member if the director reasonably believes the committee merits confidence.

ARTICLE IV

OFFICERS

Section 1. General. The corporation shall have a President and a Secretary, and may have a Chairman of the Board, a Chief Executive, one or more Vice Presidents, a Treasurer, and such other officers as may from time to time be deemed advisable by the Board of Directors, the Chairman of the Board, or the President. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary. The Chairman of the Board, the Chief Executive, the President, any Vice President, the Secretary, and the Treasurer shall be appointed by the Board of Directors. Each other officer may be appointed by the Board of Directors, the Chairman of the Board, or the President. Each officer shall hold office until the meeting of the Board of Directors following the next annual meeting of shareholders and until his or her successor has been appointed and qualified, or until his or her earlier death, resignation, or removal. The Chairman of the Board must be a director of the corporation. Any other officer may be, but is not required to be, a director of the corporation. Each officer shall have the authority and perform the duties set forth in these Bylaws or, to the extent consistent with these Bylaws, the duties prescribed by the Board of Directors or prescribed by an officer authorized by the Board of Directors to prescribe the duties of other officers.

Section 2. Resignation. Any officer may resign at any time by delivering notice to the corporation. A resignation shall be effective when notice thereof is so delivered, unless the notice specifies a later effective date.

Section 3. Removal. The Board of Directors may remove any officer at any time with or without cause, and any officer appointed by another officer may be removed likewise by such other officer.

Section 4. Vacancies. Any vacancy occurring in any office for any reason may be filled by the Board of Directors or by an officer having the power of appointment with respect to the office in question.

Section 5. Reliance Upon Information, Opinions, Reports, or Statements. To the full extent allowed by law, an officer shall be, in the performance of his or her duties, protected in relying in

good faith upon information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by (i) one or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented; or (ii) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

Section 6. Chairman of the Board. The Chairman of the Board, when present, shall preside at all meetings of the Board of Directors. The Chairman of the Board shall also perform such other duties and have such other powers as the Board of Directors shall from time to time prescribe.

Section 7. Chief Executive. The Chief Executive shall exercise general supervision over the management of the business and affairs of the corporation and shall perform such other duties and have such other powers as the Board of Directors shall from time to time prescribe. In the absence of the Chairman of the Board or in the event of his or her inability or refusal to act, the Chief Executive may perform the duties of the Chairman of the Board, and when so acting shall have all the powers of and be subject to all the restrictions upon the Chairman of the Board.

Section 8. President and Vice Presidents. The President shall perform such duties and have such powers as the Board of Directors shall from time to time prescribe. In the absence of the President or in the event of his or her inability or refusal to act, the Vice President, or in the event there is more than one Vice President, the Vice Presidents in the order designated, or in the absence of any designation, then in the order of their appointment, may perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. Each Vice President shall also perform such other duties and have such other powers as the Board of Directors or the President may from time to time prescribe.

Section 9. Secretary and Assistant Secretaries. The Secretary shall, when possible, attend all meetings of the shareholders and all meetings of the Board of Directors, shall prepare or supervise the preparation of minutes of the proceedings of the shareholders, the Board of Directors, and the Executive Committee and other committees, and shall keep such minutes, along with all written consents to action without a meeting, in a book or books devoted to that purpose. The Secretary shall be the officer primarily responsible for authenticating records of the corporation. The Secretary shall keep a record of the shareholders of the corporation, arranged alphabetically for class and series, if any, giving the names and addresses of all shareholders and the number of shares held by each, and shall cause such a list as of the appropriate record date to be open for inspection prior to and at any meeting of shareholders, as provided in Section 10 of Article II. The Secretary shall give, or cause to be given, notice of meetings of the shareholders and special meetings of the Board of Directors. The Secretary shall also perform such other duties as are generally performed by a secretary of a corporation and, in addition, shall perform such other duties and have such other powers as the Board of Directors or the President, or the Chairman of the Board if he or she is the Chief Executive, may from time to time prescribe. Any Assistant Secretary may, in the absence of the Secretary or in the event of his or her inability or refusal to act, perform the duties of the Secretary, and when so acting shall have all the powers of and be subject to all the restrictions upon the Secretary. Each Assistant Secretary shall also perform such other duties and have such other

powers as the Board of Directors, the Chief Executive, the Secretary, or the Chairman of the Board if he or she is the Chief Executive, may from time to time prescribe.

Section 10. Treasurer and Assistant Treasurers. The Treasurer shall have custody of the corporation's funds and securities, shall keep or cause to be kept full and accurate accounts of receipts and disbursements, and shall deposit all monies and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the corporation as ordered by the Board of Directors or by an officer authorized by the Board of Directors so to order, taking proper vouchers for such disbursements, and shall render to the Board of Directors, the Chairman of the Board, and the Chief Executive an account of all his or her transactions as Treasurer and of the financial condition of the corporation. The Treasurer shall also perform such other duties as are generally performed by a treasurer of a corporation and, in addition, shall perform such other duties and have such other powers as the Board of Directors or the Chief Executive, or the Chairman of the Board if he or she is the chief executive officer, may from time to time prescribe. Any Assistant Treasurer may, in the absence of the Treasurer or in the event of his or her inability or refusal to act, perform the duties of the Treasurer, and when so acting shall have all the powers of and be subject to all the restrictions upon the Treasurer. Each Assistant Treasurer shall also perform such other duties and have such other powers as the Board of Directors, the Chief Executive, the Treasurer, or the Chairman of the Board may from time to time prescribe.

ARTICLE V

SHARES OF STOCK

Section 1. Certificates. Unless the Board of Directors authorizes the issuance of some or all of the shares of the corporation as uncertificated shares, the shares of the corporation shall be represented by certificates signed on behalf of the corporation by the Chairman of the Board, the Chief Executive, or the President and by the Treasurer, an Assistant Treasurer, the Secretary, or an Assistant Secretary. The certificates shall be in such form as shall be approved by the Board of Directors and shall be numbered and registered in the order issued. Each certificate shall include, as a minimum, the name of the corporation and that the corporation is organized under the laws of the State of Tennessee, the name of the person to whom issued, and the number and class of shares and the designation of the series, if any, the certificate represents.

Section 2. Lost, Destroyed, or Stolen Certificates. The corporation may issue a new certificate in the place of any certificate previously issued and alleged to have been lost, destroyed, or stolen, on production of such evidence of loss, destruction, or theft as the Board of Directors may require. The Board of Directors may require the owner of such lost, destroyed, or stolen certificate, or his or her legal representative, to provide to the corporation a bond in such sum as the Board of Directors may direct, and with such surety or sureties as may be satisfactory to the Board of Directors, to indemnify the corporation against any claims, loss, liability, or damage it may suffer on account of issuing a new certificate.

Section 3. Transfers of Shares. Transfers of shares of the corporation shall be made on the stock transfer books of the corporation only as permitted in this section and only by the holder of record thereof, or by his or her duly authorized attorney, upon surrender for cancellation of the certificate or certificates representing such shares, with an assignment or power of transfer endorsed thereon or delivered therewith, duly executed with such proof of the authenticity of the signature and of authority to transfer as the corporation may require. The corporation shall be entitled to treat the holder of record of any share or shares as the absolute owner thereof for all purposes and, accordingly, shall not be bound to recognize any legal, equitable, or other claim to, or interest in, such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by law.

ARTICLE VI

TRANSACTIONS IN WHICH A DIRECTOR OR OFFICER HAS AN INTEREST

No transaction in which a director or officer has a direct or indirect interest shall be voidable solely for this reason, provided that (i) the material facts of the transaction and of the director's or officer's interest were disclosed or known to the Board of Directors or a committee of the Board of Directors, and the Board of Directors or such committee authorized, approved, or ratified the transaction by the affirmative vote of a majority of the directors on the Board of Directors, or on such committee, who had no direct or indirect interest in the transaction, except that such a transaction may not be authorized, approved, or ratified by a single director; (ii) the material facts of the transaction and of the director's or officer's interest were disclosed or known to the shareholders entitled to vote on the transaction, and the shareholders authorized, approved, or ratified the transaction; or (iii) the transaction was fair to the corporation. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action.

ARTICLE VII

INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS

Section 1. General. The Board of Directors may indemnify any person authorized by the Tennessee Business Corporation Act, as amended, in the manner and to the extent set forth therein.

Section 2. Insurance. The corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the corporation, or who, while a director, officer, employee, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against any liability asserted against him or incurred by him in any such capacity or arising from his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this Article VII.

ARTICLE VIII

FISCAL YEAR

The fiscal year of the corporation shall be fixed by the Board of Directors from time to time.

ARTICLE IX

CORPORATE SEAL

The corporate seal, if any, shall be in such form as shall be approved from time to time by the Board of Directors.

ARTICLE X

AMENDMENTS

These Bylaws may be amended or repealed, and new Bylaws may be adopted, by the Board of Directors or the shareholders, but no such action may be taken at any annual or special meeting of shareholders unless notice of such action is contained in the notice of such meeting.

EXHIBIT 4.2

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. SUCH SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT COVERING SUCH SECURITIES UNDER THE SECURITIES ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED.

Warrant No. W — 1
Date of Issuance: October 21, 2003

Number of Shares — 25,000
(subject to adjustment)

WARRANT TO PURCHASE
COMMON STOCK OF
CUMBERLAND PHARMACEUTICALS, INC.
(Void after October 21, 2013)

THIS WARRANT TO PURCHASE COMMON STOCK OF CUMBERLAND PHARMACEUTICALS, INC. (the "Warrant") is issued as of this 21st day of October, 2003, by CUMBERLAND PHARMACEUTICALS, INC., a Tennessee corporation (the "Company"), having a place of business at 2525 West End Avenue, Suite 950, Nashville, Tennessee 37203, to BANK OF AMERICA, N.A., a national banking association (Bank of America, N.A. and any subsequent assignee or transferee hereof are hereinafter referred to collectively as the "Holder").

AGREEMENT:

For and in consideration of the Holder making available to the Company a revolving credit facility in the maximum principal amount of Three Million Five Hundred Thousand and No/100ths Dollars ($3,500,000.00) (the "Loan") pursuant to the terms of an Amended and Restated Promissory Note of even date herewith in the aforesaid amount (together with any and all extensions, modifications, replacements and renewals thereof, the "Note") and an Amended and Restated Loan Agreement of even date herewith (as amended, supplemented or otherwise modified from time to time, the "Loan Agreement"; any capitalized terms used but not otherwise defined herein shall have the same meanings as in the Loan Agreement), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company hereby grants to the Holder the right to purchase from the Company at a per share price equal to $12.00 (the "Exercise Price"), 25,000 shares of the Company's common stock, $0 par value per share (the "Common Stock"), at any time or from time to time, from October 21, 2003 up to and including 5:00 p.m. (Central time) on October 21, 2013 (the "Expiration Date"), upon surrender to the Company at its principal office (or at such other location as the Company may advise the Holder in writing) of this Warrant properly endorsed with the Notice of Exercise attached hereto as Exhibit A, duly completed and signed and, if applicable, upon payment in cash or by check acceptable to the Company of the aggregate Exercise Price for the number of shares for which this Warrant is being exercised determined in accordance with the provisions hereof. The Exercise Price and the number of shares purchasable hereunder are subject to adjustment as provided in Section 3 of this Warrant.

This Warrant is subject to the following terms and conditions:

1. Exercise; Issuance of Certificates; Payment for Shares.

1.1 General. Subject to the terms of Section 1.3 below, this Warrant is exercisable at the option of the Holder, at any time or from time to time, from the date of the issuance of this Warrant up to the Expiration Date, for all or any part of the shares of Common Stock (but not for a fraction of a share) that may be purchased hereunder. The Company agrees that the shares of Common Stock purchased under this Warrant shall be and are deemed to be issued to the Holder as the record owner of such shares as of the close of business on the date on which this Warrant shall have been surrendered to the Company, properly endorsed, the completed, executed Form of Subscription shall have been delivered and any required payment made for such shares. Certificates for the shares of Common Stock so purchased, together with any other securities or property to which the Holder is entitled upon such exercise, shall be delivered to the Holder by the Company at the Company's expense within a reasonable time after the rights represented by this Warrant have been so exercised. In case of a purchase of less than all of the shares that may be purchased under this Warrant, the Company shall cancel this Warrant and execute and deliver a new Warrant or Warrants of like tenor for the balance of the shares purchasable under the Warrant surrendered upon such purchase to the Holder within a reasonable time. Each stock certificate so delivered shall be in such denominations of Common Stock as may be requested by the Holder and shall be registered in the name of such Holder.

1.2 Net Issue Exercise. Notwithstanding any provisions herein to the contrary, if the Fair Market Value of one share of the Company's Common Stock is greater than the Exercise Price (at the date of calculation as set forth below), in lieu of exercising this Warrant for cash, the Holder may elect to receive shares equal to the value (as determined below) of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with the properly endorsed Form of Subscription and notice of such election in which event the Company shall issue to the Holder a number of shares of Common Stock computed using the following formula:

$$X = \frac{Y\,(A-B)}{A}$$

Where X = the number of shares of Common Stock to be issued to the Holder

Y = the number of shares of Common Stock purchasable under the Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant being canceled (at the date of such calculation)

A = the Fair Market Value of one share of the Company's Common Stock (at the date of such calculation)

B = Exercise Price (as adjusted to the date of such calculation)

The "Fair Market Value" of a share of Common Stock as of a particular date shall mean: (a) if there is an active public market for the Company's Common Stock at the time of such exercise, the fair market value per share shall be the average of the closing prices of the Common Stock of the Company over the five (5) trading days ending immediately prior to the applicable date of valuation if traded on a securities exchange or the Nasdaq National Market; or, if actively

traded over-the-counter, the average of the closing bid prices over the 30-day period ending immediately prior to the applicable date of valuation, whichever is applicable; or (b) if there is no active public market for the Company's Common Stock at the time of such exercise, the Fair Market Value shall be the value thereof as determined in good faith by the board of directors of the Company (the "Determination"). The board of directors shall provide to the Holder a written notice of the Determination which notice shall set forth supporting data in respect of such calculation (the "Determination Notice"). Holder shall have 10 days following receipt of the Determination Notice within which to deliver to the Company a written notice of an objection, if any, to the Determination. The failure by Holder to deliver such notice within such 10-day period shall constitute the Holder's acceptance of the Determination as conclusive. In the event of the timely delivery by Holder of its objection notice, the Company and the Holder shall attempt in good faith to arrive at an agreement with respect to the Fair Market Value of a share of Common Stock of the Company, which agreement shall be set forth in writing within 15 days following delivery of such objection notice by Holder. If the Company and the Holder are unable to reach an agreement within such 15-day period, the matter shall be promptly referred for determination to a regionally or nationally recognized investment banking or valuation firm (the "Valuer") reasonably acceptable to the Company and the Holder. The Company and the Holder will cooperate with each other in good faith to select such Valuer. The Valuer may select the Determination or may select any other number or value. The Valuer's selection will be furnished to the Company and the Holder in writing and be conclusive and binding upon the parties and shall not be subject to collateral attack. The fees and expenses of the Valuer shall be borne by the Company unless the Valuer's determination of Fair Market Value per share of the Company's Common Stock is within 10% of the Determination, in which case the Valuer's fees and expenses shall be borne by the Holder.

Notwithstanding the foregoing, in the event the Warrant is exercised in connection with the Company's initial public offering of Common Stock, the fair market value per share shall be the per share offering price to the public of the Company's initial public offering.

1.3 Vesting. Notwithstanding anything to the contrary contained herein, the Holder may exercise its right to purchase up to 12,500 shares of the Common Stock, or any portion thereof, at any time or from time to time from the date of the issuance of this Warrant up to the Expiration Date. With respect to the remaining 12,500 shares of Common Stock, the Holder's right to purchase all or any portion of such shares shall be deemed to vest hereunder in the event that, and at such time as, the Company fails to achieve a Successful CeraLyte® Launch.

2. Shares to be Fully Paid; Reservation of Shares. The Company covenants and agrees that all shares of Common Stock that may be issued upon the exercise of the rights represented by this Warrant will, upon issuance, be duly authorized, validly issued, fully paid and nonassessable and free from all preemptive rights of any stockholder and free of all taxes, liens and charges with respect to the issuance thereof. The Company further covenants and agrees that during the period within which the rights represented by this Warrant may be exercised, the Company will at all times have authorized and reserved, for the purpose of issue or transfer upon exercise of the subscription rights evidenced by this Warrant, a sufficient number of shares of authorized but unissued Common Stock, or other securities and property, when and as required to provide for the exercise of the rights represented by this Warrant. The Company will take all such action as may be necessary to assure that such shares of Common Stock may

be issued as provided herein without violation of any applicable law or regulation, or of any requirements of any domestic securities exchange upon which the Common Stock may be listed; provided, however, that the Company shall not be required to effect a registration under federal or state securities laws with respect to such exercise. The Company will not take any action which would result in any adjustment of the Exercise Price (as set forth in Section 3 hereof) if the total number of shares of Common Stock issuable after such action upon exercise of all outstanding warrants, together with all shares of Common Stock then outstanding and all shares of Common Stock then issuable upon exercise of all options and upon the conversion of all convertible securities then outstanding, would exceed the total number of shares of Common Stock then authorized by the Company's charter, as amended.

3. Adjustment of Exercise Price and Number of Shares. The Exercise Price and the number of shares purchasable upon the exercise of this Warrant shall be subject to adjustment from time to time upon the occurrence of certain events described in this Section 3. Upon each adjustment to the Exercise Price, the Holder shall thereafter be entitled to purchase, at the Exercise Price resulting from such adjustment, the number of shares obtained by multiplying the Exercise Price in effect immediately prior to such adjustment by the number of shares purchasable pursuant hereto immediately prior to such adjustment, and dividing the product thereof by the Exercise Price resulting from such adjustment.

3.1 Subdivision or Combination of Stock. In case the Company shall at any time subdivide its outstanding shares of Common Stock into a greater number of shares, the Exercise Price in effect immediately prior to such subdivision shall be proportionately reduced, and conversely, in case the outstanding shares of Common Stock of the Company shall be combined into a smaller number of shares, the Exercise Price in effect immediately prior to such combination shall be proportionately increased.

3.2 Dividends in Common Stock, Other Stock, Property, Reclassification. If at any time or from time to time the holders of Common Stock shall have received or become entitled to receive, without further payment therefor,

(a) Common Stock or any shares of stock or other securities that are at any time directly or indirectly convertible into or exchangeable for Common Stock, or any rights or options to subscribe for, purchase or otherwise acquire any of the foregoing by way of dividend or other distribution,

(b) any cash paid or payable otherwise than as a cash dividend, or

(c) Common Stock or additional stock or other securities or property (including cash) by way of spinoff, split-up, reclassification, combination of shares or similar corporate rearrangement (other than shares of Common Stock issued as a stock split or adjustments in respect of which shall be covered by the terms of Section 3.1 above), then and in each such case, the Holder shall, upon the exercise of this Warrant, be entitled to receive, in addition to the number of shares of Common Stock receivable thereupon, and without payment of any additional consideration therefor, the amount of stock and other securities and property (including cash in the cases referred to in clause (b) above and this clause (c)) that Holder would hold on the date of such exercise had Holder been the holder of record of such Common Stock as of the date on which holders of Common Stock received or became entitled to receive such

shares or all other additional stock and other securities and property.

3.3 Reorganization, Reclassification, Consolidation, Merger or Sale. If any recapitalization, reclassification or reorganization of the capital stock of the Company, or any consolidation or merger of the Company with another company, or the sale of all or substantially all of its assets or other transaction shall be effected in such a way that holders of Common Stock shall be entitled to receive stock, securities or other assets or property (an "Organic Change"), then, as a condition of such Organic Change, lawful and adequate provisions shall be made by the Company whereby the Holder thereafter shall have the right to purchase and receive (in lieu of the shares of the Common Stock of the Company immediately theretofore purchasable and receivable upon the exercise of the rights represented hereby) such shares of stock, securities or other assets as may be issued or payable with respect to or in exchange for a number of outstanding shares of such Common Stock equal to the number of shares of such stock immediately theretofore purchasable and receivable upon the exercise of the rights represented hereby. In the event of any Organic Change, appropriate provision shall be made by the Company with respect to the rights and interests of the Holder to the end that the provisions hereof (including, without limitation, provisions for adjustments of the Exercise Price and of the number of shares purchasable and receivable upon the exercise of this Warrant) shall thereafter be applicable, in relation to any shares of stock, securities or assets thereafter deliverable upon the exercise hereof. The Company will not effect any such Organic Change unless, prior to the consummation thereof, the successor company (if other than the Company) resulting from such consolidation or the company purchasing such assets shall assume by written instrument reasonably satisfactory in form and substance to the Holder, executed and mailed or delivered to the registered Holder at the last address of such Holder appearing on the books of the Company, the obligation to deliver to such Holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such Holder may be entitled to purchase.

3.4 Certain Events. If any change in the outstanding Common Stock of the Company or any other event occurs as to which the other provisions of this Section 3 are not strictly applicable or if strictly applicable would not fairly protect the purchase rights of the Holder of the Warrant in accordance with such provisions, then the Board of Directors of this Company shall make an adjustment in the number and class of shares available under the Warrant, the Exercise Price or the application of such provisions, so as to protect such purchase rights as aforesaid. The adjustment shall be such as will give the Holder, upon exercise for the same aggregate Exercise Price, the total number, class and kind of shares as the Holder would have owned had the Warrant been exercised prior to the event and had the Holder continued to hold such Common Stock until after the event requiring adjustment.

4. Issue Tax. The issuance of certificates for shares of Common Stock upon the exercise of the Warrant shall be made without charge to the Holder for any issue tax (other than any applicable income taxes) in respect thereof; provided, however, that the Company shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the then Holder of the Warrant being exercised.

5. Closing of Books. The Company will at no time close its transfer books against the transfer of any warrant or of any shares of Common Stock issued or issuable upon the exercise of any warrant in any manner which interferes with the timely exercise of this Warrant.

6. No Voting or Dividend Rights; Limitation of Liability. Nothing contained in this Warrant shall be construed as conferring upon the Holder the right to vote or to consent or to receive notice as a stockholder of the Company or any other matters or any rights whatsoever as a stockholder of the Company. Except as set forth in Section 3.2 hereof, no dividends or interest shall be payable or accrued in respect of this Warrant or the interest represented hereby or the shares purchasable hereunder until, and only to the extent that, this Warrant shall have been exercised. No provisions hereof, in the absence of affirmative action by the Holder to purchase shares of Common Stock, and no mere enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of such Holder for the Exercise Price or as a stockholder of the Company, whether such liability is asserted by the Company or by its creditors.

7. Rights and Obligations Survive Exercise of Warrant. The rights and obligations of the Company, of the Holder and of the holder of shares of Common Stock (or other shares of stock, securities or assets) issued upon exercise of this Warrant shall survive the exercise of this Warrant.

8. Amendments.

(a) Any term of this Warrant may be amended with the written consent of the Company and the Holder. Any amendment effected in accordance with this Section 8 shall be binding upon the existing and each future holder and the Company.

(b) No waivers of, or exceptions to, any term, condition or provision of this Warrant, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such term, condition or provision.

9. Notices.

(a) Whenever the Exercise Price or number of shares purchasable hereunder shall be adjusted pursuant to Section 3 hereof, the Company shall issue a certificate signed by its Chief Financial Officer setting forth, in reasonable detail, the event requiring the adjustment, the amount of the adjustment, the method by which such adjustment was calculated and the Exercise Price and number of shares purchasable hereunder after giving effect to such adjustment, and shall cause a copy of such certificate to be mailed (by first-class mail, postage prepaid) to the Holder.

(b) In case:

(i) the Company shall take a record of the holders of its Common Stock (or other stock or securities at the time receivable upon the exercise of this Warrant) for the purpose of entitling them to receive any dividend or other distribution, or any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(ii) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or

merger of the Company with or into another company, or any conveyance of all or substantially all of the assets of the Company to another company, or

(iii) of any voluntary dissolution, liquidation or winding-up of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Holder or Holders a notice specifying, as the case may be, (A) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (B) the date on which such reorganization, reclassification, consolidation, merger, conveyance, dissolution, liquidation or winding-up is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such stock or securities at the time receivable upon the exercise of this Warrant) shall be entitled to exchange their shares of Common Stock (or such other stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, conveyance, dissolution, liquidation or winding-up. Such notice shall be mailed at least 15 days prior to the date therein specified.

(c) Any notice, request or other document required or permitted to be given or delivered to the Holder or the Company shall be delivered or shall be sent by certified mail, postage prepaid, to the Holder at its address as shown on the books of the Company or to the Company at the address indicated therefor in the first paragraph of this Warrant or such other address as either may from time to time provide to the other. Any notice, request or other document required or permitted to be given or delivered pursuant to this Warrant shall be deemed effectively given: (i) upon personal delivery to the party to be notified; (iii) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt.

11. Binding Effect on Successors. This Warrant shall be binding upon any company succeeding the Company by merger, consolidation or acquisition of all or substantially all of the Company's assets. All of the obligations of the Company relating to the Common Stock issuable upon the exercise of this Warrant shall survive the exercise and termination of this Warrant. This Warrant and all rights hereunder may be transferred or assigned, in whole or in part, to any person or business entity upon surrender of this Warrant at the principal office of the Company, accompanied by an Assignment Form attached hereto as Exhibit B, duly completed and signed. Upon surrender of' this Warrant and receipt of the Assignment Form, the Company, at its expense, shall issue to or on the order of the new Holder a new warrant or warrants of like tenor in accordance with the Assignment Form.

12. Descriptive Headings. The description headings of the several sections and paragraphs of this Warrant are inserted for convenience only and do not constitute a part of this Warrant.

13. Governing Law. This Warrant shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of Tennessee.

14. Replacement Warrants. The Company represents and warrants to the Holder that upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of any such loss, theft or destruction, upon receipt of an indemnity reasonably satisfactory to the Company, or in the case of any such mutilation, upon surrender and cancellation of such Warrant, the Company, at its expense, will execute and deliver a new Warrant, of like tenor, in lieu of the lost, stolen, destroyed or mutilated Warrant.

15. Fractional Shares. No fractional shares shall be issued upon exercise of this Warrant. The Company shall, in lieu of issuing any fractional share, pay the Holder entitled to such fraction a sum in cash equal to such fraction multiplied by the Fair Market Value of a share of Common Stock.

16. Equity Participation. This Warrant and the rights of the Holder hereunder are intended to constitute an "equity participation" for purposes of Title 47, Chapter 24, Tennessee Code Annotated, and the consideration or value received by the Holder in respect of this Warrant shall not be deemed to be interest, loan charges, commitment fees or brokerage commissions for purposes of Title 47, Chapter 14, Tennessee Code Annotated.

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by its officers, thereunto duly authorized this 21st day of October, 2003.

CUMBERLAND PHARMACEUTICALS, INC.

By: /s/ A.J. Kazimi
Name: A.J. Kazimi
Title: Chief Executive & President

EXHIBIT A

NOTICE OF EXERCISE

To: Cumberland Pharmaceuticals, Inc.

? The undersigned hereby elects to exercise the attached Warrant and to purchase thereunder _____ shares of Common Stock at a purchase price of _____ Dollars ($_____) per Share or an aggregate purchase price of ___Dollars ($___). Pursuant to the terms of the Warrant, the undersigned has delivered the purchase price herewith in full.

? The undersigned hereby elects to convert _____ percent (_____%) of the value of the Warrant pursuant to the provisions of Section 1.2 of the Warrant.

Please issue a certificate or certificates representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below:

_____
(Name)

_____
(Name)

Please issue a new Warrant for the unexercised portion of the attached Warrant, if applicable, in the name of the undersigned or in such other name as is specified below:

_____
(Name)

_____
(Name)

_____ _____
(Date) (Signature)

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, the undersigned registered owner of the attached Warrant hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of the security covered thereby set forth below, unto:

Name of Assignee	*Address*	*No. of Shares*

(Date)

(Signature)

EXHIBIT 4.4

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. SUCH SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT COVERING SUCH SECURITIES UNDER THE SECURITIES ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED.

Warrant No. W — 3
Date of Issuance: April 6, 2006

Number of Shares — 1,979
(subject to adjustment)

WARRANT TO PURCHASE
COMMON STOCK OF
CUMBERLAND PHARMACEUTICALS, INC.
(Void after April 6, 2016)

THIS WARRANT TO PURCHASE COMMON STOCK OF CUMBERLAND PHARMACEUTICALS, INC. (the "Warrant") is issued as of this 6th day of April, 2006, by CUMBERLAND PHARMACEUTICALS, INC., a Tennessee corporation, having a place of business at 2525 West End Avenue, Suite 950, Nashville, Tennessee 37203 (the "Company"), to BANK OF AMERICA, N.A., a national banking association (Bank of America, N.A. and any subsequent assignee or transferee hereof are hereinafter referred to collectively as the "Holder").

AGREEMENT:

For and in consideration of the Holder making available to the Company (i) a revolving credit facility in the maximum principal amount of Four Million and No/100ths Dollars ($4,000,000.00) (the "Line of Credit") and (ii) a term loan facility in the original principal amount of Five Million Five Hundred Thousand and No/100ths Dollars ($5,500,000) (the "Term Loan" and together with the "Line of Credit", the "Loans") pursuant to the terms of (i) a Fourth Amended and Restated Promissory Note (Revolving) of even date herewith in the maximum principal amount of Four Million and No/100ths Dollars ($4,000,000) (together with any and all extensions, modifications, replacements and renewals thereof, the "Line of Credit Note"), (ii) Secured Term Promissory Note of even date herewith in the original principal amount of Five Million Five Hundred Thousand and No/100ths Dollars ($5,500,000) (together with any and all extensions, modifications, replacements and renewals thereof, the "Term Note"; and together with the Line of Credit Note, the "Notes") and (iii) a Second Amended and Restated Loan Agreement of even date herewith (as amended, supplemented or otherwise modified from time to time, the "Loan Agreement"; any capitalized terms used but not otherwise defined herein shall have the same meanings as in the Loan Agreement), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company hereby grants to the Holder the right to purchase from the Company at a per share price equal to $18.00 (the "Exercise Price"), 1,979 shares of the Company's common stock, $0 par value per share (the "Common Stock"), at any time or from time to time, from April 6, 2006 up to and including 5:00 p.m. (Central time) on April 6, 2016 (the "Expiration Date"), upon surrender to the Company at its principal office (or at such other location as the Company may advise the Holder in writing) of this Warrant properly endorsed with the Notice of Exercise attached hereto as Exhibit A, duly

completed and signed and, if applicable, upon payment in cash or by check acceptable to the Company of the aggregate Exercise Price for the number of shares for which this Warrant is being exercised determined in accordance with the provisions hereof. The Exercise Price and the number of shares purchasable hereunder are subject to adjustment as provided in Section 3 of this Warrant.

This Warrant is subject to the following terms and conditions:

1. Exercise; Issuance of Certificates; Payment for Shares.

1.1 General. This Warrant is exercisable at the option of the Holder, at any time or from time to time, from the date of the issuance of this Warrant up to the Expiration Date, for all or any part of the shares of Common Stock (but not for a fraction of a share) that maybe purchased hereunder. The Company agrees that the shares of Common Stock purchased under this Warrant shall be and are deemed to be issued to the Holder as the record owner of such shares as of the close of business on the date on which this Warrant shall have been surrendered to the Company, properly endorsed, the completed, executed Form of Subscription shall have been delivered and any required payment made for such shares. Certificates for the shares of Common Stock so purchased, together with any other securities or property to which the Holder is entitled upon such exercise, shall be delivered to the Holder by the Company at the Company's expense within a reasonable time after the rights represented by this Warrant have been so exercised. In case of a purchase of less than all of the shares that may be purchased under this Warrant, the Company shall cancel this Warrant and execute and deliver a new Warrant or Warrants of like tenor for the balance of the shares purchasable under the Warrant surrendered upon such purchase to the Holder within a reasonable time. Each stock certificate so delivered shall be in such denominations of Common Stock as may be requested by the Holder and shall be registered in the name of such Holder.

1.2 Net Issue Exercise. Notwithstanding any provisions herein to the contrary, if the Fair Market Value of one share of the Company's Common Stock is greater than the Exercise Price (at the date of calculation as set forth below), in lieu of exercising this Warrant for cash, the Holder may elect to receive shares equal to the value (as determined below) of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with the properly endorsed Form of Subscription and notice of such election in which event the Company shall issue to the Holder a number of shares of Common Stock computed using the following formula:

$$X = \frac{Y(A-B)}{A}$$

Where X = the number of shares of Common Stock to be issued to the Holder

Y = the number of shares of Common Stock purchasable under the Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant being canceled (at the date of such calculation)

A = the Fair Market Value of one share of the Company's Common Stock (at the date of such calculation)

B = Exercise Price (as adjusted to the date of such calculation)

The "Fair Market Value" of a share of Common Stock as of a particular date shall mean: (a) if there is an active public market for the Company's Common Stock at the time of such exercise, the fair market value per share shall be the average of the closing prices of the Common Stock of the Company over the five (5) trading days ending immediately prior to the applicable date of valuation if traded on a securities exchange or the Nasdaq National Market; or, if actively traded over-the-counter, the average of the closing bid prices over the 30-day period ending immediately prior to the applicable date of valuation, whichever is applicable; or (b) if there is no active public market for the Company's Common Stock at the time of such exercise, the Fair Market Value shall be the value thereof as determined in good faith by the board of directors of the Company (the "Determination"). The board of directors shall provide to the Holder a written notice of the Determination which notice shall set forth supporting data in respect of such calculation (the "Determination Notice"). Holder shall have 10 days following receipt of the Determination Notice within which to deliver to the Company a written notice of an objection, if any, to the Determination. The failure by Holder to deliver such notice within such 10-day period shall constitute the Holder's acceptance of the Determination as conclusive. In the event of the timely delivery by Holder of its objection notice, the Company and the Holder shall attempt in good faith to arrive at an agreement with respect to the Fair Market Value of a share of Common Stock of the Company, which agreement shall be set forth in writing within 15 days following delivery of such objection notice by Holder. If the Company and the Holder are unable to reach an agreement within such 15-day period, the matter shall be promptly referred for determination to a regionally or nationally recognized investment banking or valuation firm (the "Valuer") reasonably acceptable to the Company and the Holder. The Company and the Holder will cooperate with each other in good faith to select such Valuer. The Valuer may select the Determination or may select any other number or value. The Valuer's selection will be furnished to the Company and the Holder in writing and be conclusive and binding upon the parties and shall not be subject to collateral attack. The fees and expenses of the Valuer shall be borne by the Company unless the Valuer's determination of Fair Market Value per share of the Company's Common Stock is within 10% of the Determination, in which case the Valuer's fees and expenses shall be borne by the Holder.

Notwithstanding the foregoing, in the event the Warrant is exercised in connection with the Company's initial public offering of Common Stock, the fair market value per share shall be the per share offering price to the public of the Company's initial public offering.

2. Shares to be Fully Paid; Reservation of Shares. The Company covenants and agrees that all shares of Common Stock that may be issued upon the exercise of the rights represented by this Warrant will, upon issuance, be duly authorized, validly issued, fully paid and nonassessable and free from all preemptive rights of any stockholder and free of all taxes, liens and charges with respect to the issuance thereof. The Company further covenants and agrees that during the period within which the rights represented by this Warrant may be exercised, the Company will at all times have authorized and reserved, for the purpose of issue or transfer upon exercise of the subscription rights evidenced by this Warrant, a sufficient number of shares of authorized but unissued Common Stock, or other securities and property, when and as required to provide for the exercise of the rights represented by this Warrant. The Company will take all such action as may be necessary to assure that such shares of Common Stock may be

issued as provided herein without violation of any applicable law or regulation, or of any requirements of any domestic securities exchange upon which the Common Stock may be listed; provided, however, that the Company shall not be required to effect a registration under federal or state securities laws with respect to such exercise. The Company will not take any action which would result in any adjustment of the Exercise Price (as set forth in Section 3 hereof) if the total number of shares of Common Stock issuable after such action upon exercise of all outstanding warrants, together with all shares of Common Stock then outstanding and all shares of Common Stock then issuable upon exercise of all options and upon the conversion of all convertible securities then outstanding, would exceed the total number of shares of Common Stock then authorized by the Company's charter, as amended.

3. Adjustment of Exercise Price and Number of Shares. The Exercise Price and the number of shares purchasable upon the exercise of this Warrant shall be subject to adjustment from time to time upon the occurrence of certain events described in this Section 3. Upon each adjustment to the Exercise Price, the Holder shall thereafter be entitled to purchase, at the Exercise Price resulting from such adjustment, the number of shares obtained by multiplying the Exercise Price in effect immediately prior to such adjustment by the number of shares purchasable pursuant hereto immediately prior to such adjustment, and dividing the product thereof by the Exercise Price resulting from such adjustment.

3.1 Subdivision or Combination of Stock. In case the Company shall at any time subdivide its outstanding shares of Common Stock into a greater number of shares, the Exercise Price in effect immediately prior to such subdivision shall be proportionately reduced, and conversely, in case the outstanding shares of Common Stock of the Company shall be combined into a smaller number of shares, the Exercise Price in effect immediately prior to such combination shall be proportionately increased.

3.2 Dividends in Common Stock, Other Stock, Property, Reclassification. If at any time or from time to time. the holders of Common Stock shall have received or become entitled to receive, without further payment therefor,

(a) Common Stock or any shares of stock or other securities that are at any time directly or indirectly convertible into or exchangeable for Common Stock, or any rights or options to subscribe for, purchase or otherwise acquire any of the foregoing by way of dividend or other distribution,

(b) any cash paid or payable otherwise than as a cash dividend, or

(c) Common Stock or additional stock or other securities or property (including cash) by way of spinoff, split-up, reclassification, combination of shares or similar corporate rearrangement (other than shares of Common Stock issued as a stock split or adjustments in respect of which shall be covered by the terms of Section 3.1 above), then and in each such case, the Holder shall, upon the exercise of this Warrant, be entitled to receive, in addition to the number of shares of Common Stock receivable thereupon, and without payment of any additional consideration therefor, the amount of stock and other securities and property (including cash in the cases referred to in clause (b) above and this clause (c)) that Holder would hold on the date of such exercise had Holder been the holder of record of such Common Stock as of the date on which holders of Common Stock received or became entitled to receive such

shares or all other additional stock and other securities and property.

3.3 Reorganization, Reclassification, Consolidation, Merger or Sale. If any recapitalization, reclassification or reorganization of the capital stock of the Company, or any consolidation or merger of the Company with another company, or the sale of all or substantially all of its assets or other transaction shall be effected in such a way that holders of Common Stock shall be entitled to receive stock, securities or other assets or property (an "Organic Change"), then, as a condition of such Organic Change, lawful and adequate provisions shall be made by the Company whereby the Holder thereafter shall have the right to purchase and receive (in lieu of the shares of the Common Stock of the Company immediately theretofore purchasable and receivable upon the exercise of the rights represented hereby) such shares of stock, securities or other assets as may be issued or payable with respect to or in exchange for a number of outstanding shares of such Common Stock equal to the number of shares of such stock immediately theretofore purchasable and receivable upon the exercise of the rights represented hereby. In the event of any Organic Change, appropriate provision shall be made by the Company with respect to the rights and interests of the Holder to the end that the provisions hereof (including, without limitation, provisions for adjustments of the Exercise Price and of the number of shares purchasable and receivable upon the exercise of this Warrant) shall thereafter be applicable, in relation to any shares of stock, securities or assets thereafter deliverable upon the exercise hereof. The Company will not effect any such Organic Change unless, prior to the consummation thereof, the successor company (if other than the Company) resulting from such consolidation or the company purchasing such assets shall assume by written instrument reasonably satisfactory in form and substance to the Holder, executed and mailed or delivered to the registered Holder at the last address of such Holder appearing on the books of the Company, the obligation to deliver to such Holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such Holder may be entitled to purchase.

3.4 Certain Events. If any change in the outstanding Common Stock of the Company or any other event occurs as to which the other provisions of this Section 3 are not strictly applicable or if strictly applicable would not fairly protect the purchase rights of the Holder of the Warrant in accordance with such provisions, then the Board of Directors of this Company shall make an adjustment in the number and class of shares available under the Warrant, the Exercise Price or the application of such provisions, so as to protect such purchase rights as aforesaid. The adjustment shall be such as will give the Holder, upon exercise for the same aggregate Exercise Price, the total number, class and kind of shares as the Holder would have owned had the Warrant been exercised prior to the event and had the Holder continued to hold such Common Stock until after the event requiring adjustment.

4. Issue Tax. The issuance of certificates for shares of Common Stock upon the exercise of the Warrant shall be made without charge to the Holder for any issue tax (other than any applicable income taxes) in respect thereof; provided, however, that the Company shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the then Holder of the Warrant being exercised.

5. Closing of Books. The Company will at no time close its transfer books against the transfer of any warrant or of any shares of Common Stock issued or issuable upon the exercise of any warrant in any manner which interferes with the timely exercise of this Warrant.

6. No Voting or Dividend Rights; Limitation of Liability. Nothing contained in this Warrant shall be construed as conferring upon the Holder the right to vote or to consent or to receive notice as a stockholder of the Company or any other matters or any rights whatsoever as a stockholder of the Company. Except as set forth in Section 3.2 hereof, no dividends or interest shall be payable or accrued in respect of this Warrant or the interest represented hereby or the shares purchasable hereunder until, and only to the extent that, this Warrant shall have been exercised. No provisions hereof, in the absence of affirmative action by the Holder to purchase shares of Common Stock, and no mere enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of such Holder for the Exercise Price or as a stockholder of the Company, whether such liability is asserted by the Company or by its creditors.

7. Rights and Obligations Survive Exercise of Warrant. The rights and obligations of the Company, of the Holder and of the holder of shares of Common Stock (or other shares of stock, securities or assets) issued upon exercise of this Warrant shall survive the exercise of this Warrant.

8. Amendments.

9. Notices.

(a) Whenever the Exercise Price or number of shares purchasable hereunder shall be adjusted pursuant to Section 3 hereof, the Company shall issue a certificate signed by its Chief Financial Officer setting forth, in reasonable detail, the event requiring the adjustment, the amount of the adjustment, the method by which such adjustment was calculated and the Exercise Price and number of shares purchasable hereunder after giving effect to such adjustment, and shall cause a copy of such certificate to be mailed (by first-class mail, postage prepaid) to the Holder.

(b) In case:

(i) the Company shall take a record of the holders of its Common Stock (or other stock or securities at the time receivable upon the exercise of this Warrant) for the purpose of entitling them to receive any dividend or other distribution, or any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(ii) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or

merger of the Company with or into another company, or any conveyance of all or substantially all of the assets of the Company to another company, or

(iii) of any voluntary dissolution, liquidation or winding-up of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Holder or Holders a notice specifying, as the case maybe, (A) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (B) the date on which such reorganization, reclassification, consolidation, merger, conveyance, dissolution, liquidation or winding-up is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such stock or securities at the time receivable upon the exercise of this Warrant) shall be entitled to exchange their shares of Common Stock (or such other stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, conveyance, dissolution, liquidation or winding-up. Such notice shall be mailed at least 15 days prior to the date therein specified.

(c) Any notice, request or other document required or permitted to be given or delivered to the Holder or the Company shall be delivered or shall be sent by certified mail, postage prepaid, to the Holder at its address as shown on the books of the Company or to the Company at the address indicated therefor in the first paragraph of this Warrant or such other address as either may from time to time provide to the other. Any notice, request or other document required or permitted to be given or delivered pursuant to this Warrant shall be deemed effectively given: (i) upon personal delivery to the party to be notified; (iii) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt.

11. Binding Effect on Successors. This Warrant shall be binding upon any company succeeding the Company by merger, consolidation or acquisition of all or substantially all of the Company's assets. All of the obligations of the Company relating to the Common Stock issuable upon the exercise of this Warrant shall survive the exercise and termination of this Warrant. This Warrant and all rights hereunder may be transferred or assigned, in whole or in part, to any person or business entity upon surrender of this Warrant at the principal office of the Company, accompanied by an Assignment Form attached hereto as Exhibit B, duly completed and signed. Upon surrender of this Warrant and receipt of the Assignment Form, the Company, at its expense, shall issue to or on the order of the new Holder a new warrant or warrants of like tenor in accordance with the Assignment Form.

12. Descriptive Headings. The description headings of the several sections and paragraphs of this Warrant are inserted for convenience only and do not constitute a part of this Warrant.

13. Governing Law. This Warrant shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of Tennessee.

14. Replacement Warrants. The Company represents and warrants to the Holder that upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of any such loss, theft or destruction, upon receipt of an indemnity reasonably satisfactory to the Company, or in the case of any such mutilation, upon surrender and cancellation of such Warrant, the Company, at its expense, will execute and deliver a new Warrant, of like tenor, in lieu of the lost, stolen, destroyed or mutilated Warrant.

15. Fractional Shares. No fractional shares shall be issued upon exercise of this Warrant. The Company shall, in lieu of issuing any fractional share, pay the Holder entitled to such fraction a sum in cash equal to such fraction multiplied by the Fair Market Value of a share of Common Stock.

16. Equity Participation. This Warrant and the rights of the Holder hereunder are intended to constitute an "equity participation" for purposes of Title 47, Chapter 24, Tennessee Code Annotated, and the consideration or value received by the Holder in respect of this Warrant shall not be deemed to be interest, loan charges, commitment fees or brokerage commissions for purposes of Title 47,.Chapter 14, Tennessee Code Annotated.

17. No Novation. This Warrant does not constitute a discharge or novation of any warrant existing prior to this Warrant, including, without limitation, that certain Warrant to Purchase Common Stock of Cumberland Pharmaceuticals, Inc. (W-1) dated as of October 21, 2003, and such documents shall continue in full force and effect, shall be fully binding upon the Company, and all rights hereunder shall be cumulative in effect with such documents.

In Witness Whereof, the Company has caused this Warrant to be duly executed by its officers, thereunto duly authorized this 6th day of April, 2006.

CUMBERLAND PHARMACEUTICALS, INC.

By: /s/ A.J. Kazimi
Name: A.J. Kazimi
Title: Chief Executive Officer

EXHIBIT A

NOTICE OF EXERCISE

To: Cumberland Pharmaceuticals, Inc.

o The undersigned hereby elects to exercise the attached Warrant and to purchase thereunder _____ shares of Common Stock at a purchase price of _____ Dollars ($_____) per Share or an aggregate purchase price of _____ Dollars ($_____). Pursuant to the terms of the Warrant, the undersigned has delivered the purchase price herewith in full.

o The undersigned hereby elects to convert _____ percent (_____ %) of the value of the Warrant pursuant to the provisions of Section 1.2. of the Warrant.

Please issue a certificate or certificates representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below:

_____
(Name)

_____
(Name)

Please issue a new Warrant for the unexercised portion of the attached Warrant, if applicable, in the name of the undersigned or in such other name as is specified below:

_____
(Name)

_____
(Name)

_____ _____
(Date) (Signature)

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, the undersigned registered owner of the attached Warrant hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of the security covered thereby set forth below, unto:

Name of Assignee	*Address*	*No. of Shares*

(Date) (Signature)

EXHIBIT 4.5

CUMBERLAND PHARMACEUTICALS INC.

STOCK OPTION AGREEMENT

This Option Agreement is entered into and effective on _____, by and between Cumberland Pharmaceuticals Inc., a Tennessee corporation (the "Company"), and _____(the "Participant").

WHEREAS, the Company has adopted the 1999 Stock Option Plan (the "Plan"); and

WHEREAS, as an increased incentive to contribute to the Company's future success and prosperity, the Company will, subject to the Participant continuing to provide services to the Company, or any of its current or future subsidiaries, provide the Participant an opportunity to acquire shares of the Company's common stock, no par value (the "Stock").

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Grant of Option. Subject to the terms of the Plan and the terms of this Option Agreement, the Company grants to the Participant an option (the "Option") to purchase from the Company up to _____ (_____) shares of Stock (the "Shares"), subject to adjustment as provided in the Plan. This Option is not intended to qualify as an incentive stock option within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended.

2. Exercise Price. If the Option is exercised, the purchase price per Share shall be _____ ($_____).

3. Method of Exercise. The Option granted under this Agreement shall be fully vested and exercisable after , in whole or in part, by written notice in the manner set forth in Section 7 hereof, accompanied by payment of the purchase price in accordance with the terms of the Plan for the Shares which the Participant elects to purchase. The Company shall make prompt delivery of such Shares; provided that if any law or regulation which requires the Company to take any action with respect to the Shares specified in such notice before issuance thereof, then the date of delivery of such Shares shall be extended for the period necessary to take such action.

4. Termination of Option. Except as otherwise stated in this Agreement, this Option, to the extent not previously exercised, shall expire on the tenth anniversary (the "Expiration Date") of the date of this Agreement.

5. Provisions of Plan. This Option is subject to the Plan. The terms and provisions of the Plan as it may be amended from time to time are hereby incorporated herein by reference. In the event of a conflict between any term or provision contained herein and a term or provision of the Plan, the applicable terms and provisions of the Plan will govern and prevail.

6. Representations and Warranties of Participant. Recognizing that the Company will be relying on the information and on the representations and warranties set forth herein, the Participant hereby acknowledges, represents, and warrants to the Company that the Participant has been advised that neither this Option nor the Shares will be registered under the Securities Act of 1933, as amended (the "Securities Act"), or under the securities law of any state, unless the Company in its sole discretion determines that registration under an applicable state securities law would not subject it to unreasonable expense, and that the Shares will only be offered and sold in reliance upon an exemption from the registration requirements of the Securities Act. The Participant further understands and agrees that the Option and any exercise thereof must comply with all applicable securities laws, including, but not limited to, the Securities Act and the securities laws of the several states, as such laws exist on the date of this Agreement and on such future dates that the Option may be exercised. By executing this Option, the Participant represents that this Option, and the Shares issuable upon exercise of this Option, is being and will be purchased solely for the Participant's own account as an investment, and not with a view to the resale or distribution, in whole or in part, thereof. The Participant has such knowledge and experience in financial and business matters that the Participant is capable of evaluating the merits and risks of the acquisition of this Option and the Shares issuable upon the exercise of this Option. Further, the Participant understands and agrees that all certificates representing Shares issued pursuant to an exercise of this Option shall be inscribed with a legend in substantially the following form:

THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAW AND MAY NOT BE OFFERED, SOLD, OR OTHERWISE TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SHARES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED.

7. Notices. Any notice, request, instruction, or other document given under this Option Agreement shall be in writing and shall be addressed and delivered, in the case of the Company, to the Secretary of the Company at the principal office of the Company and, in the case of the Participant, the Participant's address as set forth herein or to such other address as the Participant may provide in a written notice to the Company, a copy of which shall be on file with the Secretary of the Company.

8. Governing Law. This Option Agreement shall be construed in accordance with and governed by the law of the State of Tennessee, without giving effect to the conflict of law provisions thereof.

IN WITNESS WHEREOF, each of the parties hereto has caused this Option Agreement to be executed by its duly authorized representative.

CUMBERLAND PHARMACEUTICALS INC.:

By: _____

Name: _____

Title: _____

PARTICIPANT:

_____

Address: _____

_____

EXHIBIT 10.1

*Certain portions of this exhibit have been omitted pursuant to a request for confidential treatment which has been filed separately with the SEC.

MANUFACTURING AND SUPPLY AGREEMENT
for
N-ACETYLCYSTEINE

CUMBERLAND PHARMACEUTICALS INC.

and

BIONICHE LIFE SCIENCES, INC.

January 15, 2002

MANUFACTURING AND SUPPLY
AGREEMENT FOR N-ACETYLCYSTEINE

THIS AGREEMENT is made and entered into as of the 15th day of January, 2002.

BY AND BETWEEN:

CUMBERLAND PHARMACEUTICALS INC., a corporation organized and existing under the laws of Tennessee, United States, with its principal offices located at 209 Tenth Avenue South, Suite 332, Nashville, Tennessee, 37203 (hereinafter referred to as "**CUMBERLAND**")

AND:

BIONICHE LIFE SCIENCES INC., a corporation organized and existing under the laws of Ontario, Canada, with its principal place of business located at 231 Dundas Street, East Belleville, Ontario, Canada K8N 1E2 (hereinafter referred to as "**BIONICHE**");

WHEREAS, CUMBERLAND is the owner of certain intellectual property rights with respect to a Drug Product (as hereinafter defined);

WHEREAS, BIONICHE has the expertise and the manufacturing facility suitable for the pharmaceutical preparation and production of the Drug Product;

WHEREAS, CUMBERLAND wishes to have BIONICHE manufacture the Drug Product on an exclusive basis for sale in the Territory (as hereinafter defined) and BIONICHE wishes to supply the Drug Product on an exclusive basis to CUMBERLAND on and subject to the terms and conditions set out herein;

NOW, THEREFORE, in consideration of the premises and the undertakings, terms, conditions and covenants set forth below, the parties hereto agree as follows:

1. DEFINITIONS

1.1 AFFILIATE shall mean, with respect to any Person, any other Person that controls, is controlled by or is under common control with, such Person. A Person shall be regarded as in control of another Person if such Person owns, or directly or indirectly controls, more than fifty percent (50%) of the voting securities (or comparable equity interests) or other ownership interests of the other Person, or if such Person directly or indirectly possesses the power to direct or cause the direction of the management or policies of the other Person, whether through the ownership of voting securities, by contract or any other means whatsoever.

1.2 BUFFER SOLUTION shall mean the buffer solution used for the manufacture of the Drug Product.

1.3 BULK DRUG SUBSTANCE shall mean the active ingredients in the Drug Product.

1.4 cGMP or GMP shall have the meaning set forth in Schedule I.

1.5 CONFIDENTIAL INFORMATION shall have the meaning set forth in Article 9.

1.6 DEVELOPMENT shall mean all work necessary to develop a process to manufacture the Drug Product in full accord with cGMP and to supply the Drug Product conforming to the Specifications. Development activities shall include, but not be limited to, pilot batches, scale-up batches, validation of the manufacturing process, and successful completion of the Drug Product manufacture and delivery as defined in Schedule I attached hereto.

1.7 DRUG PRODUCT shall mean the N-Acetylcysteine pharmaceutical product developed by CUMBERLAND and marketed under the trade name ACETADOTE or any other trade name selected by CUMBERLAND.

1.8 EXCIPIENT shall mean any inert substance selected by CUMBERLAND and used to give the Drug Product proper consistency.

1.9 FACILITY shall mean the manufacturing facility and the real property underlying such manufacturing facility operated by Bioniche Teoranta, an Affiliate of BIONICHE, located at Inverin, Co. Galway, Republic of Ireland.

1.10 FDA shall mean the United States Food and Drug Administration (FDA) or any successor entity thereto.

1.11 IN-PROCESS SOLUTION shall mean all Buffer Solutions and Excipients needed to produce Drug Product in the finished dosage form set forth in Schedule I.

1.12 INVENTION shall have the meaning set forth in Paragraph 9.4.

1.13 LABELING shall mean all labels and other written, printed, or graphic matter upon: (i) the Drug Product or any container or wrapper utilized with the Drug Product and (ii) any written material accompanying the Drug Product, including without limitation, package inserts.

1.14 MANUAL shall mean the Manufacturing Project Manual attached as Schedule II to this Agreement and reviewed and accepted by CUMBERLAND and BIONICHE, the terms and provisions of which are incorporated by reference as though fully set forth herein.

1.15 MANUFACTURE shall mean the act of compounding, component preparations, filling, packaging, testing and any other pharmaceutical manufacturing procedures, or any part thereof, involved in manufacturing the Drug Product from the Bulk Drug Substance.

1.16 PERSON shall mean an individual, corporation, partnership, limited liability company, or any other form of entity not specifically listed herein.

1.17 SPECIFICATIONS shall mean those specifications set forth in Attachment I to the Manual.

1.18 TERRITORY shall have the meaning set forth in Schedule III.

2. DEVELOPMENT AND MANUFACTURING

2.1 Initiation: Upon request by CUMBERLAND and subject to the provisions hereof, BIONICHE, directly or through an Affiliate thereof, shall Manufacture and package at the Facility all of CUMBERLAND's requirements for Drug Product in the Territory in the batch size set forth in Schedule I in accordance with the terms hereof, including without limitation, Schedules I and II hereof, the Specifications, and all applicable laws and regulations. Prior to distributing and selling the Drug Product, CUMBERLAND shall prepare and file submissions to the FDA in order to obtain and maintain during the term hereof regulatory approval of the Drug Product, BIONICHE shall prepare and test the Drug Product in accordance with cGMP.

2.2 Documentation: BIONICHE shall provide CUMBERLAND with required supporting documentation for the manufacture of the Drug Product in a form suitable for CUMBERLAND's submission to the FDA or applicable governmental authorities for any country into which the Drug Product will be distributed. BIONICHE shall provide draft Chemistry, Manufacturing, and Controls sections for CUMBERLAND's FDA submissions,

2.3 Bulk Drug Substance Supply: BIONICHE shall be responsible for the supply of all Bulk Drug Substance in accordance with Schedules I and II hereto; provided that the supply of Bulk Drug Substance shall be exclusively from such suppliers and in such grades as have been approved in writing by CUMBERLAND as reflected on an approved list to be attached hereto as Schedule IV, and provided further that such suppliers and

grades may not be changed without CUMBERLAND's prior written consent, which consent shall not be unreasonably withheld or delayed. BIONICHE shall maintain, at its expense, secure storage areas for the Bulk Drug Substance at the Facility.

2.4 Supply of Components: BIONICHE shall be responsible for the supply of all Buffer Solution, Excipients, and all other components of the finished Drug Product in accordance with Schedules I and II hereto; provided that the supply of these components shall be exclusively from such suppliers and in such grades as have been approved in writing by CUMBERLAND as reflected on an approved list to be attached hereto as Schedule IV, and provided further that such suppliers and grades may not be changed without CUMBERLAND's prior written consent which consent shall not be unreasonably withheld or delayed. BIONICHE shall maintain, at its expense, secure storage areas for the Buffer Solution, Excipients, and all other components at the Facility.

2.5 Delivery Terms: All deliveries of Drug Product under this Agreement shall be made by BIONICHE to CUMBERLAND in the manner set forth in Schedule I. CUMBERLAND shall, within twenty (20) working days after its receipt of any shipment, notify BIONICHE in writing, of any claim relating to a Drug Product not conforming to GMP or to the Specifications, and, failing such notification, notwithstanding Paragraph 5.1 of this Agreement, CUMBERLAND shall be deemed to have accepted the Drug Product. If BIONICHE disputes CUMBERLAND's claim that the Drug Product is non-conforming, then such dispute shall be resolved by an independent testing organization of recognized repute within the pharmaceutical industry mutually agreed upon by BIONICHE and CUMBERLAND, the appointment of which shall not be unreasonably withheld or delayed by either party. In such event, CUMBERLAND shall ship the testing organization representative samples of the Drug Product from the disputed production lot, and the fees and costs of such testing organization and related shipping and supply costs shall be borne by the party whose position is not sustained by the testing organization. Should CUMBERLAND's claim of non-conformity be sustained by the testing organization, BIONICHE shall, at CUMBERLAND'S sole option, (a) credit towards future orders, or (b) refund within thirty (30) days thereof; the payment for such non-conforming goods, plus the cost to CUMBERLAND of Manufacturing and shipping the related Bulk Drug Substance and components.

2.6 Forecasts: In order to permit BIONICHE to regularly supply CUMBERLAND with Drug Product hereunder, at least [***] prior to its first requested delivery date, CUMBERLAND shall provide BIONICHE a non-binding twelve (12) month rolling forecast (the "Forecast") of CUMBERLAND's estimated requirements of Drug Product, itemized for use as commercial product or Regulatory Samples (as defined below), for the term of this Agreement. The Forecast shall be reviewed and updated by CUMBERLAND on a monthly basis, with copies delivered to BIONICHE. BIONICHE shall have an opportunity to confirm its ability to deliver the quantities set out in the Forecast and each update thereto, or to request amendments thereto to ensure its ability to supply. Once accepted by BIONICHE, the first three (3) months of each Forecast shall constitue a firm order for Drug Product. Each such Forecast shall reflect a good faith attempt by CUMBERLAND to estimate quantity requirements of Drug Product, based on anticipated demand therefore.

2.7 Periodic Orders: A purchase order (the "Purchase Order") shall be provided by CUMBERLAND to BIONICHE with respect to Drug Product to be supplied at least [***] prior to the scheduled delivery date of such Drug Product. Such Purchase Order shall specify the quantities ordered by CUMBERLAND for delivery by BIONICHE hereunder and the requested delivery date therefore, and, once delivered to BIONICHE, and shall be firm and binding on the parties (the "Delivery Date"). Each such Purchase Order shall become firm and binding on the parties and, except as specifically provided for herein, may not be increased or decreased by more than [***] from the quantities shown in the Forecast accepted by BIONICHE pursuant to Section 2.6 without the prior written approval of the parties. If CUMBERLAND requires quantities of Drug Product exceeding *those* mentioned in the Forecast, as updated, BIONICHE shall deliver the amount indicated in the Forecast on the scheduled Delivery Date and shall use reasonable efforts to supply the additional amount exceeding such Forecast on the scheduled Delivery Date, but shall have no liability for failure to deliver the additional amount. Each Purchase Order shall constitute a separate agreement to purchase Drug Product but where in conflict with the terms and conditions of this Agreement, this Agreement, and not the standard terms and conditions set forth in the purchase orders, shall govern the Manufacturing, purchase and sale of the Drug

Product under this Agreement. Any Purchase Order for Drug Product shall be placed in the minimum amounts listed below or in integral multiples thereof.

For the 10mL form of Drug Product	[***]
For the 30mL form of Drug Product	[***]

2.8 Failure to Supply: Subject to the provisions of Article 7, BIONICHE shall supply all of the Drug Product ordered by CUMBERLAND within [***] of receipt of a written order from CUMBERLAND. If BIONICHE is unable to meet its supply obligations with respect to any Purchase Order, CUMBERLAND shall be free to procure from third parties part or all of the quantities of the Drug Product covered by the relevant Purchase Order. In the event that BIONICHE is unable to supply the Drug Product to CUMBERLAND for any reason other than for Force Majeure or failure of CUMBERLAND to fulfill its obligations hereunder, BIONICHE will reimburse CUMBERLAND for any increase in the price of obtaining the Drug Product from an alternate supplier; provided that such replacement Drug Product was purchased on reasonable commercial terms, and provided further that such failure to supply was in respect of Drug Product that was the subject of a Purchase Order provided by CUMBERLAND and accepted by BIONICHE under Paragraph 2.7. Should BIONICHE reimburse CUMBERLAND as set out in this paragraph, BIONICHE shall have no further liability to CUMBERLAND for said failure to supply.

2.9 Payment for the Drug Product: At the time of each shipment, BIONICHE shall invoice CUMBERLAND for BIONICHE's manufacturing services at the prices set forth in Schedule I. Payment shall be made in Canadian dollars within [***] of each such shipment of conforming Product in accordance with the terms hereof.

2.10 Price Variations:

(a) Prices are as set on Schedule I for the term hereof unless changed pursuant to Paragraph 2.10(b).

(b) Subject to Subparagraph 2.10(c), prices are subject to annual adjustment beginning two (2) years after the date hereof. Price increases or decreases will be commensurate with documented Manufacturing cost increases or decreases since the date that the then-current prices became effective. For purposes hereof, "Manufacturing cost" shall mean, with respect to the Drug Product, BIONICHE's actual and documented cost of raw materials, direct labor, Manufacturing, packaging, and overhead amounts directly applicable to such Manufacturing costs (including appropriately amortized capital equipment costs and excluding non-manufacturing overhead and allocations and excluding costs representing Manufacturing changes for which CUMBERLAND does not provide prior written consent pursuant to Article 8), calculated in accordance with generally accepted accounting principles consistently applied (the allocation of overhead to be consistent with BIONICHE's allocation of overhead as of the date of this Agreement). CUMBERLAND reserves the right to audit the records of BIONICHE in order to determine that such increases and/or decreases are appropriate. Any increase in price shall not exceed the twelve (12) month percent increase in the Producer Price Index as published by the U.S. government and shall be further subject to a maximum increase of five percent (5%) per year over the life of the Agreement.

(c) Notwithstanding any of the contrary herein contained, should CUMBERLAND: (i) request a change in Specifications, or (ii) unreasonably withhold the consent requested under Paragraphs 2.3 or 2.4, which request or refusal results in an increase in Manufacturing Costs, BIONICHE shall be entitled to pass on such costs to CUMBERLAND immediately in the form of a Drug Product price increase.

3. TERM AND TERMINATION

3.1 Term: This Agreement shall commence on the date first above written and will continue until the fifth anniversary of the date on which the FDA grants approval to market and sell the Drug Product, unless sooner terminated pursuant to Paragraphs 3.2 or 3.3 hereof. Subject to Paragraphs 3.2 and 3.3, the Agreement shall be automatically renewed for successive three-year terms unless either party notifies the other party in writing at least twelve (12) months in advance of the expiration of the then current term that the party is terminating the Agreement.

3.2 Termination: This Agreement may be terminated at any time upon the occurrence of any of the following events:

(a) Default: Thirty (30) days following written notice, by either party to the other party, in the event that the other party breaches any provision of this Agreement, and such party fails to remedy the breach prior to the expiration of the thirty (30) day period; provided that, in the case of nonpayment of sums due hereunder, the remedy period shall be decreased to ten (10) days.

(b) Insolvency: Written notice by either party to the other upon insolvency or bankruptcy of the other party, and the failure of any such insolvency or bankruptcy to be dismissed within sixty (60) days.

(c) Force majeure: If, as a result of causes described in Paragraph 7.1, either party is unable to fully perform its obligations hereunder for a period of one hundred fifty (150) consecutive days, the other party shall have the right to terminate this Agreement upon at least thirty (30) days prior written notice; provided that if the required performance is met during that thirty-day period, this Agreement shall continue in full force and effect as if the notice had not been given.

(d) Costs: Immediately upon written notice by BIONICHE to CUMBERLAND if the Manufacturing cost per unit of Drug Product calculated in the manner set forth in Paragraph 2.10(a) hereof exceeds the purchase price per unit of Drug Product set forth in Schedule I, as adjusted pursuant to Paragraphs 2.10(b) and/or (c) hereof.

(e) No FDA Approval: Immediately upon written notice by BIONICHE to CUMBERLAND if the FDA does not grant CUMBERLAND approval to market and sell the Drug Product on or before the second anniversary of the date of this Agreement.

(f) By mutual agreement of the parties hereto.

Except as otherwise specifically set forth in this Paragraph 3.2, termination, expiration, cancellation or abandonment of this Agreement, through any means and for any reason, shall not relieve the parties of any obligation accruing prior thereto and shall be without prejudice to the rights and remedies of either party with respect to any antecedent breach of any of the provisions of this Agreement. Without limiting the generality of the foregoing, termination, expiration, cancellation, or abandonment of this Agreement shall not relieve CUMBERLAND of its obligation to pay the royalty provided for under Schedule I for Drug Product manufactured by BIONICHE hereunder.

3.3 Minimum Quantities Purchased: If the parties fail to agree on minimum purchase quantities as provided under Paragraph 5.7, or if following such agreement, CUMBERLAND should fail to meet the agreed upon minimum purchase requirements, BIONICHE shall have the right (but not the obligation) to terminate this Agreement in its entirety or with respect to any one or more format of the Drug Product upon ninety (90) days notice; provided, however, that CUMBERLAND shall have the right (but not the obligation) within such ninety (90) day period to pay BIONICHE any short-fall and avoid such termination. Such shortfall shall be calculated by subtracting the purchase price of the amount of each format of Drug Product actually ordered from the amount calculated by multiplying the minimum quantity of such format under Schedule V by the purchase price thereof. It is understood and agreed between the parties that BIONICHE shall not be required to supply Drug Product for such payment. Should BIONICHE exercise its right to terminate under this Paragraph 3.3, CUMBERLAND shall have no liability to BIONICHE for failing to purchase any minimum quantity of Drug Product hereunder.

3.4 Impact of Termination on Outstanding Purchase Orders: Upon termination of the Agreement for any reason whatsoever (except for termination by either party pursuant to Paragraphs 3.2(a), (b), or (c), or upon expiration of this Agreement), BIONICHE will, at CUMBERLAND's written request delivered after termination, continue to supply Drug Product to CUMBERLAND in satisfaction of Purchase Orders already submitted to BIONICHE, subject to the same terms and conditions as applied during the term of the Agreement, for a period of sixty (60) days from the date of termination or expiration.

3.5 Survival: Paragraphs 2.5, 2.8, 3.2, 3.3, and 3.5 and Articles 5, 6, 9, and 10 shall survive the termination or cancellation of the Agreement for any reason.

4. CERTIFICATES OF ANALYSIS AND MANUFACTURING COMPLIANCE

4.1 Certificates of Analysis: BIONICHE shall perform, or cause to be performed, certain tests requested by CUMBERLAND in writing and as indicated in the Specifications on each batch of the Drug Product manufactured pursuant to this Agreement before delivery to CUMBERLAND. A certificate of analysis for each batch delivered shall be delivered with each batch and shall set forth the items tested, specifications, and test results. BIONICHE shall also indicate on the certificate of analysis that all batch production and control records have been reviewed and approved by the appropriate quality control unit. Subject to Paragraph 2.5, CUMBERLAND shall test, or cause to be tested, prior to final release, each batch of the Drug Product as meeting the Specifications. As required by the FDA (see Paragraph 5.2 below), CUMBERLAND shall assume full responsibility for final release of each lot of the Drug Product.

4.2 Manufacturing Compliance: BIONICHE shall advise CUMBERLAND immediately if an authorized agent of any regulatory body visits the Facility and makes an inquiry regarding BIONICHE's method of manufacture of the Drug Product for CUMBERLAND. Upon receipt of any Form 483 Notice of Inspectional Observations issued by the FDA or notice of deficit from any other regulatory inspection after a visit to the Facility, BIONICHE shall immediately send CUMBERLAND a copy thereof; provided that it may redact any language that is subject to a written confidentiality agreement between BIONICHE and a third party.

4.3 Regulatory Agency Requirements: BIONICHE shall prepare and test the Drug Product in conformity with GMP. Subject to the allocation of responsibility for regulatory compliance as set forth in Paragraph 5.2, each party shall consult with the other party hereto before implementing additional regulatory agency requirements concerning the control of Drug Product components, manufacture of the Drug Product, or storage and handling of the Drug Product. The full text of regulatory agency requests or comments will be provided by the party receiving such requests or comments to the other party hereto. The parties will mutually agree on how to respond to such requests and comments and on the allocation of the costs thereof; provided that BIONICHE shall be entitled to reimbursement from CUMBERLAND for any out-of-pocket expenses or extraordinary costs previously approved in writing by CUMBERLAND and required in connection with implementing such regulatory requirements other than the ordinary costs of compliance with GMP.

4.4 Regulatory Documents: Each party will advise the other party hereto of its intention to change any Drug Product regulatory documents prior to submission of the document to any regulatory body. If the change affects the rights and obligations of a party hereto under this Agreement, such party may seek to review or alter any part of the document at any time within ten (10) business days after receipt of notification thereof; provided that if no alterations are submitted to the other party within such ten-day period, each party will be deemed to have consented to the documents, as amended.

5. REPRESENTATIONS AND WARRANTIES

5.1 Conformity with Specifications: BIONICHE represents and warrants that, at the time of Manufacture, the Drug Product is prepared and tested in accordance with cGMP and meets the Specifications. In the event that any production lot of a Drug Product is not Manufactured in accordance with the Specifications or other requirements hereunder, BIONICHE shall, at CUMBERLAND's request, perform new Manufacturing as necessary to fulfill any then outstanding purchase order of CUMBERLAND. BIONICHE shall be fully responsible for the costs of any Bulk Drug Substance or components required for such new Manufacturing. Because BIONICHE has no control of the conditions under which the Drug Product is used, the diagnosis of the patient before or after treatment with the Drug Product, the method of use or administration of the Drug Product, and handling of the Drug Product after delivery to CUMBERLAND, BIONICHE does not warrant either a good effect, or against an ill effect, following the use of the Drug Product. The foregoing warranty is exclusive and in lieu of all other warranties either written, oral, or implied. No representative of BIONICHE may change any of the foregoing warranties and CUMBERLAND accepts the Drug Product subject to all terms hereof.

EXCEPT AS SPECIFICALLY PROVIDED FOR IN THIS ARTICLE 5 AND PARAGRAPH 11.4, BIOMCHE MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED (i) OF COMMERCIAL UTILITY; (ii) OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; OR (iii) THAT THE USE OF THE DRUG PRODUCTS BY CUMBERLAND OR ANY THIRD PARTY WILL NOT INFRINGE ANY PATENT, COPYRIGHT OR TRADEMARK OR OTHER PROPRIETARY OR PROPERTY

RIGHTS OF OTHERS. EXCEPT AS PROVIDED FOR HEREIN, BIONICHE WILL NOT BE LIABLE TO CUMBERLAND, CUMBERLAND'S SUCCESSORS OR ASSIGNS OR ANY THIRD PARTY WITH RESPECT TO ANY CLAIM ARISING FROM CUMBERLAND'S OR ANY THIRD PARTY'S USE OF THE DRUG PRODUCTS.

CUMBERLAND ACCEPTS ALL RISK AND RESPONSIBILITY FOR DETERMINING THE MANNER IN WHICH CUMBERLAND WILL USE THE DRUG PRODUCTS, AND BIONICHE MAKES NO REPRESENTATIONS OR WARRANTIES CONCERNING, AND ASSUMES NO RESPONSIBILITY FOR, THE PERFORMANCE OF ANY OTHER PRODUCT(S) INTO WHICH THE DRUG PRODUCTS MAY BE INCORPORATED.

5.2 Compliance: CUMBERLAND represents and warrants that CUMBERLAND assumes responsibility for coordinating all contact with the FDA and other regulatory bodies, pertaining specifically to the Drug Product. During the term of this Agreement, BIONICHE authorizes CUMBERLAND's representatives to inspect the methods used in and facilities used for manufacturing, processing, packaging, and handling of the Drug Product; provided that each such inspection shall be at CUMBERLAND'S own cost, on reasonable prior notice, and subject to the prior execution of reasonable confidentiality agreement by each inspector who is not an employee of CUMBERLAND but has been selected by CUMBERLAND to represent it; and provided further that CUMBERLAND shall have no such obligation under this Agreement. Except as otherwise required by applicable regulations, CUMBERLAND's inspections shall be conducted during normal business hours; provided that CUMBERLAND may inspect such facilities immediately after any regulatory inspection thereof.

5.3 Debarring: BIONICHE represents and warrants that it has not been debarred in the United States within the meaning of 21 U.S.C. § 335a(a) and 335a(b), nor will it use, knowingly after due inquiry, in any capacity the services of any person debarred pursuant to subsections 3.06(a) or 3.06(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 335(a) and (b).

5.4 FDA Submission: BIONICHE represents and warrants that it has submitted to the FDA information about the Facility and the operating procedures, and personnel at such site in the form required by the FDA. BIONICHE shall keep and maintain the equipment necessary for the Manufacture of any Drug Product in a manufacture-ready state and in good repair. During the term hereof and until the fifth anniversary of termination or expiration, BIONICHE shall maintain written documentation of all use, repair, service, and maintenance of such equipment and shall provide CUMBERLAND copies of such documentation; provided that in the event that a Person acquires substantially all of the assets and business of BIONICHE, BIONICHE may send all such documentation to CUMBERLAND promptly after such acquisition.

5.5 Reimbursement: BIONICHE shall not incur any costs for which it intends to seek reimbursement from CUMBERLAND unless BIONICHE has the prior written consent of CUMBERLAND. CUMBERLAND shall reimburse BIONICHE at a rate equal to one hundred fifty percent (150%) of all such costs actually incurred and documented and directly related to the production of materials or data for submissions to the FDA ("Pre-Approval Costs") hereunder, provided that reimbursement of such Pre-Approval Costs shall be paid by means of twelve (12) equal installments thereof to be made on the first day of each of the twelve (12) months following the date on which the FDA issues final approval to CUMBERLAND to market and sell the Drug Product commercially in the United States (the "Approval Date"); and provided further that if the Approval Date has not occurred on or before one year from the date of signing of the Agreement then CUMBERLAND shall immediately reimburse BIONICHE at a rate equal to one hundred percent (100%) of all Pre-Approval Costs incurred prior to such date in complete satisfaction of its obligations to reimburse such Pre-Approval Costs.

5.6 Exclusivity:

(a) Neither BIONICHE nor any Affiliate thereof will sell, give away, or deliver to any other person, firm, or corporation any form of the Drug Product in the Territory for indications currently approved as of the date of signing this Agreement ("currently-approved indications"), while this Agreement is effective and for two years after the termination of this Agreement; provided that such restrictions shall not apply in the event of termination by BIONICHE pursuant to Subparagraphs 3.2 (a), (b), (e), or Paragraph 3.3 and shall not apply to the sale by BIONICHE of a product that contains the same active ingredients as the Drug Product for use as a chemoprotectant ("Excluded Products") or Other Products, as defined below, subject to the rights set out in Subparagraph 5.6 (d).

(b) If, during the term hereof, BIONICHE wishes to market or distribute Excluded Products *in* the Territory in association with any third Person, BIONICHE shall give CUMBERLAND written notice thereof, and CUMBERLAND shall have thirty (30) days to notify BIONICHE of its interest in entering into an arrangement with BIONICHE, on terms to be negotiated by the parties in good faith during the period of one hundred twenty (120) days immediately following the receipt by CUMBERLAND of such notice (the "Option Period"). If the parties negotiate in good faith but do not conclude an agreement within the Option Period, BIONICHE agrees not to enter into an agreement covering the Excluded Products *in* the Territory with any third Person on terms that are more favorable than the terms previously offered to CUMBERLAND without first offering to enter into an agreement with CUMBERLAND, to be negotiated during an additional thirty day period, such offer to be made on terms no less favorable than the terms being offered to the third Person. If CUMBERLAND does not enter into negotiations with BIONICHE within thirty (30) days following receipt of such notice, then BIONICHE shall be free to negotiate with third Persons with no further obligation to CUMBERLAND.

(c) Notwithstanding the provisions of Subparagraph 5.6 (b) above, BIONICHE shall have no obligation to make any offer to CUMBERLAND with respect to any development, marketing or sale of Excluded Products in the Territory if it chooses to so develop, market or sell directly, rather than in association with any third Person.

(d) With respect to any product that contains the same active ingredient as the Drug Product for indications other than Excluded Products that BIONICHE may seek to develop ("Other Products"), BIONICHE shall provide notice to CUMBERLAND as set out in Subparagraph 5.6 (b) above, and the same procedures shall apply. Likewise, with respect to any indications other than currently-approved indications for the Drug Product that CUMBERLAND seeks to develop, CUMBERLAND shall provide notice to BIONICHE regarding the possibility of supply of said Drug Product to CUMBERLAND and the procedures described in Subparagraph 5.6 (b) above shall apply.

(e) If CUMBERLAND does not acquire rights to Excluded Products or to Other Products as described in Subparagraphs 5.6 (c) and (d) above, and CUMBERLAND establishes, through the dispute resolution process set forth in Paragraph 11.7, that sales by BIONICHE of said products have detrimentally impacted sales of the Drug Product then BIONICHE shall pay CUMBERLAND an amount equal to the lost profits so established by CUMBERLAND. CUMBERLAND shall bear the burden of establishing lost sales.

(f) Except in the event that BIONICHE fails to supply all Drug Product ordered within ninety (90) days of receipt of a Purchase Order in accordance with Paragraph 2.7, or in the event of Force Majeure, CUMBERLAND will order its entire requirement of the Drug Product for the Territory from BIONICHE, If CUMBERLAND notifies BIONICHE that it intends. to distribute the Drug Product in countries other than the United States and its territories, then the parties shall negotiate in good faith, for a period not to exceed one hundred twenty (120) days after CUMBERLAND provides such notice, to amend this agreement to expand the Territory hereunder; provided that if the parties fail to agree upon the terms of supply for an expanded Territory within such 120-day period, CUMBERLAND shall have no obligation to purchase requirements of Drug Products for such other countries from BIONICHE, but its obligations hereunder with respect to the United States and its territories shall remain in full force and effect.

(g) In the event of breach of this Paragraph 5.6, the parties shall have the right, in addition to other rights hereunder, to seek injunctive relief, notwithstanding any other provision of this Agreement.

5.7 Minimum Purchase Quantities: CUMBERLAND shall have no minimum purchase requirements for the first year following FDA approval of the Drug Product. The parties shall, no later than three (3) months before the end of the first year following FDA approval, negotiate in good faith to set on the minimum quantities applicable to the second to fifth years of commercial sale, which shall be incorporated into Schedule V and shall form part of this Agreement. The parties shall negotiate in good faith to set additional minimum purchase requirements for any extension of the Term of this Agreement under Paragraph 3.1. CUMBERLAND shall use its best efforts to achieve the minimum purchase requirements set forth in Schedule V of this Agreement for each format of Drug Product being sold in the Territory by CUMBERLAND. In the event CUMBERLAND is required to procure Drug Product from other sources in accordance with Paragraph 2.7, the minimum annual purchase obligation set out in Schedule V shall be decreased by the quantity BIONICHE failed to deliver hereunder.

6. DRUG PRODUCT RECALLS

6.1 Drug Product Recalls: In the event: (a) any government authority issues a request, directive or order that the Drug Product be recalled, or (b) a court of competent jurisdiction orders such a recall, (c) CUMBERLAND determines that the Drug Product should be recalled, or (d) BIONICHE recommends to CUMBERLAND that a recall be initiated, the parties shall take all appropriate corrective actions; provided that a recall pursuant to Subparagraph 6.1 (c) shall be without prejudice to the parties' rights under Paragraph 2.5. In the event that BIONICHE recommends a recall of Drug Product by CUMBERLAND, such recommendation must take the form of a notice as per Paragraph 11.1, and CUMBERLAND shall respond promptly indicating to BIONICHE whether the Drug Product will be recalled. In no event, however, shall BIONICHE have responsibility for regulatory compliance in connection with any recall, except to the extent and under the circumstances set forth in the Manual or any other written agreement between the parties hereto or as required by law. All costs and expenses incurred in connection with such recall shall be the responsibility of CUMBERLAND unless caused by the negligence of BIONICHE.

7. FORCE MAJEURE; FAILURE TO SUPPLY

7.1 Force Majeure Events: Failure of either party to perform under this Agreement (except the obligation to make payments) shall not subject such party to any liability to the other if such failure is caused by acts such as, but not limited to, acts of God, fire, explosion, flood, war, riot, sabotage, embargo, or by any cause beyond the reasonable control of the parties, provided that written notice of such event is promptly given to the other party.

8. MANUFACTURING CHANGES

BIONICHE may implement commercially reasonable changes in the equipment used for Manufacturing of the Drug Product in the Facility, or the Manufacturing methods, labeling, or packaging of the Drug Product only as expressly provided in the Specifications unless BIONICHE has the prior written consent of CUMBERLAND, which consent shall not be unreasonably withheld or delayed.

9. CONFIDENTIALITY

9.1 Confidential Information: "Confidential Information" means collectively Confidential Information of CUMBERLAND (as defined herein) and Confidential Information of BIONICHE (as defined herein).

9.2 Confidential Information of CUMBERLAND: Except as expressly set forth herein, "Confidential Information of CUMBERLAND" means all information obtained or developed by BIONICHE which relates to CUMBERLAND's business or the Drug Product, regardless of the form in which such information is transmitted. The following shall not be considered Confidential Information of CUMBERLAND for purposes hereof:

(a) Information that is already in the possession of BIONICHE at the time it is received from CUMBERLAND or developed by BIONICHE on CUMBERLAND's behalf, if BIONICHE notifies CUMBERLAND of its belief that the information is excepted under the terms of this subsection;

(b) Information received by BIONICHE from a person *which* has the right to disclose the same, when BIONICHE notifies CUMBERLAND of its belief that the information is excepted under the terms of this subsection;

(c) Information that is or becomes published, or is or becomes otherwise publicly available without the fault of BIONICHE;

(d) An Invention as defined in Paragraph 9.4; or

(e) Confidential Information of BIONICHE.

In the event of a dispute regarding the applicability of the above exceptions to the definition of Confidential Information of CUMBERLAND, BIONICHE shall have the burden of producing clear and convincing proof that the information should be excepted from the definition of Confidential Information of CUMBERLAND. BIONICHE shall not use or permit the use of the Confidential Information of CUMBERLAND other than for the limited purposes expressly permitted by or consistent with this Agreement. Recipients of Confidential Information of CUMBERLAND shall be granted access thereto strictly on a "need-to-know" basis. BIONICHE shall take all reasonable steps to ensure that recipients comply with the terms of this Agreement, including all restrictions on use, disclosure and dissemination of Confidential Information of CUMBERLAND. BIONICHE shall notify CUMBERLAND immediately upon becoming aware of any breach hereof and shall take all reasonable steps to prevent any further disclosure or unauthorized use.

Upon termination or expiration of this Agreement, BIONICHE shall deliver to CUMBERLAND all Confidential Information of CUMBERLAND, all copies thereof, and all documents or data storage media containing such Confidential Information of CUMBERLAND, except that one copy of such information may be retained by BIONICHE as required by regulation or law for future reference. The Confidential Information of CUMBERLAND shall remain confidential and not be disclosed by BIONICHE for a period of ten (10) years following the date of expiration or termination of this Agreement except as expressly set forth herein or in any other written agreement between the parties.

9.3 Confidential Information of BIONICHE: Except as expressly set forth herein, "Confidential Information of BIONICHE" means all information obtained or developed by CUMBERLAND which relates to the manufacture, sale, and distribution of pharmaceutical products by BIONICHE, regardless of the form in which such information is transmitted. The following shall not be considered Confidential Information of BIONICHE for purposes hereof:

(a) Information that is already in the possession of CUMBERLAND at the time it is received from BIONICHE or developed by CUMBERLAND on BIONICHE's behalf, if CUMBERLAND notifies BIONICHE of its belief that the information is excepted under the terms of this subsection;

(b) Information received by CUMBERLAND from a person which has the right to disclose the same, when CUMBERLAND notifies BIONICHE of its belief that the information is excepted under the terms of this subsection;

(c) Information that is or becomes published, or is or becomes otherwise publicly available without the fault of CUMBERLAND; or

(d) Confidential Information of CUMBERLAND.

In the event of a dispute regarding the applicability of the above exceptions to the definition of Confidential Information of BIONICHE, CUMBERLAND shall have the burden of producing clear and convincing proof that the information should be excepted from the definition of Confidential Information of BIONICHE. CUMBERLAND shall not use or permit the use of the Confidential Information of BIONICHE other than for the limited purposes expressly permitted by or consistent with this Agreement. Recipients of Confidential Information of BIONICHE shall be granted access thereto strictly on a "need-to-know" basis. CUMBERLAND shall take all reasonable steps to ensure that recipients comply with the terms of this Agreement, including all restrictions on use, disclosure and dissemination of Confidential Information of BIONICHE. CUMBERLAND shall notify BIONICHE immediately upon becoming aware of any breach hereof and shall take all reasonable steps to prevent any further disclosure or unauthorized use.

Upon termination or expiration of this Agreement, CUMBERLAND shall deliver to BIONICHE all Confidential Information of BIONICHE, all copies thereof, and all documents or data storage media containing such Confidential Information of BIONICHE, except that one copy of such information may be retained by CUMBERLAND as required by regulation or law for future reference. The Confidential Information of BIONICHE shall remain confidential and not be disclosed by CUMBERLAND for a period of ten (10) years following the date of expiration or termination of this Agreement except as expressly set forth herein or in any other written agreement between the parties.

9.4 Invention: As between the parties, CUMBERLAND owns all intellectual property rights in any improvement to the Drug Product and, subject to Paragraph 5.6, any existing or further developments or modifications of the Drug Product in the Territory ("Invention"). Subject to Article 10, BIONICHE shall, at CUMBERLAND's request and expense, take such actions and execute such documents as necessary or desirable, in CUMBERLAND's sole judgment, to create, maintain, enforce or defend CUMBERLAND's rights in any such Invention.

9.5 Press Release; Other Disclosure: Except pursuant to a press release subject to the prior written approval of both parties hereto, the parties agree that the contents of this Agreement shall not be disclosed to any third party except (i) the controlling companies of the parties, (ii) the companies controlled by the parties, (iii) individuals and entities providing paid services to either of the parties who are bound by confidentiality obligations, and (iv) governmental regulatory agencies, including, but not limited to, environmental protection authorities, without prior written consent of the other party.

9.6 Production of Records: BIONICHE shall prepare, maintain, and submit all documents or reports required under applicable laws and regulations or as reasonably requested by CUMBERLAND concerning the Manufacture of the Drug Products, including without limitation, batch production records for each Drug Product. Notwithstanding the restrictions set forth in this Agreement, BIONICHE shall retain production records for batches of Drug Product for a period of at least one year after the respective expiration date for each batch. These records will be stored by appropriate means, including without limitation, optical disk or microfilm in a secure manner in compliance with current GMP with duplicate copies submitted to CUMBERLAND promptly after the creation thereof and shall be made available on request of the FDA or any other authorized regulatory body.

10. INDEMNIFICATION

10.1 Indemnification by CUMBERLAND: Subject to Paragraph 5.1, CUMBERLAND shall indemnify and hold BIONICHE (and any Affiliate and their officers, directors, shareholders, agents, and the employees and insurers of any of them and/or their successors and assigns thereto), free and harmless from any and all claims, demands, liability, actions or causes of actions, and any and all expenses associated therewith (including, without limiting the generality of the foregoing, defense costs and reasonable attorney's fees), arising out of or in connection with, as a result of, or otherwise related to any third party claims arising from: (i) any negligence or recklessness of CUMBERLAND, its agents, or employees; (ii) the promotion, distribution, use, misuse or sale or effects of the Drug Product except to the extent any alleged Drug Product defects were caused by BIONICHE; (iii) CUMBERLAND's non-compliance with any applicable FDA or other applicable regulations; or, (iv) any failure of CUMBERLAND to perform, in whole or in part, any of its obligations hereunder in each case, unless caused by the acts or omissions of BIONICHE. Beginning prior to delivery of the first order of Drug Products pursuant to this Agreement and continuing until the third anniversary of termination of this Agreement, CUMBERLAND shall maintain products liability insurance with limits of liability of not less than Five Million U.S. Dollars ($5,000,000) and shall name BIONICHE as additional insured under said policy.

10.2 Indemnification by BIONICHE: Subject to Paragraph 5.1, BIONICHE will indemnify and hold CUMBERLAND (and any Affiliate and their officers, directors, shareholders, agents, and the employees and issuers of any of them and/or their successors and assigns thereto), free and harmless from any and all claims, demands, liability, actions or causes of action, and any and all expenses associated therewith (including, without limiting the generality of the foregoing, defense costs and reasonable attorney's fees), arising out of or in connection with, as a result of, or otherwise related to any third party claims arising from: (i) any negligence or recklessness of BIONICHE, its agents or employees; (ii) personal injury (including death) or property damage arising out of or in connection with BIONICHE's manufacture or handling of the Drug Product otherwise than in accordance with the Specifications and CUMBERLAND'S written directions; (iii) BIONICHE's non-compliance with any applicable FDA or other applicable regulations; or (iv) any failure of BIONICHE to perform any of its obligations hereunder, in each case, unless caused by the acts or omissions of CUMBERLAND. Beginning prior to delivery of the first order for Drug Product pursuant to this Agreement and continuing until the third anniversary of termination of this Agreement, BIONICHE shall maintain products liability insurance with limits of liability of not less than U.S. $5,000,000 and shall name CUMBERLAND as additional insured under said policy.

10.3 Conditions of Indemnification: If either party seeks indemnification from the other under Paragraphs 10.1 or 10.2, it shall promptly give written notice to the other party of any such claim or suit threatened, made or filed against it, which forms the basis for such claim of indemnification and shall cooperate fully with the other party in the defense of all such claims or suits. No settlement or compromise shall be binding on a party hereto without its prior written consent.

10.4 Limitation: Except as expressly set forth herein, neither party will be liable to the other for any claim for loss of profits, for loss or interruption of business or for indirect, special or consequential damages of any kind under this Agreement.

11. GENERAL PROVISIONS

11.1 Notices: Any notice permitted or required by this Agreement may be sent by facsimile with the original document being sent by certified (or registered) mail, return receipt requested, or overnight delivery and shall be effective when received (or refused) via facsimile or mail or overnight if faxed and sent and addressed as follows (or to such other facsimile number or address as may be designated by a party in writing):

If to CUMBERLAND: CUMBERLAND PHARMACEUTICALS INC.

209 Tenth Avenue South, Suite 332
Nashville, Tennessee 37203
Attn: Chief Executive Officer
Telephone: 615-255-0068
Facsimile: 615-255-0094

If to BIONICHE: BIONICHE LIFE SCIENCES, INC.
231 Dundas Street East,
Belleville, Ontario, Canada K8N 1E2
Attn: Chief Executive Officer
Telephone: 800-265-5464
Facsimile: 613-966-4177

With a copy to: BIONICHE PHARMA (CANADA) LIMITED
151 Dundas Street, Suite 507
London, Ontario, Canada N6A 5R7
Attn: President
Telephone: 519-453-0641
Facsimile: 519-453-6169

And to: BIONICHE LIFE SCIENCES, INC.
Attn: Vice President, Corporate Counsel
Telephone: 800-265-5464
Facsimile: 613-966-4177

11.2 Master Agreement; Amendment: This Agreement is being entered into pursuant to the Strategic Alliance Agreement dated January 15, 2002, between CUMBERLAND and BIONICHE (the “Master Agreement”), and this Agreement (including any and all exhibits hereto, whether entered into now or hereafter) constitutes an Addendum (as defined in the Master Agreement). In the event of any conflict or inconsistency between the terms of this Agreement and the Master Agreement, the terms of this Agreement shall govern. No modification of any of the terms of this Agreement, or any amendments thereto, shall be deemed to be valid unless in writing and signed by both parties hereto. No course of dealing or usage of trade shall be used to modify the terms and conditions herein.

Without limiting the generality of the foregoing, no provisions of any CUMBERLAND purchase order that are inconsistent with the terms of this Agreement shall apply.

11.3 Waiver: None of the provisions of the Agreement shall be considered waived by any party hereto unless such waiver is agreed to, in writing, by both parties. The failure of a party to insist upon strict conformance to any of the terms and conditions hereof, or failure or delay to exercise any rights provided herein or by law shall not be deemed a waiver of any rights of any party hereto.

11.4 Obligations to Third Parties: Each party warrants and represents that this Agreement is not inconsistent with any contractual obligations, expressed or implied, undertaken with any third party.

11.5 Assignment: This Agreement shall be binding upon and inure to the benefit of the successors or permitted assigns of each of the parties and may not be assigned, transferred, or subcontracted by either party without the prior written consent of ' the other, which consent will not be unreasonably withheld or delayed, except that no consent shall be required in the case of a transfer to an Affiliate of a party hereto or transaction involving the merger, consolidation or sale of substantially all of ' the assets of the party seeking such assignment or transfer and such transaction relates to the business covered by this Agreement and the resulting entity assumes all the obligations of the assigning party under this Agreement.

11.6 Independent Contractor: BIONICHE shall act as an independent contractor for CUMBERLAND in providing the services required hereunder and shall not be considered an agent of or joint venturer with CUMBERLAND. Unless otherwise provided herein to the contrary, BIONICHE shall furnish all expertise, labor, supervision, machining and equipment necessary for performance hereunder and shall obtain and maintain all building and other permits and licenses required by public authorities.

11.7 Governing Law and Dispute Resolution: This Agreement is subject to and shall be governed by the laws of the State of New York. Any dispute, controversy, or claim arising out of or relating to this Agreement, any purchase orders between the parties hereto, or the breach, termination, or invalidity thereof shall be settled under the Rules of the American Arbitration Association by one or more arbitrators appointed in accordance with said Rules. The place of arbitration shall be within the State of New York. The parties agree that the award of the arbitrator(s) shall be the sole and exclusive remedy between them regarding any claims, counterclaims, issues or accountings presented or pled to the arbitrator(s); that it shall be made and shall promptly be payable in U.S. dollars free of any tax, deduction, or offset; that any costs and attorney fees incurred by the prevailing party as determined by the arbitrator(s) incident to the arbitration, shall be included as part of the arbitration award; and that any costs. fees, or taxes incident to enforcing the award shall, to the maximum extent permitted by law, be charged against the party resisting such enforcement. The award shall include interest from the date of any damages incurred for breach or other violation of the Agreement, and from the date of the award until paid in full, at a rate to be fixed by the arbitrator(s), but in no event less than the prime interest rate for Bank of America in Nashville, Tennessee, U.S.A.

11.8 Severability: In the event that any term or provision of this Agreement shall violate any applicable statute, ordinance, or rule of law in any jurisdiction in which it is used, or otherwise be unenforceable, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.

11.9 Headings, Interpretation: The headings used in this Agreement are for convenience only and are not part of this Agreement.

11.10 Conflict: In the event of conflict between the terms and provisions of this Agreement and the terms and provisions of the Manual, the terms of this Agreement shall control.

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

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed by their duly authorized representatives effective as of the date first above written.

CUMBERLAND PHARMACEUTICALS INC.

/s/ A. J. Kazimi
Authorized Signature

A.J. Kazimi
Chief Executive Officer

BIONICHE LIFE SCIENCES, INC.

/s/ Albert Beraldo
Authorized Signature

Albert Beraldo
Vice President, Business Development

SCHEDULE I

[remainder of the Schedule to be inserted as agreed to by the Parties]

Shipping and Storage

1. Finished Drug Product shall be stored by BIONICHE after completion, at ___degrees C to ___degrees C.
2. Drug product will be delivered by BIONICHE to CUMBERLAND by air on the basis of FCA (ex works) ex works BIONICHE's plant in Galway, Ireland with the carrier to be selected by CUMBERLAND.
3. The terms "FCA" ("ex works") and "DDP" and the Parties' respective obligations shall be determined in accordance with the INCOTERMS adopted by the International Chamber of Commerce, effective July 1, 1990, unless otherwise specifically provided in this Agreement.
4. Additional details regarding packaging shall be incorporated herein upon adoption thereof by written agreement of BIONICHE and CUMBERLAND.

Pricing —

The prices to be paid by CUMBERLAND to BIONICHE for the Drug Products arc as follows:

N-acetylcysteine 30 mL	[***]
N-acetylcysteine 10 mL	[***]

[***] currency conversions will be based upon the then current exchange rate listed in the Wall Street Journal.

The minimum size of any order of the Drug Product shall be one production lot of [***] for the 30 mL Drug Product and [***] for the 10 mL Drug Product.

[***]

[remainder of the Schedule to be inserted as agreed to by the Parties]

SCHEDULE II

[to be inserted as agreed to by the Parties]

SCHEDULE III

Territory

The United States of America and all its possessions and territories

SCHEDULE IV

Approved Suppliers

[to be inserted as agreed to by the Parties]

Schedule V

Minimum Purchase Quantities

[to be inserted as agreed to by the Parties]

EXHIBIT 10.2

EXECUTION COPY

NOVATION AGREEMENT

This Novation Agreement (as amended, supplemented, restated or otherwise modified from time to time, this "Novation Agreement") is made as of January 27, 2006 between:

BIONICHE LIFE SCIENCES INC., a corporation organized under the laws of Canada ("**BLSI**"),

and

CUMBERLAND PHARMACEUTICALS INC., a corporation organized under the laws of the United States (the **"CPI"**),

and

BIONICHE PHARMA GROUP LIMITED, a corporation organized under the laws of Ireland **("Pharma")**.

(hereinafter collectively referred to as the "Parties")

RECITALS

A. BLSI and the CPI have entered into a Strategic Alliance Agreement dated January 15, 2002 and a Manufacturing and Supply Agreement for N-Acetylcysteine dated January 15, 2002 copies of which are annexed as Schedules "A" and "B" attached hereto (such agreements and contracts, together with all notices, certificates, Agreement, instruments and other documents delivered or entered into in connection therewith, as amended, supplemented, restated or otherwise modified from time to time, are collectively referred to herein as the **"Agreements"**).

B. BLSI desires to be released and discharged from its obligations to the CPI under the Agreements and the CPI has agreed to release and discharge BLSI.

C. The Parties have agreed that as and from the date of this Novation Agreement (the "Effective Date"), the Agreements shall be novated to Pharma so that from the Effective Date Pharma shall be bound by the terms of the Agreements in place of BLSI and agrees to acknowledge and expressly assume in the name, place and stead of BLSI all liabilities and obligations of BLSI under the Agreements.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party, the parties agree as follows:

SECTION 1 — NOVATION AND RELEASE

1.1 Novation

As of the Effective Date, Pharma agrees and undertakes to perform the obligations of BLSI under the Agreements, whether arising prior to, on or subsequent to the Effective Date, and agrees to be bound by the terms and conditions of the Agreements in every way as if Pharma were named as a party to the Agreements in place of BLSI. Pharma agrees to perform any and all past, present and future obligations of BLSI under the Agreements, including without limitation indemnification obligations of BLSI arising out of any failure of BLSI to perform an obligation under the Agreements prior to the Effective Date.

1.2 Release of the Obligations of BLSI

As of the Effective Date, the CPI and BLSI mutually release each other from the various covenants, undertakings, warranties and other obligations contained in the Agreements and from all claims and demands whatsoever in respect of the Agreements whether arising prior to, on or subsequent to the Effective Date.

SECTION 2 — REPRESENTATIONS AND WARRANTIES OF BLSI AND PHARMA TO THE CPI

BLSI and Pharma represent and warrant to the CPI as follows:

2.1 Status

BLSI and Pharma are corporations duly constituted and validly existing and are in good standing under the laws of their incorporating jurisdictions and are duly qualified to conduct their business in each jurisdiction where the nature and extent of their business and property require the same.

2.2 Authority

BLSI and Pharma possess all requisite authority and power to execute, deliver and comply with the terms of this Novation Agreement. This Novation Agreement has been duly authorized by all necessary action, has been duly executed and delivered by BLSI and Pharma and constitutes a valid and binding obligation of BLSI and Pharma enforceable in accordance with its terms, except as the enforcement thereof may be limited by applicable bankruptcy, insolvency, moratorium, rearrangement, reorganization or similar legislation affecting the rights of creditors generally.

2.3 Right to Novate

BLSI has the right to novate its rights and benefits under the Agreements to Pharma, free and clear of any charge, lien, pledge, security interest or direct or indirect participation interest in favour of any other person, and as of the Effective Date, the Agreements are free and clear of all charges, liens, pledges, security interests or direct or indirect participation interests in favour of any other person.

2.4 Non-Conflict

Neither the execution nor the performance of this Novation Agreement requires the approval of any governmental or regulatory agency having jurisdiction over BLSI or Pharma, nor is this Novation Agreement in contravention of or in conflict with the articles, by-laws or resolutions of the directors or shareholders of BLSI or Pharma, or, of the provisions of any agreement to which BLSI or Pharma is a party, or by which any of the property of BLSI or Pharma may be bound, or of any statute, regulation, by-law, ordinance or other law, or of any judgment, decree, award, ruling or order to which BLSI or Pharma, or any of the property of BLSI or Pharma, may be subject.

2.5 Representations and Warranties Repeated

Pharma hereby makes the same representations and warranties with respect to itself that BLSI made with respect to itself in the Agreements and Pharma represents and warrants to the CPI that such representations and warranties are true and correct as of the Effective Date.

SECTION 3 — REPRESENTATIONS AND WARRANTIES OF CPI TO PHARMA

The CPI represents and warrants to Pharma that:

(a) the representations and warranties of such CPI made in the Agreements are true and correct as of the Effective Date,

(b) such CPI possesses all requisite power and authority to execute, deliver and comply with the terms of this Novation Agreement, and

(c) the novation hereunder has been duly authorized by all necessary action, has been duly executed and delivered by such CPI and constitutes a valid and binding obligation of such CPI enforceable in accordance with its terms, except as the enforcement thereof may be limited by applicable bankruptcy, insolvency, moratorium, rearrangement, reorganization or similar legislation affecting the rights of creditors generally.

SECTION 4 – GENERAL

4.1 Severability

If any provision of this Novation Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Novation Agreement, the legality, validity and enforceability of the remaining provisions of this Novation Agreement shall not be affected thereby.

4.2 Multiple Counterparts

This Novation Agreement may be executed in a number of identical counterparts, each of which, for all purposes, is to be deemed to be an original, and all of which constitute, collectively, one agreement, but in making proof of this Novation Agreement, it shall not be necessary to produce or account for more than one such counterpart.

4.3 Notices

Any notice given hereunder, under any of the Agreements or pursuant to the provisions hereof or thereof shall be given in accordance with notice provisions of the Agreements, except that no notice is required to be delivered to BLSI after the Effective Date.

For the purposes of the notice provisions of the Agreements, address for notices or communications to Pharma shall be as follows:

Bioniche Pharma Group Limited
Inverin County, Galway
Ireland
Telecopier: 011 353 91 593 228
Attention; Albert Beraldo, Chief Executive Officer

4.4 Governing Law

This Novation Agreement shall be interpreted, construed and governed by and in accordance with the laws of New York.

4.5 Confirmation

The parties hereby confirm, in all other respects, that the Agreements are in full force and effect, unchanged and unmodified, except in accordance with this Novation Agreement.

4.6 Further Assurances

The parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Novation Agreement, and each party shall provide such further documents or instruments

required by any other party as may be reasonably necessary or desirable to effect the purpose of this Novation Agreement and carry out is provisions,

The parties have executed this Novation Agreement and this Novation Agreement shall be effective as of the Effective Date.

BIONICHE LIFE SCIENCES INC.

By: /s/ Graeme McRae
Name: Graeme McRae
Title: President & CEO

CUMBERLAND PHARMACEUTICALS INC.

By: /s/ A.J. Kazimi
Name: A.J. Kazimi
Title: Chief Executive Officer

BIONICHE PHARMA GROUP LIMITED

By: /s/ John [illegible]
Name: Dr. John [illegible]
Title: Director

EXHIBIT 10.3

*Certain portions of this exhibit have been omitted pursuant to a request for confidential treatment which has been filed separately with the SEC.

FIRST AMENDMENT TO MANUFACTURING AND SUPPLY AGREEMENT FOR N-ACETYLCYSTEINE

THIS FIRST AMENDMENT (the "First Amendment") to that certain Manufacturing and Supply Agreement for N-Acetylcysteine (the "Agreement"), dated as of January 15, 2002, as modified by that certain Novation Agreement, dated as of January 27, 2006 (to be attached hereto), is entered into by and between CUMBERLAND PHARMACEUTICALS INC., a corporation organized and existing under the laws of Tennessee, United States ("CUMBERLAND"), and BIONICHE TEORANTA, a corporation organized and existing under the laws of Ireland ("BIONICHE"), and is effective as of November 16, 2006. Capitalized terms used but not defined in this First Amendment shall have the meanings that are set forth in the Agreement.

WITNESSETH:

WHEREAS, BIONICHE is the assignee under the Agreement of BIONICHE PHARMA GROUP LIMITED, an Affiliate thereof.

WHEREAS, CUMBERLAND and BIONICHE agree that the exceptions to the exclusivity provisions set forth in Paragraph 5.6 of the Agreement which permit BIONICHE to (i) sell Excluded Products or Other Products or (ii) market or distribute Excluded Products or Other Products in association with any third Person other than CUMBERLAND in certain circumstances shall be deleted from the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, representation and warranties contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Paragraph 1.7 is amended and restated in its entirety as follows:

   DRUG PRODUCT shall mean the N-acetylcysteine pharmaceutical product developed by CUMBERLAND and marketed for any current or future approved indications under the trade name ACETADOTE or any other trade name selected by CUMBERLAND.

2. Paragraph 1.9 is hereby amended and restated as follows:

   FACILITY shall mean the manufacturing facility and the real property underlying such manufacturing facility operated by BIONICHE, located at Inverin, Co, Galway, Republic of Ireland.

3. Paragraph 1.18 defines **TERRITORY** as having the meaning set forth in Schedule III. Schedule III of the Agreement, and therefore the TERRITORY, is hereby amended and restated as follows:

   The United States of America and all its possessions and territories, [***].

4. Paragraph 3.1 is amended and restated in its entirety as follows:

This Agreement shall commence on the date first above written and will continue until January 23, 2011, unless sooner terminated pursuant to Paragraphs 3.2 or 3.3 hereof or extended pursuant to this Paragraph 3.1. CUMBERLAND shall have the option to extend the duration of this Agreement for five (5) years upon prior written notice provided by CUMBERLAND to BIONICHE at least 180 days prior to January 23, 2011; otherwise, the Agreement shall expire on such date in accordance with its terms. If CUMBERLAND exercises such option, then subject to Paragraphs 3.2 and 3.3, the Agreement shall be automatically renewed for successive three-year terms after expiration of the initial extended term, unless either party notifies the other party in writing at least twelve (12) months in advance of the expiration of the then current term that the party is terminating the Agreement.

5. Subparagraphs 3.2(d) and (e) are deleted from the Agreement in their entirety and Subparagraph 3.2(f) is re-lettered as 3.2(d).

6. Paragraph 3.5 is amended by adding a reference to Paragraph 3.4 thereto (such that Paragraph 3.4 is identified as a "surviving" provision.)

7. Subparagraph 5.6(a) is amended and restated in its entirety as follows:

(a) Neither BIONICHE nor any Affiliate thereof will sell, give away, or deliver to any other person, firm, or corporation any form of the Drug Product in the Territory for any indications, while this Agreement is effective and for two years after the termination of this Agreement; provided that such restrictions shall not apply in the event of termination by BIONICHE pursuant to Subparagraphs 3.2(a) or (b), or Paragraph 3.3.

8. Subparagraphs 5.6(b), (c), (d), and (e) are deleted from the Agreement in their entirety; Subparagraphs 5.6(f) and (g) are re-lettered as 5.6(b) and (c), respectively; and Subparagraph 5.6(f) (re-lettered 5.6(b)) is amended and restated in its entirety as follows:

(b) Except in the event that BIONICHE fails to supply all Drug Product ordered within [***] of receipt of a Purchase Order in accordance with Paragraph 2.7, or in the event of Force Majeure, CUMBERLAND will order its entire requirement of the Drug Product for the Territory from BIONICHE. If CUMBERLAND notifies BIONICHE that it intends to distribute the Drug Product in countries not included in the Territory, then the parties shall negotiate in good faith, for a period not to exceed [***] after CUMBERLAND provides such notice, to amend this Agreement to expand the Territory hereunder (and to add additional minimum purchase quantities for such expanded Territory, as contemplated under Paragraph 5.7); provided that, if the parties fail to agree upon the terms of supply for an expanded Territory within such [***], CUMBERLAND shall have no obligation to purchase requirements of such Drug Products for such other countries

from BIONICHE, but its obligations hereunder with respect to the Territory shall remain in full force and effect.

9. Paragraph 5.7 is amended and restated in its entirety as follows:

CUMBERLAND shall use its best efforts to achieve the minimum purchase quantities set forth in Schedule V to this Agreement for each format of Drug Product sold in the Territory by CUMBERLAND. In the event CUMBERLAND is required to procure Drug Product from other sources in accordance with Paragraph 2.7, the minimum annual purchase obligation set out in Schedule V shall be decreased by the quantity BIONICHE failed to deliver hereunder.

Schedule V of the Agreement is hereby stated as follows:

[***]

10. Paragraph 11.1 is amended by replacing the address for notice (and relevant copies) for CUMBERLAND and BIONICHE, as follows:

If to CUMBERLAND: CUMBERLAND PHARMACEUTICALS INC.
2525 West End Avenue, Suite 950
Nashville, Tennessee 37203
Attn: Chief Executive Officer
Telephone: 615-255-0068
Facsimile: 615-255-0094

If to BIONICHE: BIONICHE TEORANTA
Inverin,
Co. Galway,
Ireland
Attn: Managing Director
Telephone: +353 91 593202
Facsimile: +353 91 593228

11. Miscellaneous.

(a) Authorization. Each party to this First Amendment hereby represents and warrants that the execution, delivery and performance of this First Amendment is within the powers of such party and has been duly authorized by the party, is in accordance with all applicable laws and regulations, and this First Amendment constitutes the valid and enforceable obligation of each party in accordance with its terms.

(b)Effect of First Amendment. Each party acknowledges that this First Amendment constitutes a written instrument as contemplated by Paragraph 11.2 of the Agreement. Except as specifically amended above, the Agreement shall remain in full force and effect, and is hereby ratified and confirmed.

(c) Counterparts. This First Amendment may be executed in any number of counterparts, each of which may be executed by only one of the parties hereto, and each of which shall be enforceable against the party actually executing such counterpart, and all of which shall together constitute one instrument.

(d) Titles and Subtitles. The titles and subtitles used in this First Amendment are used for convenience only and are not to be considered in construing or interpreting this First Amendment.

(e) Governing Law and Dispute Resolution. This First Amendment shall be construed in accordance with the laws of the State of New York without regard to applicable conflicts of laws provisions and any dispute, controversy, or claim arising out of or relating to this First Amendment shall be governed by the provisions of Paragraph 11.7 of the Agreement.

(f) Severability. Should any part of this First Amendment be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity and enforceability of the remaining portion.

IN WITNESS WHEREOF, each of the undersigned has caused this First Amendment to be executed as of the date first above written.

CUMBERLAND:

CUMBERLAND PHARMACEUTICALS INC.

By: /s/ A.J. Kazimi

Title: Chief Executive Officer

Date: December 13, 2006

BIONICHE:

BIONICHE TEORANTA

By: /s/ John Kavanagh

Title: Managing Director

Date: November 16, 2006

EXHIBIT 10.4

* Certain portions of this exhibit have been omitted pursuant to a request for confidential treatment which has been filed separately with the SEC.

Contract Sales and Services Agreement

Between

Cumberland Pharmaceuticals, Inc.

&

Cardinal Health Contract Sales & Services

For

Cumberland Pharmaceuticals Dedicated Sales Force

May 16, 2006

TABLE OF CONTENTS

Article I	Definitions and References to Cardinal Health	Page 3
Article II	Appointment of Cardinal Health; General Scope of Activities	Page 5
Article III	Compensation	Page 8
Article IV	Representations, Warranties and Covenants	Page 9
Article V	Status of Cardinal Health and the Representatives	Page 10
Article VI	Training	Page 11
Article VII	Samples	Page 11
Article VIII	Trademarks and Intellectual Property Rights	Page 12
Article IX	Communications; Monitoring the Program	Page 12
Article X	Insurance	Page 13
Article XI	Adverse Reaction Reporting and Regulatory Matters	Page 14
Article XII	Return/Recall	Page 15
Article XIV	Term and Termination	Page 16
Article XV	Recordkeeping; Audit Rights	Page 18
Article XVI	Indemnification	Page 18
Article XVII	Notice	Page 21
Article XVIII	Miscellaneous	Page 21
Schedule 1.1(k)	List of Products	Page 25
Schedule 1.1(0)	Definition of Territory	Page 26
Schedule 3.1	Service Fees and Payment Schedule	Page 27

AGREEMENT

This AGREEMENT ("Agreement") is dated as of May 16, 2006 by and between Cardinal Health PTS, LLC ("Cardinal Health") with a place of business at 7000 Cardinal Place, Dublin, Ohio, and Cumberland Pharmaceuticals, Inc. ("Cumberland"), having a principal place of business at 2525 West End, Suite 950, Nashville, Tennessee 37203.

Background Information

Cumberland is a Tennessee-based company which focuses on the acquisition, marketing, and distribution of a portfolio of niche pharmaceutical products. Cardinal Health provides medical representatives who Detail (as hereinafter defined) pharmaceutical products for third parties. Cumberland desires Cardinal Health to provide representatives to Detail certain products as determined and directed by Cumberland in the geographical territory hereinafter specified, pursuant to the terms and conditions of this Agreement, and Cardinal Health desires to provide the Representatives and perform such services pursuant to the terms and conditions set forth in this Agreement.

The parties hereby agree as follows:

ARTICLE I
DEFINITIONS AND REFERENCES TO CARDINAL HEALTH

1.1. Definitions. The following terms when used in this Agreement shall, except where the context otherwise requires, have the following meanings:

(a) "Act" means the Federal Food, Drug and Cosmetic Act, as amended, and the regulations promulgated thereunder from time to time.

(b) "Affiliate" means any corporate or non-corporate business entity that controls, is controlled by, or is under common control with a party to this Agreement. A corporation or non-corporate business entity shall be regarded as in control of another corporation if it owns or directly or indirectly controls at least forty percent (40%) of the voting stock of the other corporation, or (i) in the absence of the ownership of at least forty percent (40%) of the voting stock of a corporation or (ii) in the case of a non-corporate business entity, if it possesses directly or indirectly, the power to direct or cause the direction of the management and policies of such corporation or non-corporate business entity, as applicable.

(c) "Agency" means any governmental regulatory authority in the Territory responsible for granting approvals for the sale or maintaining regulatory oversight of the Products, including, without limitation, the FDA.

(d) "Cardinal Health" means Cardinal Health PTS, LLC and shall be deemed to include the Representatives and Managers.

(e) “Detail” means an interactive, face-to-face visit by a Representative with a Target Customer or his or her legally empowered designee in the Territory, during which the FDA-approved indicated uses, safety, effectiveness, contraindications, side effects, warnings and other relevant characteristics of one or more of the Products (as defined herein) are described by the Representative in a fair and balanced manner consistent with the requirements of the Act, and using, as necessary or desirable, the Product Labeling (as defined herein) and the Product Promotional Materials (as defined herein). “Product Detail” means Detail of a Product between Target Customer and Representative. When used as a verb, “Detail” or “Detailing” shall mean to engage in a Detail as defined in this Section 1.1(f).

(f) “FDA” means the United States Food and Drug Administration and any successor agency having substantially the same functions.

(g) “Manager” means an individual hired by and retained as an employee of Cardinal Health to oversee activities of Representatives under this Agreement, including a project manager.

(h) “PDMA” means the Prescription Drug Marketing Act of 1987, as amended, and the regulations promulgated thereunder from time to time.

(i) “Product Labeling” means all labels and other written, printed, or graphic matter provided by Cumberland including (i) any container or wrapper utilized with a Product, or (ii) any written material accompanying a Product, including, without limitation, Product package inserts.

(j) “Product Promotional Materials” means all written, printed or graphic material provided by Cumberland, including Product Labeling, intended for use by Representatives during a Detail, including visual aids, file cards, premium items, clinical studies, reprints, drug information updates and any other promotional support items that Cumberland deems necessary or appropriate to conduct the Program. Product Promotional Materials shall include FDA approved indicated uses, safety, effectiveness, contraindications, side effects, warnings and other relevant characteristics of each of the Products.

(k) “Products” means the pharmaceutical products to be detailed by Representatives and marketed by Cumberland as set forth on attached Schedule 1.1(k) and such other products as may be added by Cumberland from time to time to Schedule 1.1(k) attached hereto.

(l) “Program” means the program of Detailing to be conducted by the Representatives pursuant to this Agreement beginning as of September 5, 2006 and continuing thorugh the remainder of the Term, as defined in Section 14.1.

(m) “Representative” and “Representatives” mean an individual or individuals hired by and retained as an employee of Cardinal Health to conduct Detailing of Cumberland Products only in connection with the Program.

(n) “Target” or “Target Customer” means a physician or other specialist identified by Cumberland.

(o) “Territory” means the geographical area specified in the attached Schedule 1.1(o).

ARTICLE II
APPOINTMENT OF CARDINAL HEALTH; GENERAL SCOPE OF ACTIVITIES

2.1. Detailing. Cardinal Health shall provide twenty four (24) Representatives to engage in Product Detail activities in the Territory. Cardinal Health shall assign Representatives for such Target Customers, in such numbers, and in such Territories as shall be designated by Cumberland during the term of this Agreement. Each Representative shall make Product Details to his or her assigned Target Customers based on any reasonable general direction given by Cumberland’s designated management team. The duties of such Representatives shall be exclusively to Detail the Products and perform other related activities reasonably agreed upon by Cardinal Health as deemed necessary for the establishment and maintenance of new and existing customers of the Products in the Territories. Cumberland shall at all times retain the right to promote the Products by whomever, wherever, and to whomever it chooses.

2.2 Furnishing Managers. Cardinal Health shall provide two Managers to oversee the activities of Representatives and to perform this Agreement in such numbers and for such Territories (when relevant) as mutually agreed upon by Cardinal Health and Cumberland.

2.3. Scope of Activities. The parties shall perform the following activities as applicable to each in connection with the Program:

(a) Cardinal Health shall have sole and exclusive authority to discipline or terminate the employment of Representatives. Cumberland may reasonably request that a Representative or Manager be terminated or reassigned if such Representative’s or Manager’s activities or conduct are not adequately achieving the performance goals of the Product, or if the Representative or Manager fails to comply with all applicable laws, regulations, and Cumberland requirements for Detailing the Product. Cardinal Health shall use its best efforts to comply with such request; provided that such action complies with applicable laws and is in accordance with Cardinal Health’s policies and procedures, as determined by Cardinal Health’s human resources manager. In the event Cardinal Health determines that its policies and procedures or applicable laws prohibit the termination or reassignment of any Representative so requested by Cumberland, it shall notify Cumberland of such determination and submit a corrective action plan for Cumberland’s approval.

(b) Cardinal Health shall cause each Representative to attend and successfully complete the Training Program (as defined in Section 6.1) conducted by Cumberland for each of the Products prior to participating in the Program. Any such Representative who shall not successfully complete all such requirements shall be removed and replaced by another Representative who shall comply with such requirements.

(c) Cumberland shall provide the Representatives without cost with sufficient quantities of the Product Promotional Materials and Product Labeling for the performance of Detailing. Cumberland shall be solely responsible for the preparation, content, and method of distribution of the Product Promotional Materials and the Product Labeling. In connection with the Detailing of the Products, the Representatives shall use only the Product Labeling and the Product Promotional Materials provided by Cumberland; and under no circumstances shall Cardinal Health or the Representatives develop, create, or use any other promotional material or literature for the Detailing of the Products. Cumberland shall advise Cardinal Health immediately of any inaccuracy or incompleteness of the Product Promotional Materials or the Product Labeling, and upon such notice Cardinal Health and the Representatives shall immediately cease the use of any portion or all of the Product Promotional Materials or Product Labeling so identified by Cumberland.

(d) Cardinal Health shall instruct the Representatives to limit their verbal statements and claims regarding the Products, including efficacy and safety, to those that are consistent with the Product Labeling and the Product Promotional Materials. The Representatives shall not add, delete, or modify claims of efficacy or safety in the Detailing of the Products, nor make any changes (including underlining or otherwise highlighting any language or adding any notes thereto) in the Product Promotional Materials. Representatives shall not make any disparaging, untrue, or misleading statements about Cumberland or its Affiliates, employees, competitors, or competing products. Representatives shall Detail the Products in strict adherence to all applicable laws, regulations, and professional requirements, including, but not limited to, the Act, the Medicare and Medicaid Anti-Kickback Statute, and the American Medical Association Gifts to Physicians from Industry Guidelines.

(e) The Representatives shall remain under the direct authority and control of Cardinal Health, but shall cooperate with the members of Cumberland and shall receive advice and direction related to Detail activities on the Products from Cumberland and Cardinal Health mutually. Cumberland shall make all decisions with respect to the overall strategy in connection with the Detailing of the Products. Any Cumberland personnel interacting with Cardinal Health Representatives shall not discipline the Representatives or implement terms or conditions of employment or personnel policies and/or practices with respect to the Representatives. Cumberland shall provide Cardinal Health with copies of all reports, memoranda, audits and other data it develops pertaining to (i) the Representatives, Detailing, and the Program within 30 days of the preparation of such documents, and (ii) any negligent or wrongful acts or omissions of Representatives as promptly as practicable.

(f) In the event Cardinal Health supplies Representatives and Managers with fleet vehicles for their use in performing the Detailing as described in the Schedules of this Agreement, Cumberland shall reimburse Cardinal Health for all of its out-of-pocket costs related to using such vehicles for Detailing, including but not limited to costs related to owning, leasing, maintaining, insuring, and/or operating such vehicles (including fuel costs). Cumberland shall reimburse Cardinal Health for all reasonable out-of-pocket costs and expenses (i.e., airline tickets and other travel expenses, hotel, rent-a-car, business meals, travel meals) of

Representatives and Managers in connection with performing services pursuant to this Agreement. Cumberland and Cardinal Health shall establish a mutually acceptable budget for the costs and expenses referenced in this subparagraph for each Territory.

(g) Cumberland shall provide Cardinal Health with a list of Target Customers in the Territory and with data on prescriptions and sales in the Territory for Cardinal Health's use in performing this Agreement. Cumberland shall also provide Cardinal Health with other sales and marketing information concerning the Products that Cumberland obtains or prepares during the term of this Agreement and deems useful to Cardinal Health.

2.4. Orders for Products. Cumberland shall be solely responsible for establishing the terms and conditions of the sale of the Products, including without limitation, the price at which the Products will be sold, whether sales of the Products will be subject to any discounts, the method of distribution of the Products, and whether any credit will be granted or refused in connection with the sale or return of any Product. Cumberland shall be exclusively responsible for accepting and filling all purchase orders for the Products, billing and returns for the Products, and all other activities in connection with the sale and delivery of the Products, other than Detailing. If Cardinal Health or the Representatives receive an order for the Products, they shall immediately transmit such order to Cumberland for further handling and communications with the submitter of the order, including acceptance or rejection, which shall be in Cumberland's sole discretion.

2.5. Representatives' Activity

(a) Subject to Cumberland's obligations and representations and warranties in this Agreement, any negligent or wrongful act or omission on the part of the Representatives (both individually and as a group) that occur during the term of this Agreement and that arise during the course and within the scope of their employment with Cardinal Health pursuant to this Agreement shall be deemed to be negligent or wrongful acts or omissions of Cardinal Health. Notwithstanding the foregoing, any acts or omissions of the Representatives pursuant to the exclusive direction, control or supervision of Cumberland or its employees or agents shall not be deemed to be negligent or wrongful acts or omissions of Cardinal Health.

(b) Each party shall notify the other in writing as promptly as practicable of any such material alleged negligent or wrongful acts or omissions on the part of the Representatives of which it becomes aware along with a plan to remedy such acts or omissions, and Cumberland shall provide Cardinal Health with a reasonable opportunity to remedy such acts or omissions, and if indicated, to replace the involved Representatives.

2.6 Vacancies/Turnover. In the event of a Representative vacancy due to resignation, reassignment or termination of a Representative, Cardinal Health shall fill any such vacancy within a six (6) week period. Cumberland shall be responsible for paying the Service Fees (as defined in Section 3.1 below) during such vacancy, unless such vacancy exceeds the six (6) week period, in which event, the associated Service Fees for such vacancy shall be suspended after the six (6) week period and shall resume once the vacancy is filled by Cardinal Health. All recruiting and other related expenses for filling a vacancy shall be borne by Cardinal Health;

provided, however, that Cumberland shall be responsible for all recruiting and other related expenses for filling any vacancy occurring pursuant to Cumberland's request for reassignment or termination other than a request pursuant to Section 2.5(b) or resulting from the Representative's failure to comply with any one or more of the provisions of Section 2.3. In addition, if Cumberland desires to interview any candidates, Cumberland shall bear its own cost of attending any final interview conducted by Cardinal Health or the costs of any separate interview arranged for by Cumberland.

2.7 Management Reports. Cardinal Health or its third party designee shall provide Cumberland with monthly reports in the form agreed between Cumberland and Cardinal Health within fifteen (15) days after the end of each month. At the request of Cumberland, Cardinal Health shall furnish Cumberland at reasonable times such documentation as Cumberland reasonably requests for purposes of verifying the accuracy of any monthly report.

2.8 Project Manager. Cardinal Health shall appoint a Project Manager to serve as a liaison between Cardinal Health, Representatives and Cumberland regarding the performance by Cardinal Health and Cumberland of their respective obligations under this Agreement.

2.9 Non-compete. During the term hereof and until the first anniversary of the expiration thereof, the Representatives shall not, directly or indirectly, solicit or influence or attempt to solicit or influence any Target Customer to acquire pharmaceutical products manufactured by a competitor of Cumberland for a laxative product, an oral rehydration solution or other Products added to Schedule 1.1(k) by Cumberland.

ARTICLE III
COMPENSATION

3.1. Amount and Time of Payment. For services hereunder, Cumberland shall pay to Cardinal Health the fees set forth in Schedule 3.1 attached hereto and incorporated by reference (the "Service Fees"), which shall be payable as set forth in the payment schedule set forth therein.

3.2 Cumberland's Hiring of Representatives. Cumberland shall not solicit, directly or indirectly, any Representative or other employee of Cardinal Health to terminate their employment with Cardinal Health and/or hire any such Representative or employee during the Term of this Agreement without the prior written consent of Cardinal Health, which consent shall not be unreasonably withheld or delayed. At the expiration or termination of this Agreement, Cumberland shall have the right to hire as its own employee or as an independent contractor or agent any one or more of the Representatives or Managers (collectively, the "Targeted Employees"). Cumberland shall have the right to negotiate with any Targeted Employee concerning the terms on which Cumberland might hire that Targeted Employee prior to the end of the Term only upon the prior written consent of Cardinal Health, which shall not be unreasonably withheld or delayed. Cardinal agrees not to interfere with or restrict in any manner Cumberland's solicitation and hiring of the Targeted Employees and Cardinal Health will assist Cumberland in the transition of Targeted Employees from Cardinal Health to Cumberland.

3.3. Reimbursement of Expenses. All expenses of Cardinal Health for which Cumberland is obligated to reimburse Cardinal Health as expressly provided in this Agreement, including but not limited to travel expenses and vehicle expenses under Section 2.3(e), shall be paid by Cumberland within [***] days after Cardinal Health has submitted a statement itemizing such expenses. Cardinal Health shall submit such expense statements to Cumberland monthly.

3.4 Past Due Amounts. All amounts owing by Cumberland to Cardinal Health pursuant to this Agreement that are not timely paid by Cumberland will bear interest at the rate of twelve (12%) per annum from the due date. An invoice will be considered late and begin to accrue interest if unpaid 30 days past its due date.

ARTICLE IV
REPRESENTATIONS, WARRANTIES AND COVENANTS

4.1. By Cardinal Health. Cardinal Health represents, warrants, and covenants to Cumberland, as of execution of this Agreement and during the term of this Agreement, as follows:

(a) that Cardinal Health and the Representatives shall perform the Detailing in a professional and timely manner;

(b) that Cardinal Health and the Representatives shall comply with all laws, rules and regulations that apply to the performance of services under this Agreement, including but not limited to the PDMA, the Medicare and Medicaid Anti-Kickback Act (42 U.S.C. § 1320a-7b(a)), the Civil False Claims Act (31 U.S.C. § 3729(a)), Sections 1128A, 1128B, and 1877 of the Social Security Act (42 U.S.C. §§ 1320a-7a, -7b, and 1395nn), the Health Care Fraud Act (18 U.S.C. § 1347), and the Criminal False Claims Act (18 U.S.C. § 287), as amended from time to time, as well as similar applicable state laws; and

(c) that Cardinal Health is under no obligation to any third party that would prevent the execution of this Agreement or interfere with its performance under this Agreement.

4.2. By Cumberland. Cumberland represents, warrants, and covenants to Cardinal Health, as of execution of this Agreement and during the term of this Agreement, as follows:

(a) that Cumberland is under no obligation to any third party that would prevent the execution of this Agreement or interfere with its performance under this Agreement;

(b) that Cumberland shall comply with all laws, rules and regulations that apply to the Products and their sale, the Program, and this Agreement, including but not limited to the Act, the PDMA, the Medicare and Medicaid Anti-Kickback Act (42 U.S.C. § 1320a-7b(a)), the Civil False Claims Act (31 U.S.C. § 3729(a)), Sections 1128A, 1128B, and 1877 of the Social Security Act (42 U.S.C. §§ 1320a-7a, -7b, and 1395nn), the Health Care Fraud Act (18

U.S.C. § 1347), and the Criminal False Claims Act (18 U.S.C. § 287), as amended from time to time, as well as similar applicable state laws;

(c) that the Product Labeling and Product Promotional Materials are accurate, complete, and in compliance with the Act and all applicable rules and regulations of the FDA; and

(d) that to the best knowledge of Cumberland, the manufacture, sale, and distribution of the products do not and will not during the term of this Agreement, infringe any patent or other proprietary rights of third parties, and the Products have all necessary governmental approvals and may be lawfully Detailed and sold by Cumberland and the Representatives.

ARTICLE V
STATUS OF CARDINAL HEALTH AND THE REPRESENTATIVES

5.1. Cardinal Health Independent Contractor. Cardinal Health is being retained and shall perform hereunder strictly as an independent contractor. Representatives and Managers of Cardinal Health performing services hereunder shall not be, and shall not be considered to be, employees of Cumberland for any purpose, and shall at all times remain employees of Cardinal Health, subject to Section 3.3. Neither party shall have any responsibility for the hiring, termination, compensation, benefits or other conditions of employment of the other party's employees, except as otherwise provided in this Agreement.

5.2. No Cumberland Benefits. While employees of Cardinal Health, the Managers and Representatives are not eligible to participate in any benefits programs or sales bonuses offered by Cumberland to its employees, or in any pension plans, profit sharing plans, insurance plans or any other employee benefit plans offered from time to time by Cumberland to its employees, provided that the Representatives shall be eligible to participate in Cumberland sales contests and bonus plans if so requested by Cumberland and approved by Cardinal Health. Cardinal Health acknowledges and agrees that Cumberland does not, and will not, maintain or procure any worker's compensation or unemployment compensation insurance for or on behalf of the Managers or Representatives while they are employees of Cardinal Health. Cardinal Health acknowledges and agrees that it shall be solely responsible for paying all salaries, wages, benefits and other compensation which its employees (including Representatives and Managers) may be entitled to receive in connection with the performance of the services hereunder.

5.3 Sales, Use and Excise Taxes. If any state or local government or other taxing authority determines that sales, use or excise Taxes ("Taxes") are applicable to Cardinal Health's services performed hereunder, Cardinal Health shall promptly accrue and Cumberland shall pay such Taxes on behalf of Cardinal Health to the appropriate taxing authorities. In addition, Cumberland shall be responsible for the payment of any applicable Taxes related to Cumberland's supply to Cardinal Health of Product Promotional Materials and Product Samples.

5.4. No Joint Venture. Nothing contained in this Agreement shall be construed as creating a joint venture or, except as otherwise provided herein, as granting to either party the

authority to bind or contract any obligations in the name of or on the account of the other party or to make any guarantees or warranties on behalf of the other party.

ARTICLE VI
TRAINING

6.1. Training Programs.

(a) Cumberland shall conduct a training program for new Representatives and Managers prior to participating in the Program, which shall include such medical and technical information about the Products and such sales training as Cumberland, along with Cardinal Health, deems necessary and appropriate (the "Training Program"). The Training Program shall also include instruction on compliance with applicable laws, Company policies and procedures, and computer training. Cardinal Health shall assist Cumberland with the Training Program only to the extent requested by Cumberland.

(b) In order to qualify for assignment in a Territory, a Representative must demonstrate thorough knowledge of the Products by passing Cumberland approved Product tests at a level of proficiency agreed upon by Cumberland and Cardinal Health.

6.2. Training Materials. Cumberland shall prepare written training materials for the Training Program and an up-to-date programmed learning unit for the Products, to be sent to each Representative for "at home" study a minimum of five (5) days prior to the commencement of the Training Program.

6.3. Cumberland Assistance. During the term of this Agreement, Cumberland shall make available to Cardinal Health, free of charge, a reasonable number of, and for a reasonable amount of time, at locations reasonably agreed by Cumberland and Cardinal Health, Cumberland's sales training and marketing personnel to assist Cardinal Health's Representatives and Managers with respect to the Training Program and additional orientation and ongoing training for the Representatives.

ARTICLE VII
SAMPLES

7.1. Provision of Samples. Cumberland shall provide samples of the Products to the Representatives at Cumberland's option and at its expense. Cumberland shall determine the quantity and types of samples to be provided to the Representatives and the method of distribution of the samples. In the event Cumberland elects to have Cardinal Health manage the storage and distribution of samples, Cardinal Health shall pass on to Cumberland the actual invoice costs for storage, distribution and other related costs and use prudent business sense in costs incurred. All samples shall be stored and handled by Cumberland and Cardinal Health in compliance with the PDMA and applicable law.

7.2 Sample Accountability. Cardinal Health shall prepare and provide to Cumberland for approval a sample accountability program applicable to the samples provided by

Cumberland. After the parties agree in writing to adopt a sample accountability program Cardinal Health shall comply with such program.

7.3. Return of Samples. Within 30 days following the termination or expiration of this Agreement or within 30 days from the termination or removal from the Program of a Representative (unless such Representative has been hired or retained by Cumberland), Cardinal Health shall cause the Representatives to return to Cumberland all unused Product samples provided to Cardinal Health or the Representatives by Cumberland. Cumberland shall pay or reimburse Cardinal Health for all out-of-pocket costs and expenses in connection with the storage and shipment of returned samples.

ARTICLE VIII
TRADEMARKS AND INTELLECTUAL PROPERTY RIGHTS

The Products shall be Detailed by Cardinal Health's Representatives under trademarks owned or licensed by Cumberland or an Affiliate of Cumberland. This Agreement does not constitute a grant to Cardinal Health of any property right or interest in the Products or any trademarks which Cumberland or an Affiliate of Cumberland uses with respect to the Products or to the name or business style of Cumberland. Cardinal Health and the Representatives shall use the Product Promotional Materials only for the purposes of this Agreement, and all copyright and other intellectual property rights in the Product Promotional Materials shall remain with Cumberland.

ARTICLE IX
COMMUNICATIONS; MONITORING THE PROGRAM

9.1. Communications from Third Parties. Cardinal Health and its Representatives shall advise Cumberland promptly of all comments, statements, requests and inquiries of the medical profession or any other third parties relating to the Products that are not addressed by either Product Labeling or the Product Promotional Materials, of which Cardinal Health becomes aware. All responses to such communications to the medical profession or such other third parties shall be handled solely by Cumberland. Cardinal Health shall provide reasonable assistance to Cumberland to the extent requested by Cumberland, and at Cumberland's cost and expense, to fully respond to such communications.

9.2. Government Agencies. All communications with government agencies, including the FDA, concerning the Products shall be the sole responsibility of Cumberland. Cardinal Health shall assist Cumberland with respect to such communications with government agencies to the extent requested by Cumberland, and at Cumberland's cost and expense. Cardinal Health shall provide Cumberland with any documents or information reasonably requested by Cumberland for purposes of responding to any communications with government agencies within 72 hours of Cumberland's request.

9.3. Cumberland Communications. In addition to Detailing, Cardinal Health shall assist Cumberland with respect to customer communications (as reasonably requested by Cumberland and at Cumberland's cost and expense) within the Territory and shall regularly

advise Cumberland of market, economic, regulatory and other developments of which Cardinal Health may become aware which may affect the sale of the Products in the Territory.

9.4. Review of Results. The parties shall meet periodically, but at least once per calendar quarter, to review and discuss the actual results compared to the marketing plans for Detailing of the Products. Cumberland shall regularly and promptly share with Cardinal Health all reports, audits and other data it develops relative to the Program.

ARTICLE X
INSURANCE

10.1 Cardinal Health Insurance.

(a) During the Term of this Agreement, Cardinal Health shall obtain and maintain the following insurance with limits not less than those specified below:

i. Commercial General Liability Insurance with a limit of One Million Dollars ($1,000,000) per occurrence.

ii. Worker's Compensation and Employers Liability Insurance with statutory limits for Workers' Compensation and Employers' Liability limits of One Million Dollars ($1,000,000) per accident.

iii. Automobile Liability Insurance with a combined single limit of $1,000,000.

iv. Products Liability Insurance with a limit of Five Million Dollars ($5,000,000) per occurrence.

(b) Cardinal Health may self-insure any or a portion of the required insurance. In the event that any of the required policies of insurance are written on a claims made basis, then such policies shall be maintained during the entire term of this Agreement and for a period of not less than five (5) years following the termination or expiration of this Agreement.

(c) Cardinal Health shall waive subrogation rights against Cumberland for workers' compensation benefits and shall obtain a waiver from any insurance carriers with which Cardinal Health carries workers' compensation insurance releasing their subrogation rights against Cumberland.

(d) Each insurance policy which is required under this Section shall be obtained from an insurance carrier with an A.M. Best rating of at least A- VII.

10.2 Cumberland Insurance.

(a) During the Term of this Agreement, Cumberland shall obtain and maintain the following insurance with limits not less than those specified below.

i. Commercial General Liability Insurance with a limit of One Million Dollars ($1,000,000) per occurrence.

ii. Products Liability Insurance with a limit of Five Million Dollars ($5,000,000) per occurrence.

iii. Worker's Compensation and Employers Liability Insurance with statutory limits for Workers' Compensation and Employers' Liability limits of One Million Dollars ($1,000,000) per accident.

(b) Cumberland may self-insure any or a portion of the required insurance. In the event that any of the required policies of insurance are written on a claims made basis, then such policy(ies) shall be maintained during the entire period of this Agreement and for a period of not less than five (5) years following the termination or expiration of this Agreement.

(c) Cumberland shall waive subrogation rights against Cardinal Health for workers' compensation benefits and shall obtain a waiver from any insurance carriers with which Cumberland carries workers' compensation insurance releasing their subrogation rights against Cardinal Health.

(d) Each insurance policy which is required under this Section shall be obtained from an insurance carrier with an A.M. Best rating of at least A- VII.

ARTICLE XI
ADVERSE REACTION REPORTING AND REGULATORY MATTERS

11.1. Immediate Notification. Cardinal Health and Cumberland agree to notify the other party as soon as reasonably practicable of any information that each may obtain or learn concerning any Product or package complaint or any serious unexpected side effect, injury, toxicity, or sensitivity reaction or any unexpected incidence of severity thereof associated with the clinical uses, studies, investigations, tests and marketing of the Products, whether or not determined to be attributable to the Products. "Serious" as used in this Section 11.1 refers to an experience which results in death, permanent or substantial disability, in-patient hospitalization, prolongation of existing in-patient hospitalization, a congenital anomaly or cancer, or a result of an overdose or life threatening condition. "Unexpected" as used in this Section 11.1 refers to (i) conditions or developments not previously submitted to governmental Agencies or encountered during clinical studies of the Products and not reflected in the Product Promotional Materials or the Product Labeling, or (ii) conditions or developments occurring with greater frequency, severity, or specificity than shown by information previously submitted to governmental Agencies or encountered during clinical studies of the Products and not reflected in the Product Promotional Materials or the Product Labeling. Each party shall also notify the other in a timely manner of any other adverse experience, i.e., any unfavorable and unintended change in the

structure (signs), function (symptoms) or chemistry (laboratory data) of the body temporally associated with the use of the Products, whether or not considered related thereto.

11.2. Threatened Agency Action. Cardinal Health and Cumberland shall each immediately notify the other party of any information that each may obtain or learn regarding any threatened or pending action by an Agency which may affect the Products. Cardinal Health shall, at the request of Cumberland and at the cost and expense of Cumberland, cooperate with Cumberland in formulating a procedure for taking appropriate action in response to such information. Unless compelled by law, Cardinal Health shall not respond to an Agency without the prior written consent of Cumberland.

11.3. Training. Cardinal Health and Cumberland shall develop appropriate instructions in the Training Program for Representatives as to handling of information received or obtained subject to Sections 11.1 and 11.2.

ARTICLE XII
RETURN/RECALL

12.1. Returned Products.

(a) Cumberland shall be responsible for handling all returned Products, including shipment and compensation or credit for the returned Products. Any Products inadvertently returned to Cardinal Health shall be shipped to Cumberland or at its direction, in compliance with Cumberland's returned goods policy, and Cardinal Health shall advise the customer who made the return that the Products have been returned to Cumberland. Cumberland shall reimburse Cardinal Health's out-of-pocket shipping costs arising from its handling of such returned Products within 30 days of delivery to Cumberland of Cardinal Health's statement for such costs. Upon request Cardinal Health shall provide Cumberland with documentation relating to such costs.

(b) At Cumberland's request, Cardinal Health shall assist Cumberland in obtaining and receiving any Products that have been recalled, and any costs incurred by Cardinal Health, agreed upon in advance by Cumberland, with respect to participating in any such recall shall be reimbursed by Cumberland within 30 days of delivery to Cumberland of Cardinal Health's statement for such costs.

ARTICLE XIII
CONFIDENTIAL INFORMATION

13.1 Mutual Obligation. Cardinal Health and Cumberland agree that they will not disclose the other party's Confidential Information (defined below) to any third party without the prior written consent of the other party except as required by law, regulation or court or administrative order; provided, however, that prior to making any such legally required disclosure, the party making such disclosure shall give the other party as much prior notice of the requirement for and contents of such disclosure as is practicable under the circumstances. Notwithstanding the foregoing, each party may disclose the other party's Confidential Information to any of its Affiliates that (A) need to know such

Confidential Information for the purpose of performing under this Agreement, (B) are advised of the contents of this Article, and (C) agree to be bound by the terms of this Article.

13.2 Definition. As used in this Agreement, the term **"Confidential Information"** includes all such information furnished by Cardinal Health or Cumberland, or any of their respective representatives or Affiliates, to the other or its representatives or Affiliates, whether furnished before, on or after the date of this Agreement and furnished in any form, including but not limited to written, verbal, visual, electronic or in any other media or manner. Confidential Information includes all proprietary technologies, know-how, trade secrets, discoveries, inventions and any other Intellectual Property (whether or not patented), analyses, compilations, business or technical information and other materials prepared by either party, or any of their respective representatives, containing or based in whole or in part on any such information furnished by the other party or its representatives. Confidential Information also includes the existence of this Agreement and its terms.

13.3 Exclusions. Notwithstanding Section 13.2, Confidential Information does not include information that (A) is or becomes generally available to the public or within the industry to which such information relates other than as a result of a breach of this Agreement, or (B) is already known by the receiving party at the time of disclosure as evidenced by the receiving party's written records, or (C) becomes available to the receiving party on a non-confidential basis from a source that is entitled to disclose it on a non-confidential basis, or (D) was or is independently developed by or for the receiving party without reference to the Confidential Information, as evidenced by the receiving party's written records.

13.4 No Implied License. The receiving party will obtain no right of any kind or license under any patent application or patent by reason of this Agreement. All Confidential Information will remain the sole property of the party disclosing such information or data.

13.5 Return of Confidential Information. Upon written request or termination of this Agreement, the receiving party shall promptly return within thirty (30) days all such information, including any copies thereof, and cease its use or, at the request of the disclosing party, shall promptly destroy the same and certify such destruction to the disclosing party; except for a single copy thereof, which may be retained for the sole purpose of determining the scope of the obligations incurred under this Agreement.

13.6 Survival. The obligations of this Article 13 will terminate five (5) years from the expiration of this Agreement.

ARTICLE XIV
TERM AND TERMINATION

14.1. Term. This Agreement shall take effect as of September 5, 2006 and shall continue in effect until August 30, 2008 (the "Initial Term"), unless terminated earlier as set forth herein. Notwithstanding the foregoing, Cumberland may, at its option upon written notice to Cardinal Health at least ninety (90) days prior to the expiration of the Initial Term, and with the written consent of Cardinal Health, extend the Initial Term for one additional year (the "Renewal Term"). If Cumberland desires to exercise the Renewal Term, parties shall negotiate in good faith provisions of Section 3.1 regarding Service Fees. References in this Agreement to the term of this Agreement include both the Initial Term and the Renewal Term, if applicable.

14.2. Bankruptcy: Insolvency. Either party may terminate this Agreement upon notice to the other upon the occurrence of: (a) the entry of a decree or order for relief by a court of proper jurisdiction in an involuntary case of the other party under the Federal Bankruptcy Code, as now constituted or hereafter amended, or any other applicable federal or state insolvency or other similar laws, and the continuance of any such decree or order in effect for a period of sixty (60) consecutive days; or (b) the filing by the other party of a petition for relief under the Federal Bankruptcy Code, as now constituted or hereafter amended, or any other applicable federal or state insolvency or similar laws.

14.3 Termination For Breach. Subject to Section 3.2 and other continuing obligations, either party may terminate this Agreement (i) in the event of a material breach of the other party's obligations under this Agreement, provided that such breach has not been cured within thirty (30) days after written notice thereof from the non-breaching party.

14.4 Termination Due To Regulatory And Other Problems. If the Product is not being marketed due to regulatory problems, court or administrative proceedings, product liability claims, recalls, raw materials shortages, or similar factors beyond the control of Cumberland, then, subject to Section 3.2, either party may terminate this Agreement upon thirty (30) days written notice to the other.

14.5 Termination Due To Assignment or Change in Control. In the event of a Change of Control (defined herein), the party that has had a Change In Control (the "Affected Party") shall give written notice to the other party (the "Non-Affected Party") within thirty (30) days of the occurrence of such Change In Control. If the Change In Control involves a material and direct competitor of the Non-Affected Party, the Non-Affected Party may terminate this Agreement by written notice to the Affected Party within 60 days after receipt of the Notice of a Change In Control . If the Change In Control does not involve a material and direct competitor of the Non-Affected Party, this Agreement may not be terminated by the Non-Affected Party. For purposes of this Section, "Change In Control" includes a purchase, assignment or transfer of a controlling interest in the Affected Party or substantially all of its business and assets and any merger or consolidation involving the Affected Party or any Affiliate of the Affected Party that requires a vote of the stockholders of the Ultimate Parent of the Affected Party. "Ultimate Parent" for Cardinal Health is Cardinal Health, Inc. and the Ultimate Parent for Cumberland is its stockholders.

14.6. Termination: Phase Out. In the event that this Agreement is terminated pursuant to Sections 14.2 through 14.5, and at Cumberland's request, the parties shall discuss in good faith an appropriate phase-out of Cardinal Health's Detailing activities.

14.7 Termination: Written Notice. Cumberland may terminate the Agreement, with or without cause, upon 60 days prior written notice.

14.8. Termination: Continuing Rights. The termination or expiration of this Agreement shall not affect Cumberland's obligation to reimburse or pay Cardinal Health any amount then due and owing under this Agreement. Further, the termination or expiration of this Agreement

shall not affect any rights or obligations of any party under this Agreement which are intended by the parties to survive such termination. The Service Fee paid by Cumberland for the month in which this Agreement is terminated shall be prorated based on the number of days in that month, and Cardinal Health shall refund any overpayment to Cumberland.

14.9 Termination: Return of Materials. Within sixty (60) days following the termination or expiration of this Agreement, Cardinal Health shall return to Cumberland all Confidential Information, Product Promotional Materials, marketing plans, forms, territory lists, reports and any and all other tangible items provided to Cardinal Health by Cumberland.

ARTICLE XV
RECORDKEEPING; AUDIT RIGHTS

15.1. Cardinal Health Record Keeping; Inspection by Cumberland. Cardinal Health shall keep accurate records in sufficient detail as to costs and expenses for which Cumberland must reimburse Cardinal Health under this Agreement. Upon Cumberland's reasonable request made during or within one (1) year after the term of this Agreement, and at Cumberland's expense, Cardinal Health shall permit Cumberland's designated employees or agents to have access during ordinary business hours to records of such costs and expenses in order to verify the accuracy of amounts reimbursed by Cumberland to Cardinal Health. Cumberland and its designated employees or agents shall maintain in confidence all such cost and expense records of Cardinal Health.

ARTICLE XVI
INDEMNIFICATION

16.1 Definitions. As used in this Article 16 and this Agreement, "Damages" shall mean all liabilities, damages, assessments, levies, losses, fines, penalties, costs, and expenses, including, without limitation, reasonable attorneys', accountants', investigators', and experts' fees and expenses, sustained or incurred as a result of any claims, suits, liabilities, or actions by any third party.

16.2. Indemnification by Cardinal Health. Except to the extent that any of the following Damages arises from the negligence or willful misconduct of Cumberland or breach of this Agreement by Cumberland, Cardinal Health shall indemnify and hold Cumberland, its Affiliates, directors, officers, employees and agents harmless from and against any and all Damages arising directly or indirectly from:

(a) Cardinal Health's breach of or failure to comply with any of its obligations under this Agreement;

(b) any inaccuracy in or breach or failure of any representation, warranty, or covenant made by Cardinal Health in this Agreement;

(c) any negligent or wrongful act or omission on the part of Cardinal Health or its employees or agents;

(d) Cardinal Health's violation of or failure to comply with all applicable laws relating to the promotion, distribution and sale of the Products, including but not limited to the Act, the PDMA, the Medicare and Medicaid Anti-Kickback Act (42 U.S.C. § 1320a-7b(a)), the Civil False Claims Act (31 U.S.C. § 3729(a)), Sections 1128A, 1128B, and 1877 of the Social Security Act (42 U.S.C. §§ 1320a-7a, -7b, and 1395nn), the Health Care Fraud Act (18 U.S.C. § 1347), and the Criminal False Claims Act (18 U.S.C. § 287), as amended from time to time, as well as similar applicable state laws;

(e) Detailing of the Products, except to the extent such Damages arise from a negligent or wrongful act or omission of Cumberland;

(f) any federal or state claim or assessment for nonpayment or late payment by Cardinal Health of any tax or contribution based on the status of any Representatives as employees of Cardinal Health:; or

(g) except as limited by Section 2.3(a) or by Cumberland's indemnification obligations, any employment actions and/or employment related claims alleging violation of any state or federal employment laws arising out of any action taken or omission made independently by Cardinal Health.

16.3. Indemnification by Cumberland. Except to the extent that any of the following Damages arise from the negligence or willful misconduct of Cardinal Health or breach of this Agreement by Cardinal Health, Cumberland shall indemnify and hold Cardinal Health and its Affiliates, directors, officers, employees and agents harmless from and against any and all Damages arising directly or indirectly from:

(a) Cumberland's breach of or failure to comply with any of its obligations under this Agreement;

(b) any inaccuracy in or breach or failure of any representation, warranty, or covenant made by Cumberland in this Agreement;

(c) any negligent or wrongful act or omission on the part of Cumberland or its employees or agents;

(d) Cumberland's violation of or failure to comply with all applicable laws relating to the manufacture, sale, distribution, possession and use of the Product, the Program and this Agreement, including but not limited to the Act, the PDMA, the Medicare and Medicaid Anti-Kickback Act (42 U.S.C. § 1320a-7b(a)), the Civil.False Claims Act (31 U.S.C. § 3729(a)), Sections 1128A, 1128B, and 1877 of the Social Security Act (42 U.S.C. §§ 1320a-7a, -7b, and 1395nn), the Health Care Fraud Act (18 U.S.C. § 1347), and the Criminal False Claims Act (18 U.S.C. § 287), as amended from time to time, as well as similar applicable state laws;

(e) Detailing of the Products, except to the extent such Damages arise from a negligent or wrongful act or omission of Cardinal Health;

(f) the accuracy or completeness of the Product Labels, Product Promotional Materials, or the Training Program;

(g) any claims or liabilities for injury to or death of persons, regardless of when such claim or liability is asserted or incurred, resulting from or arising out of the manufacture, use, sale, distribution, possession of the Products, or a manufacturing design or defect of the Products, or any failure to warn or inadequacy of warning regarding the Products;

(h) Cumberland's failure to pay when due or to reimburse Cardinal Health for any Taxes (as defined in Section 5.3);

(i) any negligent or wrongful acts or omissions on the part of Cumberland with respect to Cardinal Health's employees or Representatives or those individuals who have made application to be Representatives of Cardinal Health;

(j) any federal or state claim or assessment for nonpayment or late payment by Cumberland of any tax or contribution based on the status of any former Representatives as employees or agents of Cumberland; or

(k) the use by Cardinal Health, in the performance of its duties hereunder and as specified or directed by Cumberland, of any trademark, trade name, copyright, patent or other rights which use actually or allegedly infringes on the rights of any third party.

16.4. Indemnification Procedures. A party (the "Indemnitee") which intends to claim indemnification under this Article 16 shall promptly notify the other party (the "lndemnitor") in writing of any action, claim or liability in respect of which the lndemnitee or any of its employees or agents are entitled to indemnification. The Indemnitee shall permit, and shall cause its employees and agents to permit, the Indemnitor at its discretion, to settle any such action, claim or liability and agrees to the complete control of such defense or settlement by the Indemnitor; provided, however, that such settlement or defense does not adversely affect the lndemnitee's rights hereunder or impose any obligations on the Indemnitee in addition to those set forth in this Agreement. The Indemnitee, its employees, and agents, shall cooperate fully with the Indemnitor and its legal representatives in the investigation and defense of any action, claim or liability subject to indemnification. The Indemnitee shall have the right, but not the obligation, to be represented by counsel of its own selection and at its own expense: in connection with any indemnified claim.

16.5. Limitation on Cardinal Health Liability. In no event shall Cardinal Health's total liability under this Agreement exceed an amount equal to the total fees paid to Cardinal Health under this Agreement.

16.6 No Consequential Damages. Notwithstanding any provision of this Agreement to the contrary, and except with regard to claims by third parties, neither party shall be liable to the other for any special, indirect, incidental or consequential damages (other than liability for personal injury as provided in this Article 16), including lost profits.

ARTICLE 17
NOTICE

All notices and other communications hereunder shall be in writing and shall be deemed given: (A) when delivered personally; (B) when delivered by facsimile transmission (receipt verified); (C) when received or refused, if mailed by registered or certified mail (return receipt requested), postage prepaid; or (D) when delivered if sent by express courier service,

to the parties at the following addresses (or at such other address for a party as shall be specified by like notice; provided, that notices of a change of address shall be effective only upon receipt thereof):

To Cumberland:	A.J. Kazimi, CEO Cumberland Pharmaceuticals Inc. 2525 West End Avenue, Suite 950 Nashville, Tennessee 37203 Facsimile (615) 255-0094
With a copy to:	Adams and Reese / Stokes Bartholomew LLP 424 Church Street, Suite 2800 Nashville, Tennessee 37219 Attn. Martin S. Brown, Jr. Facsimile (615) 259-1470
To Cardinal Health:	Cardinal Health PTS, LLC 7000 Cardinal Place Dublin, Ohio 43017 Attn: Thomas Dimke, SVP/GM Cardinal Health Contract Sales and Services Facsimile: (614) 757-6117
With a copy to:	Cardinal Health, Inc. 7000 Cardinal Place Dublin, Ohio 43017 Attn: Associate General Counsel, Pharmaceutical Technologies and Services Facsimile: (614) 757-5051

ARTICLE 18
MISCELLANEOUS

18.1 Entire Agreement; Amendments. This Agreement, the attachments, and any amendments thereto constitute the entire understanding between the parties and supersede any

contracts, agreements or understanding (oral or written) of the parties with respect to the subject matter hereof. No term of this Agreement may be amended except upon written agreement of both parties, unless otherwise provided in this Agreement.

18.2 Captions. The captions in this Agreement are for convenience only and are not to be interpreted or construed as a substantive part of this Agreement.

18.3 Further Assurances. The parties agree to execute, acknowledge and deliver such further instruments and to take all such other incidental acts as may be reasonably necessary or appropriate to carry out the purpose and intent of this Agreement.

18.4 No Waiver. Failure by either party to insist upon strict compliance with any term of this Agreement in any one or more instances will not be deemed to be a waiver of its rights to insist upon such strict compliance with respect to any subsequent failure.

18.5 Severability. If any term of this Agreement is declared invalid or unenforceable by a court or other body of competent jurisdiction, the remaining terms of this Agreement will continue in full force and effect.

18.6 Independent Contractors. The relationship of the parties is that of independent contractors, and neither party will incur any debts or make any commitments for the other party except to the extent expressly provided in this Agreement. Nothing in this Agreement is intended to create or will be construed as creating between the parties the relationship of joint ventures, co-partners, employer/employee or principal and agent.

18.7 Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the parties, their successors and permitted assigns. Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, except that either party may, without the other party's consent, assign this Agreement to an Affiliate or to a successor to substantially all of the business or assets of the assigning company.

18.8 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Tennessee, excluding its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

18.9 Alternative Dispute Resolution. If any Dispute arises between the parties, such Dispute shall be presented to the respective presidents or senior executives of Cardinal Health and Cumberland for their consideration and resolution. If such parties cannot reach a resolution of the Dispute, then such Dispute shall be resolved by binding alternative dispute resolution in accordance with the then existing commercial arbitration rules of CPR Institute for Dispute Resolution, 366 Madison Avenue, New York, NY 10017. Arbitration shall be conducted in the jurisdiction of the defendant party.

18.10 Prevailing Party. In any dispute resolution proceeding between the parties in connection with this Agreement, the prevailing party will be entitled to its reasonable attorney's fees and costs in such proceeding.

18.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same

instrument. Any photocopy, facsimile or electronic reproduction of the executed Agreement shall constitute an original.

18.12 Publicity. Neither party will make any press release or other public disclosure regarding this Agreement or the transactions contemplated hereby without the other party's express prior written consent, except as required under applicable law or by any governmental agency, in which case the party required to make the press release or public disclosure shall use commercially reasonable efforts to obtain the approval of the other party as to the form, nature and extent of the press release or public disclosure prior to issuing the press release or making the public disclosure.

18.13 Setoff. Without limiting Cardinal Health's rights under law or in equity, Cardinal Health and its Affiliates, parent or related entities, collectively or individually, may exercise a right of set-off against any and all amounts due to Cardinal Health from Cumberland. For purposes of this Article, Cardinal Health, its Affiliates, parent or related entities shall be deemed to be a single creditor.

18.14 Survival. The rights and obligations of the parties shall continue under Articles 6 (Confidentiality), 7 (Intellectual Property), 9 (Indemnification), 10 (Limitations of Liability), 11 (Insurance), to the extent expressly stated therein, 13 (Notice), 14 (Miscellaneous) and Section 12.3 (Effect of Termination), notwithstanding expiration or termination of this Agreement.

18.15 Force Majeure. Except as to payments required under this Agreement, neither party shall be liable in damages for, nor shall this Agreement be terminable or cancelable by reason of, any delay or default in such party's performance hereunder if such default or delay is caused by events beyond such party's reasonable control including, but not limited to, acts of God, regulation or law or other action or failure to act of any government or agency thereof, war or insurrection, civil commotion, destruction of production facilities or materials by earthquake, fire, flood or storm, labor disturbances, epidemic, or failure of suppliers, public utilities or common carriers; provided however, that the party seeking relief hereunder shall immediately notify the other party of such cause(s) beyond such party's reasonable control. The party that may invoke this section shall use all reasonable endeavors to reinstate its ongoing obligations to the other. If the cause(s) shall continue unabated for one hundred eighty (180) days, then both parties shall meet to discuss and negotiate in good faith what modifications to this Agreement should result from this force majeure.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers.

CARDINAL HEALTH PTS, LLC		CUMBERLAND PHARMACEUTICALS INC.	
By:	/s/ Thomas G. Dimke	By:	/s/ AJ Kazimi
Name:	Thomas G. Dimke	Name:	AJ Kazimi
Title:	SVP/GM HCSS	Title:	C.E.O.
Date:	5-18-06	Date:	5-17-06

Schedule 1.1(k)

List of Products

CeraLyte®
Kristalose®

Schedule 1.1(o)

Definition of Territory

The mutually agreed upon headquarter locations for the twenty four representatives are as follows:

Atlanta, GA
Birmingham, AL
Boston, MA
Charlotte, NC
Chicago, IL
Dallas, TX
Dayton, OH
Detroit, MI
Hartford, CT
Houston, TX
Knoxville, TN
Lafayette, LA
Long Island, NY
Manhattan, NY
Miami, FL
Mobile, AL
Newark, NJ
Philadelphia N, PA
Philadelphia S, PA
Cleveland, OH
San Antonio, TX
Tampa, FL
Washington, DC
Yonkers, NY

Each Territory shall include the Target Customers identified by Cumberland and Cardinal Health.

Schedule 3.1

Service Fees and Payment Schedule

With respect to the Program defined herein, the following fees shall apply:

A. As compensation for the satisfactory performance by Cardinal Health of its obligations under the Agreement, Cumberland agrees to pay Cardinal Health Service Fees at the annual rate of [***]. The Service Fees shall be billed in monthly installments on the last day of each month during the term hereof. Each such installment shall be in the amount of [***] or pro rata portion thereof in the event of early termination. The payment schedule for the term is as follows:

Invoice Date	Payment
September 30, 2006	[***]
October 31, 2006	[***]
November 30, 2006	[***]
December 31, 2006	[***]
January 31, 2006	[***]
February 28, 2006	[***]
March 31, 2006	[***]
April 30, 2007	[***]
May 31, 2007	[***]
June 30, 2007	[***]
July 31, 2007	[***]
August 31, 2007	[***]
September 30, 2007	[***]
October 31, 2007	[***]
November 30, 2007	[***]
December 31, 2007	[***]
January 31, 2008	[***]
February 28, 2008	[***]
March 31, 2008	[***]
April 30, 2008	[***]
May 31, 2008	[***]
June 30, 2008	[***]
July 31, 2008	[***]
August 31, 2008	[***]

B. In addition to the Service Fees, Cardinal Health will invoice Cumberland for the following pass through costs:

(i) bonuses to Representatives in amounts as agreed in writing by Cardinal Health and Cumberland before payment and based upon well-defined performance criteria (typically [***] of salaries); and

(ii) actual expenses associated with regular territory business travel for Detailing, training meetings, and plan of action meetings including airfare, hotels, meals, meeting rooms, A/V equipment, materials, parking and tolls, each of which is subject to the Territory Budget as set forth in the Agreement

C. The expiration or termination of this Agreement shall not release Cumberland from any obligation to pay Cardinal Health any amounts accrued under this Agreement in connection with activities completed, expenses accrued prior to the effective date of such expiration or termination; provided that the Service Fee paid by Cumberland for the month in which this Agreement is terminated shall be prorated based on the number of days in that month, and Cardinal Health shall refund any overpayment to Cumberland.

D. Performance Incentive. Cardinal Health shall be eligible to receive a Performance Incentive based upon Cardinal Health's performance resulting in Kristalose sales during the term hereof in excess of a mutually agreed upon threshold which is based on sales to targeted physicians, over which Cardinal Health will be paid a maximum of [***] in Performance Incentives according to the scale below:

[***]

EXHIBIT 10.5

* Certain portions of this exhibit have been omitted pursuant to a request for confidential treatment which has been filed separately with the SEC.

FIRST AMENDMENT TO
CONTRACT SALES AND SERVICES AGREEMENT

This First Amendment to Contract Sales and Services Agreement (the "Amendment"), between Cardinal Health PTS, LLC ("Cardinal Health") and Cumberland Pharmaceuticals, Inc. ("Cumberland") is entered into by and between Cardinal Health and Cumberland to modify the terms of the Contract Sales and Services Agreement between the parties dated May 16, 2006 ("Agreement"). All capitalized terms used in this Amendment shall have the meaning ascribed to them in the Agreement.

1. Amendments.

A. Section 2.1 of the agreement is hereby amended to the add the following to the end of Section 2.1:

In addition to the twenty-four Representatives dedicated to Detailing Products for Cumberland under this Section, Cardinal Health shall also provide Cumberland with access to a syndicated sales force which will provide Details for Cumberland products as well as products of other Cardinal Health customers ("Syndicated Sales Force"). Upon agreement of the parties, the Syndicated Sales Force shall provide Details in accordance with terms set forth in amendments to Schedule 3.1 of this Agreement. Such amendment shall set forth the details of the Details, priority of Details, Products, services and fees to be provided by Cardinal Health through the Syndicated Sales Force. The provisions of Sections 2.3(a) and 3.2 shall not apply with respect to the Syndicated Sales Force. Cumberland agrees that it will not recruit, solicit or hire any Representative which is a member of the Syndicated Sales Force during the Term of this Agreement and for one year thereafter.

B. Section 2.2 of the Agreement is hereby amended to add the following to the end of Section 2.2:

The two Managers shall be responsible for oversight of the dedicated sales force and not the Syndicated Sales Force. The Syndicated Sales Force shall continue to be managed by individuals appointed by Cardinal Health to manage the Syndicated Sales Force.

C. Schedule 3.1 is hereby amended to add the following at the end:

SYNDICATED SALES FORCE

Cardinal Health's Syndicated Sales Force will make Calls on Target Customers identified by Cumberland within the territory currently served by the Syndicated Sales Force. The Syndicated Sales Force will Detail up to 3 Cumberland products during calls that are dedicated exclusively to Cumberland. For purposes of this Agreement, a "Call" means a visit by a Representative or Manager to a Target Customer in which multiple Products shall be Detailed to the Target Customer, with the understanding that a small number (less than 10%) of Calls may not involve the

Detailing of all required Products (i.e., where Target Customers will not listen to all Details).

The Call schedule shall begin on July 1, 2006 and end on June 30, 2007. Cardinal will deliver [***] during this period. The service fee schedule will be as follows:

Month	Invoice Amount
July, 2006	[***]
August	[***]
September	[***]
October	[***]
November	[***]
December	[***]
January, 2007	[***]
February	[***]
March	[***]
April	[***]
May	[***]
June, 2007	[***]
	[***]

Cardinal Health will invoice Cumberland the amount set forth in the above table on the last day of each month for service fees.

Cardinal Health will also have the ability to earn up to [***] in performance incentive for mutually agreed upon sales achievement levels on the target audience.

The following expenses shall be direct pass-through to Cumberland for the syndicated program:

Actual travel expenses for all required participation in any subsequent POA meetings.

Actual promotional expenses and percentage of representative sample storage cost. The parties will agree upon and manage to a budget based upon marketing programs and storage requirements.

2. **Effective Date.** This Amendment shall be effective upon full execution hereof ("Effective Date"). Except as otherwise amended herein, the terms and conditions of the Addendum shall remain in full force and effect.

CUMBERLAND PHARMACEUTICALS, INC.

By: /s/ James D. Aderhold, Jr
Name: James D. Aderhold, Jr
Title: V-P
Date: 7/13/06

CARDINAL HEALTH PTS, LLC.

By: /s/ Thomas G. Dimke
Name: Thomas G. Dimke
Title: SVP/GM
Date: 7/19/06

EXHIBIT 10.6

Cardinal Health
Contract Sales & Services
7000 Cardinal Place
Dublin, OH 43017
614.757.5900 main

www.cardinal.com

November 10, 2006

Mr. A.J. Kazimi
Cumberland Pharmaceuticals, Inc.
2525 West End Avenue, Suite 950
Nashville, Tennessee 37203

Re: Contract Sales and Services Agreement dated May 16, 2006, by and between Cardinal Health PTS, LLC ("Cardinal Health") and Cumberland Pharmaceuticals, Inc. ("Cumberland"), as amended by First Amendment to Contract Sales and Services Agreement dated July 19, 2006 (collectively referred to as the "Agreement")

Dear Mr. Kazimi:

As you may already know, Cardinal Health has signed a definitive agreement to sell its Healthcare Marketing Services division to Platinum Equity. This transaction includes Cardinal Health's Contract Sales Organization ("CSO Business") that is providing detailing and sampling services under the Agreement. Cardinal Health and Platinum Equity expect the transaction to close before the end of 2006.

In connection with the sale of the CSO Business, Cardinal Health will need to assign the Agreement to Platinum Equity. As Section 18.7 of the Agreement requires Cumberland to consent to an assignment of the Agreement, we are requesting that Cumberland provide its consent by signing the Consent to Assignment attached.

We look forward to continuing to provide you the same high level of service you expect and deserve. Please feel free to contact me at Tel: (614) 757-5117 with any questions you may have about this transition. We would like to receive your consent as soon as possible, but no later than November 22, 2006.

Thank you for your assistance in this matter.

Very Truly Yours,

/s/ Thomas Dimke

Thomas Dimke
Senior Vice President & General Manager,
Cardinal Health Contract Sales and Service

cc: Mr. Martin S. Brown, Jr.
Adams and Reese / Stokes Bartholomew LLP
424 Church Street, Suite 2800
Nashville, Tennessee 37219

CONSENT TO ASSIGNMENT

Cumberland Pharmaceuticals, Inc. hereby consents to and approves the assignment by Cardinal Health PTS, LLC of all of their rights, title, interests and obligations in and under the Contract Sales and Services Agreement dated May 16, 2006, by and between Cardinal Health PTS, LLC and Cumberland Pharmaceuticals, Inc., as amended by First Amendment to the Contract Sales and Services Agreement dated July 19, 2006 (collectively referred to as the "Agreement") to PG Holding Corporation, a Delaware corporation. This consent and approval is given pursuant to Section 18.7 of the Agreement.

Dated as of November 21, 2006

CUMBERLAND PHARMACEUTICALS, INC.

By: /s/ A. J. Kazimi

Name: A.J. Kazimi

Title: Chief Executive Officer

EXHIBIT 10.7

* Certain portions of this exhibit have been omitted pursuant to a request for confidential treatment which has been filed separately with the SEC.

DISTRIBUTION SERVICES AGREEMENT

This agreement is made as of August 3, 2000, between Cumberland Pharmaceuticals Inc., a Tennessee corporation ("Cumberland"), and CORD Logistics, Inc., an Ohio corporation ("CORD").

Background Information

A. Cumberland is a Tennessee-based company formed primarily to acquire and market a portfolio of niche pharmaceutical products to specific physician segments in the United States, the District of Columbia and Puerto Rico (the "Territory").

B. CORD is in the business of distributing pharmaceutical products to wholesalers, specialty distributors, physicians, clinics, hospitals, retail pharmacies, and other health care providers in the Territory, and of providing Information Systems and other services that support its customers' use of its distribution capabilities (collectively, the "Services").

C. Cumberland desires to engage CORD as its exclusive distribution agent (described below) for the pharmaceutical products described on the exhibits attached hereto (each, a "Product") and, with respect to each Product, to perform certain other services described in this agreement, all upon the terms and conditions set forth in this agreement. This agreement is being entered into pursuant to a letter of intent from CORD dated April 5, 2000, which was accepted and executed by Cumberland as of April 10, 2000.

Statement of Agreement

Cumberland and CORD (the "Parties") hereby acknowledge the accuracy of the above Background Information and agree as follows:

§1. Appointment. Upon the terms and conditions described in this agreement, Cumberland hereby appoints CORD as its exclusive distribution agent in and for the Territory for distribution of each Product (including samples) to Cumberland's direct customers ("Customers").

The Services for each Product or group of Products identified on the same Product-specific exhibit to this agreement shall be implemented pursuant to the Implementation Schedule included in such exhibit (each, an "Implementation Schedule"), with distribution of each Product to begin on the date specified in the Implementation Schedule for such Product (the "Commencement Date"). In performing the Services, CORD will provide, at its discretion, the services of either the Vice President and General Manager, Director of Sales or other such representative as mutually agreed to by Cumberland and CORD. CORD's designated representative will be the primary liaison with Cumberland, unless otherwise agreed to by the parties.

§2. Product Supply, Warehousing and Storage. Cumberland shall ship each Product to CORD at CORD's distribution facility currently located at 15 Ingram Boulevard, Suite 100, La Vergne, TN 37086 or to such other distribution facility as may be designated by CORD (individually or collectively, the "CORD Facility") and agreed by Cumberland, in sufficient quantities to meet Cumberland's anticipated Customer orders. CORD shall visually inspect each shipment of each Product for external damage or loss in transit and, in the event of any such damage or loss, shall, within a commercially reasonable period of time following discovery of such damage or loss by CORD, notify Cumberland that such damage or loss has occurred.

With respect to each Product or group of Products identified on the same Product-specific exhibit to this agreement: (a) Cumberland shall, during the Product Term set forth on such exhibit, provide CORD with applicable regulatory storage and handling requirements and projections of such Product's volume requirements not less often than quarterly, at least 30 days in advance of the quarter and written instructions setting forth the storage and handling requirements applicable to such Product; and (b) CORD shall store such Product in the CORD Facility and comply with applicable regulatory storage and handling requirements and the storage and handling requirements applicable to such Product, as such requirements may be supplemented or amended from time to time in writing by Cumberland with reasonable prior notice to CORD and its prior approval, which approval shall not be unreasonably withheld or delayed. If CORD notifies Cumberland in good faith that any such supplement or amendment will require any material modification to the CORD Facility or CORD's procedures or requirements which are unique and specific to the Product or the Services resulting in a material increase to CORD's anticipated costs and expenses, then Cumberland and CORD shall consult regarding such reasonable costs and expenses (hereinafter, simply "unique costs") and Cumberland shall pay such unique costs resulting from that modification.

Cumberland shall pay all costs and expenses of delivering each Product to the CORD Facility. CORD will never take title to any Product, even when such Product is located at the CORD Facility.

§3. Standard Product Distribution. With respect to each Product or group of Products identified on the same Product-specific exhibit to this agreement, and during the Product Term set forth on such exhibit, all Customer orders shall be taken by CORD as described in the Operating Guidelines (defined in §6, below). CORD shall confirm the receipt of and process each order and, so long as the ordered Product is then in stock at the CORD Facility and the orders are received no later than 2:00 p.m. local time at the CORD Facility, routinely have that order available for shipment within 24 hours of CORD's receipt of the order (exclusive of holidays and weekends) or such longer period as may be designated or permitted by Cumberland.

Customer orders will be delivered by a courier mutually chosen by Cumberland and CORD. CORD will invoice Cumberland for such handling services and freight cost on a monthly basis. CORD will use best efforts to manage any claims by Cumberland against the courier, provided, however, that Cumberland shall be responsible for all lost or damaged shipments.

In addition, Cumberland shall reimburse CORD for all documented costs and expenses of packaging material used for shipping the Product and all business forms unique to Cumberland (e.g., packing slips, invoices, etc.); provided that the use of such packaging material and business forms is authorized in advance by Cumberland.

Each Product shall be shipped on a "first expiration date, first out" basis or as otherwise directed by Cumberland. In addition, CORD shall establish (and Cumberland shall approve) procedures for the processing and shipment of emergency orders on weekends and holidays, provided that Cumberland shall separately pay all increased costs resulting from such orders.

§4. Product Prices. With respect to each Product or group of Products identified in the same Product-specific exhibit to this agreement, Cumberland shall, upon execution of such exhibit, deliver to CORD a price list for Customers who purchase such Product or Products (the "Customer Price List"). Cumberland shall notify CORD of any change in the Customer Price List not less than 10 business days prior to the effective date of any such change. The Parties hereby acknowledge that Cumberland, and not CORD, is the seller of each Product to Customers.

§5. Financial Support Services.

(a) Subject to Section 5(b), during each Product Term set forth on the Product-specific exhibits to this agreement, CORD shall perform the customer credit research, billing, cash application, collections, and reporting services described in the Operating Guidelines in accordance with the policies and procedures set forth in such Operating Guidelines, as such policies and procedures may be supplemented or amended from time to time by Cumberland with reasonable prior notice to CORD and with its prior approval (the "Financial Support Services"); provided that if CORD notifies Cumberland in good faith that any such supplement or amendment will require any material modification to CORD's procedures or requirements for providing the Services, then Cumberland shall pay all unique costs resulting from that modification.

(b) CORD shall have no obligation to pay for any Product or to reimburse Cumberland for any losses incurred in connection with the failure of any Customer to pay Cumberland any amount due.

(c) Customers shall be directed to make payments for the Products in accordance with the Operating Guidelines.

§6. Operating Guidelines. As soon as practicable after the date of this agreement, CORD and Cumberland shall develop operating guidelines relating to the Products and the Services, which guidelines (the "Operating Guidelines") will be in writing, in a form satisfactory to CORD and Cumberland, and will define and document the responsibilities of CORD and Cumberland in support of the relationship described in this agreement. All Operating Guidelines shall be developed and implemented in good faith and in a commercially reasonable manner, subject to the qualifications set forth therein; provided that in the event of any inconsistency between the Operating Guidelines and the other provisions of this agreement (including each Product-specific exhibit to this agreement), the other provisions of this agreement shall control. The Operating Guidelines may be amended from time to time upon the mutual agreement of CORD and Cumberland.

§7. Returns and Recalls. Pursuant to this agreement and any applicable Operating Guidelines, CORD shall assist in the processing of Product returns (excluding recall returns, which will be dealt with as described below) in coordination with the third party returns company chosen by Cumberland to facilitate return of Product. No such assistance will involve handling by CORD of the Product being returned. The fees to be paid to CORD for these return services are described in Section 8.

CORD shall process Customer Product return authorizations and credits as set forth in the Operating Guidelines. The fee for such Services by CORD will be included as a part of the Customer Service Fees described in Section 8.

If Cumberland is required to recall, or on its own initiative recalls, any Product, CORD will assist Cumberland with that recall as reasonably requested by Cumberland; provided that Cumberland shall pay to CORD an amount equal to all costs incurred by CORD in connection with any such recall.

§8. Fees. As compensation for services being provided by CORD in connection with the development and implementation of the infrastructure for the relationship contemplated by this agreement, including CORD's information system development (separate from the Information System Access Fees described below) and implementation for Cumberland's use, Cumberland shall pay CORD a one-time implementation fee of [***] (the "Implementation Fee"), one-half of which shall be payable on the first anniversary of the date of this agreement and one-half of which shall be payable on the second anniversary of the date of this agreement. Cumberland's obligation to pay the Implementation

Fee is not contingent upon the acquisition by Cumberland of any Product marketing and distribution rights and shall survive the termination of this agreement. However, the Implementation Fee shall not be due and payable if this Agreement is terminated early for any reason other than breach by Cumberland.

In addition, with respect to each Product or group of Products identified on the same Product-specific exhibit to this agreement, Cumberland shall pay CORD, as compensation for the Services related to such Product or Products, the fees described in such exhibit (the "Fees"). CORD will use commercially reasonable efforts to keep total fees in line with industry standards. The Fees shall include:

(a) *Storage/Distribution Fees.* The Storage and Distribution Fees shall be in the amounts set forth in each applicable Product Exhibit. This component of the Fees shall cover storage of Product and distribution services, which fees (the "Storage and Distribution Fees"), with respect to each Product or group of Products identified on the same Product-specific exhibit to this agreement, shall be in the amount specified in such exhibit.

The Storage Fees shall be based upon the average weekly number of pallets in storage. The Distribution Fees, for each calendar month during the Term of this Agreement, shall be based upon the aggregate number of units (or cases) shipped by CORD from the warehouse. Cumberland shall be charged an initial price per unit or case (collectively referred to as "pick") on the first pick of each order placed by Cumberland each month, and then a recurring amount per pick for each incremental pick shipped from the same order thereafter. For example, for the distribution of Reglan and Donnatal, on a monthly basis, Cumberland shall be charged the sum of [***] per pick of each order of product shipped that month and the sum of [***] per pick for each incremental pick from the same order.

(b) *Information System Access Fees.* This component of the Fees shall cover Cumberland's access to CORD's or an affiliate of CORD's standard Information Systems, consisting of the computer hardware and software and other components described in the attached Schedule 8(c)-1 (the "System"), and other services relating to Cumberland's access to the System as described in Schedule 8(c)-1, which fees (the "System Access Fees"), with respect to each Product or group of Products identified on the same Product-specific exhibit to this agreement, shall be in the amount specified in such exhibit. Access to the System shall be provided pursuant to a System Access Agreement in the form of the attached Schedule 8(c)-2, which agreement (the "System Access Agreement") shall be executed by the Parties concurrently with this agreement. Access to the System shall be made available to Cumberland's facility for each Product at the prices set forth in the exhibit for such Product, so long as Cumberland first has in place a local area network sufficient to support all Cumberland terminals and personal computers which will have access to the System and a centralized server sufficient for data storage related to Cumberland's access to the System. All costs and expenses associated with establishing initial hook-up of all communication and electronic information lines necessary for interface of the System with Cumberland's information systems located at Cumberland's address set forth at the end of this agreement are included in the Implementation Fee and are separate from the services and costs and expenses covered by the System Access Fees. Cumberland shall have sole responsibility for payment of all costs and expenses of maintaining all such communication and electronic information lines. CORD and Cumberland shall each assign knowledgeable and qualified employees to facilitate the access to the System as contemplated by this agreement.

(c) *Financial Support Services Fees.* This component of the Fees shall be payment for cash application, collections and chargeback processing services (including chargeback system access) described in the Operating Guidelines, which fees (the "Financial Support Services Fees"), with respect to each Product or group of Products identified on the same Product-specific exhibit to this agreement, shall be in the amount specified in such exhibit.

(d) *Customer Service Fees.* This component of the Fees shall be payment for the customer services performed by CORD pursuant to the Operating Guidelines, which fees (the "Customer Support Fees"), with respect to each Product or group of Products identified in the same Product-specific exhibit to this agreement, shall be in the amount specified in such exhibit.

(e) *EDI Set-up, Maintenance, Access Fees.* This component of the Fees shall be payment for services related to the set-up and maintenance of Electronic Data Interchange ("EDI") transaction capabilities between Cumberland and its Customers and access and use of a mutually agreed upon EDI provider. These fees are included in the System Access Fees described in §8(b) above.

With respect to each Product or group of Products identified on the same Product-specific exhibit to this agreement, following the end of each calendar month with respect to Product Term set forth on such exhibit, CORD shall issue an invoice to Cumberland for the Fees payable with respect to CORD's performance of the Services for the prior month. The Fees or other amounts owed to CORD by Cumberland under this agreement shall be payable within 30 days of the date of CORD's invoice for such Fees or other amounts.

The Fees shall be held firm for the first contract year. Thereafter, CORD shall adjust the price not more often than once per contract year by not more than the increase in the Producer Price Index — All Commodities published by the United States Department of Labor, Bureau of Statistics, as amended from time to time.

Notwithstanding the above Price Increase, if CORD can demonstrate that the costs for providing the Services have materially increased, or are likely to materially increase in the coming year due to the adoption of any applicable law or regulation, or any material change in the interpretation or administration thereof, then upon notice from CORD, the Parties agree to meet in good faith and negotiate a mutually acceptable adjustment to the Fees, which compensates CORD for the change.

§9. Term and Termination.

(a) The initial term of this agreement shall begin upon the day Cumberland signs a letter of intent to acquire its first Product and shall continue for a period of three (3) years (the "Initial Term"), unless terminated earlier pursuant to this agreement. Thereafter, this agreement shall automatically renew for additional terms of one (1) year each, unless written notice of termination is given by either Party at least 90 days prior to the end of the Initial Term, or such other term, in which case this agreement shall terminate at the end of the relevant term. Any reference in this agreement to the "term of this agreement" shall include the Initial Term and any such renewal terms. Upon termination of this agreement or upon the written request of Client, all Product shall be expeditiously returned to the Client or a designee of the Client.

(b) Either Party shall have the right to terminate this agreement or any Product-specific exhibit to this agreement upon the breach by the other Party of a material provision of this agreement or such exhibit and that Party's failure to cure such breach within 60 days following written notice thereof from the non-breaching Party or, in the event such failure is not capable of being cured within such 60-day period, the non-breaching Party's failure to continue to diligently prosecute such cure thereafter; provided, that, with respect to any failure to make any payment when due under this agreement or any Product-specific exhibit to this agreement, such period in which to cure shall be reduced to 30 days.

(c) Either Party shall have the right to terminate this agreement or any Product-specific exhibit to this agreement immediately upon notice to the other Party following the commencement of any bankruptcy or insolvency proceeding (whether voluntary or involuntary) with respect to such other Party or its assets, the general assignment for the benefit of creditors by such other Party, or the appointment of a receiver, trustee or liquidator by or for such other Party.

(d) Sections 8 and Sections 14 through 17, inclusive, of this agreement shall survive the termination or expiration of this agreement and each Product-specific exhibit to this agreement, and except as set forth herein, no termination of this agreement or any Product-specific exhibit to this agreement shall affect any liabilities arising, or based upon acts or omissions occurring, prior to the date of such termination.

§ 10. Audits. In connection with any services being provided pursuant to this Agreement, CORD agrees to maintain written records and data during and after the term of this Agreement in compliance with all applicable legal and regulatory requirements, including without limitation applicable requirements of the United States Food and Drug Administration. Further, CORD shall furnish Cumberland within thirty (30) days following each March 31, June 30, September 30, and December 31 of each calendar year a complete and accurate statement for the immediately preceding calendar quarterly period of (a) the number of units of Products sold; (b) information as to returns actually credited; (c) current inventory levels for Products; and (d) such other information as Cumberland may reasonably request. In order to verify compliance, CORD shall provide Cumberland with such records and agrees to permit representatives of Cumberland to visit facilities of CORD at which Services are being performed during normal business hours (i.e., 8:00 a.m. to 5:00 p.m. local time), upon 15 business days prior notice, to: (a) review and audit CORD's records relating directly to Product received at and shipped from the CORD Facility; and (b) conduct, together with representatives of CORD, an inventory of the Product at the CORD Facility.

§11. Compliance With Laws. Each Party shall conduct its activities in connection with this agreement in substantial compliance with all applicable laws, rules, regulations, and orders of governmental entities.

§ 12. Representations and Warranties.

(a) *Mutual Representations and Warranties.* Each Party represents and warrants to the other that: (i) it has full power and authority to enter into this agreement and perform and observe all obligations and conditions to be performed or observed by it under this agreement without any restriction by any other agreement or otherwise; (ii) the execution, delivery and performance of this agreement have been duly authorized by all necessary corporate action of that Party; and (iii) this agreement constitutes the legal, valid and binding obligation of that Party.

(b) *Cumberland Representations and Warranties.* Cumberland further represents and warrants to CORD that (i) each Product is and shall be manufactured in conformity with the Food, Drug, and Cosmetic Act, as amended, and all other applicable laws, rules, regulations and orders of governmental entities, and (ii) as of the effective date of any Product-specific exhibit hereto, Cumberland will have (and will have provided CORD with written documentation in form reasonably satisfactory to CORD that Cumberland has, as of such effective date) title to such Product or Products and the right to market and distribute such Product or Products as contemplated hereby.

(c) *CORD Representations and Warranties.* CORD hereby represents and warrants that it has the experience, capability and resources, including without limitation, sufficient personnel and supervisors, to perform the Services offered hereunder in a commercially reasonable manner in conformity with applicable regulations of any governmental authority, including the United States Food and Drug Administration. CORD further represent that it will at all times devote the necessary personnel and supervisors to perform the Services in such a manner.

CORD shall not make any representations, warranties, or guarantees to Customers with respect to the Products that are inconsistent with information provided by Cumberland to CORD, including without limitation, representations, warranties, and guarantees concerning specifications, features, efficacy, prices, or availability of the Products.

§13. Taxes. Cumberland shall pay when due all sales, use, gross receipts, excise, personal property taxes associated with each Product (excluding any personal property tax associated with CORD's equipment used in connection with the Services), and other taxes or similar charges now or hereafter imposed as a result of the transactions contemplated by this agreement, none of which have been included in the fees payable to CORD under this agreement; provided that the amounts payable by Cumberland under this section shall not include taxes based on the net income of CORD.

§ 14. Trademarks and Proprietary Rights.

14.1 Neither party hereto shall have the right to use the trademarks, service marks, logos, or other similar marks of the party hereto, or any of its affiliates, in any manner except with the prior written approval of the party that has rights to such intellectual property.

14.2 All materials, documents, information, inventions, improvements, data, programs and suggestions of every kind and description, whether or not patentable, and all copyrightable works supplied to CORD by Cumberland pursuant to this Agreement shall be the property of Cumberland solely and exclusively (the "Cumberland Property"); provided that any and all information, processes, documents, computer software or other proprietary information used, owned, licensed or developed by CORD shall be the property of CORD.

§15. Master Agreement. This agreement is being entered into pursuant to the Strategic Alliance Agreement dated June 6, 2000, between Cardinal Health (as defined below) and Cumberland (the "Master Agreement"), and this agreement (including any and all exhibits hereto, whether entered into now or hereafter) constitutes an Addendum, as defined in the Master Agreement. In the event of any conflict or inconsistency between the terms of this agreement (including any and all exhibits hereto) and the terms of the Master Agreement, the terms of this agreement shall govern. For purposes of this agreement, "Cardinal Health" means the following affiliated operating companies: Cardinal MarketForce, a division of RedKey, Inc., an Ohio corporation (Dublin, OH); CORD Logistics, Inc., an Ohio corporation (Dublin, OH); and any other subsidiary of Cardinal Health, Inc., an Ohio corporation ("CHI"), as may be designated by CHI and agreed by client in writing.

§ 16. Indemnification. Each Party shall indemnify and hold harmless the other and its parent and affiliates, and each of their respective directors, officers, employees, agents, and representatives from and against all claims, liabilities, losses, damages, costs, and expenses (including without limitation reasonable attorneys' fees) arising directly or indirectly out of any failure of that Party to perform and observe fully all obligations and conditions to be performed or observed by that Party pursuant to this agreement or any breach of any warranty made by that Party in this agreement. Cumberland further agrees to indemnify and hold harmless CORD and its parent and affiliates and each of their respective directors, officers, employees, agents and representatives from and against all claims, liability, losses, damages, costs, and expenses (including without limitation reasonable attorney's fees) arising directly or

indirectly out of injury or death to person or property alleged to have been caused by any defect in any Product. **NOTWITHSTANDING THE FOREGOING, OR ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, OR OTHER SIMILAR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, AND IN NO EVENT SHALL CORD'S LIABILITY HEREUNDER EXCEED CORD'S INSURANCE LIMITS SET FORTH BELOW IN SECTION 17(b)(i).**

§17. Insurance.

(a) Promptly after Cumberland acquires rights to distribute its first Product and for as long thereafter as necessary to cover claims resulting from this agreement, Cumberland shall obtain and maintain: (i) product liability and commercial general liability insurance having a limit of not less than $10 million; and (ii) property damage insurance at replacement value for each Product located at the CORD Facility or in transit to or from the CORD Facility, pursuant to one or more insurance policies with reputable insurance carriers. Cardinal Health, Inc. and its subsidiaries shall be designated as "additional insureds" under the product liability and commercial general liability insurance policy(ies), and as "loss payees" under the property damage insurance policy(ies). Prior to CORD's receipt of Product, Cumberland shall deliver to CORD certificates evidencing such insurance. Cumberland shall not cause or permit such insurance to be canceled or modified to materially reduce its scope or limits of coverage during the term of this agreement or thereafter as provided above. Except for any losses resulting from the negligence or intentional misconduct of CORD, Cumberland shall bear all risk of loss or damage with respect to each Product, whether located at the CORD Facility or otherwise.

(b) Promptly after Cumberland acquires rights to distribute its first Product and for as long thereafter as necessary to cover claims resulting from this agreement, CORD shall obtain and maintain: (i) product liability and commercial general liability insurance having a limit of not less than $1 million; and (ii) property damage insurance at replacement value for each Product located at the CORD Facility or in transit to or from the CORD Facility, pursuant to one or more insurance policies with reputable insurance carriers. Cumberland shall be designated as "additional insureds" under the product liability and commercial general liability insurance policy(ies), and as "loss payees" under the property damage insurance policy(ies). Prior to CORD'S receipt of Product, CORD shall deliver to Cumberland certificates evidencing such insurance. CORD shall not cause or permit such insurance to be canceled or modified to materially reduce its scope or limits of coverage during the term of this agreement or thereafter as provided above.

§18. Relationship of the Parties. The relationship among the Parties is and shall be that of independent contractors. This agreement does not establish or create a partnership or joint venture among the Parties.

§19. Notices. Any notice or other communication required or desired to be given to any Party under this agreement shall be delivered in writing to the address or facsimile number set forth beneath the authorized signatures on this agreement and shall be deemed given: (a) three business days after such notice is deposited in the United States mail, first-class postage prepaid, and addressed to that Party at the address for such Party set forth at the end of this agreement; (b) one business day after delivered to Federal Express, Airborne, or any other similar express delivery service for delivery to that Party at that address; or (c) when sent by facsimile transmission, with electronic confirmation, to that Party at its facsimile number set forth at the end of this agreement. Any notice delivered by facsimile transmission will be deemed delivered upon electronic confirmation provided the notice is also deposited in the U.S. mail, first-class postage prepaid. Any Party may change its address or facsimile number for notices under this agreement by giving the other Parties notice of such change.

§20. Alternative Dispute Resolution.

The Parties agree to use good faith efforts to resolve all disputes within ninety (60) days of written notice that such a dispute exists. If dispute under this Agreement cannot be resolved by the Parties within such sixty (60) day period, the Parties agree to refer the matter to one executive from each Party not directly involved in the dispute for review and resolution. A copy of the terms of this Agreement, agreed upon facts and areas of disagreement, and a concise summary of the basis for each side's contentions will be provided to both executives who shall review the same, confer, and attempt to reach a mutual resolution of the issue within forty-five (45) days after receipt of the materials referenced above. If the matter has not been resolved within such forty-five (45) day period, either or both Parties may pursue resolution of the matter through litigation or other process available under law or equity.

§21. Remedies. Each Party acknowledges that in the event of any violation by that Party of any of the provisions of Section 14 of this agreement or Article III., Sections D or E of the Master Agreement, the other Party would suffer irreparable harm and its remedies at law would be inadequate. Accordingly, in the event of any violation or attempted violation of any such provisions by either Party, the other Party shall be entitled to a temporary restraining order, temporary and permanent injunctions, specific performance, and other equitable relief, without any showing of irreparable harm or damage or the posting of any bond. The rights and remedies of each Party under this agreement shall be cumulative and in addition to any other rights or remedies available to such Party, whether under any other agreement, at law, or in equity.

§22. Governing Law. All questions concerning the validity or meaning of this agreement or relating to the rights and obligations of the Parties with respect to performance under this agreement shall be construed and resolved under the laws of the State of Tennessee , without regard to principles of conflicts of laws. The parties agree that any claims asserted in any legal proceeding by one party against the other shall be commenced and maintained in any state or federal court in Nashville, Tennessee or Columbus, Ohio and the parties submit to the jurisdiction of these courts.

§23. Severability. The intention of the Parties is to comply fully with all laws and public policies, and this agreement shall be construed consistently with all laws and public policies to the extent possible. If and to the extent that any court of competent jurisdiction determines that it is impossible to construe any provision of this agreement consistently with any law or public policy and consequently holds that provision to be invalid, such holding shall in no way affect the validity of the other provisions of this agreement, which shall remain in full force and effect.

§24. Non-waiver. No failure by either Party to insist upon strict compliance with any term of this agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of the other Party shall affect, or constitute a waiver of, the first Party's right to insist upon strict compliance, to exercise that option, to enforce that right, or to seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this agreement shall affect, or constitute a waiver of, that Party's right to demand strict compliance with all provisions of this agreement.

§25. Force Majeure. If the performance of any part of this agreement by either Party shall be affected for any length of time by fire or other casualty, government restrictions, war, riots, strikes or labor disputes, lock out, transportation delays, acts of God, or any other causes which are beyond the control of the Parties, such Party shall not be responsible for delay or failure of performance of this agreement for such length of time, provided, however, that the obligation of one Party to pay amounts due to any other Party shall not be subject to the provisions of this section

§26. Genders and Numbers. Where permitted by the context, each pronoun in this agreement includes the same pronoun in the other genders or numbers and each noun used in this agreement includes the same noun in other genders.

§27. Complete Agreement. This agreement (together with the Master Agreement, the Product-specific exhibits hereto, and the other documents referred to herein, all of which are hereby incorporated herein by reference) contains the entire agreement between the Parties and supersedes all prior or contemporaneous discussions, negotiations, representations, warranties, or agreements relating to the subject matter of this agreement. CORD and Cumberland agree to comply with the obligations of confidentiality set forth in Article III, Section E of the Master Agreement. No changes to this agreement shall be made or be binding on either Party unless made in writing and signed by both Parties.

§28. Successors. This Agreement may not be assigned or transferred by a party without the prior written consent of the other party hereto, provided, however, that either party may assign this Agreement to any subsidiary, affiliate or an entity which acquires substantially all of it's assets and business that is not in direct competition with CORD. Any such assignment shall not materially or adversely affect the rights or obligations of either party to this Agreement.

CUMBERLAND PHARMACEUTICALS, INC.

/s/ A.J. Kazimi
A.J. Kazimi
Chief Executive Officer
Initials: /s/ AJK

209 10th Avenue South
Nashville, TN 37203

Facsimile No. (615) 255-0094

CORD LOGISTICS, INC.

/s/ Frank C. Wegerson
Frank C. Wegerson
Vice President and General Manager
Initials: /s/ FCW

15 Ingram Blvd, #100
LaVergne, TN 37086

Facsimile No. (615) 793-4783

Schedule 8 (c) -1

OPERATING SYSTEM BASE PACKAGE

A. System Access

Includes access to CORD's processor and operating system Monday through Friday, excluding holidays, 12 hours per day (5:30 am to 5:30 p.m., Pacific local time).

B. Software Access and Maintenance

Includes access to CORD's or an affiliate of CORD's standard software. CORD or an affiliate of CORD shall perform at it's own expense any necessary modification to bring the systems in compliance with the standard functionality described below.

- **Customer service**
- **Reports necessary to perform Medicaid rebate calculations**
- **Billing (Customization of invoicing/packing slips)**
- **Inventory tracking and reporting**
- **Lot tracking**
- **Order entry**
- **Warehousing**
- **Returns processing**
- **Ability to download system data to Cumberland's processors for reporting writing**
- **All standard reports**
- **Contracts/Pricing maintenance and chargeback processing**

Systems Development/Additional Services:

Cumberland bears financial responsibility for customization beyond the standard systems functionality described above. Such customization performed by CORD or its representatives (exclusive of the base package) in connection with this agreement shall be billed to Cumberland as follows:

- Systems and software development—$120 per hour per person, plus travel.
- On-site training—$120 per hour per person, plus travel.
- Supplies, equipment and other, to be agreed upon by both parties.

SYSTEM ACCESS AGREEMENT

This agreement is made as of July ___, 2000, between CORD Logistics, Inc., an Ohio corporation ("Licensor"), and Cumberland Pharmaceuticals Inc., a Tennessee corporation ("Licensee"), who hereby agree as follows:

1. System Access; Maintenance Obligations. On the terms and subject to the conditions described in this agreement and the Distribution Services Agreement having the same date as this agreement between Licensor and Licensee (the "Distribution Agreement"), Licensor hereby grants to Licensee a nonexclusive license (the "License") to utilize Licensor's Order Entry System, consisting of the computer hardware, software and other components described in Schedule 8(c)-1 to the Distribution Agreement (collectively, the "System"), for the information processing needs of Licensee in connection with the Services to be provided by Licensor under the Distribution Agreement. Licensee shall maintain during the term of this agreement the network and local area network (including without limitation centralized server) requirements for the System described in the Distribution Agreement.

During the term of this agreement, Licensee shall employ reasonable security measures and policies designed to safeguard the integrity, accessibility, and confidentiality of all of Licensee's data resident on the System and establish reasonable disaster and emergency recovery plans designed to minimize disruption from System operation interruptions. Licensee shall have the right to review the operation of the System from time to time upon reasonable prior notice from Licensee to Licensor; provided that such reviews shall be conducted in a manner to avoid disruption of Licensor's business operations to the extent possible.

2. Proprietary Rights. Licensee shall have the right to use the System during the term of this agreement as expressly provided in paragraph 1 of this agreement, but not otherwise. Licensee shall not assign or otherwise transfer, disclose, copy, modify, or decompile the System or any part thereof without prior written consent of the Licensor. The System and all parts thereof, in all of their tangible and intangible manifestations, all existing or new enhancements, developments, derivative works, and other adaptations or modifications to the System (or any part thereof), and all related proprietary rights, are and shall remain the exclusive property of Licensor. Except for the License, Licensee shall have no right, title, or interest in or to the System or any part thereof. Upon termination of this agreement, Licensee shall promptly return to Licensor all portions of the System then in Licensee's possession or under its control.

3. Warranties. Licensee acknowledges that it has had adequate opportunity to review the System and its features and operation and Licensee accepts the System "AS IS" for its use as contemplated in the Distribution Agreement. **EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE DISTRIBUTION AGREEMENT, LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES, AND HEREBY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED RELATING DIRECTLY OR INDIRECTLY TO THE SYSTEM OR ANY PART THEREOF, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF QUALITY, PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.**

4. Limitation On Liability. **LICENSOR SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, OR OTHER SIMILAR DAMAGES ARISING DIRECTLY OR INDIRECTLY OUT OF THE USE OR INABILITY TO USE THE SYSTEM OR ANY PART THEREOF, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER CLAIMED UNDER CONTRACT, TORT, OR ANY OTHER LEGAL THEORY.**

IF ANY OF THE LIMITATIONS ON THE LIABILITY OF LICENSOR CONTAINED IN THIS AGREEMENT ARE FOUND TO BE INVALID OR UNENFORCEABLE FOR ANY REASON THEN LICENSOR AND LICENSEE EXPRESSLY AGREE THAT THE MAXIMUM AGGREGATE LIABILITY OF LICENSOR FOR ALL CLAIMS RELATING TO THE SYSTEM SHALL NOT EXCEED 100% OF THE AGGREGATE BASE PACKAGE FEES PAID BY LICENSEE TO LICENSOR FOR LICENSEE'S USE OF THE SYSTEM UNDER THE DISTRIBUTION AGREEMENT.

5. Taxes. Licensee shall pay when due all sales, use, gross receipts, excise, property, and other taxes or similar charges (other than taxes based upon Licensor's net income) now or hereafter imposed as a result of the transactions contemplated by this agreement.

6. Term. The term of this agreement shall begin upon Licensee's initial use of the System as evidenced by the first entry of inventory into the System (which may be a date earlier than the Commencement Date specified for the Distribution Agreement) and shall end: (a) automatically upon the termination of the Distribution Agreement (for any reason), or (b) on any earlier date specified by Licensee in notice to Licensor given not less than 180 days prior to

the specified termination date; provided that: (i) paragraph 2 through 5 inclusive, and paragraph 8 of this agreement shall survive the termination of this agreement, and (ii) no termination of this agreement shall affect any liabilities arising, or based upon acts or omissions occurring, prior to such termination.

Licensee shall continue to have access to the System for a reasonable period of time (not be exceed 60 days) following termination of this agreement solely for purposes of retrieving and transferring to a separate system Licensee's data relating to its pre-termination operations, and Licensor shall reasonably cooperate with Licensee to preserve the integrity and accessibility of Licensee's data during such period; provided that, during such period, Licensee shall continue to pay the full Base Package and other fees payable by Licensee under the Distribution Agreement and comply with all other requirements imposed upon Licensee under this agreement.

7. Notices. Any notice or other communication required or desired to be given to either party under this agreement shall be in writing and shall be deemed given: (a) three days after mailing, if deposited in the United States mail, first-class postage prepaid, and addressed to that party at its address set forth at the end of this agreement; (b) when received if delivered to Federal Express or any other similar overnight, delivery service for delivery to that party at that address; or (c) when sent by facsimile transmission, with electronic confirmation, to that party at its facsimile number set forth at the end of this agreement. Either party may change its address or facsimile number for notices under this agreement by giving the other party notice of such change.

8. Remedies. Licensee shall indemnify Licensor and its affiliates, directors, officers, employees, agents, and representatives against all claims, liabilities, losses, damages, costs and expenses (including without limitation reasonable attorneys' fees) arising directly or indirectly out of any failure of Licensee to perform and observe fully all obligations and conditions to be performed or observed by Licensee pursuant to this agreement. Licensee acknowledges that in the event of any violation by it of any of the provisions of paragraph 2 of this agreement, Licensor would suffer irreparable harm and its remedies at law would be inadequate. Accordingly, in the event of any violation or attempted violation of any such provisions by Licensee, Licensor shall be entitled to a temporary restraining order, temporary and permanent injunctions, specific performance, and other equitable relief, without any showing of irreparable harm or damage or the posting of any bond, in addition to any other rights or remedies which may be available to Licensor.

9. Force Majeure. Notwithstanding any other provisions of this agreement or the Distribution Agreement to the contrary, each party's obligations under this agreement (exclusive of payment obligations) shall be excused if and to the extent that any delay or failure to perform such obligations is due to fire or other casualty, material shortages, strikes or labor disputes, acts of God, or other causes beyond the reasonable control of that party.

10. Successors. Licensee shall not assign or otherwise transfer this agreement or any of its rights or obligations under this agreement without the prior written consent of Licensor, which consent shall not be unreasonably withheld. Subject to the preceding sentence, this agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective successors and assigns of each party.

11. Interpretation. This agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. If and to the extent that any court of competent jurisdiction determines that it is impossible to construe any provision of this agreement consistently with any law or public policy and consequently holds that provision to be invalid, such holding shall in no way affect the validity or the other provisions of this agreement, which shall remain in full force and effect.

12. Complete Agreement. This agreement (together with the Distribution Agreement, which is hereby incorporated herein by reference) constitutes the entire agreement between the parties with respect to the subject matter of this agreement and supersedes all prior or contemporaneous discussions, negotiations, representations, warranties, or agreements relating to the subject matter of this agreement. This agreement may not be amended or otherwise modified except by a written instrument signed by each party.

CUMBERLAND PHARMACEUTICALS, INC.

By: /s/ A.J. Kazimi
A.J. Kazimi
Chief Executive Officer
Initials: /s/ AJK

209 10th Avenue South, Suite 332
Nashville, TN 37203

Facsimile No. (615) 255-0094

CORD LOGISTICS, INC.

By: /s/ Frank C. Wegerson
Frank C. Wegerson
Vice President and General Manager
Initials: /s/ FCW

15 Ingram Blvd., #100
LaVergne, TN 37086

Facsimile No. (615) 793-4783

[***]

EXHIBIT 10.8

*Certain portions of this exhibit have been omitted pursuant to a request for confidential treatment which has been filed separately with the SEC.

STRATEGIC ALLIANCE AGREEMENT

THIS AGREEMENT is made and entered into as of the 21st day of July, 2000.

BY AND BETWEEN:

CUMBERLAND PHARMACEUTICALS INC., a corporation organized and existing under the laws of Tennessee, with its principal offices located at 209 Tenth Avenue South, Suite 332, Nashville, Tennessee, 37203 (hereinafter referred to as "**CUMBERLAND**")

AND:

F.H. FAULDING & CO. LIMITED (ABN 88 007 870 984), a corporation organized under the laws of South Australia, with its principal place of business located at 115 Sheriff Street, Underdale, South Australia 5032 (hereinafter referred to as "**FAULDING**");

WHEREAS, CUMBERLAND is the owner of intellectual property rights, formulations and know- how related to intravenous formulations of a certain pharmaceutical product set forth in Schedule I;

WHEREAS, FAULDING has the expertise and the manufacturing facility suitable for the pharmaceutical preparation and production of the Drug Product;

WHEREAS, CUMBERLAND wishes to have FAULDING manufacture the Drug Product and FAULDING wishes to supply the Drug Product to CUMBERLAND;

WHEREAS, CUMBERLAND will appoint FAULDING as its preferred manufacturer for CUMBERLAND's products;

WHEREAS, FAULDING and CUMBERLAND will explore opportunities to collaborate on the manufacture and distribution of other pharmaceutical products of CUMBERLAND;

NOW, THEREFORE, in consideration of the premises and the undertakings, terms, conditions and covenants set forth below, the parties hereto agree as follows:

1. DEFINITIONS

1.1 BUFFER SOLUTION shall mean the buffer solution selected by CUMBERLAND for the manufacture of the Drug Product.

1.2 BULK DRUG SUBSTANCE shall mean the active ingredients in the Drug Product.

1.3 cGMP or **GMP** shall have the meaning set forth in Schedule I.

1.4 CONFIDENTIAL INFORMATION shall have the meaning set forth in Paragraph 9.

1.5 DEVELOPMENT shall mean all work necessary to develop a process to manufacture the Drug Product in full accord with cGMP and to supply the Drug Product conforming to the Specifications. Development activities shall include, but not be limited to, pilot batches, scale- up batches, validation of the manufacturing process, and successful completion of the Drug Product manufacture and delivery as defined in Schedule I attached hereto.

1.6 DRUG PRODUCT shall mean the Ibuprofen for injection pharmaceutical product developed by Cumberland and marketed under the trade name AMELIOR™.

1.7 EXCIPIENT shall mean any inert substance selected by CUMBERLAND and used to give the Drug Product proper consistency.

1.8 FDA shall mean the United States Food and Drug Administration (FDA).

1.9 IN-PROCESS SOLUTION shall mean all Buffer Solutions and Excipients needed to produce Drug Product in the finished dosage form set forth in Schedule I.

1.10 INVENTION shall have the meaning set forth in Paragraph 9.4.

1.11 LABELING shall mean all labels and other written, printed, or graphic matter upon: (i) the Drug Product or any container or wrapper utilized with the Drug Product or (ii) any written material accompanying the Drug Product, including without limitation, package inserts.

1.12 MANUAL shall mean the Manufacturing Project Manual attached as Schedule II to this Agreement and reviewed and accepted by CUMBERLAND and FAULDING, the terms and provisions of which are incorporated by reference as though fully set forth herein.

1.13 SPECIFICATIONS shall mean those specifications set forth in Attachment I to the Manual.

2. DEVELOPMENT AND MANUFACTURING

2.1 Initiation: Upon request by CUMBERLAND, FAULDING shall proceed with the schedule for completing Development of the Drug Product. Upon request by CUMBERLAND, FAULDING shall manufacture the Drug Product in the batch size set forth in Schedule I in accordance with the terms hereof, the Specifications, and all applicable laws and regulations. Prior to distributing and selling the Drug Product, CUMBERLAND shall prepare and file submissions to the FDA in order to obtain and maintain during the term hereof regulatory approval of the Drug Product. FAULDING shall prepare and test the Drug Product in accordance with cGMP.

2.2 Processing and Manufacturing: FAULDING shall manufacture and package the Drug Product in accordance with Schedules I and II hereto.

2.3 Documentation: Subject to CUMBERLAND's prior consent pursuant to Paragraph 5.5 hereof to reimburse FAULDING for all out-of-pocket expenses and reasonable internal costs, FAULDING shall provide CUMBERLAND with required supporting documentation for the Development of the Drug Product in a form suitable for CUMBERLAND's submission to the FDA or applicable governmental authorities for any country into which the Drug Product will be distributed with the prior written consent of FAULDING, which consent shall not be unreasonably withheld or delayed.

2.4 Bulk Drug Substance Supply: FAULDING shall be responsible for the supply of all Bulk Drug Substance in accordance with Schedules I and II hereto; provided that the supply of Bulk Drug Substance shall be exclusively from such suppliers and in such grades as have been approved in writing by CUMBERLAND as reflected on an approved list to be attached hereto as Schedule III, and provided further that such suppliers and grades may not be changed without CUMBERLAND's prior written consent.

2.5 Supply of Components: FAULDING shall be responsible for the supply of all components in accordance with Schedules I and II hereto; provided that the supply of components shall be exclusively from such suppliers and in such grades as have been approved in writing by CUMBERLAND as reflected on an approved list to be attached hereto as Schedule III, and provided further that such suppliers and grades may not be changed without CUMBERLAND's prior written consent.

2.6 Delivery Terms: All deliveries of Drug Product under this Agreement shall be made by FAULDING to CUMBERLAND in the manner set forth in Schedule I. CUMBERLAND shall, within twenty (20) working days after its receipt of any shipment, notify FAULDING in writing, of any claim relating to a Drug Product not conforming to the Specifications, and, failing such notification, notwithstanding Paragraph 5.1 of this Agreement, CUMBERLAND shall be deemed to have accepted the Drug Product. If FAULDING disputes CUMBERLAND's claim that the Drug Product is non-conforming, then such dispute shall be resolved by an independent testing organization of recognized repute within the pharmaceutical industry mutually agreed upon by FAULDING and CUMBERLAND, the appointment of which shall not be unreasonably withheld by either party. In such event, CUMBERLAND shall ship the testing organization representative samples of the Drug Product from the disputed production lot, and the fees and costs of such testing organization and related shipping and supply costs shall be borne by the party whose position is not sustained by the testing organization. CUMBERLAND's sole remedy for non-conforming product (other than indemnification under Paragraph 10.2) is to be provided with replacement Drug Product free of charge, including compensation for all CUMBERLAND inputs and all freight charges.

2.7 Payment for the Drug Product: At the time of each shipment, FAULDING shall invoice CUMBERLAND for FAULDING's manufacturing services at the cost per batch as set forth in Schedule I. Payment shall be made in [***] of the latter of the invoice date or

CUMBERLAND's acceptance of shipment of conforming Product at its designated receiving facility.

2.8 [***]

3. TERM AND TERMINATION

3.1 Term: This Agreement shall commence on the date first above written and will continue until the fifth anniversary of the date on which the FDA grants approval to market and sell the Drug Product, unless sooner terminated pursuant to Paragraph 3.2 herein. The Agreement shall be automatically renewed for successive three-year terms unless either party notifies the other party in writing at least twelve (12) months in advance of the expiration of the then current term that the party is terminating the Agreement.

3.2 Termination: This Agreement may be terminated at any time upon the occurrence of any of the following events:

(a) Default: Forty-five (45) days following written notice, by either party to the other party, in the event that the other party breaches any provision of this Agreement, and such party fails to remedy the breach prior to the expiration of the forty-five (45) day period.

(b) Insolvency: Written notice by either party to the other upon insolvency or bankruptcy of the other party, and the failure of any such insolvency or bankruptcy to be dismissed within sixty (60) days.

(c) If, as a result of causes described in Paragraph 7.1, either party is unable to fully perform its obligations hereunder for a period of one hundred eighty (180) consecutive days, the other party shall have the right to terminate this Agreement upon at least thirty (30) days prior written notice; provided that if the required performance is met during that thirty-day period, this Agreement shall continue in full force and effect as if the notice had not been given.

Termination, expiration, cancellation or abandonment of this Agreement, through any means and for any reason, shall not relieve the parties of any obligation accruing prior thereto and shall be without the prejudice to the rights and remedies of either party with respect to any antecedent breach of any of the provisions of this Agreement or CUMBERLAND's purchase order issued hereunder.

3.3 Survival: Paragraphs 5, 6, 9, and 10 shall survive the termination or cancellation of the Agreement for any reason.

4. CERTIFICATES OF ANALYSIS AND MANUFACTURING COMPLIANCE

4.1 Certificates of Analysis: FAULDING shall perform, or cause to be performed, certain tests requested by CUMBERLAND as indicated in the Specifications on each batch of the Drug Product manufactured pursuant to this Agreement before delivery to CUMBERLAND.

A certificate of analysis for each batch delivered shall be delivered with each batch and shall set forth the items tested, specifications, and test results. FAULDING shall also indicate on the certificate of analysis that all batch production and control records have been reviewed and approved by the appropriate quality control unit. FAULDING shall send, or cause to be sent, such certificates to CUMBERLAND prior to the shipment of the Drug Product. CUMBERLAND shall test, or cause to be tested, prior to final release, each batch of the Drug Product as meeting the Specifications. As required by the FDA (see Paragraph 5.2 below), CUMBERLAND shall assume full responsibility for final release of each lot of the Drug Product.

4.2 Manufacturing Compliance: FAULDING shall advise CUMBERLAND immediately if an authorized agent of any regulatory body visits FAULDING's manufacturing facility and makes an inquiry regarding FAULDING's method of manufacture of the Drug Product for CUMBERLAND. Upon receipt of any Form 483 Notice of Inspectional Observations issued by the FDA or notice of deficit from any other regulatory inspection after a visit to FAULDING's manufacturing facility, FAULDING shall immediately send CUMBERLAND a copy thereof; provided that it may redact any language that is subject to a legally enforceable confidentiality agreement between FAULDING and a third party.

4.3 Regulatory Agency Requirements: FAULDING shall prepare and test the Drug Product in conformity with GMP. Subject to the allocation of responsibility for regulatory compliance as set forth in Paragraph 5.2, each party shall consult with the other party hereto before implementing additional regulatory agency requirements concerning the control of Drug Product components, manufacture of the Drug Product, or storage and handling of the Drug Product. The full text of regulatory agency requests or comments will be provided by the party receiving such requests or comments to the other party hereto. The parties will mutually agree on how to respond to such requests and comments and on the allocation of the costs thereof; provided that FAULDING shall be liable only for its reasonable internal costs and not for any out-of-pocket expenses or extraordinary costs required in connection with implementing such regulatory requirements other than the ordinary costs of compliance with GMP.

4.4 Regulatory Documents: Each party will advise the other party hereto of its intention to change any Drug Product regulatory documents prior to submission of the document to any regulatory body. If the change affects the rights and obligations of a party hereto under this Agreement, such party may seek to review or alter any part of the document at any time within ten (10) business days after receipt of notification thereof; provided that if no alterations are submitted to the other party within such ten-day period, each party will be deemed to have consented to the alteration. CUMBERLAND shall reimburse FAULDING for all out-of-pocket expenses and reasonable internal costs of changes to Drug Product regulatory documents, subject to CUMBERLAND's prior consent pursuant to Paragraph 5.5.

5. REPRESENTATIONS AND WARRANTIES

5.1 Conformity with Specifications: FAULDING warrants that, at the time of manufacture, the Drug Product is prepared and tested in accordance with cGMP and meets the Specifications. Because FAULDING has no control of the conditions under which the Drug Product is used, the diagnosis of the patient before or after treatment with the Drug Product, the

method of use or administration of the Drug Product, and handling of the Drug Product after delivery to CUMBERLAND, FAULDING does not warrant either a good effect, or against an ill effect, following the use of the Drug Product. The foregoing warranty is exclusive and in lieu of all other warranties either written, oral, or implied. THERE ARE NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. No representative of FAULDING may change any of the foregoing warranties and CUMBERLAND accepts the Drug Product subject to all terms hereof.

5.2 Compliance: CUMBERLAND assumes responsibility for coordinating all contact with the FDA and other regulatory bodies, pertaining specifically to Drug Product. FAULDING authorizes CUMBERLAND's representatives to supervise and inspect the methods used in and facilities used for manufacturing, processing, packaging, and handling of the Drug Product, but CUMBERLAND shall have no such obligation under this Agreement. Except as otherwise required by applicable regulations, CUMBERLAND's inspections shall be limited to two per year, each to occur upon seven days notice and to be conducted during normal business hours; provided that CUMBERLAND may also inspect such facilities promptly after any regulatory inspection thereof.

5.3 Debarring: FAULDING represents and warrants that it has not been debarred in the United States within the meaning of 21 U.S.C. § 335a(a) and 335a(b), nor will it use in any capacity the services of any person debarred pursuant to subsections 3.06(a) or 3.06(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 335(a) and (b).

5.4 FDA Submission: FAULDING represents and warrants that it has submitted to the FDA information about the manufacturing site to be used for the Drug Product and the facilities, operating procedures, and personnel at such site.

5.5 Reimbursement: FAULDING shall not incur any development costs for which it intends to seek reimbursement from CUMBERLAND for the manufacturing facility, equipment, or manufacturing method unless FAULDING has the prior written consent of CUMBERLAND.

5.6 Exclusivity: FAULDING will not sell, give away, or deliver to any other person, firm, or corporation any Drug Product without CUMBERLAND's prior written consent while this Agreement is effective and for two years after the termination of this Agreement. In the event of breach, CUMBERLAND shall have the right, in addition to other rights, to seek injunctive relief.

6. DRUG PRODUCT RECALLS

6.1 Drug Product Recalls: In the event: (a) any government authority issues a request, directive or order that the Drug Product be recalled, or (b) a court of competent jurisdiction orders such a recall, (c) CUMBERLAND determines that the Drug Product should be recalled because the Drug Product does not conform to Specifications, or (d) FAULDING recommends to CUMBERLAND that a recall be initiated, the parties shall take all appropriate corrective actions. In the event that FAULDING recommends a recall of Drug Product by CUMBERLAND, such recommendation must take the form of a notice as per Paragraph 14.1, and CUMBERLAND shall respond promptly indicating to FAULDING whether the Drug

Product will be recalled. In no event, however, shall FAULDING have responsibility for regulatory compliance in connection with any recall, except to the extent and under the circumstances set forth in the Manual or any other written agreement between the parties hereto or as required by law. All costs and expenses incurred in connection with such recall shall be the responsibility of CUMBERLAND unless caused by the negligence of FAULDING.

7. FORCE MAJEURE; FAILURE TO SUPPLY

7.1 Force Majeure Events: Failure of either party to perform under this Agreement (except the obligation to make payments) shall not subject such party to any liability to the other if such failure is caused by acts such as, but not limited to, acts of God, fire, explosion, flood, drought, war, riot, sabotage, embargo, strikes or other labor trouble, compliance with any order or regulation of any government entity, or by any cause beyond the reasonable control of the parties, provided that written notice of such event is promptly given to the other party.

7.2 Failure to Supply; Delivery Dates; Forecasts: FAULDING shall supply all of the Drug Product ordered by CUMBERLAND within sixty (60) days of receipt of a written order from CUMBERLAND. On the date that CUMBERLAND makes its first order, CUMBERLAND will supply FAULDING with a non-binding forecast of its future orders of Drug Product for each of the eleven calendar months following the month in which the initial order is made. CUMBERLAND will update the forecasts on the first day of the calendar month and on a monthly basis thereafter throughout the term of this Agreement. The quantity of any Drug Product ordered pursuant to this Agreement shall not be less than seventy percent (70%) nor more than one hundred thirty percent (130%) of the quantity indicated in the most recent monthly forecast provided hereunder for the month in which the order is placed. If CUMBERLAND fails to provide orders, or forecasts by agreed dates, FAULDING shall not be required to deliver the quantity ordered by CUMBERLAND within sixty (60) days. The provisions of this Paragraph 7.2 shall be without prejudice to CUMBERLAND's rights under Paragraph 3.2 and remedies provided for thereunder.

8. IMPROVEMENTS

8.1 Changes by CUMBERLAND:

When CUMBERLAND seeks to change the Drug Product Specifications, such change shall be incorporated within the Specifications only with the prior written consent of FAULDING, such consent not to be unreasonably withheld or delayed. The price of the Drug Product may be adjusted for such change, and CUMBERLAND shall pay FAULDING the agreed costs associated with such change, including any development work, if necessary, based upon FAULDING's then-prevailing development rates. Such prices and costs shall be set forth in a written amendment to this Agreement. It is the responsibility of CUMBERLAND to ensure that proper regulatory agencies approve the suggested changes. CUMBERLAND will notify FAULDING if it intends to change the process or test specifications related to the preparation of the Bulk Drug Substance.

8.2 Changes by FAULDING:

FAULDING shall inform CUMBERLAND in writing of all proposed changes in the manufacturing facility, equipment, or manufacturing methods and labeling of the Drug Product, each as approved by applicable regulatory authorities, including the FDA, in advance of the time such changes are intended to be made to allow CUMBERLAND sufficient time to provide any notice required by FDA regulations. FAULDING shall not implement any such changes without prior written authorization by the FDA or other applicable regulatory authorities and the prior written consent of CUMBERLAND, which consent shall not be unreasonably withheld or delayed. FAULDING shall be liable only for its reasonable internal costs and not for extraordinary costs in connection with such manufacturing changes.

9. CONFIDENTIALITY

9.1 Confidential Information: "Confidential Information" means collectively Confidential Information of CUMBERLAND (as defined herein) and Confidential Information of FAULDING (as defined herein).

9.2 Confidential Information of CUMBERLAND: "Confidential Information of CUMBERLAND" means all information obtained or developed by FAULDING or any third party which related to CUMBERLAND's business or the Drug Product, regardless of the form in which such information is transmitted. The following shall not be considered Confidential Information of CUMBERLAND for purposes hereof:

(a) Information that is already in the possession of FAULDING at the time it is received from CUMBERLAND or developed on CUMBERLAND's behalf, if FAULDING notifies CUMBERLAND of its belief that the information is excepted under the terms of this subsection;

(b) Information received by FAULDING from a person which has the right to disclose the same, when FAULDING notifies CUMBERLAND of its belief that the information is excepted under the terms of this subsection;

(c) Information that is or becomes published, or is or becomes otherwise publicly available without the fault of FAULDING; or

(d) An Invention as defined in Paragraph 9.4.

In the event of a dispute regarding the applicability of the above exceptions to the definition of Confidential Information of CUMBERLAND, FAULDING shall have the burden of producing clear and convincing proof that the information should be excepted from the definition of Confidential Information of CUMBERLAND. FAULDING shall not use or permit the use of the Confidential Information of CUMBERLAND other than for the limited purposes expressly permitted by or consistent with this Agreement. Recipients of Confidential Information of CUMBERLAND shall be granted access thereto strictly on a "need-to-know" basis. FAULDING shall take all reasonable steps to ensure that recipients comply with the terms of this Agreement, including all restrictions on use, disclosure and dissemination of Confidential

Information of CUMBERLAND. FAULDING shall notify CUMBERLAND immediately upon becoming aware of any breach hereof and shall take all reasonable steps to prevent any further disclosure or unauthorized use.

Upon termination or expiration of this Agreement, FAULDING shall deliver to CUMBERLAND all Confidential Information of CUMBERLAND, all copies thereof, and all documents or data storage media containing such Confidential Information of CUMBERLAND, except as expressly set forth herein or in any other written agreement between the parties.

9.3 Confidential Information of FAULDING: "Confidential Information of FAULDING" means all information obtained by CUMBERLAND which relates to FAULDING's business, regardless of the form in which such information is transmitted. The following shall not be considered Confidential Information of FAULDING for purposes hereof:

(a) Information that is already in the possession of CUMBERLAND at the time it is received from FAULDING, if CUMBERLAND notifies FAULDING of its belief that the information is excepted under the terms of this subsection; or

(b) Information received by CUMBERLAND from a person which has the right to disclose the same, when CUMBERLAND notifies FAULDING of its belief that the information is excepted under the terms of this subsection; or

(c) Information that is or becomes published, or is or becomes otherwise publicly available without the fault of CUMBERLAND.

In the event of a dispute regarding the applicability of the above exceptions to the definition of Confidential Information of FAULDING, CUMBERLAND shall have the burden of producing clear and convincing proof that the information should be excepted from the definition of Confidential Information of FAULDING. CUMBERLAND shall not use or permit the use of the Confidential Information of FAULDING other than for the limited purposes expressly permitted by or consistent with this Agreement. Recipients of Confidential Information of FAULDING shall be granted access thereto strictly on a "need-to-know" basis. CUMBERLAND shall take all reasonable steps to ensure that recipients comply with the terms of this Agreement, including all restrictions on use, disclosure and dissemination of Confidential Information of FAULDING. CUMBERLAND shall notify FAULDING immediately upon becoming aware of any breach hereof and shall take all reasonable steps to prevent any further disclosure or unauthorized use.

Upon termination or expiration of this Agreement, CUMBERLAND shall deliver to FAULDING all Confidential Information of FAULDING, all copies thereof, and all documents or data storage media containing such Confidential Information of FAULDING, except as expressly set forth herein or in any other written agreement between the parties.

9.4 Invention: CUMBERLAND owns all intellectual property rights in any improvement to or derived from the Drug Product and any existing or further developments or modifications of the Drug Products ("Invention"), except to the extent that a manufacturing

process used therewith is developed exclusively by FAULDING, in which case the intellectual property rights for such process shall be retained by FAULDING.

9.5 Disclosure: The parties agree that the existence of this Agreement may be disclosed to third parties but that the contents of this Agreement shall not be disclosed to any third party except (i) the controlling companies of the parties, (ii) the companies controlled by the parties, (iii) individuals and entities providing paid services to either of the parties, and (iv) governmental regulatory agencies, including, but not limited to, environmental protection authorities, without prior written consent of the other party.

9.6 Retention of Records: Notwithstanding the restrictions set forth in this Agreement, FAULDING shall retain production records (a) for batches of Drug Products manufactured prior to establishment by CUMBERLAND of an expiry date (CTM and validation batches) for three (3) years after (i) issuance of regulatory approval of the Drug Product necessary for distribution thereof or (ii) withdrawal of the IND (Notice of Claimed Investigational Exemption for a New Drug) and (b) for batches of Drug Product manufactured after establishment by CUMBERLAND of an expiry date for a period of at least one year after the respective expiry date for each batch. These records will be stored by appropriate means, including without limitation, optical disk or microfilm in a secure manner in compliance with current GMP with duplicate copies submitted to CUMBERLAND promptly after the creation thereof and shall be made available on request of the FDA or any other authorized regulatory body.

9.7 Confidential Information Upon Termination: Upon termination of this Agreement for whatever reason, FAULDING shall return to CUMBERLAND originals, copies, and derivative forms of disclosed or developed information relating to the purpose of this Agreement; except that one copy of such information may be retained as required by regulation or law for future reference. The Confidential Information shall remain confidential and not be disclosed by either party for a period of ten (10) years following the date of expiration or termination of this Agreement.

10. INDEMNIFICATION

10.1 Indemnification by CUMBERLAND: CUMBERLAND shall indemnify and hold FAULDING (and any parent, subsidiary, or affiliate company or corporation, and their officers, directors, shareholders, agents, and the employees and insurers of any of them and/or their successors and assigns thereto), free and harmless from any and all claims, demands, liability, actions or causes of actions, and any and all expenses associated therewith (including, without limiting the generality of the foregoing, attorney's fees), arising out of or in connection with, as a result of, or otherwise related to any third party claims arising from: (i) any negligence or recklessness of CUMBERLAND, its agents, or employees; (ii) the promotion, distribution, use, misuse or sale or effects of the Drug Product except to the extent the alleged Drug Product defects were caused by FAULDING; (iii) CUMBERLAND's non-compliance with any applicable FDA or other applicable regulations; or, (iv) any failure of CUMBERLAND to perform, in whole or in part, any of its obligations hereunder in each case, unless caused by the acts or omissions of FAULDING. Beginning prior to use of the Drug Product in humans and

continuing until the third anniversary of termination of this Agreement, CUMBERLAND shall maintain products liability insurance with limits of liability of not less than [***] and shall name FAULDING as additional insured under said policy.

10.2 Indemnification by FAULDING: FAULDING will indemnify and hold CUMBERLAND (and any parent, subsidiary, or affiliate company or corporation, and their officers, directors, shareholders, agents, and the employees and issuers of any of them and/or their successors and assigns thereto), free and harmless against any and all claims, demands, actions or causes of action, and any and all expenses associated therewith (including, without limiting the generality of the foregoing, defense costs and attorney's fees), arising out of or in connection with, as a result of, or otherwise related to any third party claims arising from (i) any negligence or recklessness of FAULDING, its agents or employees; (ii) personal injury (including death) or property damage arising out of or in connection with FAULDING's manufacture or handling of the Drug Product otherwise than in accordance with the Specifications and CUMBERLAND'S written directions; (iii) FAULDING's non-compliance with any applicable FDA or other applicable regulations; provided that CUMBERLAND perform its obligations under Paragraph 2.1, or (iv) any failure of FAULDING to perform any of its obligations hereunder, unless caused by the acts or omissions of CUMBERLAND. Beginning prior to delivery of the first order for Drug Product pursuant to this Agreement and continuing until the third anniversary of termination of this Agreement, FAULDING shall maintain products liability insurance with limits of liability of not less than [***] and shall name CUMBERLAND as additional insured under said policy.

10.3 Patent Indemnity: Subject to Paragraph 5.1, CUMBERLAND further warrants that importation, manufacture (excluding manufacturing not specific to the manufacture of the Drug Product to be performed by FAULDING for CUMBERLAND), use, supply, and sale of the Drug Product and Bulk Drug Substance will not infringe any patent rights or any other third-party intellectual property rights and that CUMBERLAND will indemnify, defend, and hold FAULDING free and harmless from any damage, judgment, liability, loss, cost or expense, including legal expenses, arising from claims that the Drug Product and Bulk Drug Substance infringe patent rights of a third party or any third-party intellectual property rights.

10.4 Conditions of Indemnification: If either party seeks indemnification from the other under Paragraphs 10.1, 10.2, or 10.3, it shall promptly give written notice to the other party of any such claim or suit threatened, made or filed against it, which forms the basis for such claim of indemnification and shall cooperate fully with the other party in the defense of all such claims or suits. No settlement or compromise shall be binding on a party hereto without its prior written consent.

10.5 Disclaimer of Warranties; Limited Liability: Under no circumstances shall either party be liable to the other on account of any claim (whether based upon principles of contract, warranty, negligence, or other tort, breach of any statutory duty, principles of indemnity, the failure of any expressly limited remedy to achieve its essential purpose) for any special, consequential, incidental or exemplary damages, or including but not limited to lost profits.

11. APPOINTMENT AS PREFERRED MANUFACTURER

Until the expiration or earlier termination of this Agreement, CUMBERLAND agrees to provide FAULDING with the first opportunity to negotiate to manufacture each CUMBERLAND pharmaceutical product to be sold anywhere in the world in addition to the Drug Product; provided that the foregoing shall not apply to pharmaceutical products in respect of which CUMBERLAND is unable to enter into a manufacturing arrangement with FAULDING, due to contractual obligations applicable to CUMBERLAND or where to enter into such an arrangement with FAULDING would adversely affect any existing regulatory approval or application for regulatory approval for the product, in either case as reasonably determined by CUMBERLAND having regard to documented evidence which CUMBERLAND shall provide to FAULDING or FAULDING's advisers for review at FAULDING's request. Except as set forth to the contrary in the preceding sentence, CUMBERLAND agrees not to manufacture, or to have manufactured, such a product anywhere in the world unless CUMBERLAND first notifies FAULDING of the opportunity hereunder and unless CUMBERLAND negotiates in good faith with FAULDING for sixty (60) days after providing such notice in an attempt to enter into a written agreement on substantially the same terms as this Agreement with respect to such additional product.

12. LICENSING AND DISTRIBUTION OF CUMBERLAND PRODUCTS

Until the expiration or earlier termination of this Agreement, CUMBERLAND agrees to provide FAULDING with the first opportunity to negotiate to license and distribute each pharmaceutical product of CUMBERLAND in Australia, New Zealand, Canada, and mutually agreed Southeast Asian and Latin American countries; provided that the foregoing shall not apply to pharmaceutical products in respect of which CUMBERLAND is unable to enter into a license and distribution arrangement with FAULDING, due to contractual obligations applicable to CUMBERLAND as reasonably determined by CUMBERLAND having regard to documented evidence which CUMBERLAND shall provide to FAULDING or FAULDING's advisers for review at FAULDING's request, and further provided that CUMBERLAND shall use good faith efforts to initiate such negotiations with FAULDING as soon as such a product is reasonably available for license and distribution in such territory. Except as set forth to the contrary in the preceding sentence, CUMBERLAND agrees not to license or distribute such a product in such territory unless CUMBERLAND first notifies FAULDING of the opportunity hereunder and unless CUMBERLAND negotiates in good faith with FAULDING for sixty (60) days after providing such notice in an attempt to enter into a written agreement with respect to the services that are being negotiated.

13. REGULATORY SUPPORT

If requested by CUMBERLAND, and at CUMBERLAND'S cost at reasonable fees to be agreed by the parties, FAULDING shall provide CUMBERLAND with reasonable assistance in relation to the Development of, and applications for regulatory approval for, pharmaceutical products other than the Drug Product which are identified by CUMBERLAND, including but not limited to the preparation of development reports, stability reports, manufacturing documentation and

instructions for use necessary to support applications for regulatory approval.

14. GENERAL PROVISIONS

14.1 Notices: Any notice permitted or required by this Agreement may be sent by facsimile with the original document being sent by certified (or registered) mail, return receipt requested, or overnight delivery and shall be effective when received (or refused) via facsimile or mail or overnight if faxed and sent and addressed as follows (or to such other facsimile number or address as may be designated by a party in writing):

If to CUMBERLAND:

Cumberland Pharmaceuticals Inc.
209 Tenth Avenue South, Suite 332
Nashville, Tennessee 37203
Attn: Chief Executive Officer
Telephone: 615-255-0068
Facsimile: 615-255-0094

If to FAULDING:

F.H. Faulding & Co. Limited
115 Sherriff Street
Underdale, South Australia 5032
Attn: Company Secretary
Telephone: 61-8-8205-6500
Facsimile: 61-8-8234-8380

14.2 Entire Agreement: Amendment: The parties hereto acknowledge that this Agreement sets forth the entire agreement and understanding of the parties and supersedes all prior written or oral agreements or understandings with respect to the subject matter hereof; provided that the Confidentiality Agreement dated August 1, 1999, between FAULDING and CUMBERLAND shall remain in effect and that the terms thereof shall supersede any conflicting term of Paragraph 9 hereof. No modification of any of the terms of this Agreement, or any amendments thereto, shall be deemed to be valid unless in writing and signed by both parties hereto. No course of dealing or usage of trade shall be used to modify the terms and conditions herein.

14.3 Waiver: None of the provisions of the Agreement shall be considered waived by any party hereto unless such waiver is agreed to, in writing, by both parties. The failure of a party to insist upon strict conformance to any of the terms and conditions hereof, or failure or delay to exercise any rights provided herein or by law shall not be deemed a waiver of any rights of any party hereto.

14.4 Obligations to Third Parties: Each party warrants and represents that this Agreement is not inconsistent with any contractual obligations, expressed or implied, undertaken with any third party.

14.5 Assignment: This Agreement shall be binding upon and inure to the benefit of the successors or permitted assigns of each of the parties and may not be assigned, transferred, or

subcontracted by either party without the prior written consent of the other, which consent will not be unreasonably withheld or delayed, except that no consent shall be required in the case of a transfer to a wholly-owned subsidiary or transaction involving the merger, consolidation or sale of substantially all of the assets of the party seeking such assignment or transfer and such transaction relates to the business covered by this Agreement and the resulting entity assumes all the obligations under this Agreement.

14.6 Independent Contractor: FAULDING shall act as an independent contractor for CUMBERLAND in providing the services required hereunder and shall not be considered an agent of or joint venturer with CUMBERLAND. Unless otherwise provided herein to the contrary, FAULDING shall furnish all expertise, labor, supervision, machining and equipment necessary for performance hereunder and shall obtain and maintain all building and other permits and licenses required by public authorities.

14.7 Governing Law: This Agreement is subject to and shall be governed by the laws of the State of Tennessee. The parties hereby submit to the jurisdiction of the courts of the State of Tennessee in respect to all disputes arising out of or in connection with this Agreement and waive any and all objections to such venue.

14.8 Severability: In the event that any term or provision of this Agreement shall violate any applicable statute, ordinance, or rule of law in any jurisdiction in which it is used, or otherwise be unenforceable, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.

14.9 Headings, Interpretation: The headings used in this Agreement are for convenience only and are not part of this Agreement.

14.10 Conflict: In the event of conflict between the terms and provisions of this Agreement and the terms and provisions of the Manual, the terms of this Agreement shall control.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed by their duly authorized representatives effective as of the date first above written.

CUMBERLAND PHARMACEUTICALS INC.	F.H. FAULDING & CO. LIMITED
/s/ A.J. Kazimi	/s/ Alex Bell
Authorized Signature	Authorized Signature
Printed Name	Printed Name
A.J. Kazimi	Alex Bell
Printed Name	Printed Name
	Title
CEO	V.P. Tech Ops.
Title	

SCHEDULE I

DEVELOPMENT ACTIVITIES AND PRICING

Development of the Drug Product for use in Clinical Studies and for sale will consist of the following:

Product -	Amelior™. Ibuprofen for intravenous injection.
Timing -	CUMBERLAND shall provide FAULDING with non-binding forecasts of its requirements in the manner set forth in Paragraph 7.2 of this Agreement. FAULDING shall manufacture the number of batches of Drug Product corresponding to each purchase order therefor within 60 days of receipt of any such order.
Special Issues -	All product contact components must be dedicated or disposed of after use. CUMBERLAND may be present for manufacturing. The initial batches are for an FDA submission, and may subsequently be used in clinical studies or sold. FAULDING shall provide process validation (scale-up and three validation batches) in accordance with this Agreement and the Schedules thereto.
cGMP or GMP -	GMP or cGMP shall mean the current good manufacturing practices as defined from time in regulations promulgated under the Federal Food, Drug and Cosmetic Act of the United States or any successor laws or regulations governing the manufacture of the Drug Product.

Storage -

1. FAULDING shall store and handle Bulk Drug Substance and finished Drug Product at 20E to 25E C.

Composition, Process & Container

[***]

Preparation - Additional details regarding preparation shall be incorporated herein upon adoption thereof by written agreement of FAULDING and CUMBERLAND.

[***]

Disposal - Method of disposal is incineration. Any disposal costs incurred by FAULDING will be charged back to CUMBERLAND; provided that CUMBERLAND shall not be required to reimburse FAULDING for such costs if the Drug Product is disposed of because of FAULDING's negligence or breach of this Agreement. FAULDING shall prepare and provide CUMBERLAND with complete documentation of disposal throughout the chain of custody.

Documentation by FAULDING –

1. Master batch record for review and approval by FAULDING and CUMBERLAND.
2. Product specific validation summaries.
3. Executed batch records.
4. Analytical records.
5. Inventory records.
6. Disposal records.

Compensation - The price to be paid by CUMBERLAND to FAULDING for the satisfactory performance of its obligations under this Agreement are as follows:

[***]

Reimbursement of Development Costs - CUMBERLAND shall reimburse FAULDING for development costs incurred and approved as agreed by the parties.

Reimbursement of Regulatory Costs - CUMBERLAND shall reimburse FAULDING for regulatory costs incurred and approved as agreed by the parties.

Reimbursement of Inspection and Audit Costs - CUMBERLAND shall reimburse FAULDING for inspection and audit costs incurred and approved as agreed by the parties.

SCHEDULE II

MANUFACTURING PROJECT MANUAL

(To be expanded by mutual written consent of F.H. Faulding & Co., Limited ("FHF") and Cumberland Pharmaceuticals, Inc. ("CPI"))

Documentation/Activity	Responsibility		
	FHF	CPI	Comments
GMP certificate and other permits	/		
Active Pharmaceutical Ingredient ("API")			
Supply of API	/		CPI to identify source
Provide specifications		/	
Approval of API specifications	/	/	
Provide sampling and testing methods		/	
Approval of sampling and testing methods	/	/	
Sampling and testing	/		
Release	/		
Storage of samples	/		
Storage of documents	/	/	
Starting Materials (except API)			
Supply of starting materials	/		CPI to identify arginine source
Provide specifications of starting materials		/	
Approval of starting materials specifications	/	/	
Providing sampling and testing methods	/		
Approval of sampling and testing materials	/	/	
Sampling and testing	/		
Release	/		
Storage of samples	/		
Storage of documentation	/	/	
Manufacturing Formula			
Development of manufacturing formula	/	/	
Approval of manufacturing formula	/	/	
Processing Instructions			
Development of processing instructions	/		
Approval of processing instructions	/	/	

	FHF	CPI	Comments
Bulk Product			
Supply of Bulk Product	/		
Provide specifications of Bulk Product	/	/	
Approval of Bulk Product specifications	/	/	
Providing sampling and testing methods	/		
Approval of sampling and testing methods	/	/	
Sampling and testing	/		
Release	/		
Storage of samples	/		
Prepare stability data for Bulk Product	/		
Storage of documentation	/		
Packaging			
Supply of packaging materials	/		
Provide packaging materials specifications	/		
Approval of specifications	/		
Providing sampling and testing methods	/		
Approval of sampling and testing methods	/	/	
Sampling and testing	/		
Release	/		
Storage of samples	/		
Storage of documentation	/	/	
Batch Processing Records			
Preparation of batch processing records	/		
Review of batch processing records	/		
Release of batch processing records	/	/	
Storage of batch processing records	/	/	
Product			
Providing sampling and testing methods	/		
Approval of sampling and testing methods	/	/	
Sampling and testing	/		
Release	/		
Storage of samples	/		
Storage of documentation	/	/	
Prepare stability data for Product	/		

Supply of Materials

Documentation/Activity	Supplier (check one): FHF	CPI	Comments
Starting Materials			
Active Pharmaceutical Ingredient	/		CPI will identify source
Other Starting Materials			
(Auxiliaries, fluids, gases, etc.):			
Excipients	/		
WFI	/		
N2	/		
Packaging Materials			
Vials	/		
Stoppers	/		
Seals	/		
Boxes	/		
Shippers	/		
Labeling	/		

Quality Control

Distribution of responsibilities:

F.H. Faulding & Co. (FHF) shall ensure that all quality control measures follow the applicable cGMP guidelines. The responsibilities shall be distributed between FAULDING and CPI as follows:

Documentation/Activity	Supplier (check one): FHF	CPI	Comments
Active Pharmaceutical Ingredient			
Providing sampling and testing methods	/	/	
Approval of sampling and testing methods	/	/	
Sampling and testing	/		
Release	/		
Storage of samples	/		
Storage of documentation	/	/	
Starting Materials (except API)			
Providing sampling and testing methods	/	/	
Approval of sampling and testing methods	/	/	

Documentation/Activity	Supplier (check one): FHF	CPI	Comments
Sampling and testing	/		
Release	/		
Storage of samples	/		
Storage of documentation	/		
Bulk Product			
Providing sampling and testing methods	/		
Approval of sampling and testing methods	/	/	
Sampling and testing	/		
Release	/		
Storage of samples			
Storage of documentation	/	/	
Prepare stability data for Bulk Product	/	/	
Packaging Materials			
Providing sampling and testing methods	/		
Approval of sampling and testing methods	/	/	
Sampling and testing	/		
Release	/		
Storage of samples	/		
Storage of documentation	/	/	

	FHF	CPI	Comments
Batch Documentation			
Assignment of batch numbers	/		
Preparation of batch processing records	/		
Review of batch processing records		/	
Release of batch processing records	/		
Storage of batch processing records	/	/	
Product			
Providing sampling and testing methods	/		
Approval of sampling and testing methods	/	/	
Sampling and testing	/		
Release	/		
Storage of samples			
Storage of documentation	/	/	
Prepare stability data for Product	/		

ATTACHMENT I

BULK DRUG SUBSTANCE
AND DRUG PRODUCT SPECIFICATIONS
AND PROCEDURES

Bulk Drug Substance -
To be agreed.

Drug Product Specifications and Procedures -
To be decided.

SCHEDULE 3

Ibuprofen Injection 100mg/ml

[***]

EXHIBIT 10.9

*Certain portions of this exhibit have been omitted pursuant to a request for confidential treatment which has been filed separately with the SEC.

KRISTALOSE AGREEMENT

Between

CUMBERLAND PHARMACEUTICALS INC.

And

INALCO BIOCHEMICALS, INC.

And

INALCO S.P.A.

APRIL 2006

TABLE OF CONTENTS

1. DEFINITIONS 1

2. REGULATORY APPROVAL, MARKETING AND DISTRIBUTION 6

3. TERM AND TERMINATION 16

4. PAYMENTS 18

5. CONFIDENTIALITY 20

6. PROTECTION AND OWNERSHIP OF INTELLECTUAL PROPERTY 22

7. REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION 23

8. GENERAL 27

9. ARBITRATION 29

EXHIBIT A — Minimum Purchases

EXHIBIT B — Patents

EXHIBIT C — Transition Plan

EXHIBIT D — Specifications

EXHIBIT E — Adverse Event Reporting

THIS AGREEMENT, by and among CUMBERLAND PHARMACEUTICALS INC. (“CUMBERLAND”), a corporation organized and existing under the laws of the State of Tennessee, U.S.A., with its principal place of business located at 2525 West End Avenue, Suite 950, Nashville, Tennessee, U.S.A., 37203, and INALCO BIOCHEMICALS, INC., a corporation organized and existing under the laws of California, with its principal place of business located at 3440 Empresa Drive, Suite A, San Luis Obispo, California 93401 (“INALCO U.S.”), and INALCO S.p.A., a corporation organized and existing under the laws of Italy, with its principal place of business located at Via Calabiana 18, 20139 Milan, Italy (“INALCO ITALY”) (INALCO U.S. and INALCO ITALY are hereinafter collectively referred to as “INALCO”) is entered into as of the day of April, 2006 (the “Execution Date”).

RECITALS

WHEREAS, INALCO is negotiating the acquisition of the Kristalose Trademark from Mylan Laboratories Inc. and this Agreement is conditional upon the successful acquisition of the Kristalose Trademark;

WHEREAS, INALCO owns or has the right to use all Intellectual Property Rights related to the Product (each as defined herein);

WHEREAS, CUMBERLAND is a pharmaceutical company with capabilities in the marketing, development, registration and distribution of various pharmaceutical products in the Territory;

WHEREAS, INALCO has obtained and is willing to seek all necessary regulatory approvals for the marketing and distribution of the Product in the Territory (as defined herein);

WHEREAS, CUMBERLAND wishes to acquire the exclusive distribution and marketing rights to the Product in the Territory, in accordance with and subject to the terms and conditions set forth in this Agreement;

WHEREAS, INALCO is willing to grant an exclusive license to CUMBERLAND to market and distribute the Product in the Territory;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is agreed by the parties as follows:

1. DEFINITIONS

1.1 Affiliate shall mean, with respect to any Person, any other Person that controls, is controlled by or is under common control with, such Person. A Person shall be regarded as in control of another Person if such Person owns, or directly or indirectly controls, more than fifty percent (50%) of the voting securities (or comparable equity interests) or other ownership interests of the other Person, or if such Person directly or indirectly possesses the power to direct or cause the direction of the management or policies of the other Person, whether through the ownership of voting securities, by contract or any other means whatsoever.

1.2 Agreement shall mean this Agreement and all instruments supplemental hereto or in amendment or confirmation hereof; “herein”, “hereof”, “hereto”, “hereunder” and similar expressions mean and refer to this Agreement and not to any particular Article, Section, Subsection or other subdivision; “Article”, “Section”, “Subsection” or other subdivision of this Agreement means and refers to the specified Article, Section, Subsection or other subdivision of this Agreement.

1.3 ANDA shall mean any Abbreviated New Drug Application covering the Product and filed with the FDA pursuant to the U.S. Federal Food, Drug, and Cosmetic Act, as amended, or any regulations thereunder.

1.4 Calendar Quarter shall mean each three (3) month period ending March 31, June 30, September 30, and December 31.

1.5 Certificate of Analysis means a document which is signed and dated by a duly authorized representative of INALCO certifying that the Product conforms with the Product Specifications.

1.6 Competent Authority shall mean each and every Governmental Body from which approvals are required for the manufacture, marketing, distribution or sale of the Product within the Territory.

1.7 Confidential Information shall have the meaning set forth in Subsection 5.1(A) hereof.

1.8 Delivery Date is the date of delivery for Products agreed to by the parties.

1.9 Effective Date shall mean the date on which an authorized representative of INALCO certifies in a writing delivered to CUMBERLAND that INALCO has met all requirements in order to transfer exclusive marketing and distribution rights to the Product in accordance with this Agreement, including without limitation, obtaining all rights to the Trademarks from Mylan Pharmaceuticals, Inc.; provided that such certificate must be in a form reasonably satisfactory to CUMBERLAND.

1.10 FDA shall mean the U.S. Food and Drug Administration.

1.11 Governmental Body shall mean (i) any domestic or foreign national, federal, provincial, state, municipal or other government or body, (ii) any international or multilateral body, (iii) any subdivision, ministry, department, secretariat, bureau, agency, commission, board, instrumentality or authority of any of the foregoing governments or bodies, (iv) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing governments or bodies, or (v) any domestic, foreign, international, multilateral, or multinational judicial, quasi-judicial, arbitration or administrative court, grand jury, tribunal, commission, board or panel.

1.12 Independent Analyst is an analyst which is acceptable to the parties for the purposes of Sections 2.7(C) or 2.10.

1.13 Intellectual Property Rights shall mean whether or not reduced to writing, all discoveries, inventions, all rights to inventions, patents, patent applications and issued patents, data, including patient records, proprietary formulation, non-clinical and clinical data, FDA registrations, market information and plans, designs, design applications and design registrations, trade marks, trade mark applications, trade mark registration, trade names, trade dresses, service marks, logos (whether registered or unregistered), copyright, copyright applications and registrations, and all other rights and intellectual property relating to the Product now or hereafter owned, held or used by INALCO or any of its Affiliates or Subsidiaries; without limiting the generality of the foregoing, Intellectual Property Rights shall include the Patent Rights, the Trademarks, the Know-How (each as defined herein) and all other rights and intellectual property now or hereafter owned, held or used by INALCO or any of its Affiliates or Subsidiaries.

1.14 Know-How shall mean all know-how, information, data, knowledge, discoveries, trade secrets, works, data, analytical reference materials and confidential or proprietary processes relating to the Product or to the manufacturing, distribution or sale of the Product in the Territory, and other information relating to the Product, owned or developed by, in the possession of, known to or used by INALCO or its Affiliates or Subsidiaries prior to the Effective Date. Without limiting the generality of the foregoing, Know-How shall include all techniques, technology, processes, and know-how related to production and purification of the Product, including systems for fully processing and purifying the Product; types and configuration of processing equipment; lists of suppliers, customers and prospective customers; market research data and reports, customer segmentation reports, detail pieces and any other marketing information relating to Product; development plans; methods of operation and management; cost control methods of setting prices; reporting methods; quality assurance programs; information systems; training manuals; databases; production solutions; financial information; and all other trade secrets of INALCO.

1.15 Labels shall mean all labels and packaging and other written, printed, or graphic matter approved by the Competent Authority upon or containing: (i) the Product or any packaging, container or wrapper utilized with the Product, and (ii) any written material accompanying the Product, including without limitation, package inserts, produced by INALCO with CUMBERLAND's prior written approval.

1.16 Laws shall mean:

(i) all constitutions, treaties, laws, statutes, codes, ordinances, orders, decrees, rules, regulations, and municipal by-laws, whether domestic, foreign or international;

(ii) all judgments, orders, writs, injunctions, decisions, rulings, decrees, and awards of any Governmental Body; and

(iii) all policies, practices and guidelines of any Governmental Body;

in each case binding on or affecting the party or Person referred to in the context in

which such word is used; and "Law" shall mean any one of them.

1.17 Listing means obtaining approval from the relevant pricing authority in the Territory to qualify the Product for price reimbursement and/or (as appropriate) obtaining formulary listing approval in the Territory.

1.18 Minimum Purchases shall mean the minimum number of commercial pouches of the Product that CUMBERLAND must purchase, as set forth in Exhibit A.

1.19 Mylan shall have the meaning set forth in Section 2.5(A).

1.20 Net Sales shall mean the aggregate amount billed by CUMBERLAND for the sale of the Product, less returns, buying group chargebacks, group purchasing organization administrative fees, managed care organization rebates, sales/purchasing discounts, prompt payment discounts, federally mandated discounts or rebates, state medical assistance program rebates and discounts, adjustments for quantities shipped, and other discounts and fees, all as determined on an accrual basis.

1.21 Order is defined in Section 2.6(C).

1.22 Patent Rights shall mean all issued patents and patent applications relating to the Product in the Territory, whether owned by INALCO or its Affiliates or Subsidiaries and/or made available in any other way to INALCO or its Affiliates or Subsidiaries, including those listed in Exhibit B hereto, and every divisional, continuation, continuation-in-part, substitution and confirmation application based thereon, and any reissue or extension based on any of the foregoing.

1.23 Person shall mean an individual, corporation, company, co-operative, partnership, organization or any similar entity.

1.24 Product shall mean INALCO's pharmaceutical product lactulose crystals sold under the Kristalose® trademark or any other trademark agreed by the parties, containing the Label and packaged for sale in 10-gram and 20-gram pouches and all other strengths and dosage forms.

1.25 Product Drug Master File shall mean all confidential reference files submitted to the FDA or other applicable Competent Authorities in the Territory for use in the review of the ANDA or in connection with obtaining or maintaining Regulatory Approval for the Product in the Territory.

1.26 Product Payments shall have the meaning set forth in Section 4.3.

1.27 Product Specifications means the specifications contained in Exhibit D or any later approved specification of the Products by the Competent Authority in the Territory which may also include specifications for packaging material, labeling and product information.

1.28 Regulatory Approval(s) shall mean all approvals, licenses, registrations, or authorizations

of any Competent Authority necessary for the manufacturing, marketing, distribution and/or sale of the Product in the Territory.

1.29 Royalty Payment shall have the meaning set forth in Section 4.2.

1.30 Subcontractor shall mean a Third Person to whom either party hereto has delegated responsibilities under this Agreement.

1.31 Subsidiaries shall mean any and all existing and future subsidiaries of Inalco S.p.A. and/or Inalco Biochemicals, Inc. and their Affiliates, or of Cumberland Pharmaceuticals Inc. and its Affiliates.

1.32 Term shall mean the term of this Agreement, as set forth in Section 3.1.

1.33 Territory shall mean the U.S., subject to potential modifications pursuant to Section 4.2, Exhibit A, and the following understandings:

(a) As of the Effective Date of this Agreement, INALCO does not have Regulatory Approval for the Product in Canada.

(b) INALCO cannot guarantee that Regulatory Approval will be granted for the Product in Canada.

(c) CUMBERLAND and INALCO agree to cooperate reasonably to determine the feasibility of and develop a strategy for registering and commercializing the Product in Canada. Upon mutual agreement between INALCO and CUMBERLAND that commercialization of the Product in Canada is justified, INALCO will act in good faith in order to obtain the Regulatory Approvals required to register the Product in Canada, and at such time as the Regulatory Approvals are obtained, the Territory shall be deemed to include Canada.

(d) In the event that Regulatory Approval in Canada is granted and CUMBERLAND is not actively marketing and distributing the Product in Canada (as evidenced by its distribution of the Product in such country or by entering into an agreement with a Subcontractor to market and distribute the Product) within two (2) years of the date of issuance of Regulatory Approval for the Product in Canada, then INALCO has the right to remove Canada from the defined Territory upon ninety (90) days written notice to CUMBERLAND.

1.34 Third Person shall mean any Person other than one of the parties hereto or an Affiliate or Subsidiary of one of the parties hereto.

1.35 Trademarks shall mean all trademarks, trademark applications and registrations, trade names, trade dresses, service logos and other designations of origin owned by INALCO or its Affiliates or Subsidiaries pursuant to Section 6 and used on or in connection with the Product, whether registered or not, including without limitation, Kristalose®.

1.36 U.S. shall mean the United States of America and each of its territories and possessions.

1.37 Valid Claim shall mean, with respect to the Patent Rights; (i) a claim of an issued and unexpired patent that has not been revoked or held unenforceable or invalid by a decision of a court or other Governmental Body of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, and which has not been disclaimed, denied or admitted to be invalid or unenforceable through reissue, disclaimer or otherwise; or (ii) a claim included in a pending patent application that is actively prosecuted and which has not been cancelled, withdrawn, finally determined to be unallowable by the applicable Governmental Body pursuant to an unappealable decision and/or abandoned in accordance with the terms hereof.

1.38 Year shall mean the twelve (12) month period commencing on the first date that INALCO delivers an order of Product to CUMBERLAND pursuant to this Agreement, and each twelve month period beginning on the anniversary thereof.

2. REGULATORY APPROVAL, MARKETING AND DISTRIBUTION

2.1 Regulatory Approval. INALCO shall, at INALCO's expense, secure with the least possible delay, and maintain Regulatory Approval for the Product from all relevant Competent Authorities in the Territory, and fulfill any reasonable additional requirements for approval from the Competent Authorities in the Territory. All registrations and approvals obtained shall be the sole and exclusive property of INALCO. INALCO agrees to provide additional information in its possession or control to support CUMBERLAND in answering or attending to any queries or requests of the Competent Authorities in relation to the Product.

2.2 Know-How. INALCO hereby grants to CUMBERLAND, and CUMBERLAND hereby accepts, an exclusive license to use the Know-How to the extent reasonably required by CUMBERLAND in order to market, distribute, advertise, promote and sell the Product in the Territory in accordance with and subject to the terms and conditions set forth herein.

2.3 Trademarks. INALCO is negotiating the acquisition of the Kristalose Trademark from Mylan Laboratories Inc. and this Agreement is conditional upon the successful acquisition of the Kristalose Trademark. INALCO hereby grants to CUMBERLAND, and CUMBERLAND hereby accepts, an exclusive license to use the Trademarks on the Product and in connection with the marketing, advertisement, promotion, distribution and sale of the Product in the Territory during the Term. In order to have authority to grant such license to CUMBERLAND, INALCO agrees to obtain all rights to the Trademarks from Mylan Pharmaceuticals, Inc., prior to the Effective Date hereof.

2.4 Patent Rights. INALCO hereby grants to CUMBERLAND, and CUMBERLAND hereby accepts, an exclusive license to the Patent Rights for purposes of marketing, distribution, and sale of the Product in the Territory during the Term.

2.5 Certain Responsibilities of INALCO.

A. Transition Plan. Prior to the Effective Date, INALCO will submit to CUMBERLAND for consideration a transition plan for Mylan Pharmaceuticals Inc. ("Mylan") to transfer commercial responsibilities for the Product to CUMBERLAND, which plan will include accurate and complete customer lists, customer data, customer contracts, and market, financial and other information relating to the Product, as well as provisions for transitioning Product inventory, Product returns and chargebacks processing, government reporting, and regulatory reporting. The transition plan will also include Mylan's commitment to processing and payment of rebates, returns and chargebacks for Product sold by Mylan. The transition plan shall also include Mylan's commitment to provide information necessary to comply with the CMS Medicaid Drug Rebate Program Release Number 48, which requires that a termination date be supplied equal to the shelf life of the last lot sold under the old NDC number, as well as pricing data extending four (4) Calendar Quarters beyond the shelf life. The transition plan shall be finalized after INALCO and CUMBERLAND agree to any amendments thereto, and in any event, the parties hereto agree to finalize the transition plan on or before the thirtieth (30th) day after the Effective Date. The transition plan shall be attached hereto as Exhibit C when it is completed and shall be a part of this Agreement effective as of the date thereof. INALCO shall complete all of its responsibilities under the transition plan. At all times until such transition plan has been completed, INALCO shall make best efforts to resolve any outstanding items in the transition plan as promptly as possible.

B. Exclusive Appointment. INALCO hereby appoints CUMBERLAND as exclusive (even as to INALCO) distributor, marketer, advertiser, promoter, and seller of the Product in the Territory during the Term. INALCO will not without CUMBERLAND's prior written approval, itself promote, sell or distribute, nor appoint nor allow any third party to promote, sell or distribute in the Territory any presentation of the Product nor any product which competes with the Product; provided that INALCO may make sales in the Territory of its liquid lactulose products in existence as of the date hereof. INALCO will ensure that its Affiliates and licensees do not supply the Products to any other party which it knows, or has reasonable grounds for suspecting, will store, promote, sell or distribute the Products in or to the Territory.

C. Maintenance of Patent Rights and Trademark. INALCO shall diligently prosecute and maintain Patent Rights and the Trademarks at its own expense throughout the Territory in accordance with Article 6.

D. Supply of the Product. INALCO shall manufacture, package or have packaged, and supply the Product to CUMBERLAND for resale during the Term. Except as otherwise set forth in the transition plan pursuant to Section 2.5(A) for the first one-hundred-twenty (120) days of the Term, INALCO shall manufacture, label, store, and ship the Product with existing packaging from Mylan. At the end of one hundred twenty (120) days or sooner pursuant to the written agreement of both parties hereto, INALCO shall manufacture, label, store, and ship the Product with packaging designed by CUMBERLAND. INALCO shall deliver the Product to CUMBERLAND in finished packages that shall include the CUMBERLAND NDC number and logo.

E. Provide Promotional Pouches. INALCO shall provide up to 1,000,000 promotional pouches of Product to CUMBERLAND per Year upon request at a price per pouch as

set forth in Section 4.3 for Promotional Unit Payments. In the event that CUMBERLAND identifies the need for additional promotional pouches in any given Year, the parties agree to negotiate in good faith regarding the price and delivery of such additional pouches.

F. Product Specifications. INALCO shall manufacture all Product in compliance with (i) the Product DMF as submitted to the FDA, (ii) the FDA's Good Manufacturing Practices, as promulgated under the U.S. Food, Drug and Cosmetic Act, as amended, (iii) the Abbreviated New Drug Application for the Product, (iv) the Patent Rights, and (v) all other applicable Laws, requirements and regulations of the FDA or other applicable Competent Authorities. In no event will INALCO implement any alteration (that requires approval of the Competent Authority) to the materials or processes described in the Drug Master File in relation to any of the Products supplied to CUMBERLAND under this Agreement until INALCO has provided reasonable prior written notice of such alteration to CUMBERLAND and the Competent Authority in the Territory has approved all requisite amendments to the applicable Regulatory Approval. INALCO will not change the Product Specifications during the Term without CUMBERLAND's prior written consent. INALCO shall provide for or arrange on-site inspections of each of the facilities related to manufacturing or packaging the Product at least one time per year by authorized representatives of CUMBERLAND at any time during regular business hours and shall provide all reasonably requested information to confirm that the Product is manufactured and packaged in accordance with the Specifications.

G. Fulfillment of Regulatory Requirements. INALCO shall maintain all Regulatory Approvals for the Product required to enable the Product to be sold in the Territory at its own expense. INALCO shall maintain and fulfill all applicable regulatory requirements with respect to the Product, including reporting and pharmacovigilance in the Territory, and shall fully cooperate with CUMBERLAND to fulfill and meet all requirements imposed by applicable law. INALCO shall inform CUMBERLAND of any governmental submissions relating to the Product.

H. Adverse Events. INALCO shall promptly notify CUMBERLAND of any event that materially affects or could materially affect the marketing of the Product. With respect to adverse events, the parties hereto shall report such events to Competent Authorities per Exhibit E, Adverse Event Reporting.

I. Additional Markets. At any time during the Term, CUMBERLAND may notify INALCO of its interest in distributing the Product in a country outside of the Territory for which INALCO does not, as of the date of such notice, already have a distribution arrangement in effect or pending, as evidenced by a fully executed letter of intent. For up to ninety (90) days after providing such notice, the parties hereto shall negotiate in good faith toward developing an agreement for marketing and distribution rights for the Product in the relevant country(ies).

J. Delivery of Product. INALCO shall deliver Product to Cumberland in a timely manner and in compliance with specifications for the Product and its packaging in accordance with Section 2.11, et seq.

2.6 Certain Responsibilities of CUMBERLAND.

A. Marketing Plans. Within sixty (60) days after the Effective Date, CUMBERLAND shall provide INALCO with a summary of marketing plans for the Product in the Territory, including five (5) year sales forecasts. CUMBERLAND shall provide updated marketing plans thereafter on an annual basis.

B. Package Design. Except as otherwise set forth in Section 2.5(D), CUMBERLAND, at its expense, shall design all labeling and exterior packaging to be used on the Product. CUMBERLAND shall provide such package designs to INALCO within thirty (30) days of the Effective Date. In the event of a change in the package design for the Product, CUMBERLAND shall notify INALCO of the package design at least one hundred fifty (150) days prior to its required use thereof. All labeling and packaging designs for the Product must be in compliance with the rules and regulations of all Competent Authorities. CUMBERLAND shall not implement any changes in labeling and packaging for the Product unless CUMBERLAND has INALCO's prior written consent, not to be unreasonably withheld or delayed. INALCO and CUMBERLAND agree to work together to minimize cost increases related to packaging design changes.

C. Purchase Orders. CUMBERLAND shall submit to INALCO a purchase order setting forth the quantity of Product ordered, Delivery Date, destination, and any other delivery instructions at least ninety (90) days in advance of its requested Delivery Date for such purchase order. INALCO will respond to CUMBERLAND promptly after receipt of any purchase order, and each such response shall (i) accept the Delivery Date or (ii) reject the Delivery Date and propose an alternative Delivery Date. When such a purchase order for Product is accepted in writing or by facsimile, it shall become binding upon INALCO and CUMBERLAND, and shall not be changed or cancelled by CUMBERLAND without written approval of INALCO. Such approval shall not be unreasonably withheld or delayed.

D. Rolling Forecasts. Within thirty (30) days after the Effective Date, and every thirty (30) days thereafter, CUMBERLAND shall complete and provide INALCO a twelve (12) month rolling forecast of its projected monthly purchases of the Product and shall adjust them thereafter on a monthly basis.

E. Minimum Purchases. CUMBERLAND agrees to meet Minimum Purchases annually in accordance with Exhibit A.

F. Sales Reports. Within thirty (30) days after each month in which CUMBERLAND sells any Product to a third party, CUMBERLAND shall prepare and provide INALCO with a monthly sales report for the Product.

G. Compliance. CUMBERLAND shall market, distribute, and sell the Product in the Territory in accordance with applicable Laws.

H. Adverse Drug Experiences. CUMBERLAND shall provide reasonable cooperation and assistance to INALCO in the investigation of complaints and adverse events with respect to the Product (see Exhibit E). Each party will bear its own expenses associated with its duties set forth in Exhibit E.

I. Interaction with DDMAC. CUMBERLAND shall be responsible for interacting with the FDA Division of Drug Marketing, Advertising and Communication regarding the Product.

J. Formulary Listings. CUMBERLAND shall be responsible for filing and maintaining Listings to obtain formulary listing approval from states or localities in the Territory.

K. Rebate and Managed Care Programs. CUMBERLAND shall have administrative responsibility for the Product in any rebate and managed care programs through which the Product is made available in the Territory.

L. Product Returns. CUMBERLAND shall be responsible for administering returns, discounts, and chargebacks involving third-party purchasers of the Product during the Term in the Territory.

M. Non-Compete Obligation. CUMBERLAND will not without INALCO's prior written approval, itself promote, sell or distribute in the Territory during the Term hereof, any laxative product which competes with the Product.

N. Inspections. CUMBERLAND shall provide for or arrange on-site inspections of all facilities related to the storage and distribution of the Product at least one time per year by authorized representatives of INALCO at any time during regular business hours and shall provide all reasonably requested information to confirm that the Product is stored, handled, and distributed in accordance with all applicable rules and regulations of Competent Authorities.

2.7 Certain Responsibilities of Both Parties.

A. Insurance. Beginning on the Effective Date, both CUMBERLAND and INALCO shall have in place, and shall maintain during the Term and until the third anniversary of the expiration or earlier termination of this Agreement, comprehensive product liability insurance in amounts not less than $5,000,000 U.S. per incident and $5,000,000 U.S. annual aggregate. The minimum amounts of insurance coverage required shall not be construed to create or limit CUMBERLAND's or INALCO's liability with respect to its indemnification under this Agreement. Both INALCO and CUMBERLAND shall provide evidence of insurance to one another on or within thirty (30) days after the Effective Date and each anniversary date thereof.

B. Publicity. Either party may issue a press release or other public announcement relating to the existence or terms of this Agreement, subject to the prior review and written approval of the other party, which approval shall not be unreasonably withheld or delayed; except where required by Law, in which event the parties

will use all reasonable efforts to consult with each other and cooperate with respect to the wording of any such announcement. The parties shall cooperate in issuing (an) initial public release(s) with respect to the signing of this Agreement, either separately or as a joint release.

C. Recalls:

(i) If either party determines that any quantity of the Product should be recalled for any reason, that party will give to the other party written notice of its intention to recall that quantity and specify its reasons.

(ii) If within three (3) days of the receipt of the notice the parties are unable to agree upon the need to carry out the recall, the parties agree to submit a sample of the Product to an Independent Analyst for a report.

(iii) The costs of the report of the Independent Analyst and of the recall will be paid by the party against which the report is unfavourable.

(iv) Notwithstanding paragraphs (i) to (iii), CUMBERLAND will administer any such recall in the Territory.

(v) Any Product recall initiated by a Competent Authority due to the negligence or breach of warranty by a party hereto shall be the responsibility of such party at its sole cost.

(vi) Each of CUMBERLAND and INALCO agrees to comply with the obligations set forth in Exhibit E with respect to any adverse drug event (as defined therein) or any similar event described in Exhibit E for the Product.

(vii) If a recall results from a cause other than 2.7C (v), then INALCO and CUMBERLAND will share equally all out-of-pocket costs to administer the recall.

2.8 Subcontractors. CUMBERLAND may make such arrangements with Subsidiaries, Affiliates or Third Persons as it, in its reasonable judgment, believes is necessary to assure the diligent and adequate registration, approval, release testing (if applicable), distribution and sale of the Product in the Territory. Any such Third Persons or Affiliates or Subsidiaries engaged by CUMBERLAND shall be referred to as "Subcontractors."

2.9 Delivery:

A. Prior to shipping, INALCO will submit to CUMBERLAND appropriate shipment notification documents for signature and approval to ship. These documents shall include CUMBERLAND's Approval to Ship form, packing slip, Certificate of Analysis, and any required FDA shipment notification.

B. Following receipt of CUMBERLAND approval to ship, INALCO will deliver the Products to CUMBERLAND F.O.B. the facility of INALCO's packager, which facility shall be located in the U.S. or Canada unless otherwise agreed in writing by INALCO and CUMBERLAND, to such location in the Territory as is designated by CUMBERLAND in the applicable purchase order.

C. All risk of loss or of damage to, and title to the Product, will pass to CUMBERLAND upon delivery of the Products to the, freight company specified by CUMBERLAND in the purchase order in accordance with the terms of Article 2 of this Agreement.

D. CUMBERLAND shall be responsible for all costs of transportation from the facility of INALCO's packager to the location in the Territory as designated by CUMBERLAND in the applicable purchase order, except that INALCO shall be responsible for any costs associated with Customs Clearance at an international border (including but not limited to brokers' fees, import duties, taxes, permits, and licenses).

2.10 Acceptance of the Products:

A. INALCO will supply a Certificate of Analysis with each delivery of the Products.

B. If CUMBERLAND does not notify INALCO in accordance with the following paragraph, then CUMBERLAND will, for the purposes of this Section 2.10 only, be deemed to have accepted the Products upon the expiration of the thirty (30) day period referred to in that paragraph.

C. If CUMBERLAND notifies INALCO within thirty (30) days of the receipt of any shipment of the Product that CUMBERLAND believes any of the Product does not conform to the warranty set out in Section 2.11 ("Defective Product") the parties agree to consult with each other in order to resolve the issue (during which time INALCO may conduct its own retention sample testing). If such consultation does not resolve the discrepancy within a further thirty (30) days from receipt of the notice, the parties agree to nominate an Independent Analyst within the Territory, acceptable to both parties, that will carry out tests on representative samples taken from such shipment, and the results of such tests will be binding on the parties.

D. If the Independent Analyst determines that the Defective Product does not conform to the warranty set out in Section 2.11:

(i) INALCO will, at its expense, replace any such Defective Product and reimburse CUMBERLAND for the costs of the Independent Analyst; and

(ii) all quantities of Defective Product will, at INALCO's election and expense be either:

a. returned to INALCO, and packed and shipped according to

instructions provided by INALCO; or

b. destroyed by CUMBERLAND under INALCO's direction.

E. If the Independent Analyst determines that the Defective Product does conform to the warranty set out in Section 2.11, CUMBERLAND will for the purposes of Section 2:10 only, be deemed to have accepted the Product and will reimburse INALCO for the costs of the Independent Analyst.

F. Replacement of Defective Product is in addition to any other obligations, indemnities or warranties given by INALCO under this Agreement.

2.11 Product Warranties:

A. INALCO represents and warrants that:

(i) any Product supplied under this Agreement will, upon delivery to CUMBERLAND, have a shelf life of at least two (2) years nine (9) months;

(ii) any Product supplied under this Agreement will upon delivery:

a. conform in all respects to the Product Specifications and to any applicable Regulatory Approval in the Territory;

b. be manufactured, identically labelled and identically packaged for the Territory and tested in accordance with applicable laws and regulations in the Territory relating to the manufacture, labelling, packaging and testing of the Product, subject to any alterations required by law or applicable regulations; and

c. will not be adulterated or misbranded in contravention of applicable Law;

(iii) it will, at its expense, apply for, prosecute, maintain, defend and enforce the Trademarks, the Patent Rights, and any Intellectual Property Rights concerning the Product which are owned by or licensed to it to the maximum extent commercially feasible and will also apply for any appropriate extension of term for any patents covering the Product in accordance with the laws and regulations in the Territory.

B. Product Defects:

(i) Any quantities of the Product that do not conform with Section 2.11(A) or that contravene applicable Law, regulations, or Regulatory approvals will, for the purposes of this Agreement, be deemed to have a defect.

(ii) If either party becomes aware of any defect in the Product, it will immediately notify the other party and provide it with a full disclosure of that defect.

(iii) Where any defect in the Product arises either partially or wholly as a result of a defect in raw material supplied to INALCO by a third party, INALCO will make best efforts to ensure that the third party conforms to any demands of the Competent Authority concerning the defect.

(iv) Except as otherwise set forth in this Agreement, INALCO's remedy for breach of warranty pertaining to the Product provided hereunder shall be limited solely to replacement of such Product.

C. UNLESS OTHERWISE EXPRESSLY STATED IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, IRRESPECTIVE OF WHETHER ATTRIBUTABLE TO CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

3. TERM AND TERMINATION

3.1 Term.

A. Condition for Commencement of Term. Notwithstanding any other provision hereof, the commencement of the Term is subject to the satisfaction as of the Effective Date of the following conditions: (i) the termination of any letter agreements currently in effect between Mylan Bertek Pharmaceuticals Inc. (f/k/a Bertek Pharmaceuticals Inc.) ("Mylan Bertek") and CUMBERLAND (the "Letter Agreements"), and (ii) the full and final mutual release of Mylan Bertek and Mylan by CUMBERLAND and of CUMBERLAND by Mylan Bertek and Mylan for any and all obligations and/or liabilities in connection with the Co-Promotion Agreement between CUMBERLAND and Mylan Bertek dated January 4, 2002, as amended (the "Co-Promotion Agreement"), and the Letter Agreements; provided that the sections listed as surviving provisions in Section 11.6 of the Co-Promotion Agreement survive the termination and release set forth hereinabove.

B. Duration. This Agreement shall commence on the Effective Date and will continue until the fifteenth (15th) anniversary thereof. Thereafter, subject to Section 3.2 hereof, the Agreement will automatically renew for successive terms of three (3) years unless either party gives written notice of its intention not to renew this Agreement to the other party at least twelve (12) months prior to the expiration of the period.

3.2 Termination. This Agreement may be terminated prior to expiration of the Term under the following circumstances:

A. Material Breach. In the event that one party commits a material breach of this Agreement, the non-breaching party may, at its option, terminate this Agreement by giving the breaching party written notice pursuant to Section 8.2 of its election

to terminate as of a stated date, but not less than forty-five (45) days from the date of the notice. Such notice shall state the nature of the breach claimed by the non-breaching party. The breaching party, during said forty-five (45) day period or such longer period as may be indicated by the other, may correct any breach stated in said notice and if such breach is corrected, this Agreement shall continue in full force and effect as if such notice had not been given. If the breaching party does not cure the breach to the reasonable satisfaction of the notifying party within said forty-five (45) day period, or such longer period indicated by the non-breaching party, then the notifying party may terminate this Agreement. For purposes hereof, "material breach" shall mean failure by CUMBERLAND to comply with any of its obligations under Sections 2.6(G), 2.6(M), 4.1, 4.2, or 4.3 hereunder or failure by INALCO to comply with any of its obligations under Section 2.5(B),(C), (D), (F), and (G).

B. Anniversary. If CUMBERLAND gives INALCO written notice at least ninety (90) days prior to the fourth anniversary of the Effective Date or any subsequent such anniversary during the Term, CUMBERLAND may terminate the Agreement on the day immediately preceding such anniversary date without any further liability except as expressly set forth herein. Notwithstanding the foregoing, in no event shall termination under this Section 3.2.B. terminate or modify CUMBERLAND's obligations to make the payments set forth in Section 4.1.

3.3 Effect of Expiration or Termination. Upon expiration or termination of this Agreement,

A. CUMBERLAND shall cease the sale of all Product for the Territory; provided, however, that CUMBERLAND may continue to store, promote, sell and distribute its stock on hand and fill all orders accepted by it prior to the expiration or termination of the Agreement. INALCO will fill all orders accepted by INALCO hereunder prior to expiration or termination of the Agreement. All applicable provisions of this Agreement shall survive termination for such purpose; and

B. all rights, title and interest in and to the Product and the Intellectual Property Rights in the Product and the Know-How and the Patent Rights and the Trademarks that INALCO owned prior to this Agreement shall revert to INALCO.

3.4 Remedies Not Limited. Except as otherwise provided herein, the termination of this Agreement by either party shall not limit remedies that may be otherwise available, including without limitation, injunctive relief.

3.5 Survival. Expiration or termination of this Agreement for any reason shall not relieve either party of its obligations that have accrued prior to the expiration or termination of this Agreement. Without limiting the generality of the foregoing, Sections 2.11, 5.1, 5.2, and 5.3 and Article 3 of this Agreement shall survive expiration or termination of this Agreement.

3.6 Expectation of Profits. Except as otherwise provided herein, both parties acknowledge and agree that they have no expectations and have received no assurances that any investment by them in the development, marketing or distribution of the Product will be recovered or recouped, or that they shall obtain any anticipated amount of profit by virtue of this Agreement.

3.7 Option Regarding Transfer. CUMBERLAND shall have the first opportunity to negotiate to acquire all rights to the Product in the Territory. Each party hereto shall negotiate in good faith if the parties undertake discussions regarding such option. INALCO agrees not to transfer any rights to the Product in the Territory unless INALCO first notifies CUMBERLAND of the opportunity hereunder and unless INALCO negotiates in good faith with CUMBERLAND for sixty (60) days after providing such notice in an attempt to enter into a written agreement with respect to the rights that are being negotiated.

4. PAYMENTS

4.1 Payments. Subject to the terms and conditions contained in this Agreement, in consideration for rights granted to CUMBERLAND hereunder, CUMBERLAND shall pay Eleven Million Dollars to INALCO in the following installments:

A. First Installment. [***], payable upon the Effective Date of this Agreement;

B. Second Installment. [***], payable upon the first anniversary of the Effective Date of this Agreement; and

C. Third Installment. [***], payable upon the third anniversary of the Effective Date of this Agreement.

4.2 Royalty Payment. In further consideration of the rights granted to CUMBERLAND hereunder, CUMBERLAND shall pay INALCO an amount equal to the following percentage of Net Sales during the preceding [***] (each such payment shall hereinafter be referred to as a "Royalty Payment"), within [***] of the end of each [***]:

A. [***] during first Year of the Term;

B. [***] during each of the second, third, and fourth Years of the Term; and

C. [***] for each Year thereafter during the Term;

provided that the accrual of any obligation to make Royalty Payments shall cease immediately with respect to Net Sales in a country within the Territory if a generic equivalent to the Product receives Regulatory Approval, and is commercially available in such country.

4.3 Payment for Product. Subject to Section 2.10, CUMBERLAND shall pay INALCO,

within [***] of receipt of Product under Section 2.5(D) during the first year of the Term, and within [***] of receipt of Product thereafter, (a) an amount equal to [***] 10-gram pouch and [***] per 20-gram pouch for each unit of Product supplied pursuant to purchase orders submitted in accordance with Section 2.6(C) ("Product Payments"), and (b) an amount equal to [***] per pouch for each 10-gram pouch and [***] per pouch for each 20-gram pouch of Product pursuant to requests for promotional units submitted in accordance with Section 2.5(E) ("Promotional Unit Payments").

[***]

Promotional Unit Prices are based upon a packaging configuration and cost that is equivalent to the existing 30-count Commercial and/or 7-count Sample. If a new Sample package configuration is required, then INALCO has the right to adjust the "per pouch" price to reflect any increased direct costs incurred with such reconfiguration. Promotional Units will be ordered under a unique Purchase Order Number, and such orders are subject to the terms of Paragraph 2.6C.

4.4 Payment Currency. All payments under Article 4 hereof shall be made in [***].

4.5 Records. CUMBERLAND shall maintain complete and accurate records sufficient to enable accurate calculation of Royalty Payments due to INALCO under this Agreement. CUMBERLAND shall, at INALCO's request and expense, provide certified statements from CUMBERLAND's auditors, concerning Royalty Payments due pursuant to this Agreement. Once a calendar year, INALCO shall have the right to request that a certified public accountant, the selection of whom shall be subject to CUMBERLAND's prior written consent, not to be unreasonably withheld or delayed, inspect, on reasonable notice and during regular business hours, the records of CUMBERLAND to verify INALCO's statements and payments of Royalty Payments due pursuant to this Agreement. The entire cost for such inspection shall be borne by INALCO, unless there is a discrepancy of greater than 5% in INALCO's favor, in which case CUMBERLAND shall bear the entire cost of the inspection. Records shall be preserved by CUMBERLAND for three (3) years after preparation thereof for inspection by INALCO.

4.6 Acquisition. In the event that INALCO or CUMBERLAND is acquired by a Third Person or in any other way transfers all of its assets, including this Agreement to a Third Person, all obligations of this Agreement, including the foregoing Royalty Payment terms, shall be binding upon the party acquiring this Agreement.

4.7 Manner of Payment. All payments hereunder shall be made by bank wire transfer of immediately available funds to the account of INALCO or such other reasonable method as INALCO may request. Each party hereto shall be responsible for and pay all fees and other charges imposed by its own bank in connection with any such bank wire transfer. Where required to do so by Law, CUMBERLAND shall withhold taxes required to be paid to a taxing authority on account of such income to INALCO, and CUMBERLAND shall furnish INALCO with satisfactory evidence of such withholding and payment in order to permit INALCO to obtain a tax credit or other relief as may be available under the Law.

5. CONFIDENTIALITY

5.1 Protection of Confidential Information. The parties recognize that during the Term, it may be necessary that one party and/or its Affiliates or Subsidiaries hereto be given access to certain Confidential Information (as defined herein) of the other party and/or its Affiliates or Subsidiaries hereto. Each party must ensure that the following Subsections shall be applicable to such Confidential Information and the words "Recipient" and "Disclosing Party" shall be interchangeable as between each of the parties and/or their Affiliates or Subsidiaries hereto as appropriate under the circumstances:

A. Title to Confidential Information and Related Documents. Recipient hereby acknowledges that the Confidential Information and all, including without limitation, related documents, drawings, designs, products, or samples disclosed or furnished hereunder by or on behalf of the Recipient are the sole and exclusive property of Disclosing Party. Recipient hereby agrees to return all such documents, drawings, designs, products, or samples furnished to it hereunder, together with all reproductions and copies thereof and shall delete all references thereto stored electronically promptly under the request of Disclosing Party or upon termination or expiration of this Agreement, except that the Recipient's legal representative may retain one copy of such of the Confidential Information as required solely for the purpose of determining the scope of its obligations under this Agreement.

B. Nondisclosure or Use of Confidential Information. Recipient hereby agrees that it shall hold all Confidential Information disclosed to it in strict confidence and in a secure place, that it will use the same only for the purpose of performing this Agreement and for no other purpose whatsoever, and that it will not disclose the same to any Third Persons (except to its employees or consultants, strictly on a "need-to-know basis," to the extent such disclosure is permitted by or consistent with this Agreement and the Third Persons are subject to written obligations of confidentiality no less onerous than are contained in this Agreement) except to the extent Disclosing Party agrees to it in writing.

C. Definition of Confidential Information. "Confidential Information" as used herein shall include without limitation any and all oral, written, or tangible proprietary or confidential ideas, inventions, information, data, plans, materials, trade secrets and know-how and the like owned, controlled or developed by or on behalf of one party hereto and disclosed to the other party for the purposes of this Agreement; provided however, that Confidential Information shall not include any information, discovery, invention, improvement, or innovation which:

(i) was in the public domain at the time of disclosure to the Recipient, or which becomes generally available to the public after its disclosure through no fault of the Recipient or breach of this Agreement;

(ii) is already known to, or in the possession of, the Recipient prior to disclosure by the Disclosing Party as can be demonstrated by documentary evidence;

(iii) is lawfully disclosed on a non-confidential basis from a Third Person having the right to make such a disclosure; or

(iv) is independently developed by the Recipient or its Subsidiaries as can be demonstrated by documentary evidence.

5.2 Unauthorized Use. In case either party becomes aware or has knowledge of any unauthorized use or disclosure of Confidential Information, it shall promptly notify the other party of such unauthorized use or disclosure and, thereafter, shall take all reasonable steps to assist the other party in attempting to minimize any potential or actual damages or losses resulting from such unauthorized use or disclosure.

5.3 Permitted Disclosure. Each party may disclose Confidential Information of the other party to the Competent Authorities or Listing authorities in the Territory where such disclosure is reasonably necessary in the application, grant, variation, renewal or maintenance of a Regulatory Approval or Listing. Each party may also disclose Confidential Information where it is required to do so under any laws or regulations in the Territory, provided that it gives the other party such notice as is reasonably practicable in the circumstances and allows the other party, at the other party's cost, a reasonable opportunity to resist such requirements.

5.4 Term. The provisions of this Article 5 shall survive the expiration or termination of the Agreement until all of the Confidential Information has fallen within one of the exceptions set forth in Sections 5.I(C) (i) through (iv), inclusive.

6. PROTECTION AND OWNERSHIP OF INTELLECTUAL PROPERTY

6.1 Registration of Trademarks. INALCO shall be responsible, at its expense, for the preparation, filing, prosecution and maintenance of the Trademarks in the Territory and for conducting any interferences, re-examinations, reissues, oppositions, or requests for extension relating thereto. INALCO shall take all steps necessary to maintain the Trademarks in the Territory in good standing. INALCO shall not use any alternative trademark in the Territory on or in connection with the Product. Subject to Section 3.3(A), upon the termination or expiration of this Agreement or CUMBERLAND's right to use the Trademarks, CUMBERLAND shall cease using the Trademarks.

6.2 Patent Filings: Maintenance; Prosecution. INALCO shall be responsible, at its expense, for the preparation, filing, prosecution and maintenance of the Patent Rights in the Territory and for conducting any interferences, re-examinations, reissues, oppositions, or requests for extension relating thereto. INALCO shall take all steps necessary to maintain the Patent Rights in the Territory in good standing. CUMBERLAND agrees to cooperate reasonably with INALCO, at INALCO's expense, when requested, on matters relating to the preparation, filing, prosecution and maintenance of the Patent Rights.

6.3 Infringement by Third Persons.

A. In the event that either party determines that a Third Person is making, using, or selling a product that may infringe the Patent Rights or Trademark, it will promptly notify the other party in writing. INALCO will, at its own cost and to the extent commercially feasible, take all legal action it deems necessary or advisable to eliminate or minimize the consequences of the infringement, but will not without CUMBERLAND's prior written consent enter into any settlement in relation to such matters nor take any step in relation to the potential or alleged infringement which will affect CUMBERLAND's storage, promotion, sale and distribution of the Product in the Territory or other rights under this Agreement. CUMBERLAND shall take all reasonable steps to assist INALCO at INALCO's expense.

B. Upon receiving any written request from CUMBERLAND to do so, INALCO will forthwith disclose to CUMBERLAND all necessary information about the Products, their formulation, use or process of manufacture, to enable CUMBERLAND to:

(i) ascertain whether the storage, promotion, sale or other distribution of the Products in the Territory will infringe any existing patent or other third party intellectual property rights; and

(ii) determine its conduct in relation to any proceedings alleging infringement of a patent or other third party intellectual property rights in the Territory.

C. INALCO represents and warrants that any information disclosed to CUMBERLAND under paragraph (B) above will be a full and accurate disclosure and that INALCO will not withhold any information in its possession which might have a material adverse impact on CUMBERLAND.

D. If INALCO does not take any action to eliminate or minimize the consequences of any such infringement within ninety (90) days of becoming aware of that infringement, CUMBERLAND may take any reasonable action to prosecute such infringement; provided that CUMBERLAND shall not retain legal counsel to prosecute any such infringement without INALCO's prior written consent, not to be unreasonably withheld or delayed. In the event that legal counsel is so retained, INALCO shall reimburse CUMBERLAND for such counsel's reasonable fees and expenses directly related to the prosecution of such infringement.

E. Each party will cooperate fully and promptly with, and provide all reasonable assistance to, the other party in respect of any action brought by the other party under this Agreement in relation to alleged infringement of intellectual property rights in connection with this Agreement and will be entitled to be promptly reimbursed for all costs and expenses incurred in connection with such co- operation and assistance.

7. REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION

7.1 Representations and Warranties of CUMBERLAND. CUMBERLAND represents and warrants that:

A. it is a corporation duly organized and validly existing under the laws of Tennessee;

B. the execution and delivery by CUMBERLAND of this Agreement, the performance by CUMBERLAND of all the terms and conditions thereof to be performed by it and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action, and no other act or approval of any person or entity is required to authorize such execution, delivery, and performance;

C. the Agreement constitutes a valid and binding obligation of CUMBERLAND, enforceable in accordance with its terms; and

D. this Agreement and the execution and delivery thereof by CUMBERLAND, does not, and the fulfillment and compliance with the terms and conditions hereof and the consummation of the transactions contemplated hereby will not:

(i) conflict with any of, or require the consent of any person or entity under, the terms, conditions, or provisions of the organizational documents of CUMBERLAND;

(ii) violate any provision of, or require any consent, authorization, or approval under, any Law applicable to CUMBERLAND; or

(iii) conflict with, result in a breach of, or constitute a default under, any material agreement or obligation to which CUMBERLAND is a party.

7.2 Representations and Warranties of INALCO. INALCO ITALY and INALCO U.S. jointly and severally represent and warrant that:

A. INALCO U.S. is a corporation duly organized and validly existing under the laws of California and INALCO ITALY is a corporation duly organized and validly existing under the laws of Italy and;

B. the execution and delivery by INALCO of this Agreement, the performance by INALCO of all the terms and conditions thereof to be performed by it and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action, and no other act or approval of any person or entity is required to authorize such execution, delivery, and performance;

C. the Agreement constitutes a valid and binding obligation by each of INALCO ITALY and INALCO U.S., enforceable in accordance with its terms; and

D. this Agreement and the execution and delivery thereof by INALCO, does not, and the fulfillment and compliance with the terms and conditions hereof and the consummation of the transactions contemplated hereby will not:

(i) conflict with any of, or require the consent of any person or entity under, the terms, conditions, or provisions of the organizational documents of INALCO;

(ii) violate any provision of, or require any consent, authorization, or approval under, any Law applicable to INALCO; or

(iii) conflict with, result in a breach of, or constitute a default under, any material agreement or obligation to which INALCO is a party.

E. the manufacture, storage, promotion, sale or other distribution of the Product in the Territory will not infringe any patent (whether in relation to the Products, their formulation, use or process of manufacture) or infringe upon any other rights of a Third Person;

F. as of the Effective Date, INALCO has not received any notice of opposition, interference, or refusal to register in connection with the Patent Rights in the Territory or elsewhere;

G. as of the Effective Date, INALCO holds, and shall continue to hold for the duration of the Term, valid rights to the Patent Rights and all other Intellectual Property Rights relating to the Product and has the full right, power and authority to grant the rights granted to CUMBERLAND hereunder, free and clear of any mortgage, lien, encumbrance or other Third Person interest of any kind;

H. INALCO has licensed to CUMBERLAND all Intellectual Property Rights necessary for CUMBERLAND to perform its obligations under this Agreement;

I. INALCO has not granted to any other Person in the Territory the rights it is granting to CUMBERLAND hereunder in respect of the Product;

J. INALCO has informed CUMBERLAND about all information in its possession or control concerning the safety and efficacy of the Product, and any side effects, injury, toxicity or sensitivity reactions and incidents associated with all uses, studies, investigations or tests involving the Product (animal or human) throughout the world;

K. as of the Effective Date of this Agreement, INALCO is not aware of any facts that would reasonably lead it to conclude that the Product will be unable to maintain Regulatory Approval in the Territory or that would indicate that future

marketing and sales of the Product in the Territory may be adversely affected in any material respect; and

L. no representations, warranties or covenants made by INALCO in this Agreement or in any document, certificate, exhibit, or schedule furnished or to be furnished in connection with the transactions contemplated hereby, contain or will contain, to the best of INALCO's knowledge, any untrue statement of fact or omit or will omit to state any material fact necessary to make the statement of facts contained therein not misleading to the best of INALCO's knowledge.

7.3 Indemnification by CUMBERLAND. Without affecting any other remedies and recourses available under this Agreement, under law and in equity, CUMBERLAND shall indemnify INALCO and its Affiliates and Subsidiaries, and their respective directors, officers, and employees, from and against claims, suits or demands for liability, damages, costs and expenses (including reasonable attorney fees) arising from or relating to (i) the negligence or willful misconduct of CUMBERLAND or its Affiliates or its Subsidiaries, or their respective directors, shareholders, officers or employees in connection with this Agreement, or (ii) any breach by CUMBERLAND of any of its representations and warranties provided for in Section 7.1; except to the extent that such claims, suits or demands are the result of the fault, negligence or willful misconduct of INALCO and/or its Affiliates and/or its Subsidiaries, or their respective directors, shareholders, officers or employees.

7.4 Indemnification by INALCO. Without affecting any other remedies and recourses available under this Agreement, under law and in equity, INALCO shall indemnify CUMBERLAND and its Affiliates and Subsidiaries, and their respective directors, officers, and employees from and against claims, suits or demands for liability, damages, costs and expenses (including reasonable attorney fees) arising from or relating to (i) the negligence or willful misconduct of INALCO or its Affiliates or Subsidiaries, or their respective directors, shareholders, officers or employees in connection with this Agreement; or (ii) any breach by INALCO of any of its representations and warranties provided for in Sections 2.5(F), 2.11 and 7.2 hereof ; (iii) the export, storage, promotion, sale or other distribution of the Product in the Territory (including the packaging of the Product and associated promotional and like material provided by or on behalf of INALCO, if any) will not infringe any patent (whether in relation to the Products, their formulation, use or process of manufacture) or infringe upon any other rights of a Third Person; except to the extent that such claims, suits or demands are the result of the fault, negligence or willful misconduct of CUMBERLAND or its directors, shareholders, officers or employees.

7.5 Indemnification Procedures. A party (the "Indemnitee") which intends to claim indemnification under this Article 7 shall promptly notify the other party (the "Indemnitor") in writing of the claim, suit or demand for liability with respect to which the claim of indemnification relates. If the Indemnitor wishes to assume the defense it must notify the Indemnitee within sixty (60) days of receipt of such notice. Legal counsel of the Indemnitor must be reasonably satisfactory to the Indemnitee. The Indemnitee shall permit, and shall cause its employees and agents to permit the Indemnitor, at its discretion, to settle any such claim, suit or demand for liability, the

defense and settlement of which shall be under the complete control of the Indemnitor; provided, however, that such settlement shall not adversely affect the Indemnitee's rights hereunder or impose any obligations on the Indemnitee in addition to those set forth herein in order for it to exercise those rights. No such claim, suit or demand for liability shall be settled without the prior written consent of the Indemnitee and the Indemnitee shall not be responsible for any legal fees or other costs incurred other than as provided herein. The Indemnitee, its employees and agents shall co-operate fully with the Indemnitor and its legal representatives in the investigation and defense of any claim, suit or demand for liability covered by this indemnification. The Indemnitee shall have the right, but not the obligation, to be represented by counsel of its own selection and expense.

8. GENERAL

8.1 Provisions Contrary to Law. In performing this Agreement, the parties shall comply with all applicable Laws. In particular, it is understood and acknowledged that the transfer of certain commodities and technical data is subject to U.S. Laws controlling the export of such commodities and technical data, including all Export Administration Regulations of the United States Department of Commerce. These Laws among other things prohibit or require a license for the export of certain types of technical data to certain specified countries. CUMBERLAND hereby agrees to do all things reasonably requested of it by INALCO to comply with all U.S. Laws controlling the export of commodities and technical data.

Nothing in this Agreement shall be construed so as to require the violation of any Law, and wherever there is any conflict between any provision of this Agreement and any Law, the Law shall prevail, but in such event the affected provision of this Agreement shall be affected only to the extent necessary to bring it within the applicable Law.

8.2 Notices. Any notice permitted or required by this Agreement may be sent by facsimile with the original document being sent by certified (or registered) mail, return receipt requested, or overnight delivery and shall be effective when received (or refused) via facsimile or mail or overnight if faxed and sent and addressed as follows (or to such other facsimile number or address as may be designated by a party in writing):

If to CUMBERLAND:

Cumberland Pharmaceuticals Inc.
2525 West End Ave., Suite 950
Nashville, Tennessee 37203
Fax: 615-255-0094
Attn: Chief Executive Officer

With a copy to:

If to INALCO U.S.:

Inalco Biochemicals, Inc.
3440 Empresa Drive, Suite A
San Luis Obispo, CA 93401
Fax: 805-782-0719
Attn: Eric A. Lowe

Adams and Reese/Stokes Bartholomew LLP
424 Church Street, 28th Floor
Nashville, Tennessee 37219
Fax: 615-259-1470
Attn: Martin S. Brown, Esq.

If to INALCO ITALY:

Inalco S.p.A.
Via Calabiana, 18
20139 Milan
ITALY
Fax: 011-39-02-55213277
Attn: Giovanni Cipolletti

Such notice shall be effective upon the earlier of (i) actual receipt by the party to whom notice is sent, (ii) seven (7) days after deposit into the mail, or (iii) receipt of fax-back confirmation if notice is sent via facsimile.

8.3 Force Majeure. Neither party to this Agreement shall be liable for delay or failure in the performance of any of its obligations hereunder if such delay or failure is due to causes beyond its reasonable control, including, without limitation, acts of God, fires, earthquakes, strikes and labor disputes, acts of war, civil unrest, or intervention of any governmental authority, but any such delay or failure shall be notified to the other party, and remedied by such party, as soon as is reasonably possible.

8.4 Assignments. Except as otherwise set forth herein or in connection with the sale of all or substantially all of the assets or business of either party or as expressly set forth in this Agreement, rights and obligations under this Agreement may not be assigned by either party hereto without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld or delayed; provided, however, that nothing in this Agreement shall limit CUMBERLAND's right to assign its rights or delegate its obligations under this Agreement to a lender to CUMBERLAND in the event of a default in its agreement with such lender.

8.5 Independent Contractors. The parties hereto agree that each is acting as an independent contractor and not as an agent of the other or as joint venturers.

8.6 Waivers and Modifications. The failure of any party to insist on the performance of any obligation hereunder shall not act as a waiver of such obligation. No waiver, modification, release, or amendment of any obligation under this Agreement shall be valid or effective unless in writing and signed by both parties hereto.

8.7 Successors in Interest. This Agreement shall inure to the benefit of and be binding on the parties' permitted assigns or successors in interest.

8.8 Severability. In the event that any term or provision of this Agreement shall violate any applicable statute, ordinance, or rule of law in any jurisdiction in which it is used, or

otherwise be unenforceable, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.

8.9 Exhibits; Headings. All exhibits attached to and incorporated in this Agreement by reference are deemed to be a part hereof. The headings used in this Agreement are for convenience only and are not part of this Agreement.

8.10 Choice of Law. This Agreement is subject to and shall be construed and enforced in accordance with the laws of the State of Delaware, United States of America. The Parties hereby submit to the jurisdiction of the courts of the State of Delaware in respect to all disputes arising out of or in connection with this Agreement and waive any and all objections to such venue.

8.11 Entire Agreement. This Agreement, constitutes the entire agreement between the parties as to the subject matter hereof, and all prior negotiations, representations, agreements and understandings are merged into, extinguished by and completely expressed by this Agreement.

9. ARBITRATION

Any matter or disagreement arising under this Agreement shall be submitted for decision to a panel of three neutral arbitrators with expertise in the subject matter to be arbitrated. One arbitrator shall be selected by each party and the two arbitrators so selected shall select the third arbitrator. The arbitration shall be conducted in accordance with the Rules of the American Arbitration Association. The decision and award rendered by the arbitrators shall be final and binding. Judgment upon the award may be entered in any court having jurisdiction thereof. Any arbitration shall be held in Wilmington, Delaware, or such other place as may be mutually agreed upon in writing by the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date first written above.

CUMBERLAND PHARMACEUTICALS INC.

By: /s/ A.J. Kazimi
A.J. Kazimi
Title: Chief Executive Officer

INALCO BIOCHEMICALS, INC.

By: /s/ Eric A. Lowe
Eric A. Lowe
Title: President

INALCO S.p.A.

By: /s/ Giovanni Cipolletti
Giovanni Cipolletti
Title: President

EXHIBIT A

Minimum Purchases

[***]

EXHIBIT B

Patents

United States Patent
Bimbi

US005480491A
Patent Number: 5,480,491
Date of Patent: Jan. 2, 1996

PROCESS FOR THE PREPARATION OF CRYSTALLINE LACTULOS FROMCOMMERCIAL SYRUPS

Inventor: Giuseppe Bimbi, Pontedera, Italy

Assignee: Inalco S.p.A., Milan, Italy

Appl. No.: 229,559

Filed: April 18, 1994

Foreign Application Priority Data

Apr. 28, 1993 [IT] Italy MI93A0833
Int. Cl[6] C13F 1/00; C13F 1/02
U.S. Cl. 127/61;127/46.2;127/55; 127/56; 127/58
Field of Search 127/61; 58, 56, 127/55, 46.2

References Cited

U.S. PATENT DOCUMENTS

4,555,271 11/1985 Carobbi et al 127/46.2
4,978,397 12/1990 Carobbi et al 127/46.2
5,034,064 7/1991 Deya et al 127/46.2
5,304,251 4/1994 Tomita et al 127/42

FOREIGN PATENT DOCUMENTS

0132509	**2/1985**	**European Pat. Off**	**C13K 13/00**
0159521	**10/1985**	**European Pat. Off**	**CO8F 8/42**
0158148	**6/1988**	**European Pat. Off**	**C13K 13/00**
0284959	**1/1992**	**European Pat. Off**	**CO8F 8/42**
0284960	**6/1992**	**European Pat. Off**	**C08F 8/42**

OTHER PUBLICATIONS

J. Agric. Chem. 1984, 32, 288-292 Jul./Dec. 1983.

Primary Examiner—Paul Lieberman *Assistant Examiner*—Patricia Halley
Attorney, Agent, or Firm—Hedman, Gibson & Costigan

ABSTRACT

The following description sets forth a new process for the preparation of .gtoreq.98.5% pure crystalline lactulose from commercially available aqueous syrups having the following composition: 50-70% by weight of lactulose, 3-9% by weight of lactose, 3-14% by weight of galactose, 4-7% by weight of other carbohydrates, the total content of carbohydrates different from lactulose being of from 10% to 30%.

8 Claims, No Drawings

PROCESS FOR THE PREPARATION OF CRYSTALLINE LACTULOSE FROM COMMERCIAL SYRUPS

FIELD OF THE INVENTION

The present invention relates to a process for the preparation of high-purity crystalline lactulose by crystallization of commercially available aqueous syrups.

PRIOR ART

Lactulose, or 4-0-b-D-galactopyranosyl-D-fructofuranose, is a semisynthetic disaccharide, used in the form of syrup or of crystalline product on account of its laxative action, efficacy in the treatment of hepatic dysfunctions, in particular of portal systemic encephalopathy, and as a sweetener.

Lactulose syrups that are now available on the market are generally not pure, but contain more or less large amounts of other carbohydrates, in particular galactose and lactose, and typically 50% by weight of lactulose; from 5 to 8% by weight of galactose; from 3 to 5% by weight of lactose; from 5 to 10% by weight of other carbohydrates.

As may be seen, the per cent amount of carbohydrates different from lactulose contained in the syrups of commerce is relatively high. The use of products containing other carbohydrates in addition to lactulose for the therapy of disorders requiring administration of lactulose alone, would be prejudicial and raise problems, e.g. in patients suffering from diabetes or requiring a diet without galactose.

Therefore, as lactulose becomes ever more important in pharmaceutical practice, there is a need for an adequate purification of same from contaminating carbohydrates.

As disclosed in U.S. Pat. No. 4,536,221, various processes known for lactulose purification are based on the crystallization from alcoholic solvents, usually ethanol.

However, the lactulose crystals obtained from alcohols always contain a given amount of solvent, probably due to the formation of hydrogen bonds between the OH groups of sugar and the OH groups of the solvent, while the solvent residue cannot be completely removed even by prolonged dryings.

The disadvantage of the crystallization from ethanol is not only that complex process are required for solvent residue elimination, but also that high operating costs are generally involved.

Some process for the direct recovery of lactulose from aqueous solutions based on the concentration of same by drying under vacuum, lyophilization, and spray-drying are also known.

Some of them are mentioned below:

the process disclosed in JP No. 61,104,800, which comprises concentrating an aqueous solution containing at least 60% lactulose, adding the concentrate with crystal seeds at from 60° to 110° C., kneading and pulverizing, thus affording a powder containing lactulose crystals;

the process disclosed in European patent application EP-A-333,295, for the preparation of solid lactulose from an aqueous syrup by high-temperature evaporation to lower the water content to 10% max., followed by cooling, grinding, sieving or crumbling of the resulting solid, whose purity is the same as that of the starting syrup;

the process disclosed in European patent application EP-A-480,519, consisting of lactulose solidification from aqueous solutions by evaporating the water contained therein and conversion of the resulting product into a free-flowing powder. Lactulose solidification may be initiated by addition of crystal seeds, preferably in amounts of from 1% to 5% by weight (on dry residue basis);

the process disclosed in patent application JP No. 2,200,693, (“Derwent” abstract) consisting of lactulose crystallization from a condensed syrup, followed by condensate drying at a reduced pressure and pulverization of the dried product.

The aforementioned processes are essentially based on the evaporation and concentration of the starting syrup and greatly differ from crystallizations in that they simply cause the solute solidification without eliminating—as crystallizations do—the undesirable secondary components present in mother liquors.

Therefore, since the processes based on concentration give lactulose of the same purity as that of the starting syrup, they cannot be utilized for the production of high-purity lactulose from commercial syrups that, as already mentioned, contain high amounts of other carbohydrates. Furthermore, the aforementioned processes can give crystalline lactulose only if combined with crystallization from alcohols.

The only known process which involves a real crystallization from water, with no need of alcoholic solvents, is disclosed in EP-A-318,630 by the Applicant. It is also the only known process that yields highly pure (³ 98%) and non-hygroscopic crystalline lactulose. However, this process cannot be exploited if the lactulose aqueous syrup to be crystallized contains carbohydrates different from lactulose in amounts exceeding 14% by weight of lactulose.

In case of lactulose syrups containing carbohydrates different from lactulose in amounts exceeding said limit value, it was always deemed it necessary to lower the content of said carbohydrates below said limit value and, to this purpose, before crystallization from water, the aqueous syrup was always purified according to one of the other known methods.

The ever growing importance of lactulose in pharmaceutical practice is a spur to the development of new processes to be applied to the industrial production of high-purity crystalline lactulose, without causing the inconveniences of the processes already known.

SUMMARY

The Applicant has now found a new process for lactulose purification that may be exploited on an industrial scale, yielding high-purity crystalline lactulose, in particular having a content of carbohydrates different from lactulose lower than 1% and a purity higher than 98.5%. The present process is based on the crystallization of a commercial lactulose aqueous syrup having a total content of carbohydrates different from lactulose higher than 10% by weight.

In particular, the process of the present invention can be applied to commercial lactulose aqueous syrups having the following composition: from 50% to 70% by weight of lactulose; from 3% to 9% by weight of lactose; from 3% to 14% by weight of galactose; from 4% to 7% by weight of other carbohydrates; the total content of carbohydrate different from lactulose ranging between 10% and 30% by weight.

It has surprisingly been found—and this finding constitutes a fundamental feature of the present invention—that by

adding a commercial lactulose aqueous syrup with trihydrated crystalline lactulose in amounts ranging from 5% to 30% of the total lactulose present, a high-purity lactulose crystallizes in good yields.

As known, in crystallization processes, once the right solvent and the right crystallization conditions in respect of concentration and temperature have been found, few seed crystals are generally enough for initiating the progressive crystallization of the product in solution, according to laws governed by:

product concentration in the concentrated matrix;
crystallization temperature;
residence time.

As far as sugars are concerned, said conditions are generally reached in such long times that a “random self-initiation” of the solutes having lower k_{ps} than the product to be crystallized becomes highly probable: consequently, the crystalline cake recovered is still contaminated by said solutes.

It is, therefore, surprising that the addition to a lactulose aqueous syrup of a large amount of trihydrated lactulose in the crystal state—and not of few seed crystals—can initiate a preferential crystallization of lactulose in respect of the other carbohydrates present in the syrup, yielding a high-purity crystalline lactulose.

Compared with the process disclosed in European patent application EP-A-318630, the process of the present invention has the advantage of giving very-high-purity crystalline lactulose starting from any syrup of commerce.

DETAILED DESCRIPTION OF THE INVENTION

Lactulose crystallization according to the present invention is characterized by the following process: the water content of the lactulose aqueous syrup is lowered to a sugar concentration of from 70° to 80° Brix; the resulting syrup is added at from 5° C. to 20° C. with crystalline trihydrated lactulose, acting as a crystallization initiator, in amounts ranging from 5% to 30% by weight of the lactulose present in the starting syrup, which temperature is maintained for a period of from 20 to 120 hrs. The crystalline solid obtained consisted of trihydrated lactulose having a content of carbohydrates different from lactulose below 1% by weight and a lactulose content of at least 98.5% (on anhydrous basis).

In particular, the process for the preparation of crystalline lactulose according to the present invention comprises the following steps:

a) commercial lactulose aqueous syrup is evaporated under continuous stirring at a temperature of from 50° to 60° C. and at a pressure of 2660 to 6650 Pa, up to a sugar concentration of 70°-80° Brix;

b) the resulting concentrated syrup is cooled to 5° to 20° C. and added with crystalline trihydrated lactulose in an amount of from 5 to 30 parts by weight of the lactulose present in the syrup;

c) the suspension obtained is stirred at said temperature for a period of from 20 to 120 hours and the lactulose present in the syrup is crystallizes in the form of trihydrated lactulose;

d) the crystallized trihydrated lactulose obtained is separated by centrifuging or filtering from mother liquors, washed with cold water, and dried at a pressure of from 6650 to 13300 Pa, at a temperature of from 30° to 60° C., to yield crystalline lactulose having a water content below 0.5%.

The process of the invention gives highly pure (98.5% minimum) crystalline lactulose in yields per cycle greater than 40% of the lactulose present in the starting syrup.

The mother liquors resulting from the separation of crystalline trihydrated lactulose are passed once or several times through columns containing anionic or cationic exchange resins, either individually or in sequence, as illustrated in European patent applications EP-A-132,509, EP-A-158,148, EP-A-159,521, EP-A-284,959, and EP-A-294,960 by the Applicant, so to lower the content of carbohydrates different from lactulose below the aforesaid limits and, therefore, to allow the mixing of same with the commercial starting syrup to be subjected to the process of the present invention.

This operation allows the recycling of the mother liquors and the almost complete recovery of the lactulose present in the syrups of commerce.

In a preferred embodiment of the present invention, the concentrated syrup of step b) has a content of 55% to 62% by weight of lactulose and the crystalline trihydrated lactulose is added in an amount ranging between 5% and 15% by weight of the lactulose present in the commercial syrup (the amount of trihydrated lactulose used as a crystallization initiator is expressed as % by weight of anhydrous lactulose).

A single washing of the crystalline trihydrated lactulose obtained in d) with cold water (3°-5° C.) is generally enough for a satisfactory removal of the residual mother liquors and for obtaining a product of the desired purity.

The following examples illustrate some embodiments of the claimed process.

EXAMPLES

Crystallization of Lactulose Starting From Commercially Available Syrups

Several crystallizations of commercially available lactulose syrups were carried out according to the standard procedure described below.

Syrups characteristics are shown in Table 1 and the results obtained in Table 2.

STANDARD PROCEDURE

A syrup (1000 kg) of composition as shown in Table 1 was concentrated under vacuum at a pressure of from 2660 to 6650 Pa, under continuous stirring, at a temperature of from 50° to 60° C., to a sugar concentration of 70°-80° Brix.

The resulting solution was fed to a crystallizer and cooled to 8° C. under continuous stirring. Once said conditions have been reached, crystalline trihydrated lactulose was fed in the amounts shown in Table 2.

The obtained suspension was slowly stirred at 8° C. for the period indicated in Table 2, then the mother liquors were removed by centrifuging, the crystal cake was squeezed to remove most mother liquors, washed with cold water, and squeezed again.

The resulting product was dried in an air oven at a temperature not exceeding 60° C. and at a pressure of from 6650 to 13300 Pa, until obtaining anhydrous lactulose crystals (i.e. having a maximum water content of 0.5%) of >98.8% purity (on dry basis) (Table 2).

The purity of lactulose crystals was determined on the dried product by HPLC analysis (J. Agric. Food Chem., 32, 288-292, 1984), by means of comparison with standard lactulose produced and sold by MERCK.

TABLE 1

Composition (%) of the aqueous solutions used

Item	LTL	LTS	EPI	GLT	ND	H_2O
I	51.4	4.4	1.2	3.6	6.4	34.0
II	50.6	4.9	2.0	3.8	5.0	33.7
III	51.9	3.1	2.2	7.9	3.1	31.8
IV	51.0	8.2	1.3	3.5	4.0	32.0

Remarks: all quantities are by weight percentages of the solution total weight.

Abbreviations
LTL lactulose;
LTS lactose;
EPI epilactose;
GLT galactose;
ND carbohydrates different from LTL, LTS, EPI, and GLT.

TABLE 2

Experimental results

Ex.	Syr a	Brixb	hc	LTL % wd	Cone. syr. Xge	LTL as initiator %f	LTL as initiator Kgg	total LTL Kgh	LTL recovered Kgi	LTL recovered % titl	LTL recovered % film	LTL recovered yieldn
1	I	74	72	55.2	931	18.7	**111.6**	610	309	84.2	99.0	42.2
2	I	74	96	55.3	929	7.5	46.1	553	254	83.8	98.9	38.5
3	**I**	74	72	55.3	929	10.0	**61.1**	565	260	84.6	99.2	38.9
4	II	78	120	57.0	888	5.0	30.3	531	212	83.9	99.0	33.5
5	II	74	72	55.0	920	7.5	45.2	544	253	84.1	99.4	38.9
6	II	75	88	55.6	933	7.5	46.5	558	310	83.4	99.0	46.3
7	II	71	88	54.4	954	7.5	46.7	558	255	84.0	98.8	38.4
8	IV	74	56	55.2	924	15.0	69.8	587	238	83.5	99.1	33.9
9	IV	74	72	55.5	919	7.5	45.8	548	248	84.6	98.8	38.3
10	IV	70	72	53.8	948	7.5	45.9	548	213	84.6	98.8	32.9

a Commercial aqueous syrup used

b Brix degrees after syrup concentration

c Residence time in crystallizer at 8° C

d By weight %, amount of LTL after syrup concentration

e Amount of concentrated syrup (kg)

f By weight % amount of trihydrated LTL used as a crystallization initiator

g Weight of trihydrated LTL used as a crystallization initiator

h LTL total weight (LTL of the syrup + LTL used as a crystallization initiator)

i Weight of trihydrated LTL recovered

l titre of anhydrous LTL in trihydrated crystal before drying

m titre of anhydrous LTL after drying

n yield calculated by:
(anhydrous) crystalline LTL recovered (kg)
(anhydrous) total LTL In the system (kg)

I claim:

1. A process for the preparation of crystalline lactulose having a content of carbohydrates which are different from lactulose that is lower than 1% and a lactulose content of more than 98.5%, said process comprising the following steps:

(a) evaporating a part of the water from an aqueous lactulose syrup under continuous stirring at a temperature of from 50° to 60° C. and at a pressure of from 2660 to 6650 Pa to obtain a concentrated lactulose syrup with a sugar concentration of 70°-80° Brix, said aqueous lactulose syrup having a lactulose content of from 50% to about 62% by weight and a content of carbohydrates which are different from lactulose and include lactose, galactose and other carbohydrates, the lactose content being from 3% to 9% by weight; the galactose content being from 3% to 14 % and the other carbohydrate content being from 4% to 7% by weight;

(b) cooling the concentrated syrup obtained in step (a) to a temperature of from 5° to 20° C. prior to adding from 5% to 30% by weight of crystalline trihydrated lactulose based on the total weight of lactulose which is present in said aqueous lactulose syrup;

(c) stirring the product of step (c) for a period of from 20 to 120 hours to crystallize the lactulose which is present as trihydrated lactulose;

(d) separating the crystallized trihydrated lactulose by centrifugation or filtration of the product of Step (c) to obtain a mother liquor and separated crystallized trihydrated lactulose; and thereafter washing said separated crystallized trihydrate of lactulose with cold water prior to drying the separated crystallized trihydrate of lactulose at a temperature of from 30° to 60° C., to obtain crystalline lactulose having a water content of less that 0.5%.

2. The process according to claim 1, wherein the crystalline trihydrated lactulose is added in an amount of between 5% and 15% by weight of the lactulose present in said aqueous lactulose syrup.

3. The process according to claim 1, wherein the mother liquors obtained in step (d) are passed one or more times through columns containing ion exchange resins to reduce the content of carbohydrates which are other than lactulose.

4. The process according to claim 3, wherein the mother liquors which are recovered after the passage through the ion exchange columns are mixed with the aqueous lactulose syrup of step (a).

5. A process for the preparation of crystalline lactulose having a content of carbohydrates which are different from lactulose that is lower than 1% and a lactulose content of more than 98.5%, said process consisting essentially of the following steps:

(a) evaporating a part of the water from an aqueous lactulose syrup under continuous stirring at a temperature of from 50° to 60° C. and at a pressure of from 2660 to 6650 Pa to obtain a concentrated lactulose

syrup with a sugar concentration of 70°–80° Brix, said aqueous lactulose syrup having a lactulose content of from 50% to about 62% by weight and a content of carbohydrates which are different from lactulose and include lactose, galactose and other carbohydrates, the lactose content being from 3% to 9% by weight; the galactose content being from 3% to 14 % and the other carbohydrate content being from 4% to 7% by weight;

(b) cooling the concentrated syrup obtained in step (a) to a temperature of from 5° to 20° C. prior to adding from 5% to 30% by weight of crystalline trihydrated lactulose based on the total weight of lactulose which is present in said aqueous lactulose syrup;

(c) stirring the product of step (c) for a period of from 20 to 120 hours to crystallize the lactulose which is present as trihydrated lactulose;

(d) separating the crystallized trihydrated lactulose by centrifugation or filtration of the product of step (c) to obtain a mother liquor and separated crystallized tri- hydrated lactulose; and thereafter washing said separated crystallized trihydrate of lactulose with cold water prior to drying the separated crystallized trihydrate of lactulose at a temperature of from 30° to 60° C., to obtain crystalline lactulose having a water content of less that 0.5%.

6. The process according to claim 5, wherein the crystal-line trihydrated lactulose is added in an amount of between 5% and 15% by weight of the lactulose present in said aqueous lactulose syrup.

7. The process according to claim 5, wherein the mother liquors obtained in step (d) are passed one or more times through columns containing ion exchange resins to reduce the content of carbohydrates which are other than lactulose.

8. The process according to claim 7, wherein the mother liquors which are recovered after the passage through the ion exchange columns are mixed with the aqueous lactulose syrup of step (a).

* * * * *

United States Patent
Carobbi et al.

Patent Number: **5,003,061**
Date of Patent: **Mar. 26, 1991**

METHOD FOR PREPARING HIGH-PURITY CRYSTALLINE LACTULOSE

Inventors: **Renato Carobbi, Pistoia; Franco Innocenti, Bagno a Ripoli, both of Italy**

Assignee: **SIRAC Srl, Milan, Italy**

Appl. No.: **141,786**

Filed: **Jan. 11, 1988**

Foreign Application Priority Data

Dec. 1, 1987 [IT] Italy 22848 A/87
Int. Cl.[5] C07H 1/06; C13F 1/02
U.S. Cl 536/127; 536/1.1; 536/4.1; 127/30; 127/46.1; 127/58
Field of Search 536/1.1, 4.1, 127; 127/30, 46.1, 58

References Cited
U.S. PATENT DOCUMENTS

3,110,600	**11/1963**	**Bok**	**536/1.1**
3,546,206	**12/1970**	**Guth et al.**	**127/30**
3,562,012	**2/1971**	**Reinicke et al.**	**536/1.1**
3,816,174	**6/1974**	**Nagasawa et al.**	**127/30**
3,816,394	**6/1974**	**Nagasawa et al.**	**536/124**
4,142,916	**3/1979**	**Ogasa et al.**	**127/63**
4,264,763	**4/1981**	**Gasparotti**	**536/1.1**
4,273,922	**6/1981**	**Hicks**	**127/46.1**
4.536,221	**8/1985**	**Carobbi et al.**	**536/127**
4,555,271	**11/1985**	**Carobbi et al.**	**127/46.2**
4,605,646	**8/1986**	**Bernardi**	**514/53**
4,812,444	**3/1989**	**Mitsuhashi et al.**	**514/53**

FOREIGN PATENT DOCUMENTS

57-102200 6/1982 Japan.
61-104800 5/1986 Japan.
1232554 5/1971 United Kingdom.
2031430 4/1980 United Kingdom.

OTHER PUBLICATIONS

Montgomery et al; J.A.C.S. 52:2101-2106, May 1930.
Oosten; Chemical Abstracts 67:73799k (1967).
Nitsch et al; Chemical Abstracts 84:150910v (1976).
Krol et al; Chemical Abstracts 90:40510f (1979).
Takahashi; Chemical Abstracts 105:135841g (1986).

Primary Examiner—Ronald W. Griffin
Assistant Examiner—Nancy S. Carson
Attorney, Agent, or Firm—Parkhurst, Wendel & Rossi

ABSTRACT

A method for preparing high-purity crystalline lactulose and the product obtained by the method, which comprises crystallization from aqueous solutions at a temperature of 5'-40' C., the starting aqueous solution having a lactulose concentration of 50-80% w/w, a lactose concentration of less than 5% of the lactulose concentration by weight, a galactose concentration of less than 5% of the lactulose concentration by weight, and a concentration of other sugars of less than 4% of the lactulose concentration by weight.

4 Claims, No Drawings

METHOD FOR PREPARING HIGH-PURITY CRYSTALLINE LACTULOSE

FIELD OF THE INVENTION

This invention relates to a new method for preparing high-purity crystalline lactulose by crystallizing aqueous solutions which contain it and eliminating the secondary components during the crystallization stage, and to the crystalline lactulose obtained in this manner.

PRIOR ART

Lactulose, or 4-O-b-D-galactopyranosyl-D-fructofuranose, is a semisynthetic disaccharide used in the form of a syrup or crystalline product for its laxative effects, for its effectiveness in hepatic disfunctions and particularly in portosystemic encephalopathy, or as a sweetener.

Commercially available lactulose syrup is generally impure, containing variable quantities of other carbohydrates, particularly lactose and galactose.

A typical composition of currently available syrup is the following:

lactulose	**50%by weight**
galactose	**5-8%by weight**
lactose	**3-3%by weight**
other carbohydrates	**5-10%by weight**

in which relatively large percentages of carbohydrates other than lactulose are present. These carbohydrates are also present, generally in lesser quantity, in currently commercially available crystalline lactulose.

Carbohydrates other than lactulose are undesirable in therapeutic applications for which lactulose is intended, and in particular for patients requiring a galactose-free diet and diabetic patients.

There is therefore a requirement for crystalline lactulose of higher purity, in particular with the greatest possible reduction in carbohydrates other than lactulose and with the absence of undesirable residual alcoholic solvent concentrations, which are present when lactulose is crystallized from alcoholic solutions.

The main currently known lactulose purification methods involve the use of alcoholic solvents, generally ethanol, together with complex procedures based on the extreme solubility of lactulose in an aqueous environment, or on various concentration processes by drying.

Crystalline lactulose obtained from alcoholic solvents is known to always contain a considerable percentage of solvent retained by the crystal, probably by the formation of hydrogen bonds between the sugar OH groups and the solvent OH groups, and it is never possible to eliminate the solvent residue even by prolonged drying.

One example of a process of purification by crystallization from ethanol is described in Italian patent No. 1,155,429.

The yield of such processes when calculated with respect to the lactulose contained in the starting syrup is particularly low.

In the present text the term “yield” indicates the amount of crystalline product obtained in a single step, as a weight percentage of the starting lactulose.

Thus, processes for obtaining crystalline lactulose from alcoholic solutions have the drawbacks of greater complication, lower yields and consequent higher cost, and a product from which the undesirable alcoholic solvent traces cannot be eliminated.

Again, processes involving concentration by direct drying of aqueous lactulose solutions, even if of high purity and whatever drying method is used (vacuum, lyophilization, spray drying), are known to lead to a very hygroscopic solid amorphous product or, as described in JP No. 61104800, to a solid containing crystalline lactulose which has to undergo further mixing and grinding before it can be used.

Thus none of the previously used methods has provided crystalline lactulose free both of impurities in the form of other undesirable carbohydrates and of residual concentrations of alcoholic solvent retained by the lactulose crystal.

Up to the present time it has been impossible in practice to directly obtain from aqueous solutions high-purity crystalline lactulose having the characteristics of the lactulose claimed in the present patent.

SUMMARY OF THE INVENTION

In accordance with the present invention we have now discovered a new industrially applicable lactulose purification process which obviates all these drawbacks and enables crystalline lactulose to be obtained in a particularly simple and economical manner with a degree of purity exceeding 98% by weight and practically free of carbohydrates other than lactulose, in particular lactose and galactose, from aqueous solutions which contain it in an impure state due to the presence of carbohydrates other than lactulose, and/or alcohols. If the process of the present invention is applied to lactulose crystallized from alcoholic solutions and then redissolved in water, the crystalline lactulose finally obtained is practically free of any trace of the alcoholic solvent used and thus has a degree of purity considerably higher than that obtainable by any process previously used.

The final yield of the process according to the invention varies according to the crystallization temperature, the crystallization time, the lactulose purity and the solution purity, and lies between 10 and 70%.

In its preferred embodiments, the yield varies from 55 to 70% as indicated hereinafter, and is therefore considerably greater than in all previously used methods, so making this process usable more economically on an industrial scale than previous processes.

The method of the present invention enables crystalline lactulose to be obtained from aqueous solutions which are impure because of the presence of carbohydrates other than lactulose and/or alcohols, and in particular from aqueous solutions having the following characteristics:

(a) lactulose concentration of 50-80% w/w and preferably 65-70% w/w in the aqueous solution;

(b) lactose concentration of less than 5% of the lactulose concentration by weight; (c) galactose concentration of less than 5% of the lactulose concentration by weight;

(d) concentration of other carbohydrates of less than 4% of the lactulose concentration by weight;

(e) total concentration of carbohydrates other than lactulose not exceeding 6% of the lactulose concentration by weight.

The method according to the present invention is characterised by maintaining the crystallization conditions within precise critical values, and more specifi-

cally by simultaneously maintaining all the indicated parameters within the following defined critical values:

a. Crystallization temperature between 5° and 40° C., and preferably between 10° and 15° C.

b. Crystallization time between 10 and 60 hours, and preferably between 24 and 36 hours.

Outside these values an extremely low final process yield is obtained such that the process cannot be used industrially, it being sufficient for only one of these parameters to lie outside the range of values defined by the present invention for the final yield to be such as to make the process unusable industrially.

This process, which is described in detail in the examples, therefore not only enables crystalline lactulose to be obtained directly from sufficiently pure aqueous solutions, but also enables the residual solvent to be completely eliminated from crystalline lactulose obtained by conventional crystallization from alcoholic solvents such as methanol, ethanol and propanol.

The following examples are given as non-limiting illustration of the process according to the invention for purifying and crystallizing lactulose from aqueous solutions.

EXAMPLE 1

1000 kg of a lactulose solution having the following composition:

lactulose	50%
lactose	0.7%
galactose	0.9%
other sugars	0.3%
water	to make up to 100%

are concentrated under vacuum to a lactulose concentration of 70%.

The concentrated solution is then cooled to 13° C. and 1 kg of crystalline lactulose is added.

The mixture is left under agitation for 24 hours maintaining the temperature at 13° C., after which the solid obtained, consisting of crystalline lactulose, is filtered off.

The solid is dried in an air oven at a temperature not exceeding 35° -40° C. to obtain 273 kg of crystalline lactulose with a purity exceeding 98% and a yield of 54.5%.

EXAMPLE 2

1000 kg of a lactulose solution having the following composition:

lactulose	50%
lactose	0.7%
galactose	0.9%
other sugars	0.3%
water to make up to	100%

are concentrated under vacuum to a lactulose concentration of 68%.

The concentrated solution is cooled to 35° C. after which 1 kg of crystalline lactulose is added.

Over a period of 20 hours the temperature is cooled to 15° C. while maintaining slow agitation, this temperature then being maintained for a further 16 hours.

By centrifuging, 373 kg of wet product (KF 17%) are obtained, equivalent to 309.5 kg of dry product, with a yield of 61.7% and a purity of 98.3%.

EXAMPLE 3

500 kg of crystalline lactulose (purity 98.7%) obtained by crystallization from ethanol, with a residual ethanol concentration of 5000 ppm, are dissolved in 2000 l of water.

The solution obtained is concentrated under vacuum to 68% of lactulose and its temperature allowed to reach 30° -35° C. spontaneously.

Crystallization is triggered by adding 800g of crystalline lactulose.

The solution is then cooled to about 15° C. and kept at this temperature for 30 hours.

By centrifuging, 430 kg of wet product (KF 18%) are obtained, equivalent to 342.5 kg of dry product, with a yield of 68.5% and a purity exceeding 99%.

The residual ethanol content is reduced to less than 5 ppm.

We claim:

1. A method for preparing crystalline lactulose having less than 2% of carbohydrate other than lactulose and a purity exceeding 98% comprising:

(a) adding a crystalline lactulose seed to an aqueous solution of lactulose having a lactulose concentration of from 50% to 80% w/w, a lactose concentration of less than 5% of the lactulose concentration by wt., a galactose concentration of less than 5% of the lactulose concentration by wt. and concentration of other carbohydrates of less than 4% of the lactulose concentration by wt.;

(b) crystallizing said lactulose solution at a temperature between 5° and 40° C. and in a time between 10 and 60 hours; and

(c) drying the obtained crystalline lactulose.

2. A method as claimed in claim 1, wherein the lactulose concentration in the aqueous solution is 65-70% w/w and the total concentration of carbohydrates other than lactulose does not exceed 6% of the lactulose concentration by weight.

3. The method of claim 1 wherein said lactulose solution crystallizing temperature is between 10° C. and 15° C. and said time is between 24 and 36 hours.

4. The method of claim 1 wherein the aqueous solution of lactulose is obtained by dissolving lactulose, which was previously crystallized from alcoholic solutions, in water.

* * * * *

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. **5,003,061**

DATED **March 26, 1991**

INVENTORS) : **Renato CAROBBI et al.**

It is certified that error appears in the above-identified parent and that said Letters Patent is hereby corrected as shown below:

Title Page:
[73] Assignee: Please change "SIRAC Srl, Milan, Italy" to

—INALCO S.p.A., Milano, Italy—

Signed and Sealed this

Fifth Day of January, 1993

Attest:

DOUGLAS B. COMER

Attesting Officer ***Acting Commissioner of Patents and Trademarks***

REEXAMINATION CERTIFICATE
ISSUED UNDER 35 U.S.C. 307

THE PATENT IS HEREBY AMENDED AS
INDICATED BELOW.

Matter enclosed in heavy brackets [ ] appeared in the patent, but has been deleted and is no longer a part of the patent; matter printed in italics indicates additions made to the patent.

AS A RESULT OP REEXAMINATION, IT HAS BEEN DETERMINED THAT:

Claim 1 is determined to be patentable as amended.

Claims 2, 3 and 4, dependent on an amended claim, are determined to be patentable.

1. A method for preparing crystalline lactulose having less than 2% of carbohydrate other than lactulose and a purity exceeding 98% comprising;

(a) adding a crystalline lactulose seed to an aqueous solution of lactulose having a lactulose concentration of from 50% to 80% w/w, a lactose concentration of less than 5% of the lactulose concentration by wt., a galactose concentration of less than 5% of the lactulose concentration by wt. and concentration of other carbohydrates of less than 4% of the lactulose concentration by wt., *said aqueous solution containing water as the only solvent;*

(b) crystallizing said lactulose solution at a temperature between 5° and 40° C. and in a time between 10 and 60 hours; and

(c) drying the obtained crystalline lactulose.

* * * * *

EXHIBIT C

Transition Plan

EXHIBIT 10.10

*Certain portions of this exhibit have been omitted pursuant to a request for confidential treatment which has been filed separately with the SEC.

License Agreement

between

Vanderbilt University

and

Cumberland Pharmaceuticals Inc.

May 1999

LICENSE AGREEMENT
between
VANDERBILT UNIVERSITY
and
CUMBERLAND PHARMACEUTICALS INC.

THIS AGREEMENT, by and between VANDERBILT UNIVERSITY, a not-for-profit corporation, organized and existing under the laws of the state of Tennessee ("VANDERBILT"), and Cumberland Pharmaceuticals Inc., a Tennessee corporation, having a principal place of business at Nashville, Tennessee (the "LICENSEE") is effective as of the 28TH day of May , 1999 (the "EFFECTIVE DATE").

RECITALS

WHEREAS, VANDERBILT represents that it holds title, by assignment, to the data, including patient records, created by Gordon R. Bernard, M.D., Professor of Medicine ("the Data") relating to intravenously administered ibuprofen for treatment of sepsis and that it has all rights to the Data and VANDERBILT is willing to grant a license to the Data and any intellectual property rights associated therewith; and

WHEREAS, LICENSEE desires to acquire, and VANDERBILT desires to grant to LICENSEE, an exclusive, worldwide license to use the Data in connection with the development and production of the "Product," as hereinafter defined, for which LICENSEE intends to seek necessary approvals from regulatory governmental agencies in order to market and sell such products upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is agreed by the parties as follows:

1. DEFINITIONS

1.1 Product(s) shall mean a pharmaceutical product, consisting, in whole or part, of intravenously administered ibuprofen manufactured by or for LICENSEE based on the Data and approved by a regulatory agency for sale or other distribution in the country in which the agency has regulatory authority.

1.2 Net Sales. The term "Net Sales" shall mean the receipts for Products sold by LICENSEE or a sublicense during the term of this Agreement, computed quarter by quarter, less allowances for:

(a) cash, trade, or quantity discounts and rebates,

(b) taxes, including sales taxes and duties,

(c) credits, returns and replacements, and

(d) shipping and insurance charges.

Products shall be deemed sold when paid for.

1.3 The Inventor. The term “Inventor” shall mean Gordon R. Bernard, M.D., Professor of Medicine.

1.4 Affiliate means, when used with reference to LICENSEE, any entity directly or indirectly controlling, controlled by or under common control with LICENSEE. For purposes of this Agreement, “control” means the direct or indirect ownership of over fifty percent (50%) of the outstanding voting securities of an entity, or the right to receive over fifty percent (50%) of the profits or earnings of an entity, or the right to control the policy decisions of an entity.

2. GRANT

2.0 Exclusive License. VANDERBILT hereby grants to LICENSEE and LICENSEE hereby accepts from VANDERBILT, upon the terms and conditions herein specified, an exclusive, royalty bearing, worldwide license, with the right to sublicense, to use Data for any purpose, including manufacture and sale of the Product(s) as well as submission to regulatory governmental agencies for approval to sell Product(s), except as otherwise expressly set forth herein. Upon execution of this Agreement, VANDERBILT through Gordon Bernard will promptly deliver to LICENSEE all information and data relating to intravenously administered ibuprofen to which VANDERBILT holds title.

2.1 Federal Government Rights Reserved. Notwithstanding the exclusive license granted herein, the Federal Government shall receive all the rights, if any, to the Data required by law or regulation to be reserved to the government. All rights granted in this Agreement are expressly granted subject to the rights of the Federal Government and such rights are specifically reserved to the Government by this Agreement.

2.2 Reservation of Right. VANDERBILT reserves the right to make, use and further develop the Data for its own non-commercial, educational and research purposes.

2.3 Upon receipt of regulatory approval to sell the Product, LICENSEE shall use reasonable efforts to effect introduction of the Products into the commercial market as soon as practicable, consistent with sound and reasonable business practices and judgment; thereafter, until the expiration of this Agreement, LICENSEE shall use commercially reasonable efforts to keep Products reasonably available to the public.

2.4 Subsidiaries and Distributors. License rights granted hereunder shall enable LICENSEE to make, use, sell or otherwise distribute Product through any of its subsidiaries and to sell Product through any of its normal channels including its subsidiaries, distributors, and agents.

3. TERMS AND TERMINATION

3.0 Term. Unless previously terminated as herein provided, this Agreement shall become effective as stated above and shall continue until LICENSEE ceases distribution of Product in all countries in which it has obtained regulatory approval for manufacture and distribution of such product based on use of the Data.

3.1 Termination. This Agreement may be terminated by written notice to the other party:

(a) Other than as stated in Article 3.1(b), in the event that one party commits any substantial breach of this Agreement, the non-breaching party at its option, may terminate this Agreement by giving the breaching party written notice pursuant to Article 10.2 of its election to terminate as of a stated date, not less than forty-five (45) days from the date of the notice. Such notice shall state the nature of the defaults claimed by the non-breaching party. The breaching party during said forty-five (45) day period, or such longer period as may be indicated by the other, may correct any default stated in said notice and if such default is corrected, this Agreement shall continue in full force and effect as if such notice had not been given. Failure by LICENSEE to pay earned royalties to VANDERBILT in a timely manner shall be deemed a substantial breach of the Agreement.

(b) In the event LICENSEE shall file a petition for voluntary bankruptcy, has a petition for involuntary bankruptcy filed against it (which petition is not withdrawn within sixty (60) days of such filing), is adjudicated to be bankrupt, or shall make an assignment for the benefit of creditors, or shall apply for or consent to the appointment of a receiver or trustee of a substantial part of its property, to the extent permitted by law, this Agreement shall automatically terminate effective as of a date ten (10) days prior to LICENSEE's change of status hereunder and shall be subject to Article 3.2.

(c) In the event a LICENSEE provides written notice to VANDERBILT and LICENSEE is terminating pursuing regulatory approval for the Product.

3.2 Effect of Termination. Upon termination of this Agreement, LICENSEE shall cease all production and sale of Product except for the production and sale of Product on which production had begun prior to notice of such termination. LICENSEE may continue to sell such Product for up to one year after such notice upon payment of royalties accruing thereon, and shall render an accounting to VANDERBILT of any royalties which may be due. Immediately upon termination all rights of Licensee, except as expressly stated in this article, shall revert to VANDERBILT.

3.3 Sections 3.2, 3.4, 5.1, Article 6, Article 7, Article 8, Article 9, and Section 10.8 of the agreement shall survive termination.

4. CONSULTING AGREEMENTS

4.0 Consulting Agreements. In the event LICENSEE desires to have a Consulting Agreement with Dr. Bernard, any such Consulting Agreement will be separate and apart from this Agreement, and in accord with VANDERBILT policy and procedures.

5. ROYALTIES AND [***]

5.0 [***]

5.1 Royalties. Commencing on the effective date of this Agreement, LICENSEE agrees to pay VANDERBILT at the rate of [***] percent of Net Sales of Products sold to third parties.

5.2 Schedule of Payment. LICENSEE further agrees to pay royalties on a quarterly basis based on LICENSEE's fiscal quarter and payments shall be due within forty-five (45) days after the completion of the fiscal quarter. Each such payment shall be accompanied by a statement for the period covered by such royalties showing total number or volume of Products sold, and total royalties due, and identified as Net Sales within U.S. or non-U.S. This statement is to be certified as accurate by a responsible officer of LICENSEE.

5.3 [***]

5.4 Reports. LICENSEE shall provide written annual reports within [***] after December 31 of each calendar year which shall include but not be limited to: reports of progress on research and development, regulatory approvals, manufacturing, marketing and sales during the preceding twelve (12) months as well as plans for the coming year. LICENSEE shall promptly notify VANDERBILT if any changes in the marketplace or in LICENSEE's financial condition or business aims suggest commercialization will not occur within three (3) years from the date hereof.

5.5 Records. LICENSEE shall maintain complete and accurate records sufficient to enable accurate calculation of royalties due VANDERBILT under this Agreement. LICENSEE shall, at VANDERBILT's request and expense, provide certified statements from LICENSEE's auditors, concerning royalties due pursuant to this Agreement. Once a calendar year, VANDERBILT shall have the right to select a certified public accountant to inspect, on reasonable notice and during regular business hours, the records of LICENSEE to verify LICENSEE's statements and royalty payments pursuant to this Agreement. The entire cost for such inspection shall be borne by VANDERBILT, unless there is a discrepancy greater than 5% in VANDERBILT's favor, in which case LICENSEE shall bear the entire cost of the inspection. Records shall be preserved by LICENSEE for three (3) years for inspection by VANDERBILT.

5.6 If this Agreement is not terminated in accordance with other provisions hereof, LICENSEE's obligation to pay royalties hereunder shall continue as long as Product is being distributed by LICENSEE.

5.7 The royalty on sales in currencies other than U.S. Dollars shall be calculated using the appropriate exchange rate for such transactions quoted by CITICORP BANK (NEW YORK) foreign exchange desk on the last banking day of each calendar quarter. Royalty payments to VANDERBILT shall be in U.S. Dollars.

5.8 In the event that LICENSEE is acquired by a third party or enters into a joint venture with a third party, or in any other way transfers all of its assets, including this License to a third party, all obligations of this License, including the foregoing royalty terms, shall be binding upon the party acquiring this License.

6. CONFIDENTIALITY

6.0 It may be necessary for one party to disclose to the other party certain confidential or proprietary information, including business plans and marketing strategies. In such event, the receiving party agrees to preserve such identified information as confidential. The obligation of confidentiality shall not apply to information which:

(a) is now in the public domain or which becomes generally available to the public through no fault of the receiving party; or

(b) is already known to, or in the possession of, the receiving party prior to disclosure by the disclosing party as can be demonstrated by documentary evidence; or

(c) is disclosed on a non-confidential basis from a third party having the right to make such a disclosure; or

(d) is independently developed by the receiving party as can be demonstrated by documentary evidence.

6.1 Term. The confidentiality obligations of this Article shall continue for a period of five (5) years beyond the termination of this Agreement.

7. INFRINGEMENT

7.0 Products Infringing Third Parties. Each party shall promptly notify the other if any legal proceedings are commenced or threatened against either party or any purchaser of a Product sold by LICENSEE on the ground that the manufacture, use, sale or possession of the Product is an infringement of a third party's patent or other intellectual property rights. LICENSEE shall, at its own expense, conduct all suits brought against it as a result of the exercise of the rights granted hereunder, and VANDERBILT shall, at the request and expense of LICENSEE, give LICENSEE all reasonable assistance in any such proceedings. Payment of any amounts which may be recovered by such third party by way of judgment, award, decree, or settlement that resulted from infringement of third party patent rights or other rights by a Product, including attorneys' fees and other costs shall be the sole responsibility of LICENSEE. LICENSEE agrees not to settle or compromise any action, suit or proceeding without the consent of VANDERBILT.

8. WARRANTIES AND INDEMNITIES

8.0 Nothing in this Agreement shall be constructed as:

(a) a warranty or representation by VANDERBILT that anything made, used, sold, or otherwise disposed of through the license granted herein is or will be free from infringement of patents rights of third parties;

(b) an obligation by VANDERBILT to bring or prosecute actions or suits against third parties for infringement;

(c) Granting by implication, estoppel, or otherwise any licenses under patents of VANDERBILT.

8.1 To the best of its knowledge and belief, VANDERBILT hereby represents and warrants that it is the sole owner of the Data and has the right to grant the license to the Data provided herein and that to the best of its knowledge and belief after due inquiry, no rights of patients or other persons are or will be infringed by the license granted to LICENSEE. VANDERBILT further represents and warrants that the Data is both accurate and complete and includes all information and data relating to intravenously administered ibuprofen to which VANDERBILT holds title. VANDERBILT also represents and warrants that it has full right, title, and authority to enter into this Agreement and that VANDERBILT is not under any obligation resulting from any contract or arrangement, to any person, firm, or corporation, which is inconsistent or in conflict with this Agreement.

8.2 (a) LICENSEE shall indemnify, defend and hold harmless VANDERBILT and its trustees, officers, faculty, staff, employees, students, agents and representatives, and their respective successors, heirs and assigns (the "Indemnities"), against any liability, damage, loss or expenses (including reasonable attorneys' fees and expense of litigation) incurred by or imposed upon the Indemnities or any one of them in connection with any claims, suits, actions, demands, or judgments arising out of any theory of law (including, but not limited

to, actions in the form of tort, warranty, or strict liability) arising from LICENSEE's use of the Data pursuant to any right or license granted under this Agreement. Such indemnity obligation shall include claims and expenses related to infringement of a third party's rights by the Product.

(b) LICENSEE agrees, at its own expense, to provide attorneys reasonably acceptable to VANDERBILT to defend against any actions brought or filed against any party indemnified hereunder with respect to the subject of indemnity contained herein, whether or not such actions are rightfully brought.

(c) VANDERBILT shall indemnify, defend and hold harmless LICENSEE and its officers, directors, employees, agents, and shareholders, notwithstanding termination of this Agreement, against any liability, damage, loss, or expenses (including reasonable attorney's fees) incurred by or imposed in connection with any claims, suits, actions, demands or judgments arising out of any theory of law (including, but not limited to, actions in the form of tort, warranty, or strict liability) arising from default under any provision of this Agreement by VANDERBILT.

8.3 VANDERBILT MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND EXPRESS OR IMPLIED, OTHER THAN AS EXPRESSLY STATED HEREIN. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT USE OF A PRODUCT WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.

8.4 Regarding the indemnity and hold harmless provisions, under Paragraph 8.2, VANDERBILT shall give prompt written notice to LICENSEE of the commencement of any action, suit, or proceeding for which indemnification may be sought, and LICENSEE, through counsel reasonably satisfactory to VANDERBILT shall assume the defense thereof; provided, however, that VANDERBILT shall be entitled to participate in any such action, suit, or proceeding with counsel of its own choice, but at its own expense. If LICENSEE fails to assume the defense within ninety (90) days of receipt of written notice of the action, suit, or proceeding, VANDERBILT may assume such defense and the reasonable fees and expenses of its attorneys will be covered by the indemnity provided for in Paragraph 8.2. No such action, suit, or proceeding shall be compromised or settled in any manner which might adversely affect the interests of VANDERBILT without the prior written consent of VANDERBILT. Notwithstanding anything in this Paragraph to the contrary, LICENSEE shall not, without the written consent of VANDERBILT, which consent shall not be unreasonably withheld:

(a) Settle or compromise any action, suit, or proceeding or consent to the entry of any judgment which does not include as an unconditional term thereof the delivery by the claimant or plaintiff to VANDERBILT of a written release from all liability in respect of such action, suit, or proceeding; or

(b) Settle or compromise any action, suit, or proceeding in any manner which may adversely affect VANDERBILT.

8.5 Insurance. (a) Beginning at the time as any Product is being commercially distributed or sold by LICENSEE or agent of LICENSEE, LICENSEE or such other, shall make commercially reasonable efforts to procure and maintain comprehensive general product liability and tort liability insurance in amounts not less than $5,000,000 per incident and $5,000,000 annual aggregate and name the Indemnities as additional insureds. Such comprehensive general liability insurance shall provide (i) product liability coverage and (ii) broad form contractual liability coverage for LICENSEE's indemnification under this Agreement. If LICENSEE elects to self-insure or otherwise finds it necessary to self-insure all or part of the limits described above, such self-insurance program must be reasonably acceptable to VANDERBILT. LICENSEE agrees that no amount greater than the sum of $250,000 shall be deductible under LICENSEE's primary coverage for VANDERBILT and LICENSEE against any claims or suits arising from alleged defects in Products. The minimum amounts of insurance coverage required shall not be construed to create or limit LICENSEE's liability with respect to its indemnification under this Agreement.

(b) LICENSEE represents and warrants that it will make commercially reasonable efforts to acquire its product liability and general tort liability is of the occurrence-based rather than claims-made type. Within thirty (30) day after the date of the first commercial sale of a Product hereunder, LICENSEE shall provide VANDERBILT with a certificate or certificates of insurance evidencing that VANDERBILT has been named as an additional insured party and evidencing the insurer(s) is required to notify VANDERBILT in writing at least thirty (30) days in advance of any termination of the policy or certificate, or any modification that would cause LICENSEE no longer to be in compliance with the provisions of this Article, or would cause the representation and warranties set forth above in this Article no longer to be true, such written notification to specify the reason for such termination, the nature of the proposed modification, as the case may be. It is expressly agreed by the parties that the provisions of this Article regarding insurance shall in no way limit LICENSEE's indemnity obligations, except to the extent that LICENSEE's insurer(s) actually pays VANDERBILT amounts for which VANDERBILT is entitled to be indemnified under this Agreement, nor shall VANDERBILT have any obligation to pursue any insurer as a precondition to its rights to be indemnified by LICENSEE. As used in this Article, the term "VANDERBILT" shall include VANDERBILT, and its officers, directors, agents and employees. If LICENSEE does not make commercially reasonable efforts to obtain replacement insurance within such thirty (30) day period specified above, VANDERBILT shall have the right to terminate this Agreement effective at the end of such thirty (30) day period without notice or any additional waiting periods.

(c) LICENSEE shall maintain such comprehensive general product liability and tort liability insurance or self-insurance beyond the expiration or termination of this Agreement during (i) the period that any product relating to, or developed pursuant to, this Agreement is being commercially distributed or sold by LICENSEE or agent of LICENSEE and (ii) a period not less than the statute of limitations for product liability claims in the state in which the product is being used.

9. USE OF VANDERBILT'S NAME

9.0 LICENSEE agrees not to identify VANDERBILT or to use the name of VANDERBILT, its faculty, employees, or students, or any trademark, service mark, trade name, or symbol of VANDERBILT, or that is associated with any of them, in promotional advertising or other similar materials without VANDERBILT's written consent, except as required by governmental authority. LICENSEE may, without prior consent, refer to VANDERBILT as LICENSOR of the Data submitted in support of marketing approval for Product in a business plan, fund raising material or the like. All other uses of VANDERBILT's name shall be made only after prior approval.

9.1 VANDERBILT agrees not to identify LICENSEE or to use the name of LICENSEE's officers, employees, or any trademark, service mark, trade name or symbol of LICENSEE without the written consent of LICENSEE, except as may be required by governmental authority or as necessary in the normal course of VANDERBILT'S business operations.

10. TERMS AND CONDITIONS

10. Manner of Payment. All payments hereunder shall be made by check to VANDERBILT. Where required to do so by applicable law or treaty, LICENSEE shall withhold taxes required to be paid to a taxing authority on account of such income to VANDERBILT, and LICENSEE shall furnish VANDERBILT with satisfactory evidence of such withholding and payment in order to permit VANDERBILT to obtain a tax credit or other relief as may be available under the applicable law or treaty.

10.1 Provisions Contrary to Law. In performing this Agreement, the parties shall comply with all applicable laws and regulations. In particular, it is understood and acknowledged that the transfer of certain commodities and technical data is subject to United States laws and regulations controlling the export of such commodities and technical data, including all Export Administration Regulations of the United States Department of Commerce. These laws and regulations among other things, prohibit or require a license for the export of certain types of technical data to certain specified countries. LICENSEE hereby agrees and gives written assurance that it will comply with all United States laws and regulations controlling the export of commodities and technical data, that it will be solely responsible for any violation of such by LICENSEE or its Affiliates, and that it will defend and hold VANDERBILT harmless in the event of any legal action of any nature occasioned by such violation.

Nothing in this Agreement shall be construed so as to require the violation of any law, and wherever there is any conflict between any provision of this Agreement and any law the law shall prevail, but in such event the affected provision of this Agreement shall be affected only to the extent necessary to bring it within the applicable law.

10.2 Notices. Any notice may be initially given by facsimile with confirmation required or permitted to be given by this License by postpaid, first class, registered or certified mail addressed as set forth below unless changed by notice so given:

For LICENSEE:

Cumberland Pharmaceuticals Inc.
209 10th Ave. South, Suite 332
Nashville, Tennessee 37203
Fax: 615-259-9085

For VANDERBILT:

Office of Technology Transfer
VANDERBILT University
1207 17th Avenue, S., Suite 210
Nashville, TN 37212
Fax: 615-343-4419

With a copy to:

Stokes & Bartholomew, P.A.
424 Church Street, 28th Floor
Nashville, Tennessee 37214
Attn: Martin S. Brown, Esq.
Fax: 615-259-1470

Such notice shall be effective upon receipt by the party to whom notice is sent.

10.3 Dispute Resolution. The parties acknowledge and agree that they have entered into this agreement with the expectation of a long-term, mutually beneficial relationship. However, should disagreement arise regarding obligations imposed on the parties be this Agreement, it is agreed that the parties will, in good faith, promptly attempt to reach an amicable resolution of such disagreement.

10.4 Force Majeure. Neither party to this License Agreement shall be liable for delay or failure in the performance of any of its obligations hereunder if such delay or failure is due to causes beyond its reasonable control, including, without limitation, acts of God, fires, earthquakes, strikes, and labor disputes, acts of was, civil unrest, or intervention of any governmental authority, but any such delay or failure shall be remedied by such party as soon as is reasonably possible. Failure to make timely royalty payments shall not be excused by Force Majeure.

10.5 Assignments. Except in connection with the sale of all or substantially all of the assets of either party, this Agreement may not be assigned by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld. The parties hereto agree that each is acting as an independent contractor and not as an agent of the other or as joint ventures.

10.6 Waivers and Modifications. The failure of any party to insist on the performance of any obligation hereunder shall not act as a waiver of such obligation. No waiver, modification, release, or amendment of any obligation under this Agreement shall be valid or effective unless in writing and signed by both parties hereto.

10.7 Successors in Interest. This Agreement shall inure to the benefit of and be binding on the parties' permitted assigns, successors in interest, and subsidiaries.

10.8 Choice of Law and Jurisdiction. This Agreement is subject to and shall be construed and enforced in accordance with the laws of the U.S.A., and Tennessee. Any action on any dispute arising out of this Agreement shall be tried in Davidson County, and the parties consent to the jurisdiction of the state and federal courts there.

10.9 Entire Agreement. This Agreement constitutes the entire agreement between the parties as to the subject matter hereof, and all prior negotiations, representations, agreements and understandings are merged into, extinguished by and completely expressed by this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date(s) written below.

LICENSEE

By: /s/ A.J. Kazimi
A.J. Kazimi
Title: President
Date: May 28, 1999

VANDERBILT UNIVERSITY

By: /s/ Larry R. Steranka
Larry R. Steranka, Ph.D.
Title: Director, Office of Technology Transfer
Date: June 4, 1999

ACKNOWLEDGED AND AGREED

By: /s/ Gordon R. Bernard, M.D.
A.J. Kazimi
Title: Professor of Medicine
Date: 6/2/99

EXHIBIT 10.11

January 31, 2007

Mr. A.J. Kazimi
712 Overton Park
Nashville, Tennessee 37215

Re: Employment of A.J. Kazimi as Chief Executive Officer by Cumberland Pharmaceuticals Inc.

Dear A.J.:

Effective January 1st, 2007, this letter agreement (the "Agreement") will evidence the terms and conditions under which you will be employed by Cumberland Pharmaceuticals Inc. (the "Company"). In consideration of your appointment as Chief Executive Officer of the Company, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Compensation. The Company agrees to compensate you as follows:

(a) The Company agrees to pay you on a salary basis for services performed, based on an annual rate of three hundred three thousand three hundred ninety dollars ($303,390.00), payable in arrears in equal monthly installments on the last day of each calendar month during the term of this Agreement.

(b) You will be eligible to participate in any Company-wide employee benefits as approved by the Board of Directors.

(c) You may be eligible for any Company bonus program, based upon performance in meeting your individual objectives and the Company's overall performance, both as determined and approved by the Board of Directors of the Company. Any such bonus will be discretionary and will be subject to the terms of the applicable bonus program, the terms of which program may be modified from year to year in the sole discretion of the Company's Board of Directors.

(d) You have elected not to receive this year, as part of your 2007 compensation, an option award to purchase Cumberland common shares.

(e) Except as set forth in Section 2, the Company shall not be liable to you for any expense incurred by you unless you receive the Company's prior written consent to reimburse you for such expense.

2. Additional Payments. During the term hereof, you shall be entitled to receive prompt reimbursement for all reasonable and documented expenses incurred in the performance of services in accordance with the expense reimbursement policy of the Company.

3. Employment at Will. This Agreement is not intended to and shall not be understood in any manner as affecting or modifying the at-will status of your employment with the Company. As an at-will employee either you or the Company may terminated the employment relationship at any time with or without cause or notice. The obligations of Sections 4, 5, 6, 7, 8, 10, 11 and 12 herein shall survive the termination of the employment relationship or of this Agreement.

4. Confidentiality. All knowledge and information, not already available to the public, which you acquire, have acquired, or will acquire in the course of your employment with the Company with respect to the Company's business, work methods, or pending regulatory matters, or other Company matters that are treated by the Company as confidential, shall be regarded by you as trade secrets, whether or not they are classifiable legally as trade secrets, and shall be treated by you as strictly confidential. Such knowledge and information shall not either directly or indirectly be used, disclosed, or made accessible to anyone by you for any purpose, except in the ordinary course of the Company's business under circumstances in which you are authorized to use or disclose such information. No disclosures of such confidential information shall be made outside of those you are authorized to make in the regular and ordinary course of your duties unless and until you receive prior written permission of the Board of Directors of the Company to make such disclosure.

5. Discoveries and Improvements. During the time that you are employed by the Company, all confidential information, trade secrets, or proprietary information and all other discoveries, inventions, software programs, processes, methods and improvements that are conceived, developed, or otherwise made by you, alone or with others, that relate in any way to the Company's present or planned business or products (collectively the "Developments"), whether or not patentable or subject to copyright protection and whether or not reduced to tangible form or reduced to practice, shall be the sole property of the Company. You agree to disclose all Developments promptly, fully and in writing to the Company. You agree to keep and maintain adequate and current dated and witnessed written records of all such Developments, in the form of notes, sketches, drawings, or reports, which records shall be promptly submitted to the Company and shall be and remain the property of the Company at all times. You agree to assign, and hereby do assign, to, the Company all your right, title and interest throughout the world in and to all Developments. You agree that all Developments shall constitute "Works for Hire" (as such are defined under the U.S. Copyright Laws) and hereby assign to the Company all copyrights, patents and other proprietary rights you may have in any Developments without any obligation on the part of the Company to pay royalties or any other consideration to you for such Developments.

6. Publication. All documents and other writings produced by you during the period of your employment, which relate to work you are doing or have done for the Company or to the business of the Company or its affiliates, shall belong to the Company. You will not publish outside of the Company any such writing without the prior written consent of the Board of Directors of the

Company. You will, without further compensation, execute at any time (whether or not you are still employed by the Company) all documents requested of you relating to the protection of such rights, including the assignment of such rights to the Company.

7. Litigation. You shall notify the Company within three business days if no longer employed and immediately if still employed by the Company if you are contacted by any person relating to any claim or litigation against the Company. You shall not communicate in any manner with any person related to any claim or litigation against the Company without the prior consent of the Board of Directors of the Company unless compelled to do so by law.

8. Competition. For so long as you are employed by the Company or any Affiliate (as defined below) and for a period of one year after you cease to be employed by the Company or any Affiliate, you shall not, directly or indirectly, engage in any work or other activity—whether as owner, stockholder, partner, officer, consultant, or otherwise—involving a trademark, product, or process that, in the opinion of the Company's President, is similar to a trademark, product or process on which you worked for the Company (or any Affiliate) or obtained knowledge about while working for the Company at any time during the period of employment, if such work or other activity is then, or reasonably expected to become, competitive with that of the Company (or any Affiliate). The restriction in the preceding sentence shall not apply if you have disclosed to the Company in writing all the known facts relating to such work or activity and have received a release in writing from the Board of Directors of the Company allowing you to engage in such work or activity. The Company's President shall have sole discretion to determine whether your work or activity for another employer involves trademarks, products, or processes that are similar to trademarks, products, or processes that you worked on for the Company. Ownership by you of five percent (5%) or less of the outstanding shares of stock of any company either (i) listed on a national securities exchange, or (ii) having at least one hundred (100) stockholders shall not make you a "stockholder" within the meaning of that term as used in this paragraph. For one year after you cease to work for the Company, you will not engage in any work or activity that will cause you to inevitably disclose to anyone not employed by the Company (or an Affiliate) any trade secret or confidential information that belongs to the Company or one of its Affiliates. Nothing in this paragraph shall limit the rights or remedies of the Company arising, directly or indirectly, from such competitive employment, including, without limitation, claims based upon breach of fiduciary duty, misappropriation, or theft of confidential information. The term "Affiliate" shall mean the Company and any entity controlling, controlled by, or under common control with the Company.

9. Conflicting Contracts. You represent and warrant that you are not now under any obligation resulting from any contract or arrangement, to any person, firm, or corporation, which is inconsistent or in conflict with this Agreement. Likewise you represent and warrant that you are not now under any obligation resulting from any contract or arrangement to any person, firm, or corporation which would prevent, limit, or impair in any way the performance by you of your obligations to the Company.

10. Solicitation. For a period of one year after you cease to be employed by the Company (or a Company affiliate):

(a) You agree not to solicit, directly or indirectly, business related to the development or sales of pharmaceutical products from any entity, organization, or person which is contracted with the Company, which has been doing business with the Company or from which the Company was soliciting at the time of your termination, or a firm which you knew or had reason to know that the Company was going to solicit business at the time you ceased to be employed by the Company. The restriction set forth in the preceding sentence shall not apply if you have disclosed to the Company in writing all the known facts relating to such solicitation and have received a release in writing from the Board of Directors of the Company to engage in such solicitation.

(b) You agree not to solicit, recruit, hire, or assist in the hiring of any employee of the Company to work for you or another person, firm, corporation, or business in competition with, or reasonably likely to become in competition with, the Company.

11. Return of Documents. Upon termination of your employment for any reason, you shall immediately return to the Company all documents and things belonging to the Company. This includes, but is not limited to, trade secrets, confidential information, knowledge, data or know-how, and software containing such information, whether or not the documents are marked “Confidential.”

12. Remedies. You acknowledge that in the event of breach of this Agreement by you, actual damages to the Company will be impossible to calculate, the Company’s remedies at law will be inadequate, and the Company will suffer irreparable harm. Therefore, you agree that any of the covenants contained in this Agreement may be specifically enforced through injunctive relief, but such right to injunctive relief shall not preclude the Company from other remedies which may be available to it. You further agree that should you fail to keep any of the promises made by you in this Agreement, or any way violate this Agreement, the Company shall be entitled to recover all monies the Company is required to spend, including attorneys’ fees, to enforce the provisions of this Agreement.

13. Debarment. You represent and warrant that you have not been debarred and will notify the Company immediately if you are debarred, pursuant to subsection 306(a) or 306(b) of the Federal Food, Drug, and Cosmetic Act.

14. Notice. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by registered or certified mail to your residence or to the Company’s principal office in the case of the Company.

15. Waiver. The waiver by either party of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

16. Entire Agreement. This Agreement contains the entire agreement of the parties and may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.

17. Governance. This Agreement shall be governed by the laws of the State of Tennessee. Any dispute arising out of this Agreement shall be resolved, at the Company's sole option, by courts sitting in Nashville, Tennessee, and you waive any objection to such venue.

18. Enforceability. In the event that any provision of this Agreement shall be held by a court to be unenforceable, such provision will be enforced to the maximum extent permissible, and the remaining portions of this Agreement shall remain in full force and effect.

19. Survival. Notwithstanding any termination of your employment, this Agreement shall survive and remain in effect in accordance with its terms.

This letter agreement may be signed in one or more counterparts, each of which shall be an original and all of which will constitute one and the same instrument.

Sincerely yours,

CUMBERLAND PHARMACEUTICALS INC.

/s/ Jean W. Marstiller

By: Jean W. Marstiller
Corporate Secretary

Accepted as to all terms and conditions as
of the 7th of February, 2007:

/s/ A.J. Kazimi
A.J. Kazimi

EXHIBIT 10.12

January 31, 2007

Mrs. Jean Marstiller
6251 Hillsboro Road
Nashville, TN 37215

Re: Employment of Jean W. Marstiller as Senior Vice President, Administrative Services by Cumberland Pharmaceuticals Inc.

Dear Jeanie:

Effective January 1st, 2007, this letter agreement (the "Agreement") will evidence the terms and conditions under which you will be employed by Cumberland Pharmaceuticals Inc. (the "Company"). In consideration of your appointment as Senior Vice President, Administrative Services of the Company, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Compensation. The Company agrees to compensate you as follows:

(a) The Company agrees to pay you on a salary basis for services performed, based on an annual rate of one hundred seventy thousand dollars ($170,000.00), payable in arrears in equal monthly installments on the last day of each calendar month during the term of this Agreement.

(b) You will be eligible to participate in any Company-wide employee benefits as approved by the Board of Directors.

(c) You may be eligible for any Company bonus program, based upon performance in meeting your individual objectives and the Company's overall performance, both as determined and approved by the Board of Directors of the Company. Any such bonus will be discretionary and will be subject to the terms of the applicable bonus program, the terms of which program may be modified from year to year in the sole discretion of the Company's Board of Directors.

(d) You will receive a grant of options, as set forth in Exhibit A, to purchase Cumberland common shares pursuant to an option agreement. Such options will be subject to the option agreement and the terms set forth in the option plan under which they are awarded.

(e) Except as set forth in Section 2, the Company shall not be liable to you for any expense incurred by you unless you receive the Company's prior written consent to reimburse you for such expense.

2. Additional Payments. During the term hereof, you shall be entitled to receive prompt reimbursement for all reasonable and documented expenses incurred in the performance of services in accordance with the expense reimbursement policy of the Company.

3. Employment at Will. This Agreement is not intended to and shall not be understood in any manner as affecting or modifying the at-will status of your employment with the Company. As an at-will employee either you or the Company may terminated the employment relationship at any time with or without cause or notice. The obligations of Sections 4, 5, 6, 7, 8, 10, 11 and 12 herein shall survive the termination of the employment relationship or of this Agreement.

4. Confidentiality. All knowledge and information, not already available to the public, which you acquire, have acquired, or will acquire in the course of your employment with the Company with respect to the Company's business, work methods, or pending regulatory matters, or other Company matters that are treated by the Company as confidential, shall be regarded by you as trade secrets, whether or not they are classifiable legally as trade secrets, and shall be treated by you as strictly confidential. Such knowledge and information shall not either directly or indirectly be used, disclosed, or made accessible to anyone by you for any purpose, except in the ordinary course of the Company's business under circumstances in which you are authorized to use or disclose such information. No disclosures of such confidential information shall be made outside of those you are authorized to make in the regular and ordinary course of your duties unless and until you receive prior written permission of the Board of Directors of the Company to make such disclosure.

5. Discoveries and Improvements. During the time that you are employed by the Company, all confidential information, trade secrets, or proprietary information and all other discoveries, inventions, software programs, processes, methods and improvements that are conceived, developed, or otherwise made by you , alone or with others, that relate in any way to the Company's present or planned business or products (collectively the "Developments"), whether or not patentable or subject to copyright protection and whether or not reduced to tangible form or reduced to practice, shall be the sole property of the Company. You agree to disclose all Developments promptly, fully and in writing to the Company. You agree to keep and maintain adequate and current dated and witnessed written records of all such Developments, in the form of notes, sketches, drawings, or reports, which records shall be promptly submitted to the Company and shall be and remain the property of the Company at all times. You agree to assign, and hereby do assign, to, the Company all your right, title and interest throughout the world in and to all Developments. You agree that all Developments shall constitute "Works for Hire" (as such are defined under the U.S. Copyright Laws) and hereby assign to the Company all copyrights, patents and other proprietary rights you may have in any Developments without any obligation on the part of the Company to pay royalties or any other consideration to you for such Developments.

6. Publication. All documents and other writings produced by you during the period of your employment, which relate to work you are doing or have done for the Company or to the business of the Company or its affiliates, shall belong to the Company. You will not publish outside of the Company any such writing without the prior written consent of the Board of Directors of the

Company. You will, without further compensation, execute at any time (whether or not you are still employed by the Company) all documents requested of you relating to the protection of such rights, including the assignment of such rights to the Company.

7. Litigation. You shall notify the Company within three business days if no longer employed and immediately if still employed by the Company if you are contacted by any person relating to any claim or litigation against the Company. You shall not communicate in any manner with any person related to any claim or litigation against the Company without the prior consent of the Board of Directors of the Company unless compelled to do so by law.

8. Competition. For so long as you are employed by the Company or any Affiliate (as defined below) and for a period of one year after you cease to be employed by the Company or any Affiliate, you shall not, directly or indirectly, engage in any work or other activity—whether as owner, stockholder, partner, officer, consultant, or otherwise—involving a trademark, product, or process that, in the opinion of the Company's President, is similar to a trademark, product or process on which you worked for the Company (or any Affiliate) or obtained knowledge about while working for the Company at any time during the period of employment, if such work or other activity is then, or reasonably expected to become, competitive with that of the Company (or any Affiliate). The restriction in the preceding sentence shall not apply if you have disclosed to the Company in writing all the known facts relating to such work or activity and have received a release in writing from the Board of Directors of the Company allowing you to engage in such work or activity. The Company's President shall have sole discretion to determine whether your work or activity for another employer involves trademarks, products, or processes that are similar to trademarks, products, or processes that you worked on for the Company. Ownership by you of five percent (5%) or less of the outstanding shares of stock of any company either (i) listed on a national securities exchange, or (ii) having at least one hundred (100) stockholders shall not make you a "stockholder" within the meaning of that term as used in this paragraph. For one year after you cease to work for the Company, you will not engage in any work or activity that will cause you to inevitably disclose to anyone not employed by the Company (or an Affiliate) any trade secret or confidential information that belongs to the Company or one of its Affiliates. Nothing in this paragraph shall limit the rights or remedies of the Company arising, directly or indirectly, from such competitive employment, including, without limitation, claims based upon breach of fiduciary duty, misappropriation, or theft of confidential information. The term "Affiliate" shall mean the Company and any entity controlling, controlled by, or under common control with the Company.

9. Conflicting Contracts. You represent and warrant that you are not now under any obligation resulting from any contract or arrangement, to any person, firm, or corporation, which is inconsistent or in conflict with this Agreement. Likewise you represent and warrant that you are not now under any obligation resulting from any contract or arrangement to any person, firm, or corporation which would prevent, limit, or impair in any way the performance by you of your obligations to the Company.

10. Solicitation. For a period of one year after you cease to be employed by the Company (or a Company affiliate):

(a) You agree not to solicit, directly or indirectly, business related to the development or sales of pharmaceutical products from any entity, organization, or person which is contracted with the Company, which has been doing business with the Company or from which the Company was soliciting at the time of your termination, or a firm which you knew or had reason to know that the Company was going to solicit business at the time you ceased to be employed by the Company. The restriction set forth in the preceding sentence shall not apply if you have disclosed to the Company in writing all the known facts relating to such solicitation and have received a release in writing from the Board of Directors of the Company to engage in such solicitation.

(b) You agree not to solicit, recruit, hire, or assist in the hiring of any employee of the Company to work for you or another person, firm, corporation, or business in competition with, or reasonably likely to become in competition with, the Company.

11. Return of Documents. Upon termination of your employment for any reason, you shall immediately return to the Company all documents and things belonging to the Company. This includes, but is not limited to, trade secrets, confidential information, knowledge, data or know-how, and software containing such information, whether or not the documents are marked “Confidential.”

12. Remedies. You acknowledge that in the event of breach of this Agreement by you, actual damages to the Company will be impossible to calculate, the Company’s remedies at law will be inadequate, and the Company will suffer irreparable harm. Therefore, you agree that any of the covenants contained in this Agreement may be specifically enforced through injunctive relief, but such right to injunctive relief shall not preclude the Company from other remedies which may be available to it. You further agree that should you fail to keep any of the promises made by you in this Agreement, or any way violate this Agreement, the Company shall be entitled to recover all monies the Company is required to spend, including attorneys’ fees, to enforce the provisions of this Agreement.

13. Debarment. You represent and warrant that you have not been debarred and will notify the Company immediately if you are debarred, pursuant to subsection 306(a) or 306(b) of the Federal Food, Drug, and Cosmetic Act.

14. Notice. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by registered or certified mail to your residence or to the Company’s principal office in the case of the Company.

15. Waiver. The waiver by either party of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

16. Entire Agreement. This Agreement contains the entire agreement of the parties and may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.

17. Governance. This Agreement shall be governed by the laws of the State of Tennessee. Any dispute arising out of this Agreement shall be resolved, at the Company's sole option, by courts sitting in Nashville, Tennessee, and you waive any objection to such venue.

18. Enforceability. In the event that any provision of this Agreement shall be held by a court to be unenforceable, such provision will be enforced to the maximum extent permissible, and the remaining portions of this Agreement shall remain in full force and effect.

19. Survival. Notwithstanding any termination of your employment, this Agreement shall survive and remain in effect in accordance with its terms.

This letter agreement may be signed in one or more counterparts, each of which shall be an original and all of which will constitute one and the same instrument.

Sincerely yours,

CUMBERLAND PHARMACEUTICALS INC.

/s/ A.J. Kazimi
By: A.J. Kazimi
Chief Executive Officer

Accepted as to all terms and conditions
as of the 7th of February, 2007;

/s/ Jean W. Marstiller
Jean W. Marstiller

Exhibit A

Option Agreement

The Company's standard option agreement shall be forthcoming and shall incorporate the following several terms:

1. Subject to the terms therein, the Company will provide a grant of options under its 1999 Stock Option Plan upon the Effective Date of the Agreement to purchase up to six thousand (6,000) of its shares of common stock.
2. Based on your individual performance and the overall performance of the Company, and as determined by the Board of Directors, up to 1,500 options will vest on each 31st of December over the four-year period from 2007-2010.
3. The options awarded will have an Exercise Price of twenty-two dollars ($22.00) per share.
4. The options awarded will have a term of ten years from grant date.
5. Upon termination of employment, the employee will vest the number of options that otherwise would have vested through the date of termination of employment including those pro-rated to the actual percent of working time during the calendar year.

It is important that, after you receive your option agreement and other related documents, you read and understand the terms and conditions of the option agreement. The Company recommends that you always seek guidance from your personal accountant or tax advisor prior to initiating any exercise or action involving your option agreement.

EXHIBIT 10.13

January 31, 2007

Mr. Leo Pavliv
707 Walcott Way
Cary, NC 27519

Re: Employment of Leo Pavliv as Vice President, Operations by Cumberland Pharmaceuticals Inc.

Dear Leo:

Effective January 1st, 2007, this letter agreement (the "Agreement") will evidence the terms and conditions under which you will be employed by Cumberland Pharmaceuticals Inc. (the "Company"). In consideration of your appointment as Vice President, Operations of the Company, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Compensation. The Company agrees to compensate you as follows:

(a) The Company agrees to pay you on a salary basis for services performed, based on an annual rate of two hundred eleven thousand dollars ($211,000.00), payable in arrears in equal monthly installments on the last day of each calendar month during the term of this Agreement.

(b) You will be eligible to participate in any Company-wide employee benefits as approved by the Board of Directors.

(c) You may be eligible for any Company bonus program, based upon performance in meeting your individual objectives and the Company's overall performance, both as determined and approved by the Board of Directors of the Company. Any such bonus will be discretionary and will be subject to the terms of the applicable bonus program, the terms of which program may be modified from year to year in the sole discretion of the Company's Board of Directors.

(d) You will receive a grant of options, as set forth in Exhibit A, to purchase Cumberland common shares pursuant to an option agreement. Such options will be subject to the option agreement and the terms set forth in the option plan under which they are awarded.

(e) Except as set forth in Section 2, the Company shall not be liable to you for any expense incurred by you unless you receive the Company's prior written consent to reimburse you for such expense.

2. Additional Payments. During the term hereof, you shall be entitled to receive prompt reimbursement for all reasonable and documented expenses incurred in the performance of services in accordance with the expense reimbursement policy of the Company.

3. Employment at Will. This Agreement is not intended to and shall not be understood in any manner as affecting or modifying the at-will status of your employment with the Company. As an at-will employee either you or the Company may terminated the employment relationship at any time with or without cause or notice. The obligations of Sections 4, 5, 6, 7, 8, 10, 11 and 12 herein shall survive the termination of the employment relationship or of this Agreement.

4. Confidentiality. All knowledge and information, not already available to the public, which you acquire, have acquired, or will acquire in the course of your employment with the Company with respect to the Company's business, work methods, or pending regulatory matters, or other Company matters that are treated by the Company as confidential, shall be regarded by you as trade secrets, whether or not they are classifiable legally as trade secrets, and shall be treated by you as strictly confidential. Such knowledge and information shall not either directly or indirectly be used, disclosed, or made accessible to anyone by you for any purpose, except in the ordinary course of the Company's business under circumstances in which you are authorized to use or disclose such information. No disclosures of such confidential information shall be made outside of those you are authorized to make in the regular and ordinary course of your duties unless and until you receive prior written permission of the Board of Directors of the Company to make such disclosure.

5. Discoveries and Improvements. During the time that you are employed by the Company, all confidential information, trade secrets, or proprietary information and all other discoveries, inventions, software programs, processes, methods and improvements that are conceived, developed, or otherwise made by you , alone or with others, that relate in any way to the Company's present or planned business or products (collectively the "Developments"), whether or not patentable or subject to copyright protection and whether or not reduced to tangible form or reduced to practice, shall be the sole property of the Company. You agree to disclose all Developments promptly, fully and in writing to the Company. You agree to keep and maintain adequate and current dated and witnessed written records of all such Developments, in the form of notes, sketches, drawings, or reports, which records shall be promptly submitted to the Company and shall be and remain the property of the Company at all times. You agree to assign, and hereby do assign, to, the Company all your right, title and interest throughout the world in and to all Developments. You agree that all Developments shall constitute "Works for Hire" (as such are defined under the U.S. Copyright Laws) and hereby assign to the Company all copyrights, patents and other proprietary rights you may have in any Developments without any obligation on the part of the Company to pay royalties or any other consideration to you for such Developments.

6. Publication. All documents and other writings produced by you during the period of your employment, which relate to work you are doing or have done for the Company or to the business of the Company or its affiliates, shall belong to the Company. You will not publish outside of the Company any such writing without the prior written consent of the Board of Directors of the

Company. You will, without further compensation, execute at any time (whether or not you are still employed by the Company) all documents requested of you relating to the protection of such rights, including the assignment of such rights to the Company.

7. Litigation. You shall notify the Company within three business days if no longer employed and immediately if still employed by the Company if you are contacted by any person relating to any claim or litigation against the Company. You shall not communicate in any manner with any person related to any claim or litigation against the Company without the prior consent of the Board of Directors of the Company unless compelled to do so by law.

8. Competition. For so long as you are employed by the Company or any Affiliate (as defined below) and for a period of one year after you cease to be employed by the Company or any Affiliate, you shall not, directly or indirectly, engage in any work or other activity—whether as owner, stockholder, partner, officer, consultant, or otherwise—involving a trademark, product, or process that, in the opinion of the Company's President, is similar to a trademark, product or process on which you worked for the Company (or any Affiliate) or obtained knowledge about while working for the Company at any time during the period of employment, if such work or other activity is then, or reasonably expected to become, competitive with that of the Company (or any Affiliate). The restriction in the preceding sentence shall not apply if you have disclosed to the Company in writing all the known facts relating to such work or activity and have received a release in writing from the Board of Directors of the Company allowing you to engage in such work or activity. The Company's President shall have sole discretion to determine whether your work or activity for another employer involves trademarks, products, or processes that are similar to trademarks, products, or processes that you worked on for the Company. Ownership by you of five percent (5%) or less of the outstanding shares of stock of any company either (i) listed on a national securities exchange, or (ii) having at least one hundred (100) stockholders shall not make you a "stockholder" within the meaning of that term as used in this paragraph. For one year after you cease to work for the Company, you will not engage in any work or activity that will cause you to inevitably disclose to anyone not employed by the Company (or an Affiliate) any trade secret or confidential information that belongs to the Company or one of its Affiliates. Nothing in this paragraph shall limit the rights or remedies of the Company arising, directly or indirectly, from such competitive employment, including, without limitation, claims based upon breach of fiduciary duty, misappropriation, or theft of confidential information. The term "Affiliate" shall mean the Company and any entity controlling, controlled by, or under common control with the Company.

9. Conflicting Contracts. You represent and warrant that you are not now under any obligation resulting from any contract or arrangement, to any person, firm, or corporation, which is inconsistent or in conflict with this Agreement. Likewise you represent and warrant that you are not now under any obligation resulting from any contract or arrangement to any person, firm, or corporation which would prevent, limit, or impair in any way the performance by you of your obligations to the Company.

10. Solicitation. For a period of one year after you cease to be employed by the Company (or a Company affiliate):

(a) You agree not to solicit, directly or indirectly, business related to the development or sales of pharmaceutical products from any entity, organization, or person which is contracted with the Company, which has been doing business with the Company or from which the Company was soliciting at the time of your termination, or a firm which you knew or had reason to know that the Company was going to solicit business at the time you ceased to be employed by the Company. The restriction set forth in the preceding sentence shall not apply if you have disclosed to the Company in writing all the known facts relating to such solicitation and have received a release in writing from the Board of Directors of the Company to engage in such solicitation.

(b) You agree not to solicit, recruit, hire, or assist in the hiring of any employee of the Company to work for you or another person, firm, corporation, or business in competition with, or reasonably likely to become in competition with, the Company.

11. Return of Documents. Upon termination of your employment for any reason, you shall immediately return to the Company all documents and things belonging to the Company. This includes, but is not limited to, trade secrets, confidential information, knowledge, data or know-how, and software containing such information, whether or not the documents are marked “Confidential.”

12. Remedies. You acknowledge that in the event of breach of this Agreement by you, actual damages to the Company will be impossible to calculate, the Company’s remedies at law will be inadequate, and the Company will suffer irreparable harm. Therefore, you agree that any of the covenants contained in this Agreement may be specifically enforced through injunctive relief, but such right to injunctive relief shall not preclude the Company from other remedies which may be available to it. You further agree that should you fail to keep any of the promises made by you in this Agreement, or any way violate this Agreement, the Company shall be entitled to recover all monies the Company is required to spend, including attorneys’ fees, to enforce the provisions of this Agreement.

13. Debarment. You represent and warrant that you have not been debarred and will notify the Company immediately if you are debarred, pursuant to subsection 306(a) or 306(b) of the Federal Food, Drug, and Cosmetic Act.

14. Notice. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by registered or certified mail to your residence or to the Company’s principal office in the case of the Company.

15. Waiver. The waiver by either party of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

16. Entire Agreement. This Agreement contains the entire agreement of the parties and may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.

17. Governance. This Agreement shall be governed by the laws of the State of Tennessee. Any dispute arising out of this Agreement shall be resolved, at the Company's sole option, by courts sitting in Nashville, Tennessee, and you waive any objection to such venue.

18. Enforceability. In the event that any provision of this Agreement shall be held by a court to be unenforceable, such provision will be enforced to the maximum extent permissible, and the remaining portions of this Agreement shall remain in full force and effect.

19. Survival. Notwithstanding any termination of your employment, this Agreement shall survive and remain in effect in accordance with its terms.

This letter agreement may be signed in one or more counterparts, each of which shall be an original and all of which will constitute one and the same instrument.

Sincerely yours,

CUMBERLAND PHARMACEUTICALS INC.

/s/ A.J. Kazimi
By: A.J. Kazimi
Chief Executive Officer

Accepted as to all terms and conditions
as of the 14th of February, 2007:

/s/ Leo Pavliv
Leo Pavliv

Exhibit A

Option Agreement

The Company's standard option agreement shall be forthcoming and shall incorporate the following several terms:

1. Subject to the terms therein, the Company will provide a grant of options under its 1999 Stock Option Plan upon the Effective Date of the Agreement to purchase up to six thousand (6,000) of its shares of common stock.
2. Based on your individual performance and the overall performance of the Company, and as determined by the Board of Directors, up to 1,500 options will vest on each 31st of December over the four-year period from 2007-2010.
3. The options awarded will have an Exercise Price of twenty-two dollars ($22.00) per share.
4. The options awarded will have a term of ten years from grant date.
5. Upon termination of employment, the employee will vest the number of options that otherwise would have vested through the date of termination of employment including those pro-rated to the actual percent of working time during the calendar year.

It is important that, after you receive your option agreement and other related documents, you read and understand the terms and conditions of the option agreement. The Company recommends that you always seek guidance from your personal accountant or tax advisor prior to initiating any exercise or action involving your option agreement.

EXHIBIT 10.14

January 23, 2007

Mr. James William Hix
127 Abigail Avenue
Murfreesboro, TN 37129

Re: Employment of Bill Hix as VP, Sales and Marketing by Cumberland Pharmaceuticals Inc.

Dear Bill:

Effective February 1st, 2007, this letter agreement (the "Agreement") will evidence the terms and conditions under which you will be employed by Cumberland Pharmaceuticals Inc. (the "Company"). In consideration of your appointment as Vice President, Sales and Marketing of the Company, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Compensation. The Company agrees to compensate you as follows:

(a) The Company agrees to pay you on a salary basis for services performed, based on an annual rate of one hundred eighty thousand dollars ($180,000.00), payable in arrears in equal monthly installments on the last day of each calendar month during the term of this Agreement.

(b) You will be eligible to participate in any Company-wide employee benefits as approved by the Board of Directors.

(c) You may be eligible for any Company bonus program, with a potential annual bonus of up to $45,000.00, based upon performance in meeting your individual objectives and the Company's overall performance, both as determined and approved by the Board of Directors of the Company. Any such bonus will be discretionary and will be subject to the terms of the applicable bonus program, the terms of which program may be modified from year to year in the sole discretion of the Company's Board of Directors.

(d) You will receive a grant of options, as set forth in Exhibit A, to purchase Cumberland common shares pursuant to an option agreement. Such options will be subject to the option agreement and the terms set forth in the option plan under which they are awarded.

(e) Except as set forth in Section 2, the Company shall not be liable to you for any expense incurred by you unless you receive the Company's prior written consent to reimburse you for such expense.

2. Additional Payments. During the term hereof, you shall be entitled to receive prompt reimbursement for all reasonable and documented expenses incurred in the performance of services in accordance with the expense reimbursement policy of the Company.

3. Employment at Will. This Agreement is not intended to and shall not be understood in any manner as affecting or modifying the at-will status of your employment with the Company. As an at-will employee either you or the Company may terminated the employment relationship at any time with or without cause or notice. The obligations of Sections 4, 5, 6, 7, 8, 10, 11 and 12 herein shall survive the termination of the employment relationship or of this Agreement.

4. Confidentiality. All knowledge and information, not already available to the public, which you acquire, have acquired, or will acquire in the course of your employment with the Company with respect to the Company's business, work methods, or pending regulatory matters, or other Company matters that are treated by the Company as confidential, shall be regarded by you as trade secrets, whether or not they are classifiable legally as trade secrets, and shall be treated by you as strictly confidential. Such knowledge and information shall not either directly or indirectly be used, disclosed, or made accessible to anyone by you for any purpose, except in the ordinary course of the Company's business under circumstances in which you are authorized to use or disclose such information. No disclosures of such confidential information shall be made outside of those you are authorized to make in the regular and ordinary course of your duties unless and until you receive prior written permission of the Board of Directors of the Company to make such disclosure.

5. Discoveries and Improvements. During the time that you are employed by the Company, all confidential information, trade secrets, or proprietary information and all other discoveries, inventions, software programs, processes, methods and improvements that are conceived, developed, or otherwise made by you , alone or with others, that relate in any way to the Company's present or planned business or products (collectively the "Developments"), whether or not patentable or subject to copyright protection and whether or not reduced to tangible form or reduced to practice, shall be the sole property of the Company. You agree to disclose all Developments promptly, fully and in writing to the Company. You agree to keep and maintain adequate and current dated and witnessed written records of all such Developments, in the form of notes, sketches, drawings, or reports, which records shall be promptly submitted to the Company and shall be and remain the property of the Company at all times. You agree to assign, and hereby do assign, to, the Company all your right, title and interest throughout the world in and to all Developments. You agree that all Developments shall constitute "Works for Hire" (as such are defined under the U.S. Copyright Laws) and hereby assign to the Company all copyrights, patents and other proprietary rights you may have in any Developments without any obligation on the part of the Company to pay royalties or any other consideration to you for such Developments.

6. Publication. All documents and other writings produced by you during the period of your employment, which relate to work you are doing or have done for the Company or to the business of the Company or its affiliates, shall belong to the Company. You will not publish outside of the Company any such writing without the prior written consent of the Board of Directors of the

Company. You will, without further compensation, execute at any time (whether or not you are still employed by the Company) all documents requested of you relating to the protection of such rights, including the assignment of such rights to the Company.

7. Litigation. You shall notify the Company within three business days if no longer employed and immediately if still employed by the Company if you are contacted by any person relating to any claim or litigation against the Company. You shall not communicate in any manner with any person related to any claim or litigation against the Company without the prior consent of the Board of Directors of the Company unless compelled to do so by law.

8. Competition. For so long as you are employed by the Company or any Affiliate (as defined below) and for a period of one year after you cease to be employed by the Company or any Affiliate, you shall not, directly or indirectly, engage in any work or other activity—whether as owner, stockholder, partner, officer, consultant, or otherwise—involving a trademark, product, or process that, in the opinion of the Company's President, is similar to a trademark, product or process on which you worked for the Company (or any Affiliate) or obtained knowledge about while working for the Company at any time during the period of employment, if such work or other activity is then, or reasonably expected to become, competitive with that of the Company (or any Affiliate). The restriction in the preceding sentence shall not apply if you have disclosed to the Company in writing all the known facts relating to such work or activity and have received a release in writing from the Board of Directors of the Company allowing you to engage in such work or activity. The Company's President shall have sole discretion to determine whether your work or activity for another employer involves trademarks, products, or processes that are similar to trademarks, products, or processes that you worked on for the Company. Ownership by you of five percent (5%) or less of the outstanding shares of stock of any company either (i) listed on a national securities exchange, or (ii) having at least one hundred (100) stockholders shall not make you a "stockholder" within the meaning of that term as used in this paragraph. For one year after you cease to work for the Company, you will not engage in any work or activity that will cause you to inevitably disclose to anyone not employed by the Company (or an Affiliate) any trade secret or confidential information that belongs to the Company or one of its Affiliates. Nothing in this paragraph shall limit the rights or remedies of the Company arising, directly or indirectly, from such competitive employment, including, without limitation, claims based upon breach of fiduciary duty, misappropriation, or theft of confidential information. The term "Affiliate" shall mean the Company and any entity controlling, controlled by, or under common control with the Company.

9. Conflicting Contracts. You represent and warrant that you are not now under any obligation resulting from any contract or arrangement, to any person, firm, or corporation, which is inconsistent or in conflict with this Agreement. Likewise you represent and warrant that you are not now under any obligation resulting from any contract or arrangement to any person, firm, or corporation which would prevent, limit, or impair in any way the performance by you of your obligations to the Company.

10. Solicitation. For a period of one year after you cease to be employed by the Company (or a Company affiliate):

(a) You agree not to solicit, directly or indirectly, business related to the development or sales of pharmaceutical products from any entity, organization, or person which is contracted with the Company, which has been doing business with the Company or from which the Company was soliciting at the time of your termination, or a firm which you knew or had reason to know that the Company was going to solicit business at the time you ceased to be employed by the Company. The restriction set forth in the preceding sentence shall not apply if you have disclosed to the Company in writing all the known facts relating to such solicitation and have received a release in writing from the Board of Directors of the Company to engage in such solicitation.

(b) You agree not to solicit, recruit, hire, or assist in the hiring of any employee of the Company to work for you or another person, firm, corporation, or business in competition with, or reasonably likely to become in competition with, the Company.

11. Return of Documents. Upon termination of your employment for any reason, you shall immediately return to the Company all documents and things belonging to the Company. This includes, but is not limited to, trade secrets, confidential information, knowledge, data or know-how, and software containing such information, whether or not the documents are marked “Confidential.”

12. Remedies. You acknowledge that in the event of breach of this Agreement by you, actual damages to the Company will be impossible to calculate, the Company’s remedies at law will be inadequate, and the Company will suffer irreparable harm. Therefore, you agree that any of the covenants contained in this Agreement may be specifically enforced through injunctive relief, but such right to injunctive relief shall not preclude the Company from other remedies which may be available to it. You further agree that should you fail to keep any of the promises made by you in this Agreement, or any way violate this Agreement, the Company shall be entitled to recover all monies the Company is required to spend, including attorneys’ fees, to enforce the provisions of this Agreement.

13. Debarment. You represent and warrant that you have not been debarred and will notify the Company immediately if you are debarred, pursuant to subsection 306(a) or 306(b) of the Federal Food, Drug, and Cosmetic Act.

14. Notice. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by registered or certified mail to your residence or to the Company’s principal office in the case of the Company.

15. Waiver. The waiver by either party of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

16. Entire Agreement. This Agreement contains the entire agreement of the parties and may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.

17. Governance. This Agreement shall be governed by the laws of the State of Tennessee. Any dispute arising out of this Agreement shall be resolved, at the Company's sole option, by courts sitting in Nashville, Tennessee, and you waive any objection to such venue.

18. Enforceability. In the event that any provision of this Agreement shall be held by a court to be unenforceable, such provision will be enforced to the maximum extent permissible, and the remaining portions of this Agreement shall remain in full force and effect.

19. Survival. Notwithstanding any termination of your employment, this Agreement shall survive and remain in effect in accordance with its terms.

This letter agreement may be signed in one or more counterparts, each of which shall be an original and all of which will constitute one and the same instrument.

Sincerely yours,

CUMBERLAND PHARMACEUTICALS INC.

/s/ A.J. Kazimi
By: A.J. Kazimi
Chief Executive Officer

Accepted as to all terms and conditions
as of the 23rd of January, 2007:

/s/ James William Hix
James William Hix

Exhibit A

Option Agreement

The Company's standard option agreement shall be forthcoming and shall incorporate the following several terms:

1 Subject to the terms therein, the Company will provide a grant of options under its 1999 Stock Option Plan upon the Effective Date of the Agreement to purchase up to five thousand (5,000) of its shares of common stock.

2. Based on your individual performance and the overall performance of the Company, and as determined by the Board of Directors, up to 1,250 options will vest on each 31st of December over the four-year period from 2007-2010.

3. The options awarded will have an Exercise Price of twenty-two dollars ($22.00) per share.

4. The options awarded will have a term of ten years from grant date.

5. Upon termination of employment, the employee will vest the number of options that otherwise would have vested through the date of termination of employment including those pro-rated to the actual percent of working time during the calendar year.

It is important that, after you receive your option agreement and other related documents, you read and understand the terms and conditions of the option agreement. The Company recommends that you always seek guidance from your personal accountant or tax advisor prior to initiating any exercise or action involving your option agreement.

EXHIBIT 10.15

January 31, 2007

Mr. David L. Lowrance
422 William Wallace Drive
Franklin, TN 37064

Re: Employment of David L. Lowrance as Vice President, Finance and Accounting by Cumberland Pharmaceuticals Inc.

Dear Dave:

Effective January 1st, 2007, this letter agreement (the "Agreement") will evidence the terms and conditions under which you will be employed by Cumberland Pharmaceuticals Inc. (the "Company"). In consideration of your appointment as Vice President, Finance and Accounting of the Company, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Compensation. The Company agrees to compensate you as follows:

(a) The Company agrees to pay you on a salary basis for services performed, based on an annual rate of one hundred fifty-eight thousand four hundred dollars ($158,400.00), payable in arrears in equal monthly installments on the last day of each calendar month during the term of this Agreement.

(b) You will be eligible to participate in any Company-wide employee benefits as approved by the Board of Directors.

(c) You may be eligible for any Company bonus program, based upon performance in meeting your individual objectives and the Company's overall performance, both as determined and approved by the Board of Directors of the Company. Any such bonus will be discretionary and will be subject to the terms of the applicable bonus program, the terms of which program may be modified from year to year in the sole discretion of the Company's Board of Directors.

(d) You will receive a grant of options, as set forth in Exhibit A, to purchase Cumberland common shares pursuant to an option agreement. Such options will be subject to the option agreement and the terms set forth in the option plan under which they are awarded.

(e) Except as set forth in Section 2, the Company shall not be liable to you for any expense incurred by you unless you receive the Company's prior written consent to reimburse you for such expense.

2. Additional Payments.

(a) During the term hereof, you shall be entitled to receive prompt reimbursement for all reasonable and documented expenses incurred in the performance of Services in accordance with the expense reimbursement policy of the Company.

(b) Assuming you maintain an active license, the Company agrees to pay the following expenses which are professional costs associated with your CPA: Tennessee Department of Revenue Professional Privilege Tax, Continuing Professional Education (the Company will reimburse 32 hours of the 40 hours required per year), Tennessee Society of CPAs Annual Membership (excludes elective fees), and the Tennessee State Board of Accounting License Fee.

3. Employment at Will. This Agreement is not intended to and shall not be understood in any manner as affecting or modifying the at-will status of your employment with the Company. As an at-will employee either you or the Company may terminated the employment relationship at any time with or without cause or notice. The obligations of Sections 4, 5, 6, 7, 8, 10, 11 and 12 herein shall survive the termination of the employment relationship or of this Agreement.

4. Confidentiality. All knowledge and information, not already available to the public, which you acquire, have acquired, or will acquire in the course of your employment with the Company with respect to the Company's business, work methods, or pending regulatory matters, or other Company matters that are treated by the Company as confidential, shall be regarded by you as trade secrets, whether or not they are classifiable legally as trade secrets, and shall be treated by you as strictly confidential. Such knowledge and information shall not either directly or indirectly be used, disclosed, or made accessible to anyone by you for any purpose, except in the ordinary course of the Company's business under circumstances in which you are authorized to use or disclose such information. No disclosures of such confidential information shall be made outside of those you are authorized to make in the regular and ordinary course of your duties unless and until you receive prior written permission of the Board of Directors of the Company to make such disclosure.

5. Discoveries and Improvements. During the time that you are employed by the Company, all confidential information, trade secrets, or proprietary information and all other discoveries, inventions, software programs, processes, methods and improvements that are conceived, developed, or otherwise made by you , alone or with others, that relate in any way to the Company's present or planned business or products (collectively the "Developments"), whether or not patentable or subject to copyright protection and whether or not reduced to tangible form or reduced to practice, shall be the sole property of the Company. You agree to disclose all Developments promptly, fully and in writing to the Company. You agree to keep and maintain adequate and current dated and witnessed written records of all such Developments, in the form of notes, sketches, drawings, or reports, which records shall be promptly submitted to the Company and shall be and remain the property of the Company at all times. You agree to assign, and hereby do assign, to, the Company all your right, title and interest throughout the world in and to all Developments. You agree that all Developments shall constitute "Works for Hire" (as such are defined under the U.S. Copyright Laws) and hereby assign to the Company all copyrights, patents and other proprietary rights you may have in any Developments without any obligation on the part of the Company to pay royalties or any other consideration to you for such Developments.

6. Publication. All documents and other writings produced by you during the period of your employment, which relate to work you are doing or have done for the Company or to the business of the Company or its affiliates, shall belong to the Company. You will not publish outside of the Company any such writing without the prior written consent of the Board of Directors of the Company. You will, without further compensation, execute at any time (whether or not you are still employed by the Company) all documents requested of you relating to the protection of such rights, including the assignment of such rights to the Company.

7. Litigation. You shall notify the Company within three business days if no longer employed and immediately if still employed by the Company if you are contacted by any person relating to any claim or litigation against the Company. You shall not communicate in any manner with any person related to any claim or litigation against the Company without the prior consent of the Board of Directors of the Company unless compelled to do so by law.

8. Competition. For so long as you are employed by the Company or any Affiliate (as defined below) and for a period of one year after you cease to be employed by the Company or any Affiliate, you shall not, directly or indirectly, engage in any work or other activity—whether as owner, stockholder, partner, officer, consultant, or otherwise—involving a trademark, product, or process that, in the opinion of the Company's President, is similar to a trademark, product or process on which you worked for the Company (or any Affiliate) or obtained knowledge about while working for the Company at any time during the period of employment, if such work or other activity is then, or reasonably expected to become, competitive with that of the Company (or any Affiliate). The restriction in the preceding sentence shall not apply if you have disclosed to the Company in writing all the known facts relating to such work or activity and have received a release in writing from the Board of Directors of the Company allowing you to engage in such work or activity. The Company's President shall have sole discretion to determine whether your work or activity for another employer involves trademarks, products, or processes that are similar to trademarks, products, or processes that you worked on for the Company. Ownership by you of five percent (5%) or less of the outstanding shares of stock of any company either (i) listed on a national securities exchange, or (ii) having at least one hundred (100) stockholders shall not make you a "stockholder" within the meaning of that term as used in this paragraph. For one year after you cease to work for the Company, you will not engage in any work or activity that will cause you to inevitably disclose to anyone not employed by the Company (or an Affiliate) any trade secret or confidential information that belongs to the Company or one of its Affiliates. Nothing in this paragraph shall limit the rights or remedies of the Company arising, directly or indirectly, from such competitive employment, including, without limitation, claims based upon breach of fiduciary duty, misappropriation, or theft of confidential information. The term "Affiliate" shall mean the Company and any entity controlling, controlled by, or under common control with the Company.

9. Conflicting Contracts. You represent and warrant that you are not now under any obligation resulting from any contract or arrangement, to any person, firm, or corporation, which is inconsistent or in conflict with this Agreement. Likewise you represent and warrant that you are not now under any obligation resulting from any contract or arrangement to any person, firm, or corporation which would prevent, limit, or impair in any way the performance by you of your obligations to the Company.

10. Solicitation. For a period of one year after you cease to be employed by the Company (or a Company affiliate):

(a) You agree not to solicit, directly or indirectly, business related to the development or sales of pharmaceutical products from any entity, organization, or person which is contracted with the Company, which has been doing business with the Company or from which the Company was soliciting at the time of your termination, or a firm which you knew or had reason to know that the Company was going to solicit business at the time you ceased to be employed by the Company. The restriction set forth in the preceding sentence shall not apply if you have disclosed to the Company in writing all the known facts relating to such solicitation and have received a release in writing from the Board of Directors of the Company to engage in such solicitation.

(b) You agree not to solicit, recruit, hire, or assist in the hiring of any employee of the Company to work for you or another person, firm, corporation, or business in competition with, or reasonably likely to become in competition with, the Company.

11. Return of Documents. Upon termination of your employment for any reason, you shall immediately return to the Company all documents and things belonging to the Company. This includes, but is not limited to, trade secrets, confidential information, knowledge, data or know-how, and software containing such information, whether or not the documents are marked “Confidential.”

12. Remedies. You acknowledge that in the event of breach of this Agreement by you, actual damages to the Company will be impossible to calculate, the Company’s remedies at law will be inadequate, and the Company will suffer irreparable harm. Therefore, you agree that any of the covenants contained in this Agreement may be specifically enforced through injunctive relief, but such right to injunctive relief shall not preclude the Company from other remedies which may be available to it. You further agree that should you fail to keep any of the promises made by you in this Agreement, or any way violate this Agreement, the Company shall be entitled to recover all monies the Company is required to spend, including attorneys’ fees, to enforce the provisions of this Agreement.

13. Debarment. You represent and warrant that you have not been debarred and will notify the Company immediately if you are debarred, pursuant to subsection 306(a) or 306(b) of the Federal Food, Drug, and Cosmetic Act.

14. Notice. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by registered or certified mail to your residence or to the Company’s principal office in the case of the Company.

15. Waiver. The waiver by either party of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

16. Entire Agreement. This Agreement contains the entire agreement of the parties and may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.

17. Governance. This Agreement shall be governed by the laws of the State of Tennessee. Any dispute arising out of this Agreement shall be resolved, at the Company's sole option, by courts sitting in Nashville, Tennessee, and you waive any objection to such venue.

18. Enforceability. In the event that any provision of this Agreement shall be held by a court to be unenforceable, such provision will be enforced to the maximum extent permissible, and the remaining portions of this Agreement shall remain in full force and effect.

19. Survival. Notwithstanding any termination of your employment, this Agreement shall survive and remain in effect in accordance with its terms.

This letter agreement may be signed in one or more counterparts, each of which shall be an original and all of which will constitute one and the same instrument.

Sincerely yours,

CUMBERLAND PHARMACEUTICALS INC.

/s/ A.J. Kazimi

By: A.J. Kazimi
Chief Executive Officer

Accepted as to all terms and conditions
as of the 20th of February, 2007:

/s/ David L. Lowrance
David L. Lowrance

Exhibit A

Option Agreement

The Company's standard option agreement shall be forthcoming and shall incorporate the following several terms:

1 Subject to the terms therein, the Company will provide a grant of options under its 1999 Stock Option Plan upon the Effective Date of the Agreement to purchase up to five thousand (5,000) of its shares of common stock.

2. Based on your individual performance and the overall performance of the Company, and as determined by the Board of Directors, up to 1,250 options will vest on each 31st of December over the four-year period from 2007-2010.

3. The options awarded will have an Exercise Price of twenty-two dollars ($22.00) per share.

4. The options awarded will have a term of ten years from grant date.

5. Upon termination of employment, the employee will vest the number of options that otherwise would have vested through the date of termination of employment including those pro-rated to the actual percent of working time during the calendar year.

It is important that, after you receive your option agreement and other related documents, you read and understand the terms and conditions of the option agreement. The Company recommends that you always seek guidance from your personal accountant or tax advisor prior to initiating any exercise or action involving your option agreement.

EXHIBIT 10.17

CUMBERLAND PHARMACEUTICALS INC.

1999 STOCK OPTION PLAN

WHEREAS, Cumberland Pharmaceuticals Inc. (the "Company") desires to establish a plan through which the Company may award options to purchase the common stock of the Company, or the right to receive compensation due to the increase in the value of the common stock of the Company, to directors, officers, employees, and consultants of the Company and its affiliates;

WHEREAS, the Company desires to grant options that qualify as "incentive stock options" within the meaning of section 422 of the Internal Revenue Code of 1986, and options that are not so qualified; and

WHEREAS, the Company intends that this stock option plan and the methods granted hereunder (i) qualify as "performance-based compensation" described in section 162(m)(4)(C) of the Code, and (ii) conform to the provisions of Rule 16b-3 of the Securities Exchange Act of 1934, as amended;

NOW, THEREFORE, the Company hereby establishes the Cumberland Pharmaceuticals Inc. 1999 Stock Option Plan (the "Plan"), effective on the date of its adoption by the Board of Directors of the Company:

ARTICLE I. DEFINITIONS

1.1 Affiliate. A "parent corporation," as defined in section 424(e) of the Code, or "subsidiary corporation," as defined in Section 424(f) of the Code, of the Company.

1.2 Agreement. A written agreement (including any amendment or supplement thereto) between the Company or Affiliate and a Participant specifying the terms and conditions of an Option granted to such Participant.

1.3 Board. The Board of Directors of the Company.

1.4 Code. The Internal Revenue Code of 1986, as amended.

1.5 Committee. A committee composed of individuals who are designated by the Board as the "compensation committee" or are otherwise designated to administer the Plan.

1.6 Company. Cumberland Pharmaceuticals Inc. and its successors.

1.7 Date of Exercise. The date that the Company accepts tender of the Option exercise price of an Incentive Option or Nonqualified Option, or accepts an election to exercise rights under an SAR.

1.8 Exchange Act. The Securities Exchange Act of 1934, as amended.

1.9 Fair Market Value. On any given date, Fair Market Value shall be the mean between the closing bid and the asked price of the Stock on the National Associations of Securities Dealers Automated Quotations System ("NASDAQ"), or if no such quotation is listed on NASDAQ, the Fair Market Value as determined and fixed by the Board; provided that in the case of Incentive Options, Fair Market Value shall in no event be less than 100% of the fair market value of the stock on the date of grant of such option.

1.10 Incentive Option. The right that is granted hereunder to a participant to purchase from the Company a stated number of shares of Stock at the price set forth in an Agreement and that is subject to certain provisions herein and to "incentive stock options" that are described in Section 422 of the Code. An Incentive Option, or a portion thereof, shall not be invalid for failure to qualify under Section 422 of the Code, but shall be treated as a Nonqualified Option to the extent that it does not satisfy such conditions.

1.11 Nonqualified Option. The right that is granted hereunder to a Participant to purchase from the Company a stated number of shares of Stock at the price set forth in an Agreement, but is not subject to the conditions of an Incentive Option.

1.12 Option. The right that is granted hereunder to a Participant under the terms of an Incentive Option, a Nonqualified Option or an SAR.

1.13 Participant. A Board member, employee, consultant or advisor of the Company or of an Affiliate who: either satisfies the requirements of Article IV and is selected by the Committee to receive an Option, or receives an Option pursuant to a grant specified in this Plan.

1.14 Plan. The Cumberland Pharmaceuticals Inc. 1999 Stock Option Plan.

1.15 SAR. A right to receive compensation hereunder calculated by reference to the increase in the value of a certain number of shares of Stock from the date of an award, as described in Section 4.5. An SAR is an unfunded, unsecured promise of the Company to the Participant. Unless otherwise stated in an Agreement, or unless the Committee in its discretion honors the exercise of an SAR by issuing Stock, the holder of an SAR has no beneficial rights of Stock ownership or to receive shares of Stock.

1.16 Stock. The common stock of the Company.

1.17 Ten Percent Shareholder. An individual who owns more than 10% of the total combined voting power of all classes of stock of the Company or an Affiliate at the time he is granted an Incentive Option. For the purpose of determining if an individual is a Ten Percent Shareholder, he shall be deemed to own any voting stock owned (directly or indirectly) by or for his brothers and sisters (whether by whole or half blood), spouse, ancestors or lineal descendants and shall be considered to own proportionately any voting stock owned (directly or indirectly) by or for a corporation, partnership, estate or trust of which such individual is a shareholder, partner or beneficiary.

ARTICLE II. PURPOSE OF PLAN

The purpose of the Plan is to provide a performance incentive and to encourage stock ownership by officers, directors, consultants and advisors of the Company and its Affiliates, and to align the interests of such individuals with those of the Company, its Affiliates and its shareholders. It is intended that Participants may acquire or increase their proprietary interests in the Company and be encouraged to remain

in the employ or directorship of the Company or of its Affiliates. The proceeds received by the Company from the sale of Stock pursuant to this Plan may be used for general corporate purposes.

ARTICLE III. ADMINISTRATION

3.1 Administration of Plan. The Plan shall be administered by the Committee. The express grant in the Plan of any specific power to the Committee shall not be construed as limiting any power or authority of the Committee. Any decision made or action taken by the Committee to administer the Plan shall be final and conclusive. No member of the Committee shall be liable for any act done in good faith with respect to this Plan or any Agreement or Option. The Company shall bear all expenses of Plan administration. In addition to all other authority vested with the Committee under the Plan, the Committee shall have complete authority to:

(a) Interpret all provisions of this Plan;

(b) Prescribe the form of any Agreement and notice and manner for executing or giving the same;

(c) Make amendments to all Agreements;

(d) Adopt, amend, and rescind rules for Plan administration; and

(e) Make all determinations it deems advisable for the administration of this Plan.

3.2 Authority to Grant Options. The Committee shall have authority to grant Options upon such terms the Committee deems appropriate and that are not inconsistent with the provisions of this Plan. Such terms may include conditions on the exercise of all or any part of an Option.

3.3 Persons Subject to Section 16(b). Notwithstanding anything in the Plan to the contrary, the Committee, in its absolute discretion, may bifurcate the Plan so as to restrict, limit or condition the use of any provision of the Plan to participants who are officers and directors subject to Section 16(b) of the Exchange Act, without so restricting, limiting or conditioning the Plan with respect to other Participants.

ARTICLE IV. ELIGIBILITY AND LIMITATIONS ON GRANTS

4.1 Participation. The Committee may from time to time designate directors, employees, consultants and advisors to whom Options are to be granted and who are eligible to become Participants. Such designation shall specify the number of shares of Stock, if any, subject to each Option. All Options granted under this Plan shall be evidenced by Agreements which shall be subject to applicable provisions of this Plan or such other provisions as the Committee may adopt that are not inconsistent with the Plan.

4.2 Grant of Options. An Option shall be deemed to be granted to a Participant at the time that the Committee designates in a writing that is adopted by the Committee as the grant of an Option, and that makes reference to the name of the Participant and the number of shares of Stock that are subject to the Option. Accordingly, an Option may be deemed to be granted prior to the approval of this Plan by the shareholders of the Company and prior to the time that an Agreement is executed by the Participant and the Company.

4.3 Limitations on Grants. A person who is not an employee of the Company or an Affiliate is not eligible to receive an Incentive Option.

4.4 Limitation on Incentive Options. To the extent that the aggregate Fair Market Value of Stock with respect to which Incentive Options are exercisable for the first time by a Participant during any calendar year (under all incentive stock option plans of the Company and its Affiliates) exceeds $100,000 (or the amount specified in Section 422 of the Code), determined as of the date an Incentive Option is granted, such Options shall be treated as Nonqualified Options. This provision shall be applied by taking Incentive Options into account in the order in which they were granted.

4.5 Stock Appreciation Rights. The Committee may grant an SAR to a Participant either in tandem with the grant of an Incentive Option or a Nonqualified Option, or as an award that is separate from any other Option granted under the Plan. Subject to the terms of an Agreement, a Participant who receives an SAR shall have the right, upon written request, to surrender any exercisable Incentive Option or Nonqualified Option, or portion thereof, in exchange for cash, whole shares of Stock, or a combination thereof, as determined by the Committee, with a value equal to the excess of the Fair Market Value, as of the date of such request, of one share of Stock over the Fair Market Value of the Stock on the Date of Grant (or such other value specified in the Agreement), multiplied by the number of shares covered by the SAR or portion thereof to be surrendered. In the case of any SAR which is granted in connection with an Incentive Stock Option, such SAR shall be exercisable only when the Fair Market Value of the Stock exceeds the price specified therefor in the SAR or portion thereof to be surrendered. In the event of the exercise of any SAR granted hereunder, the number of shares reserved for issuance under the Plan shall be reduced only to the extent that shares of Stock are actually issued in connection with the exercise of such SAR. Additional terms and conditions governing any such SARs may from time to time be prescribed by the Committee in its sole discretion.

ARTICLE V. STOCK SUBJECT TO PLAN

5.1 Source of Shares. Upon the exercise of an Incentive Option or Nonqualified Option, the Company shall deliver to the Participant authorized but unissued Stock.

5.2 Maximum Number of Shares. The maximum aggregate number of shares of Stock that may be issued under the Plan pursuant to the exercise of Incentive Options and Nonqualified Options, or with respect to which SARs may be exercised, is 5,000,000, subject to increases and adjustments as provided in this Article V and Article VIII hereof.

5.3 Forfeitures. If any Option granted hereunder expires or terminates for any reason without having been exercised in full, the unpurchased shares subject thereto shall again be available for issuance under this Plan.

ARTICLE VI. EXERCISE OF OPTIONS

6.1 Exercise Price. The exercise price of an Incentive Option shall be not less than 100% of the Fair Market Value of a share of Stock on the date the Incentive Option is granted. In the case of a Ten Percent Shareholder, however, the exercise price of an Incentive Option shall not be less than 110% of the Fair Market Value of a share of Stock on the date the Incentive Option is granted. The exercise price of a Nonqualified Option or an SAR shall be the price determined by the Committee at the time the Nonqualified Option or SAR is granted. If the exercise price of an Option is changed after the date it is granted, such change shall be deemed to be a termination of the existing Option and the issuance of a new Option.

6.2 Right to Exercise. An Option shall be exercisable on the date of grant or any other date established by the Committee or provided for in the agreement; provided, however, that Options granted to officers or directors subject to Section 16 of the Exchange Act must not be exercisable until at least six months after the Option is granted. A Participant must exercise an Incentive Option while he is an employee of the Company or an Affiliate or within the periods that may be specified in the Agreement after termination of employment, death, disability, or a "change of control" (as defined in any change of control agreement to which the Company and any such Participant are parties).

6.3 Maximum Exercise Period. The maximum period in which an Option may be exercised shall be determined by the Committee on the date of grant except that no Incentive Option shall be exercisable after the expiration of 10 years (five years in the case of Incentive Options granted to a Ten Percent Shareholder) from the date it was granted. The terms of any Option may provide that it is exercisable for a shorter period. All Incentive Options shall terminate on the date that the Participant's employment with the Company terminates, except as otherwise provided in the Agreement with respect to termination of employment, death, disability or a "change of control" (as defined in any change of control agreement to which the Company and any such Participant are parties).

6.4 Transferability. Any Option granted under this Plan shall not be transferable except by will or by the laws of descent and distribution, and shall be exercisable during the lifetime of the Participant only by the Participant; provided, however, that any Nonqualified Option granted under this Plan may be transferable to the extent provided in an Agreement. No right or interest of a Participant in any Option shall be liable for, or subject to, any lien, obligation or liability of such Participant.

6.5 Employee Status. The Committee shall determine the extent to which a leave of absence for military or government service, illness, temporary disability, or other reasons shall be treated as a termination or interruption of employment for purposes of determining questions of forfeiture and exercise of an Option after termination of employment; provided, however, that if the period treated as employment with respect to an Incentive Plan exceeds 90 days, such Option shall be deemed a Nonqualified Option.

ARTICLE VII. METHOD OF EXERCISE

7.1 Exercise. An Option granted hereunder shall be deemed to have been exercised on the Date of Exercise. Subject to the provisions of Articles VI, VIII and IX, an Option may be exercised in whole or in part at such times and in compliance with such requirements as the Committee shall determine.

7.2 Payment. Unless otherwise provided by the Agreement, payment of the Option price shall be made in cash or to the extent approved by the Committee, Stock that was acquired prior to the exercise of the Option, other consideration acceptable to the Committee, or a combination thereof.

7.3 Federal Withholding Tax Requirements. Upon exercise of a Nonqualified Option or an SAR by a Participant who is an employee of the Company or an Affiliate, the Participant shall, upon notification of the amount due and prior to or concurrently with the delivery of the certificates representing the shares, pay to the Company amounts necessary to satisfy applicable federal, state and local withholding tax requirements or shall otherwise make arrangements satisfactory to the Company for such requirements. Such withholding requirements shall not apply to the exercise of an Incentive Option, or to a disqualifying disposition of Stock that is acquired with an Incentive Option, unless the Committee gives the Participant notice that withholding described in this Section is required.

7.4 Shareholder Rights. No Participant shall have any rights as a stockholder with respect to shares subject to his Option prior to the Date of Exercise of such Option. No Participant shall acquire rights as a stockholder through the grant or exercise of an SAR, except to the extent which the Committee, in its sole discretion, issues Stock to the Participant as payment upon the exercise of the SAR.

7.5 Issuance and Delivery of Shares. Shares of Stock issued pursuant to the exercise of Options hereunder shall be delivered to Participants by the Company as soon as administratively feasible after a Participant exercises an Option hereunder and executes any applicable shareholder agreement or agreement described in Section 9.2 that the Company requires at the time of exercise.

ARTICLE VIII. ADJUSTMENT UPON CORPORATE CHANGES

8.1 Adjustments to Shares. The maximum number of shares of stock with respect to which Options hereunder may be granted and which are the subject of outstanding Options shall be adjusted as the Committee determines (in its sole discretion) to be appropriate, in the event that:

(a) the Company or an Affiliate effects one or more stock dividends, stock splits, reverse stock splits, subdivisions, consolidations, capitalization issue, rights issue or other similar events;

(b) the Company or an Affiliate engages in a transaction to which section 424 of the Code applies; or

(c) there occurs any other event which in the judgment of the Committee necessitates such action;

provided, however, that if an event described in paragraph (a) or (b) occurs, the Committee shall make adjustments to the limits on Options specified in Section 4.3 that are proportionate to the modifications of the Stock that are on account of such corporate changes. Notwithstanding the foregoing, the Committee may not modify the Plan or the terms of any Options then outstanding or to be granted hereunder to provide for the issuance under the Plan of a different class of stock or kind of securities.

8.2 Substitution of Options on Merger or Acquisition. The Committee may grant Options in substitution for stock awards, stock options, stock appreciation rights or similar awards held by an individual who becomes an employee of the Company or an Affiliate in connection with a transaction to which Section

424(a) of the Code applies. The terms of such substituted Options shall be determined by the Committee in its sole discretion, subject only to the limitations of Article V.

8.3 Effect of Certain Transactions. Upon a merger, consolidation, acquisition of property or stock, separation, reorganization or liquidation of the Company, as a result of which the shareholders of the Company receive cash, stock or other property in exchange for their shares of Stock (but not a public offering of Stock by the Company), and the Company is not the surviving entity, any Option granted hereunder shall terminate, provided that the Participant may have the right immediately prior to any such merger, consolidation, acquisition of property or stock, separation, reorganization or liquidation to exercise his Options in whole or in part, pursuant to the vesting Schedule set forth in the applicable Agreement unless otherwise designated by the Committee or unless the Committee elects to convert all Options hereunder into options to purchase stock of an acquiring corporation. Provided, however, that, notwithstanding the foregoing, a portion of the acceleration of exercisability of Options shall not occur with respect to any holder to the extent that such portion of acceleration would cause the grantee or holder of such Option to be liable for the payment of taxes pursuant to Section 4999 of the Code. If the Committee so elects to convert the Options, the amount and price of such converted options shall be determined by adjusting the amount and price of the Options granted hereunder in the same proportion as used for determining the number of shares of stock of the acquiring corporation the holders of the Stock receive in such merger, consolidation, acquisition of property or stock, separation or reorganization, and the vesting schedule set forth in the Agreement shall continue to apply to the converted options.

8.4 No Adjustment Upon Certain Issuances. The issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, for cash or property, or for labor or services rendered, either upon direct sale or upon the exercise of rights or warrants to subscribe therefor, or upon conversion of shares or obligations of the Company convertible into such shares or other securities, shall not affect, and no adjustment by reason thereof shall be made with respect to, outstanding Options.

8.5 Fractional Shares. Only whole shares of Stock may be acquired through the exercise of an Option. Any amounts tendered in the exercise of an Option remaining after the maximum number of whole shares have been purchased will be returned to the Participant.

ARTICLE IX. COMPLIANCE WITH LAW AND APPROVAL OF REGULATORY BODIES

9.1 General. No option shall be exercisable, no Stock shall be issued, no certificates for shares of Stock shall be delivered, and no payment shall be made under this Plan except in compliance with all federal or state laws and regulations (including, without limitation, withholding tax requirements), federal and state securities laws and regulations and the rules of all securities exchanges or self-regulatory organizations on which the Company's shares may be listed. The Company shall have the right to rely on an opinion of its counsel as to such compliance. Any certificate issued to evidence shares of Stock for which an Option is exercised may bear such legends and statements as the Committee upon advice of counsel may deem advisable to assure compliance with federal or state laws and regulations. No Options shall be exercisable, no Stock shall be issued, no certificate for shares shall be delivered and no payment shall be made under this Plan until the Company has obtained such consent or approval as the Committee may deem advisable from any regulatory bodies having jurisdiction over such matters.

9.2 Representations by Participants. As a condition to the exercise of an Option, the Company may require a Participant to represent and warrant the time of any such exercise that the shares are being purchased only for investment and without any present intention to sell or distribute such shares, if, in the opinion of counsel for the Company, such representation is required by any relevant provision of the laws referred to in Section 9.1. At the option of the Company, a stop transfer order against any shares of stock may be placed on the official stock books and records of the Company, and a legend indicating that the stock may not be pledged, sold or otherwise transferred unless an opinion of counsel was provided (concurred in by counsel for the Company) and stating that such transfer is not in violation of any applicable law or regulation may be stamped on the stock certificate in order to assure exemption from registration. The Committee may also require such other action or agreement by the Participants as may from time to time be necessary to comply with federal or state securities laws. This provision shall not obligate the Company or any Affiliate to undertake registration of Options or stock hereunder.

ARTICLE X. GENERAL PROVISIONS

10.1 Effect on Employment. Neither the adoption of this Plan, its operation, nor any documents describing or referring to this Plan (or any part thereof) shall confer upon any employee any right to continue in the employ of the Company or an Affiliate or in any way affect any right and power of the Company or an Affiliate to terminate the employment of any employee at any time with or without assigning a reason therefor.

10.2 Unfunded Plan. The Plan, insofar as it provides for grants, shall be unfunded, and the Company shall not be required to segregate any assets that may at any time be represented by grants under this Plan. Any liability of the Company to any person with respect to any grant under this Plan shall be based solely upon contractual obligations that may be created hereunder. No such obligation of the Company shall be deemed to be secured by any pledge of, or other encumbrance on, any property of the Company.

10.3 Rules of Construction. Headings are given to the articles and sections of this Plan solely as a convenience to facilitate reference. The masculine gender when used herein refers to both masculine and feminine. The reference to any statute, regulation or other provision of law shall be construed to refer to any amendment to or successor of such provision of law.

10.4 Governing Law. The laws of the State of Tennessee shall apply to all matters arising under this Plan, to the extent that federal law does not apply.

10.5 Compliance With Section 16 of the Exchange Act. With respect to persons subject to Section 16 of the Exchange Act, transactions under this Plan are intended to comply with all applicable conditions of Rule 16b-3 or its successors under the Exchange Act. To the extent any provision of this Plan or action by Committee fails to so comply, it shall be deemed null and void to the extent permitted by law and deemed advisable by the Committee.

10.6 Amendment. The Board may amend or terminate this Plan at any time; provided, however, an amendment that would have a material adverse effect on the rights of a Participant under an outstanding Option is not valid with respect to such Option without the Participant's consent, except as necessary for Incentive Options to maintain qualification under the Code; and provided, further, that the shareholders of the Company must approve, in general meeting prior to the effective date of adoption, any amendment that:

(a) changes the number of shares in the aggregate which may be issued pursuant to Options granted under the Plan or the maximum number of shares with respect to which any individual may receive Options in any calendar year, except pursuant to Article VIII;

(b) changes the Participants (or class or Participants) eligible to receive Options under the Plan;

(c) increases the period during which Options may be granted or exercised;

(d) reduces the exercise price of outstanding Incentive Options or reduces the price at which future Incentive Options may be granted;

(e) alters the basis for determining a Participant's entitlement to and the terms of Stock to be provided and for the adjustment thereof upon the occurrence of any event specified in Section 8.1 hereof; or

(f) alters the Plan so that Options intended to qualify as Incentive Options under the Code would not do so, or changes the provisions of this Section 10.6.

Notwithstanding the foregoing, shareholder approval shall not be required for minor amendments to the Plan pursuant to Section 3.1 hereof intended to benefit the administration of the Plan, for amendments necessitated by changes in legislation governing the Plan, or for amendments that the Committee deems necessary to obtain or maintain favorable tax, exchange control or regulatory treatment of the Plan for future Participants or for Participating Companies (as defined in Schedule A hereto).

10.7 Duration of Incentive Options. No Incentive Option may be granted under this Plan more than 10 years after the earlier of the date that the Plan is adopted by the Board or the date that the Plan is approved by shareholders as provided in Section 10.8. Incentive Options granted before such date shall remain valid in accordance with their terms.

10.8 Effective Date of Plan. This Plan shall be effective on the date of its adoption by the Board, and Options may be granted hereunder at any time after such adoption; provided, however, that the effectiveness of this Plan will be retroactively revoked if it is not approved by the shareholders of the Company in a manner that satisfies Treasury Regulation Section 1.422-5 within 12 months of the date that the Board took action to adopt the Plan. All Options granted under the Plan will become void immediately following the 12-month anniversary of the date the Board adopted the Plan if such approval by shareholders has not yet been obtained.

EXHIBIT 10.20

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

THIS INDEMNIFICATION AND HOLD HARMLESS AGREEMENT (this "Agreement") is made as of March _____, 2007, by and between Cumberland Pharmaceuticals Inc., a Tennessee corporation (the "Company"), and _____ ("Indemnitee").

WHEREAS, in order to incentivize Indemnitee to serve, or to continue to serve, as a director of the Company (in any such case, the "Service"), the Company has agreed to indemnify Indemnitee as set forth below;

NOW, THEREFORE, in consideration of the foregoing and certain other good and valuable consideration, the receipt of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. Indemnification. Effective as of the original date of Indemnitee's beginning Service, the Company shall indemnify Indemnitee and hold Indemnitee harmless if Indemnitee is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigative, and in any appeal in such action, suit or proceeding, and in any inquiry or investigation that could lead to such an action, suit or proceeding, against any and all liabilities, obligations (whether known or unknown, or due or to become due or otherwise), judgments, fines, fees, penalties, interest obligations, deficiencies, other actual losses (for example, verifiable lost income related to time spent defending such claim or action) and reasonable expenses (including, without limitation amounts paid in settlement, interest, court costs, costs of investigators, reasonable fees and expenses of attorneys, accountants, financial advisors and other experts) incurred or suffered by Indemnitee in connection with such action, suit or proceeding arising out of or pertaining to any actual or alleged action or omission which arises out of or relates to the fact that Indemnitee is or was serving as a director or officer of the Company or at the request of the Company as a director, officer, trustee, employee, or agent of or in any other capacity for another corporation, partnership, joint venture, trust or other enterprise, to the fullest extent permitted by then applicable law and the Company's Charter and Bylaws, each as amended (but in the case of any such amendment, only to the extent that such amendment permits the Company to provide the same or broader indemnification rights than permitted prior thereto) (each such liability, obligation, judgment, fine, fee, penalty, interest obligation, deficiency, other actual losses, and reasonable expenses being referred to herein as a "Loss," and collectively, as "Losses").

2. Payment. Any Loss incurred by Indemnitee shall be paid in full by the Company on a regular, monthly basis. This indemnity applies even if Indemnitee caused the Loss through his or her negligence, strict liability or other fault; however, if any Losses for which Indemnitee received payment from the Company under this Agreement are determined by final judicial decision from which there is no further right to appeal, to have been caused by Indemnitee under circumstances with respect to which indemnification is not permitted by applicable law or this Agreement (any such Loss, a "Non-Indemnification Loss"), Indemnitee shall repay to the Company such Losses paid on behalf of Indemnitee hereunder.

3. Term. The indemnification rights provided hereby to Indemnitee shall continue even though he may have ceased to be a director, officer, trustee, employee, or agent of or in any other capacity for the applicable entity.

4. Notice and Coverage Prior to Notice. Indemnitee shall give notice (the "Notice") to the Company within five days after actual receipt of service or summons related to any action begun in respect of which indemnity may be sought hereunder or actual notice of assertion of a claim with respect to which he seeks indemnification; provided, however, that Indemnitee's failure to give such notice to the Company within such time shall not relieve the Company from any of its obligations under Section 1 of this Agreement except to the extent the Company has been materially prejudiced by Indemnitee's failure to give such notice within such time period. Upon receipt of the Notice, the Company shall assume the defense of such action, whereupon Indemnitee shall not be liable for any reasonable fees or expenses of counsel for Indemnitee or any other Losses incurred thereafter with respect to the matters set forth in the Notice and the Company shall reimburse Indemnitee for all reasonable expenses related to the action or claim incurred by Indemnitee prior to Indemnitee's giving of the Notice.

5. Non-Exclusivity. The rights of Indemnitee hereunder shall be in addition to any rights that Indemnitee may have under the Company's governance documents (e.g. Charter, Bylaws, etc.) (the "Governance Documents"), applicable law or otherwise and shall survive any termination, resignation, death or other dismissal of Indemnitee. No amendment or alteration of the Company's Governance Documents shall adversely affect Indemnitee's rights under the Governance Documents or this Agreement.

6. Insurance. To the extent the Company maintains, at its expense, an insurance policy or policies providing liability insurance with respect to the acts or omissions covered by this Agreement, Indemnitee shall be covered by such policy or policies, in accordance with its or their terms, to the maximum extent of the coverage available thereunder.

7. Payment. The Company shall not be liable to Indemnitee under this Agreement to make any payment in connection with any claim against Indemnitee to the extent Indemnitee has otherwise actually received, and is entitled to retain, payment (under any insurance policy or otherwise) of the amounts otherwise indemnifiable hereunder.

8. Enforceability. The indemnification contained in this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors, assigns (including any direct or indirect successor by purchase, merger, consolidation, liquidation or otherwise to all or substantially all of the business and/or assets of the Company), spouses, heirs and personal and legal representatives.

9. Binding Obligation. If this Agreement or any portion hereof shall be found to be invalid on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless Indemnitee, as to costs, charges and expenses (including court costs and attorneys' fees), judgments, fines, penalties and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigative, and in any appeal in such action, suit or proceeding, and in any inquiry or investigation that could lead to such an action, suit or proceeding, to the full extent permitted by any applicable portion of this Agreement that shall not have been invalidated and to the fullest extent permitted by applicable law.

10. Governing Law; Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Tennessee, without regard to the principles of conflicts of laws. The parties agree that any litigation directly or indirectly relating to this Agreement must be brought before and determined by a court of competent jurisdiction within Davidson County, Tennessee, and the parties hereby agree to waive any rights to object to, and hereby agree to submit to, the jurisdiction of such courts.

11. Right to Sue; Attorneys' Fees and Costs. If a claim by Indemnitee for payment of Losses hereunder is not paid in full by the Company within forty-five (45) days after a written claim has been delivered to the Company, Indemnitee may at any time thereafter bring suit against the Company to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, Indemnitee shall be entitled to be paid also the reasonable costs and expenses of prosecuting such suit. In any suit brought by Indemnitee to enforce any right hereunder (including, without limitation, the right to indemnification), the burden of proving that Indemnitee is not entitled to such right shall be borne by the Company. If a claim by the Company for repayment of any Non-Indemnification Losses previously paid on behalf of Indemnitee hereunder is not repaid in full to the Company within forty-five (45) days after such ruling has been delivered to Indemnitee, the Company may at any time thereafter bring suit against Indemnitee to recover the unpaid amount.

12. Amendment. This Agreement may be amended, modified or supplemented only by a written instrument executed by each of the parties hereto.

13. Facsimile and Counterpart Signature. This Agreement may be executed by facsimile signature and in one or more counterparts, each of which shall for all purposes be deemed an original and all of which shall constitute the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

COMPANY

CUMBERLAND PHARMACEUTICALS INC.

By: _____
Name: _____
Title: _____

INDEMNITEE

_____
[Insert Name]

EXHIBIT 10.21

*Certain portions of this exhibit have been omitted pursuant to a request for confidential treatment which has been filed separately with the SEC.

2525 WEST END

OFFICE LEASE AGREEMENT

BY AND BETWEEN

NASHVILLE HINES DEVELOPMENT, LLC
AS LANDLORD

AND

CUMBERLAND PHARMACEUTICALS INC.,
AS TENANT

BASIC LEASE INFORMATION

Lease Date:	Sept 10, 2005
Tenant:	Cumberland Pharmaceuticals Inc.
Address of Tenant:	2525 West End Avenue, Suite 950 Nashville, Tennessee 37203
Primary Contact:	Jean W. Marstiller
Landlord:	Nashville Hines Development, LLC
Address of Landlord:	Five Greenway Plaza Houston, Texas 77046 Attention: F. Russ Nicholson
Leased Premises:	Approximately 6,341 square feet of RSF Located on Floor 9
Commencement Date:	January 1, 2006
Lease Term:	Five (5) years
Base Rental:	Per Exhibit G. Initial monthly Base Rental is [***].
Initial Allowance:	[***] per square foot of RSF

The foregoing Basic Lease Information is hereby incorporated into and made a part of the Lease identified above. In the event of any conflict between any Basic Lease Information and the Lease, the Lease shall control.

TABLE OF CONTENTS

	PAGE
ARTICLE I	1
1.1. Leased Premises	1
1.2. Term	3
1.3. Use	3
1.4. Landlord’s Relocation Right	4
1.5. Surrender of Premises	5
1.6. Survival	5
ARTICLE II	6
2.1. Rental Payments	6
2.2. Base Rental	6
2.3. Additional Rental	7
2.4. Operating Expenses	8
2.5. Security Deposit	11
2.6. Landlord’s Lien	11
ARTICLE III	11
3.1. Services	11
3.2. Keys and Locks	13
3.3. Graphics, Building Directory and Name	13
3.4. Parking	14
ARTICLE IV	15
4.1. Care of Leased Premises	15
4.2. Entry for Repairs and Inspection	15
4.3. Nuisance	15
4.4. Laws and Regulations; Encumbrances; Rules of Building	15
4.5. Legal Use and Violations of Insurance Coverage	15
4.6. Hazardous Substances	16
4.7. Tenant Taxes	16
ARTICLE V	16
5.1. Initial Allowance; Leasehold Improvements	16
5.2. Repairs by Landlord	17
5.3. Repairs by Tenant	17
ARTICLE VI	18
6.1. Condemnation	18
6.2. Damages from Certain Causes	19
6.3. Casualty Clause	19
6.4. Casualty Insurance	20
6.5. Liability Insurance	21
6.6. Hold Harmless	21
6.7. Waiver of Subrogation Rights	21

PAGE

ARTICLE VII 22
7.1. Default and Remedies 22
7.2. Insolvency or Bankruptcy 26
7.3. Late Payments 26
7.4. Attorney's Fees 26
7.5. Waiver of Homestead 26
7.6. No Waiver of Rights 27
7.7. Holding Over 27
7.8. Subordination 27
7.9. Estoppel Certificate 29

ARTICLE VIII 30
8.1. Sublease or Assignment by Tenant 30
8.2. Assignment by Landlord 32
8.3. Peaceful Enjoyment 32
8.4. Limitation of Landlord's Personal Liability 32
8.5. Force Majeure 33

ARTICLE IX 33
9.1. Notices 33
9.2. Miscellaneous 34
9.3. Option to Renew 36

EXHIBIT A SITE PLAN AND LOCATION OF THE BUILDING

EXHIBIT A-1 DESCRIPTION OF LAND

EXHIBIT B FLOOR PLAN OF LEASED PREMISES

EXHIBIT C AIR CONDITIONING AND HEATING SERVICES

EXHIBIT D BUILDING RULES AND REGULATIONS

EXHIBIT F [INTENTIONALLY DELETED]

EXHIBIT G BASE RENTAL

EXHIBIT H JANITORIAL SPECIFICATIONS

2525 WEST END
OFFICE LEASE AGREEMENT

THIS LEASE AGREEMENT ***("Lease")*** *is* made and entered into on this 10th day of Sept , 2005 (the ***"Date of Lease")***, by and between NASHVILLE HINES DEVELOPMENT, LLC, a limited partnership organized under the laws of the State of Delaware, whose address for purposes hereof is Five Greenway Plaza, Houston, Texas 77046 Attention: F. Russ Nicholson (hereinafter called ***"Landlord")***, and CUMBERLAND PHARMACEUTICALS INC., a Tennessee corporation, whose address for purposes hereof is 2525 West End Avenue, Suite 950, Nashville, TN 37203, Attention: Jean W. Marstiller, (the address of the Leased Premises within the Building) (hereinafter called ***"Tenant")***.

ARTICLE I.

1.1. Leased Premises.

Landlord has constructed or intends to construct certain improvements on a certain tract or parcel of land located on West End Avenue in Nashville, Davidson County, Tennessee, and more particularly described in Exhibit A-1, attached hereto and incorporated herein by this reference (the *"**Land**")*. The certain improvements including an office building with a retail area included within it currently known as 2525 West End Avenue (the ***"Building")*** and the Parking Facility (as defined herein). The Building, the Parking Facility, and the Land together with all common areas not specifically made a part of the Building or the Parking Facility, and all other improvements from time to time located thereon or related thereto are hereinafter collectively referred to as the *"**Project**."* Subject to and upon the terms hereinafter set forth, and in consideration of the sum of Ten Dollars ($10.00), the premises, and the mutual covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, Landlord does hereby lease and demise to Tenant and Tenant does hereby lease and take from Landlord (subject to all matters of record in Davidson County, Tennessee, that affect the Project) those certain premises (hereinafter sometimes called the ***"Leased Premises"***) located in the Building as shown on Exhibit A, attached hereto and incorporated herein, such Leased Premises being more particularly described as follows:

Approximately 6,341 RSF on the ninth (9*th*) Floor of the Building and as generally described or depicted on Exhibit B, attached hereto and incorporated herein.

Tenant accepts the Leased Premises "AS-IS." Landlord has not undertaken to perform any alteration or improvement to the Lease Premises.

The terms ***"Rentable Square Feet"*** and ***"RSF",*** as used herein, shall refer to (i) in the case of a floor leased to a single tenant, the total square footage of all floor area measured from the inside surface of the exterior glass line of the Building to the inside surface of the opposite exterior glass line, excluding only Service Areas (defined below) and General Common Areas (defined below), plus an allocation of the square footage of the General Common Areas, and (ii) in the case of a floor leased to more than one tenant, the total square footage of all floor areas within the inside surface of the exterior glass line of the Building enclosing the Leased Premises and measured to the mid-point of demising walls (i.e., walls separating the Leased Premises from areas leased to or held for lease to other tenants, from On-Floor Common Areas (defined

below), and from General Common Areas), excluding only Service Areas, plus an allocation of the square footage of the General Common Areas and an allocation of the square footage of the On-Floor Common Areas. No deductions from Rentable Square Feet shall be made for columns or projections.

"***Service Areas***" shall mean the areas within (and measured from the exterior surface of the interior walls enclosing, or from the inside surface of the exterior glass or wall enclosing, as the case may be) Building stairs, elevator shafts, flues, vents, stacks, pipe shafts and vertical ducts. Areas for the specific use of Tenant or other tenants of the Building or installed at the request of Tenant such as special stairs or elevators are not included within the definition of Service Areas.

"General Common Areas" shall mean those areas within (and measured from the midpoint of the walls or from the inside surface of the exterior glass enclosing) the Building's elevator machine rooms, main mechanical rooms, electrical rooms, and public lobbies, engineering and cleaning staging areas, and other areas not leased or held for lease within the Building but which are reasonably necessary for the proper utilization of the Building or to provide customary services to the Building, plus an allocation of any On-Floor Common Areas to the General Common Areas on the floor for floors that contain General Common Areas. The allocation of the square footage of the General Common Areas shall be equal to the total square footage of the General Common Areas multiplied by a fraction, the numerator of which is the Rentable Square Feet of the Leased Premises (excluding the total square footage of the General Common Areas) and the denominator of which is the total of all Rentable Square Feet contained in the Building (excluding the allocation of the General Common Areas).

"On-Floor Common Areas" shall mean the total square footage of all areas within (and measured from the midpoint of the walls enclosing) public corridors, elevator foyers, rest rooms, mechanical rooms, janitor closets, telephone and equipment rooms, and other similar facilities for the use of all tenants on the floor on which the Leased Premises are located. The allocation of the square footage of the On-Floor Common Areas shall be equal to the total On-Floor Common Areas on said floor multiplied by a fraction, the numerator of which is the Rentable Square Feet of the portion of the Leased Premises (excluding the allocations of General Common Areas and On-Floor Common Areas) located on said floor and the denominator of which is the total of all Rentable Square Feet on said floor (excluding the allocations of General Common Areas and On-Floor Common Areas on the floor).

"***Parking Facility***" shall mean the parking structure that is constructed or intended to be constructed and located adjacent to the Building (the "***Adjacent Parking Facility"),*** the surface parking area adjacent to the Building (the ***"Surface Parking Area"),*** and the existing garage located across Kensington Place (the ***"Kensington Parking Facility") as*** shown and labeled on Exhibit A (which shall only be used by Tenant as parking for Tenant's employees and the employees of other office tenants, not customer parking), together with any connecting walkways, covered walkways, or other means of access to said building or buildings, the grounds related thereto and any additional improvements at any time related thereto. The Parking Facility may be operated by a parking contractor designated from time to time by Landlord.

(a) This Lease does not grant Tenant any rights to light, air or view over or about the Land or any other real property. Landlord specifically excepts and reserves to itself all

rights to and the use of any roofs, the exterior portions of the Leased Premises, the Land, improvements and air and other rights below the improved floor level of the Leased Premises, the improvements and air and other rights above the improved ceiling of Leased Premises, the improvements and air and other rights located outside the demising walls of the Leased Premises and such areas within the Leased Premises as are required for installation of utility lines and other installations required to serve the Building or any occupants of the Building, and Landlord specifically reserves to itself the right to use, maintain and repair same, and no rights with respect thereto are conferred upon Tenant, unless otherwise specifically provided herein.

(b) Tenant has been in possession of the Leased Premises prior to the Commencement Date pursuant to a sublease agreement, is aware of the condition of the Leased Premises and represents and acknowledges that the Leased Premises is, as of the Commencement Date, in good order and satisfactory condition. Tenant acknowledges that no promise by or on behalf of Landlord, any of Landlord's beneficiaries, the managing agent of the Building, the leasing agent of the Building or any of their respective agents, partners or employees to alter, remodel, improve, repair, decorate or clean the Leased Premises has been made to or relied upon by Tenant, and that no representation respecting the condition of the Leased Premises or the Building by or on behalf of Landlord, any of Landlord's beneficiaries, the managing agent of the Building, the leasing agent of the Building or any of their respective agents, partners or employees has been made to or relied upon by Tenant, except to the extent expressly set forth in this Lease.

1.2. Term.

(a) Subject to and upon the terms and conditions set forth herein, or in any exhibit hereto, the term of this Lease shall commence on the Commencement Date (defined below) and shall expire at 6:00 P.M on December 31, 2010.

(b) As used herein, ***"Commencement Date"*** means January 1, 2006.

1.3. Use. The Leased Premises are to be used and occupied by Tenant (and its permitted assignees and subtenants) solely for the purpose of office space and for no other purpose. The Leased Premises shall not be used for any purpose which would create unreasonable elevator loads or otherwise unreasonably interfere with Building operations, and Tenant shall not engage in any activity which is not in keeping with the first class standards of the Building. In no event shall the Leased Premises be used for the purpose of installing, marketing, operating, or providing electronic telecommunications, information or data processing, storage or transmissions, or other electronic office services or equipment for tenants or other occupants of the Building on a shared-usage basis through a central switch or a local area network.

1.4. Landlord's Relocation Right. Upon ninety (90) days' written notice to Tenant *("**Landlord's Relocation Notice**")*, Landlord may substitute for the Leased Premises other premises in the Building (the *"**New Premises**")*, in which event the New Premises shall be deemed to be the Leased Premises for all purposes hereunder, provided:

(a) The New Premises shall be comparable to the Leased Premises in size, configuration and market value;

(b) Landlord and Tenant shall cooperate in good faith in making any changes to the Tenant Program, Space Plan, Preliminary Working Drawings, and/or Working Drawings (as defined herein and as may be applicable depending upon which, if any, of the foregoing has then been prepared at the time of Landlord's election to relocate the Leased Premises) so as to conform the leasehold improvements in the New Premises as closely as practicable to those planned for the Leased Premises;

(c) To the extent Tenant shall have incurred any expense in the preparation of the Tenant Program, Space Plan, Preliminary Working Drawings, Working Drawings and/or leasehold improvements (as defined herein and as may be applicable depending upon which, if any, of the foregoing has then been prepared, purchased or installed at the time of Landlord's election to relocate the Leased Premises), Landlord shall, at Landlord's expense, cause each of such applicable items to be reproduced for the New Premises so that Tenant shall not incur expenses in connection therewith by reason of the exercise by Landlord of the relocation right contained herein. In addition, Landlord shall reimburse Tenant within thirty (30) days after receipt of genuine, third-party invoices marked "paid" for Tenant's moving costs and all costs of reprinting stationery, cards and other printed material bearing tenant's address at the Lease Premises if such address changes due to the relocation (but only the reasonable quantities existing immediately prior to the relocation); and

(d) Upon substitution of the New Premises for the Leased Premises, the Rentable Square Feet of the New Premises shall control for purposes of this Lease, and Tenant Percentage Share (hereinafter defined) and the Base Rental shall be recalculated and adjusted based on the Rentable Square Feet of the New Premises.

Tenant shall not be entitled to any compensation for any inconvenience or interference with Tenant's business, nor to any abatement or reduction in rent or other sums payable by Tenant hereunder, nor shall Tenant's obligations under this Lease be otherwise affected, as a result of the substitution of the New Premises, except as otherwise expressly provided in this Section. Tenant agrees to cooperate with Landlord so as to facilitate the prompt completion by Landlord of its obligations under this **Section.** Without limiting the generality of the preceding sentence, Tenant agrees to promptly provide to Landlord such approvals, instructions, plans, specifications and other information as may be reasonably requested by Landlord in connection with such obligations. At Landlord's request, Tenant shall execute a supplement to this Lease confirming the substitution of the New Premises for the Leased Premises. Within twenty (20) days after receipt of Landlord's Relocation Notice, Tenant shall either accept such relocation or deliver written notice to Landlord terminating this Lease effective no later than the ninetieth (90th) day after Landlord's relocation Notice. Tenant's failure to deliver such termination notice within such twenty (20) day period shall be deemed conclusively Tenant's election to relocate to the New Premises.

1.5. Surrender of Premises.

(a) Upon the termination of this Lease by lapse of time or otherwise or upon the earlier termination of Tenant's right of possession, Tenant shall quit and surrender possession of the Leased Premises to Landlord, broom clean, in the same condition as upon delivery of possession to Tenant hereunder, normal wear and tear excepted. Before surrendering possession of the Leased Premises, Tenant shall, without expense to Landlord, remove all signs, furnishings, equipment (including all communication and other cables),

trade fixtures, merchandise and other personal property installed or placed in the Leased Premises and all debris and rubbish, and Tenant shall repair all damage to the Leased Premises resulting from such removal; provided if Tenant is then in default under this Lease, Tenant shall not remove any such item unless Tenant receives written directions from Landlord authorizing or directing the removal thereof. If Tenant fails to remove any of the signs, furnishings, equipment, trade fixtures, merchandise and other personal property installed or placed in the Leased Premises by the expiration or termination of this Lease, then Landlord may, at its sole option, (i) treat Tenant as a holdover, in which event the provisions of this Lease regarding holding over shall apply, (ii) deem any or all of such items abandoned and the sole property of Landlord, or (iii) remove any and all such items and dispose of same in any manner. Tenant shall pay Landlord on demand any and all expenses incurred by Landlord in the removal of such items, including, without limitation, the cost of repairing any damage to the Leased Premises or the Building caused by such removal and storage charges (if Landlord elects to store such property).

(b) All installations, additions, partitions, hardware, cables, wires, fixtures and improvements, temporary or permanent (including, but not limited to, Tenant's Extra Work), except for Tenant's signs, furnishings, equipment, communication cables, telephone switches, trade fixtures, merchandise and other personal property, in or upon the Leased Premises, whether placed there by Tenant or Landlord, shall, upon the termination of this lease by lapse of time or otherwise or upon the earlier termination of Tenant's right of possession, become Landlord's property and shall remain upon the Leased Premises, all without compensation, allowance or credit to Tenant; provided, however, that if at the time Landlord consents to Tenant's installation of any installations, additions, partitions, hardware, cables, wires, fixtures and improvements or at any time prior to termination of this Lease, Landlord requires removal of the same upon termination, then Tenant, at Tenant's sole cost and expense, upon termination of this Lease by lapse of time or otherwise or upon the earlier termination of Tenant's right of possession, shall promptly remove such designated items placed in or upon the Leased Premises by or on behalf of Tenant and, repair any damage to the Leased Premises or the Building caused by such removal, failing which Landlord may remove the same and repair the Leased Premises or the Building, as the case may be, and Tenant shall pay the cost thereof to Landlord on written demand.

1.6. Survival. Any claim, cause of action, liability or obligation arising under the term of this Lease and under the provisions hereof in favor of a party hereto against or obligating the other party hereto and all of Tenant's indemnification obligations hereunder shall survive the expiration or any earlier termination of this Lease.

ARTICLE II.

2.1. Rental Payments.

(a) Commencing on the Commencement Date and continuing thereafter throughout the full term of this Lease, Tenant hereby agrees to pay the Base Rental (defined below), and Tenant's Forecast Additional Rental (defined below) and Tenant's Additional Rental Adjustment (defined below) in accordance with this Article. The Base Rental and Tenant's Forecast Additional Rental shall be due and payable in equal monthly installments on the first

day of each calendar month during the initial term of this Lease and any extensions or renewals hereof, and Tenant hereby agrees to so pay such rent to Landlord at Landlord's address as provided herein (or such other address as may be designated by Landlord from time to time) monthly in advance.

(b) If the Commencement Date is other than the first day of a calendar month, then the installments of Base Rental and Tenant's Forecast Additional Rental for such month shall be prorated and the installment or installments so prorated shall be paid in advance. Said installments for such prorated month shall be calculated by multiplying the equal monthly installment by a fraction, the numerator of which shall be the number of days of the Lease term occurring during said commencement or expiration month, as the case may be, and the denominator of which shall be thirty (30). If the term of this Lease commences or expires on other than the first day of a calendar year, Tenant's Forecast Additional Rental and Tenant's Additional Rental shall be prorated for such commencement or expiration year, as the case may be, by multiplying Tenant's Forecast Additional Rental and Tenant's Additional Rental by a fraction, the numerator of which shall be the number of whole and partial months of the Lease term during the commencement or expiration year, as the case may be, and the denominator of which shall be twelve (12). In such event the Tenant's Additional Rental Adjustment shall be made as soon as reasonably possible after the termination of this Lease.

(c) For purposes hereof, the term ***"Rental"*** shall mean and collectively refer to the Base Rental, Tenant's Forecast Additional Rental, Tenant's Additional Rental Adjustment and other sums payable by Tenant hereunder. Tenant agrees to pay all Rental at the times and in the manner provided in this Lease, without abatement, demand, notice, set-off, deduction or counterclaim, and all sums payable under this Lease by Tenant shall be deemed to be rent due and owing hereunder. All Rental shall bear interest from the tenth (10^{th}) day after the date due thereof until paid at the lesser of (i) a per annum rate equal to the "prime rate" announced by Chase Manhattan Bank, New York, New York, or its successor, (or if the "prime rate" is discontinued, the rate announced as that being charged to the most credit-worthy commercial borrowers) plus two percent (2%) or (ii) the maximum interest rate per annum allowed by law.

2.2. Base Rental. Throughout the full term of this Lease, Tenant hereby agrees to pay a base annual rental (the ***"Base Rental")*** in accordance with the schedule attached hereto as Exhibit G, as such dollar amount may be adjusted from lease year to lease year pursuant to the terms of this Lease.

2.3. Additional Rental.

(a) Commencing with the calendar year in which the Commencement Date occurs and continuing thereafter for each calendar year during the full term of this Lease, Landlord shall present to Tenant prior to the beginning of said calendar year (or for the calendar year in which the Lease term commences, on the Commencement Date) a statement of Tenant's Forecast Additional Rental. Landlord's failure to deliver such a statement of Tenant's Forecast Additional Rental shall not operate to excuse Tenant from the payment of the monthly installment of Tenant's Forecast Additional Rental due under **Section 2.1(a).** Rather, Tenant shall continue to pay the monthly installment of Tenant's Forecast Additional Rental based on Landlord's most recent calculation thereof until such a statement is delivered to Tenant, with such statement being applied retroactively to the beginning of the calendar year and Tenant

making up any under payments immediately upon its receipt of such statement. Landlord may, from time to time, recalculate Tenant's Forecast Additional Rental in order to more accurately reflect Landlord's good faith estimate of Tenant's Additional Rental, and Tenant shall commence paying the recalculated Tenant's Forecast Additional Rental, in accordance with Section 2.1(a) hereof, immediately after receiving notice thereof.

(b) As used herein, *"**Tenant's Forecast Additional Rental"*** shall mean Landlord's reasonable estimate of Tenant's Additional Rental (defined below) for the coming calendar year (or, in the calendar year in which the lease term commences, for such calendar year).

(c) Landlord shall absorb and be responsible for paying Operating Expenses (defined below) during any calendar year to the extent such Operating Expenses are less than Nine and 17/100 Dollars ($9.17) per square foot of space in the Building leased to rent paying tenants (the ***"Expense Stop")***. As part of Tenant's Additional Rental, Tenant shall be responsible for paying its pro rata share of the Operating Expenses for any calendar year in excess of the Expense Stop. For purposes hereof, ***"Tenant's Additional Rental"*** for any calendar year shall mean Tenant's Percentage Share (defined below) of the Operating Expenses for such calendar year in excess of the Expense Stop. As used herein, ***"Tenant's Percentage Share"*** shall mean a fraction, the numerator of which is the total number of square feet of Rentable Square Feet within the Leased Premises and the denominator of which is the greater of (i) ninety-five percent (95%) of the total square footage of all Rentable Square Feet in the Building (exclusive of any retail space) held for lease, or (ii) the total square footage of all Rentable Square Feet in the Building (exclusive of any retail space) actually leased to rent paying tenants.

(d) Landlord shall use reasonable efforts to provide Tenant, within one hundred twenty (120) days after the end of the calendar year in which the Commencement Date occurs and of each calendar year thereafter during the term of this Lease, with a statement detailing the Operating Expenses for each such calendar year (the ***"Annual Operating Expense Statement")*** and a statement prepared by Landlord comparing Tenant's Forecast Additional Rental with Tenant's Additional Rental. In the event that Tenant's Forecast Additional Rental exceeds Tenant's Additional Rental for said calendar year, Landlord shall pay Tenant (in the form of a credit against rentals next due or, upon expiration of this Lease, in the form of Landlord's check) an amount equal to such excess. In the event that the Tenant's Additional Rental exceeds Tenant's Forecast Additional Rental for said calendar year, Tenant hereby agrees to pay Landlord, within thirty (30) days of receipt of the statement, an amount equal to such difference ***("Tenant's Additional Rental Adjustment")***.

(e) Tenant, at Tenant's sole cost and expense, shall have the right, to be exercised by written notice given to Landlord within sixty (60) days after receipt of the Annual Operating Expense Statement for any calendar year, to audit Landlord's books and records pertaining only to the Operating Expenses for such calendar year, provided such audit must commence within thirty (30) days after Tenant's notice to Landlord and thereafter proceed regularly and continuously to conclusion and, provided, further, that such audit must be conducted by a nationally recognized independent public accounting firm in a manner that does not unreasonably interfere with the conduct of Landlord's business. Notwithstanding the foregoing, Tenant shall not have the right to audit Landlord's books

and records regarding the Operating Expenses for any calendar year if (i) the Annual Operating Expense Statement for such calendar year was prepared by a nationally recognized independent public accounting firm, or (ii) Tenant is in default under the terms of this Lease or any circumstance exists which with the giving of notice, the passage of time, or both, would constituted such a default. Landlord agrees to cooperate in good faith with Tenant in the conduct of any such audit. Tenant (and its agents, employees and accountants) shall hold the results of such audits in strict confidence and not disclose the same to any third party, except as is necessary during any dispute between Landlord and Tenant related thereto or as required by law. A copy of the results of any such audit shall be promptly provided to Landlord, and Landlord may conduct an independent review of the same. If there is any disagreement regarding the results of any such audit, the parties shall select a third party auditor to resolve the dispute. Tenant shall not employ any person or entity to audit Landlord's books and records whose compensation is based, in whole or in part, on a contingency fee or the results of the audit.

2.4. Operating Expenses.

(a) ***"Operating Expenses",*** for each calendar year, shall consist of (i) all Operating Costs (defined below) for the Building, plus (ii) an amount equal to the sum of the total ownership, management, maintenance, repair, replacement and operating costs accruing during each such calendar year for portions of the Project not within the Building that are designated or maintained from time to time as common areas, including, but not limited to, fifty (50%) percent of the cost of maintaining the Kensington Place roadway adjoining the Project and those areas which are for the benefit of the occupants of the Project whether or not so designated or maintained as common areas (net of any contribution received from time to time from the owners of the other portions of the Project for such expenses).

(b) For the purposes of this Lease, "***Operating Costs***" shall mean all expenses, costs and accruals (excluding therefrom, however, specific costs billed to or otherwise incurred for the particular benefit of specific tenants of the Building) of every kind and nature, computed on an accrual basis, incurred or accrued in connection with, or relating to, the ownership, operation, management, maintenance, repair and replacement of the Building during each calendar year, including, but not limited to, the following:

(i) wages and salaries, including taxes, insurance and benefits, of all on and off-site employees engaged in operations, management, maintenance, repair, replacement or access control, as reasonably allocated by Landlord and rent for the Building's management office exclusive of that portion of such office used for leasing;

(ii) cost of all supplies, tools, equipment and materials to the extent used in operations, management, maintenance, repairs or replacements, as reasonably allocated by Landlord;

(iii) cost of all utilities, including, but not limited to, the cost of electricity, the cost of water and the cost of power for heating, lighting, air conditioning and ventilating;

(iv) the cost of trash and garbage removal, cleaning, vermin extermination, snow, ice and debris removal, and other services;

(v) cost related to and fees payable under all maintenance, management and service agreements, including, but not limited to, a management fee contribution equal to three percent (3%) of the gross revenues;

(vi) costs related to those agreements related to access control services, garage operations, window cleaning, elevator maintenance, janitorial service, pest control and landscaping maintenance;

(vii) cost of inspections, repairs, maintenance and replacements (except to the extent covered by proceeds of insurance); provided the cost of capital repairs and replacements shall be amortized over such reasonable period of time as Landlord shall determine and only the portion of such costs allocable to any calendar year (plus interest on the unpaid balance of such costs) may be included in the Operating Costs for such calendar year;

(viii) the cost of legal and accounting services incurred by Landlord relating to management and maintenance of the Building but not including any such expenses related to leasing of space in the Building;

(ix) amortization of the cost (plus interest on the unpaid balance of such costs) of any system, apparatus, device, or equipment which is installed for the principal purpose of (i) reducing Operating Expenses, (ii) promoting safety or (iii) complying with governmental requirements;

(x) the cost of all insurance, including, but not limited to, the cost of casualty, rental loss and liability insurance, and insurance on Landlord's personal property, plus the cost of all deductible and co-insurance payments made by Landlord in connection therewith;

(xi) amounts due under easements, operating agreements, parking operating agreements, declarations, covenants or instruments encumbering the Land;

(xii) reasonable replacement reserves;

(xiii) cost of maintaining, striping, repairing, replacing, repaving and lighting grounds, streets, parking areas, sidewalks, curbs, walkways, landscaping, drainage and lighting facilities; and

(xiv) all taxes, assessments and governmental charges, whether or not directly paid by Landlord, whether federal, state, county or municipal

and whether they be by taxing districts or authorities presently taxing the Building and said common areas or by others subsequently created or otherwise, and any other taxes, assessments and governmental charges attributable to the Building and that portion of the common areas or their operation, excluding, however, taxes and assessments attributable to the personal property of other tenants, federal and state taxes on income, death taxes, franchise taxes, and any taxes imposed or measured on or by the income of Landlord from the operation of the Building or imposed in connection with any change of ownership of the Building; provided, however, that if at any time during the term of this Lease, the present method of taxation or assessment shall be so changed that the whole or any part of the taxes, assessments, levies, impositions or charges now levied, assessed or imposed on real estate and the improvements thereon shall be discontinued and as a substitute therefor, or in lieu of or in addition thereto, taxes, assessments, levies, impositions or charges shall be levied, assessed or imposed, wholly or partially, as a capital levy or otherwise, on the rents received from the Building or the rents reserved herein or any part thereof, then such substitute or additional taxes, assessments, levies, impositions or charges, to the extent so levied, assessed or imposed with respect to the Building, shall be deemed to be included within the Operating Costs. Consultation, legal fees and costs resulting from any challenge of tax assessments as reasonably allocated by Landlord shall also be included in Operating Costs. It is agreed that Tenant will be responsible for ad valorem taxes on its personal property and on the value of the leasehold improvements in the Leased Premises to the extent that the same exceed the Tenant Improvement Allowance (and if the taxing authorities do not separately assess Tenant's leasehold improvements, Landlord may make a reasonable allocation of the ad valorem taxes allocated to the Building to give effect to this sentence). In the case of special taxes and assessments which may be payable in installments, only the amount of each installment accruing during a calendar year shall be included in the Operating Costs for such year.

(c) Notwithstanding any language contained herein to the contrary, Tenant hereby agrees that, during any calendar year in which the entire Building is not provided with Building Standard Services or is not completely occupied, Landlord shall compute all Variable Operating Costs (defined below) for such calendar year as though the entire Building were provided with Building Standard Services and were completely occupied. For purposes of this Lease the term ***"Variable Operating Costs"*** shall mean any operating cost that is variable with the level of occupancy of the Building (e.g. utilities and cleaning services). In the event that Landlord excludes from ***"Operating Costs"*** any specific costs billed to or otherwise incurred for the particular benefit of specific tenants of the Building or to other buildings or projects on the Land, Landlord shall have the right to increase ***"Operating Costs"*** by an amount equal to the cost of providing standard services similar to the services for which such excluded specific costs were billed or incurred. In no event shall Landlord receive from all tenants of the Building more than one hundred percent (100%) of any Operating Costs.

2.5. Security Deposit. [Intentionally deleted.]

2.6. Landlord's Lien. [Intentionally deleted.]

ARTICLE III.

3.1. Services. Landlord shall furnish the following services to Tenant during the term of this Lease (***"Building Standard Services"***):

(a) Hot and cold domestic water to common use rest rooms and toilets, in such amounts as are reasonably determined by Landlord

(b) Subject to curtailment as required by governmental laws, rules or mandatory regulations, central heat and air conditioning in season, at such temperatures and in such amounts as are reasonably determined by Landlord and on such dates and at such times as are more particularly described on Exhibit C attached hereto and incorporated herein.

(c) Electric lighting service for all public areas and special service areas of the Building in such amounts and locations as are reasonably determined by Landlord.

(d) Janitor service in accordance with the Janitorial Specifications attached hereto and incorporated herein as Exhibit H; however, if Tenant's floor coverings or other improvements are other than building standard commercial grade, Tenant shall pay one hundred and fifteen percent (115%) of the actual additional cleaning cost, if any, attributable thereto, and if supplying such additional cleaning service requires active managerial oversight by Landlord, Landlord shall be entitled to collect an administrative fee equal to fifteen percent (15%) of the cost of such service.

(e) Access control for the Building shall be provided to the extent and in the manner reasonably determined by Landlord; provided, however, Landlord shall have no responsibility to prevent, and shall not be liable to Tenant for, any liability or loss to Tenant, its agents, employees and visitors arising out of losses due to theft, burglary, or damage or injury to persons or property caused by persons gaining access to the Leased Premises, and Tenant hereby releases Landlord from all liability for such losses, damages or injury.

(f) Electrical service to floors with plug-in type bus risers sized to provide 8.0 watts per useable square foot of electrical connected load capacity for tenant use above and beyond the base building electrical requirements. Of that, 6.0 watts per useable square foot of electrical connected load capacity will be available in 480/277V panels for tenant use leaving 2.0 watts per useable square foot available in the bus riser for future tenant electrical loads. Of the 6.0 watts per useable square foot, 3.0 watts per useable square foot of electrical connected load capacity will be available in 208/120V panels for tenant use leaving 3.0 watts per useable square foot of capacity in the 480/277V panels for future tenant electrical loads. This capacity is part of the 6.0 watts per useable square foot of power for tenant's use noted above.

Should Tenant's total rated electrical design load exceed the Building Standard rated electrical design load for either low or high voltage electrical consumption, or if Tenant's electrical design requires low voltage or high voltage circuits in excess of Tenant's share of the Base Building Shell Condition circuits, Landlord will (at Tenant's expense) install one (1)

additional high voltage panel and/or one (1) additional low voltage panel with associated transformer, space for which has been provided in the base building electrical closets based on a maximum of two (2) such additional panels per floor for all tenants on the floor (which additional panels and transformers shall be hereinafter referred to as the ***"additional electrical equipment"***). If the additional electrical equipment is installed because Tenant's low or high voltage rated electrical design load exceeds the applicable Building Standard rated electrical design load, then a meter shall also be added (at Tenant's expense) to measure the electricity used through the additional electrical equipment.

The design and installation of any additional electrical equipment (or any related meter) required by Tenant shall be subject to the prior approval of Landlord (which approval shall not be unreasonably withheld). All expenses incurred by Landlord in connection with the review and approval of any additional electrical equipment shall also be reimbursed to Landlord by Tenant. Tenant shall also pay on demand the actual metered cost of electricity consumed through the additional electrical equipment (if applicable), plus any actual accounting expenses incurred by Landlord in connection with the metering thereof.

If any of Tenant's electrical equipment requires conditioned air in excess of Base Building Shell Condition air conditioning, the same shall be installed by Landlord (on Tenant's behalf), and Tenant shall pay all design, installation, metering and operating costs relating thereto.

If Tenant requires that certain areas within Tenant's demised premises must operate in excess of the normal Building Operating Hours (as defined in Exhibit C attached hereto), the electrical service to such areas shall be separately circuited and metered such that Tenant shall be billed the costs associated with electricity consumed during hours other than Building Operating Hours.

(g) All Building Standard fluorescent bulb replacement in all areas and all incandescent bulb replacement in General Common Areas, Service Areas and On-Floor Common Areas.

(h) Non-exclusive multiple cab passenger service to the Leased Premises during Building Operating Hours and at least one (1) cab passenger service to the Leased Premises twenty-four (24) hours per day and non-exclusive freight elevator service during Building Operating Hours (all subject to temporary cessation for ordinary repair and maintenance and during times when life safety systems override normal building operating systems) with such freight elevator service available at other times upon reasonable prior notice and the payment by Tenant to Landlord of any additional expense actually incurred by Landlord in connection therewith.

To the extent the services described in subsection (a), (b), (c), (f) and (h) above require electricity and water supplied by public utilities, Landlord's covenants thereunder shall only impose on Landlord the obligation to use its good faith, reasonable efforts to cause the applicable public utilities to furnish the same. Failure by Landlord to furnish the services described in this Section, or any cessation thereof, shall not render Landlord liable for damages to either person or property, nor be construed as an eviction of Tenant, nor work an abatement of rent, nor relieve Tenant from fulfillment of any covenant or agreement

hereof. In addition to the foregoing, should any of the equipment or machinery, for any cause, fail to operate, or function properly, Tenant shall have no claim for rebate of rent or damages on account of an interruption in service occasioned thereby or resulting therefrom; provided, however, Landlord agrees to use reasonable efforts to repair said equipment or machinery promptly and to restore said services.

3.2. Keys and Locks. Landlord shall install a card reader on the elevator servicing the Leased Premises that restricts after hours access to the Leased Premises. Landlord shall also supply Tenant with two (2) keys for each Building Standard lockset on code required doors entering the Leased Premises from public areas. Additional keys will be furnished by Landlord upon an order signed by Tenant and at Tenant's expense. All such keys shall remain the property of Landlord. No additional locks shall be allowed on any door of the Leased Premises without Landlord's permission, and Tenant shall not make or permit to be made any duplicate keys. Upon termination of this Lease, Tenant shall surrender to Landlord all keys to any locks on doors entering or within the Leased Premises, and give to Landlord the explanation of the combination of all locks for safes, safe cabinets and vault doors, if any, in the Leased Premises.

3.3. Graphics, Building Directory and Name. Landlord shall provide and install all graphics, letters, and numerals at the entrance to the Leased Premises on multi-tenant floors, if any (it being understood that Tenant shall be responsible for all graphics on full floors occupied by Tenant. Landlord shall maintain an electronic directory in such main lobby which shall include such information relating to Tenant. All such letters and numerals shall be in the Building standard graphics (font size to be approved by Landlord). Tenant agrees that Landlord shall not be liable for any inconvenience or damage occurring as a result of any error or omission in any directory or graphics. No signs, numerals, letters or other graphics shall be used or permitted on the exterior of, or may be visible from outside, the Leased Premises, unless approved in writing by Landlord. All on-floor graphics for full-floor tenants shall be removed by Tenant upon lease expiration.

3.4. Parking.

(a) Subject to the other provisions hereof, Landlord hereby agrees to make available, or to cause the lessee or operator of the Parking Facility (the ***"Garage Operator"***), to make available to Tenant (so long as Tenant shall continue to lease at least 6,341 RSF) up to twenty-five (25) permits to park in the Kensington Parking Facility upon the terms and conditions set forth below (the ***"Parking Permits"***). Landlord shall also provide (or cause the Garage Operator to provide) visitor parking in a portion of the Parking Facility on a "first come-first served" pay basis at such rates and upon such conditions as Landlord or the Garage Operator, as applicable, shall establish from time to time.

(b) Tenant shall notify Landlord within thirty (30) days following the execution of this Lease of the number of Parking Permits that it intends to utilize. Neither Landlord nor the Garage Operator shall be obligated to hold any Parking Permits that Tenant does not elect to utilize.

(c) Tenant shall pay as rental for the Parking Permits at the rate charged from time to time by Landlord (or the Garage Operator), in its sole and absolute discretion,

plus any applicable taxes thereon; provided the rate charged for the Parking Permits shall be prorated for any partial months during the term of this Lease. The current charge to Tenant for each Parking Permit is $40.00 per month, plus any applicable taxes thereon. In the event the rate charged for the Parking Permits is increased, Tenant may elect to relinquish all or a portion of the Parking Permits by giving written notice to Landlord (or its designee) within thirty (30) days after receiving notice of such increase, in which event Tenant shall have no further right to or interest in such Parking Permit and neither Landlord nor the Garage Operator shall have any obligation to provide replacement parking for Tenant. If the rate charged for the Parking Permits is increased and Tenant fails to notify Landlord, in writing, of its election to relinquish all or a portion of the Parking Permits within thirty (30) days after receiving notice of such increase, then Tenant shall be deemed to have agreed to such increase and shall have no further right to relinquish its Parking Permits on account thereof. Unless Landlord directs otherwise, Tenant shall pay the monthly charges established from time to time in accordance with this Lease by the Garage Operator for parking in the Kensington Parking Facility to Landlord and Landlord shall collect such payments, on behalf of the Garage Operator, monthly in advance, at the same time and place as Tenant makes payments of Base Rent under the terms of this Lease.

(d) In the event the parking spaces covered by the Parking Permits are not available to Tenant due to causes beyond the control of Landlord or the Garage Operator and Landlord is unable to provide replacement parking to Tenant, neither Landlord nor Garage Operator shall be liable for any damages that Tenant suffers on account thereof, nor shall such fact be construed as a constructive eviction of Tenant, entitle Tenant to an abatement of any Rental or an abatement of the charges for the Parking Permits, or relieve Tenant from fulfillment of any covenant or agreement hereof.

(e) Landlord or the Garage Operator may make, modify and enforce reasonable rules and regulations relating to the parking of vehicles in the Parking Facility, and Tenant agrees to abide by such rules and regulations. Except as expressly provided herein, this Lease does not grant Tenant (or its agents, employees, contractors and visitors) the right to use the Parking Facilities or any other parking areas located on the Land or serving the Building. So long as Landlord ensures that there is sufficient parking available in the Parking Facilities to accommodate the holders of the Parking Permits, Landlord or the Garage Operator may, from time to time, designate specific portions of the Parking Facilities as reserved areas and Tenant shall have no right to park in such reserved areas, except Tenant may park in reserved areas made available to tenants of the Building to the extent Tenant has purchased Parking Permits specifically entitling Tenant to use the same. Landlord agrees to make (or cause the Garage Operator to make) parking for Tenant's guests and visitors available on a non-exclusive basis in the Parking Facility. Landlord or the Garage Operator may restrict Tenant's right to utilize the Parking Permits on weekends and after 6:00 p.m. in the evening when athletic events are scheduled in the nearby athletic facilities.

ARTICLE IV.

4.1. Care of Leased Premises. Tenant shall not commit or allow to be committed by Tenant's employees, agents or contractors, any waste or damage to any portion of the Leased Premises or the Building. Upon the expiration or any earlier termination of this

Lease, Landlord shall have the right to re-enter and resume possession of the Leased Premises immediately.

4.2. Entry for Repairs and Inspection. Tenant shall permit Landlord and its contractors, agents or representatives to enter into and upon any part of the Leased Premises during reasonable hours to inspect or clean the same, make repairs, alterations or additions thereto, and, upon reasonable prior notice to Tenant, for the purpose of 'showing the same to prospective tenants or purchasers and Tenant shall not be entitled to any abatement or reduction of rent by reason thereof. Landlord shall use its reasonable efforts not to interfere materially with the operation of Tenant's business during any such entry.

4.3. Nuisance. Tenant shall conduct its business and control its agents, employees, invitees, contractors and visitors in such a manner as not to create any nuisance, or interfere with, annoy or disturb any other tenant or Landlord in its operation of the Building.

4.4. Laws and Regulations; Encumbrances; Rules of Building. Tenant shall comply with, and Tenant shall cause its employees, contractors and agents to comply with, and shall use its best efforts to cause its visitors and invitees to comply with, (i) all laws, ordinances, orders, rules and regulations of all state, federal, municipal and other governmental or judicial agencies or bodies relating to the use, condition or occupancy of the Leased Premises, (ii) all recorded easements, operating agreements, parking agreements, declarations, covenants and instruments encumbering the Leased Premises, and (iii) the rules of the Building reasonably adopted and altered by Landlord from time to time for the safety, care and cleanliness of the Leased Premises and Building and for the preservation of good order therein. The initial rules of the Building are attached hereto and incorporated herein as Exhibit D.

4.5. Legal Use and Violations of Insurance Coverage. Tenant shall not occupy or use the Leased Premises, or permit any portion of the Leased Premises to be occupied or used, for any business or purpose which is unlawful, disreputable or deemed to be hazardous in any manner, or permit anything to be done which would in any way increase the rate of fire, liability, or any other insurance coverage on the Building or its contents.

4.6. Hazardous Substances. Tenant shall comply, at its sole expense, with all laws, ordinances, orders, rules and regulations of all state, federal, municipal and other governmental or judicial agencies or bodies relating to the protection of public health, safety, welfare or the environment (collectively, ***"Environmental Laws")*** in the use, occupancy and operation of the Leased Premises. Tenant agrees that no Hazardous Substances (as hereinafter defined) shall be used, located, stored or processed on the Leased Premises or be brought onto any other portion of the Building by Tenant or any of its agents, employees, contractors, assigns, subtenants, guests or invitees, and no Hazardous Substances will be released or discharged from the Leased Premises (including, but not limited to, ground water contamination). The term ***"Hazardous Substances"*** shall mean and include all hazardous and toxic substances, waste or materials, any pollutant or contaminant, including, without limitation, PCB's, asbestos and raw materials that include hazardous constituents or any other similar substances or materials that are now or hereafter included under or regulated by any Environmental Laws or that would pose a health, safety or environmental hazard. Tenant hereby agrees to indemnify, defend and hold harmless Landlord from and against any and all losses, liabilities (including, but not limited to, strict

liability), damages, injuries, expenses (including, but not limited to, court costs, litigation expenses, reasonable attorneys' fees and costs of settlement or judgment), suits and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Landlord by any person, entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence in or the escape, leakage, spillage, discharge, emission or release from the Leased Premises of any Hazardous Substances or the presence of any Hazardous Substances placed on or discharged from the Building by Tenant or any of its agents, employees, contractors, assigns, subtenants, guests or invitees, including, without limitation, any losses, liabilities (including, but not limited to, strict liability), damages, injuries, expenses (including, but not limited to, court costs, litigation expenses, reasonable attorneys' fees and costs of settlement or judgment), suits and claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act (*"**CERCLA**"*), any so-called federal, state or local "Superfund" or "Superlien" laws or any other Environmental Law.

4.7. Tenant Taxes. Tenant shall pay promptly when due all taxes directly or indirectly imposed or assessed upon Tenant's gross sales, business operations, machinery, equipment, trade fixtures and other personal property or assets, whether such taxes are assessed against Tenant, Landlord or the Building. In the event that such taxes are imposed or assessed against Landlord or the Building, Landlord shall furnish Tenant with all applicable tax bills, public charges and other assessments or impositions and Tenant shall forthwith pay the same either directly to the taxing authority or, at Landlord's option, to Landlord.

ARTICLE V.

5.1. Initial Allowance; Leasehold Improvements.

(a) Within ten (10) days of the Commencement Date, Landlord shall contribute [***] per RSF in the Leased Premises (the *"**Initial Allowance**")* for Tenant's use during the initial Lease Term, all or any portion of which Tenant may apply as a credit towards Base Rental next due and payable.

(b) Tenant shall not make or allow to be made any alterations or physical additions in or to the Leased Premises, or place safes, vaults or other heavy furniture or equipment within the Leased Premises, without first obtaining the written consent of Landlord which consent shall not be unreasonably withheld so long as said alterations do not impact on Building systems or structure and are not visible from outside the Leased Premises. Tenant shall deliver to Landlord a copy of the "as-built" plans and specifications for all alterations or physical additions so made in or to the Leased Premises. Tenant further specifically agrees that no food, soft drink or other vending machine will be installed within the Leased Premises without the written consent of Landlord. Any such machine(s) shall be for the use of Tenant and its employees and invitees only.

(c) Tenant shall indemnify and hold Landlord harmless from and against all costs (including reasonable attorneys' fees and costs of suit), losses, liabilities, or causes of action arising out of or relating to any alterations, additions or improvements made by Tenant to the Leased Premises, including, but not limited to, any mechanics' or materialmen's liens asserted in connection therewith. No portion of Landlord's interest in the Building shall be

subject to attachment on account of any work performed by or on account of Tenant, and Tenant shall provide written notice of same to all of its contractors.

(d) Should any mechanic's or other liens be filed against any portion of the Building by reason of Tenant's acts or omissions or because of a claim against Tenant, Tenant shall cause the same to be canceled or discharged of record by bond or otherwise within thirty (30) days after notice by Landlord. If Tenant shall fail to cancel or discharge said lien or liens, within said thirty (30) day period, Landlord may, at its sole option, cancel or discharge the same and upon Landlord's demand, Tenant shall promptly reimburse Landlord for all reasonable costs incurred in canceling or discharging such liens, and if canceling or discharging such liens requires active managerial oversight by Landlord, Landlord shall be entitled to collect an administrative fee equal to fifteen percent (15%) of the cost thereof.

5.2. Repairs by Landlord. All repairs, alterations or additions that affect the Building's structural components or the Building's mechanical, electrical and plumbing systems shall be made solely by Landlord or its contractor. In the event of any damage to such components or systems or any other portion of the Building caused by Tenant or Tenant's agents, contractors, employees, visitors or invitees, the cost of repair or restoration of such damage shall be paid for solely by Tenant in an amount equal to Landlord's costs plus fifteen percent (15%) for administrative cost recovery. Landlord shall make such repairs to Base Building Shell Condition improvements as may be deemed necessary by Landlord for normal maintenance operations and Landlord shall not otherwise be obligated to make improvements to, or repairs of, the Leased Premises.

5.3. Repairs by Tenant. Subject to Section 5.2, Tenant shall at its own cost and expense, keep the Leased Premises and all leasehold improvements in a condition similar to the condition as of the Commencement Date, normal wear and tear excepted, and Tenant shall perform all maintenance, repairs and replacements necessary to accomplish the same. In addition, Tenant shall perform all maintenance, repairs, replacements and improvements required by any governmental law, ordination, rule or regulation. If Tenant fails to commence any maintenance, repairs, replacements or improvements which it is required to perform hereunder within ten (10) days after written notice from Landlord to Tenant and thereafter diligently proceed with such work until completion, Landlord may, at its option, perform any such maintenance, repairs, replacements or improvements deemed necessary by Landlord, and Tenant shall pay to Landlord on demand Landlord's cost thereof plus a charge of fifteen percent (15%) for administrative cost recovery.

ARTICLE VI.

6.1. Condemnation. If all or substantially all of the Leased Premises, or such portion of the Leased Premises or the Building as would render, in Landlord's reasonable judgment, the continuance of Tenant's business from the Leased Premises impracticable, shall be permanently taken or condemned for any public purpose, then this Lease, at the option of Tenant or Landlord upon the giving of written notice to the other party within ten (10) days from the date of such condemnation or taking, shall forthwith cease and terminate. If less than all or substantially all of the Leased Premises or any portion of the Building shall be permanently taken or condemned for any public purpose, then Landlord shall have the option of terminating this Lease by written notice to Tenant within ten (10) days from the date of such condemnation or taking. If this Lease is terminated as provided above, this Lease shall cease and expire as if

the date of transfer of possession of the Leased Premises, the Building, or any portion thereof, was the expiration date of this Lease. In the event that this Lease is not terminated by either Landlord or Tenant as aforesaid, Tenant shall pay the Rental up to the date of transfer of possession of such portion of the Leased Premises so taken or condemned and this Lease shall thereupon cease and terminate with respect to such portion of the Leased Premises so taken or condemned as if the date of transfer of possession of the Leased Premises was the expiration date of the term of this Lease relating to such portion of the Leased Premises. Thereafter the Base Rental, Tenant's Forecast Additional Rental and Tenant's Additional Rental shall be adjusted on a pro rata, net rentable square foot basis. In the event of any such condemnation or taking and this Lease is not so terminated, Landlord shall promptly repair the Leased Premises or the Building, as the case may be, to Base Building Shell Condition so that the remaining portion of the Leased Premises or Building, as the case may be, shall constitute an architectural unit, fit for Tenant's occupancy and business; provided, however, that Landlord's obligation to repair hereunder shall be limited to the extent of the net proceeds made available to Landlord for such repair from any such condemnation or taking. In the event of any temporary taking or condemnation for any public purpose of the Leased Premises or any portion thereof, then this Lease shall continue in full force and effect except that Base Rental, Tenant's Forecast Additional Rental, and Tenant's Additional Rental shall be adjusted on a pro rata net rentable square foot basis for the period of time that the Leased Premises are so taken as of the date of transfer of possession of the Leased Premises and Landlord shall be under no obligation to make any repairs or alterations. In the event of any condemnation or taking of the Leased Premises, Tenant hereby assigns to Landlord the value of all or any portion of the unexpired term of the Lease and all leasehold improvements and Tenant may not assert a claim for a condemnation award therefor; provided, however, Tenant may pursue a separate attempt to recover an award or compensation against or from the condemning authority for (i) the value of any fixtures, furniture, furnishings, Tenant's Extra Work and other personal property which were condemned but which under the terms of this Lease, Tenant is permitted to remove at the end of the term of this Lease, (ii) relocation and moving expenses, and (iii) compensation for loss to Tenant's business.

6.2. Damages from Certain Causes. Landlord shall not be liable or responsible to Tenant for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, riot, strike, insurrection, war, act or omission of any tenant or occupant of the Building, any nuisance or interference caused or created by any tenant or occupant of the Building, requisition or order of governmental body or authority, court order or injunction, or any cause beyond Landlord's control or, except in the case of the gross negligence or intentional misconduct of Landlord, for any damage or inconvenience which may arise through repair or alteration of any part of the Building. Tenant shall notify Landlord of any damage to the Leased Premises, regardless of the cause of such damage.

6.3. Casualty Clause.

(a) In the event any portion of the Leased Premises or any portion of the General Common Areas is damaged by fire or other casualty, earthquake or flood or by any other cause of any kind or nature (hereinafter collectively referred to as the ***"damaged property")*** and the damaged property can, in the opinion of the Landlord's architect, be repaired within ninety (90) calendar days from the date of notice of Landlord's architect's

opinion, then Landlord shall proceed to rebuild or restore the damaged property to Base Building Shell Condition, subject to subsection (e) hereof.

(b) In the event the damaged property can not, in the opinion of Landlord's architect, be repaired within ninety (90) days from the date of notice of Landlord's architect's opinion, but can be repaired within one hundred eighty (180) days from the date of notice of Landlord's architect's opinion, Landlord, at Landlord's sole option, shall have the right (i) to terminate this Lease by notifying Tenant of such termination within twenty (20) days of receipt of Landlord's architect's opinion, or (ii) to restore or rebuild the damaged property to Base Building Shell Condition, subject to subsection (e) hereof.

(c) If, in the opinion of Landlord's architect, damage to the damaged property cannot be repaired within one hundred eighty (180) days from the date of notice of Landlord's architect's opinion, then both Landlord and Tenant shall have the right to terminate this Lease by notifying the other party in writing of such termination within twenty (20) days of receipt of Landlord's architect's opinion.

(d) Notwithstanding any language herein to the contrary, if at the time of any such damage, less than one (1) year remains in the term of this Lease, exclusive of any renewal options, then Landlord, at Landlord's sole option, shall have the right to terminate this Lease.

(e) If at anytime during the term of this Lease the Building is damaged and the cost of repairing and restoring the same exceeds twenty-five percent (25%) of the replacement cost of the improvements comprising the Building, then Landlord, at Landlord's sole option, shall have the right to terminate this Lease.

(f) Notwithstanding any language contained herein to the contrary, in the event this Lease is not terminated as provided hereunder (i) Landlord shall be obligated to rebuild or restore the damaged property only to the extent of the net insurance proceeds available to Landlord for the purpose of rebuilding and restoration, (ii) if the damaged property is all or any portion of the Leased Premises Landlord shall be obligated to rebuild or restore the damaged property only to Base Building Shell Condition, except that Tenant shall have the right to require Landlord to rebuild or restore the damaged property substantially to the condition which existed immediately prior to such damage, provided that Tenant shall bear all costs and expenses, including without limitation, rentals that are lost due to extended construction time, in excess of the lesser of (A) any net insurance proceeds available to Landlord for the purpose of rebuilding or restoration, or (B) the cost to Landlord of rebuilding and restoring the damaged property to Building Standard condition (with Building Standard tenant allowances); and (iii) to the extent Landlord has rental loss insurance proceeds available, Tenant shall be entitled to a pro rata abatement of Base Rental, Tenant's Forecast Additional Rental, and Tenant's Additional Rental during the period of time the Leased Premises, or any portion thereof, are untenantable due to such damage. Landlord's architect's opinion shall be delivered to both Landlord and Tenant within thirty (30) days from the date of any such damage. In the event of any termination of this Lease under this **Section,** this Lease shall cease and terminate as if the date of such damage was the expiration date of the term of this Lease. Notwithstanding any contrary language in this **Section,** if the Leased Premises, the Building, or any portion thereof shall be damaged through the negligence or willful misconduct of Tenant and the cost of repairing the same is not covered by Landlord's insurance, such damage shall be repaired by Landlord at the sole expense of Tenant and rent shall continue hereunder unabated.

(g) If any portion of Tenant's leasehold improvements (including, but not limited to, Tenant's Extra Work), alterations, additions, improvements, fixtures, furnishing, equipment or trade fixtures are damaged by fire or other casualty, earthquake or flood or by any other cause of any kind or nature, Tenant shall immediately restore the same to the condition existing immediately prior to such damage, unless such damage is so extensive as to permit termination of this Lease as provided herein and the Lease is terminated in accordance with such provisions.

6.4. Casualty Insurance. Landlord shall maintain all-risk property insurance on the Building and on all Base Building Shell Condition improvements. Said insurance shall be maintained with an insurance company authorized to do business in Tennessee, at full replacement cost and payments for losses thereunder shall be made solely to Landlord. Tenant shall maintain at its expense business interruption insurance and all-risk property insurance on the full replacement cost of all its personal property, including removable trade fixtures, located in the Leased Premises and on Tenant's Extra Work and all other additions and improvements (including fixtures) made by Tenant and not required to be insured by Landlord above, regardless of whether such improvements were made at Landlord's or Tenant's expense. If the annual premiums to be paid by Landlord shall exceed the standard rates because of Tenant's operations within, or contents of, the Leased Premises or because the improvements to the Leased Premises are in excess of improvements contemplated by the Tenant Improvement Allowance, Tenant shall promptly pay the excess amount of the premium upon request by Landlord (and if necessary, Landlord may allocate the insurance costs of the Building to give effect to this sentence). Upon the request of Landlord, a duly executed certificate of insurance, reflecting Tenant's maintenance of the insurance required under this **Section 6.4** and **Section 6.5**, shall be delivered to Landlord.

6.5. Liability Insurance. Landlord and Tenant shall each maintain a policy or policies of commercial general liability insurance with the premiums thereon fully paid on or before the due dates, issued by and binding upon a solvent insurance company authorized to transact business in Tennessee. Such insurance shall be written on an occurrence basis and shall afford minimum protection (which may be affected by primary and/or excess coverage) of not less than $1,000,000.00 per occurrence for bodily injury and property damage with umbrella liability in excess of $1,000,000 of no less than $2,000,000 per occurrence and in the aggregate provided, however, Tenant shall carry such greater limits of coverage as Landlord may reasonably request from time to time so long as Landlord maintains similar limits of coverage.

6.6. Hold Harmless. Landlord shall not be liable to Tenant, its agents, servants, employees, contractors, customers or invitees for any damage to person or property caused by any act, omission or neglect of Tenant. Without limiting or being limited by any other indemnity in this Lease, but rather in confirmation and furtherance thereof, Tenant agrees to indemnify, defend by counsel reasonably acceptable to Landlord and hold Landlord, Landlord's beneficiaries (if Landlord is a land trust), the managing agent of the Building, the leasing agent of the Building and their respective agents, partners, shareholders, officers, directors and employees of the Building harmless of, from and against any and all losses, damages, liabilities, claims, liens, costs and expenses (including, but not limited to, court costs, reasonable attorneys' fees and litigation expenses) in connection with injury to or death of any person or damage to or theft, loss or loss of the use of any property occurring in or about the Leased Premises or the Building arising from Tenant's occupancy of the Leased Premises, or the

conduct of its business or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Leased Premises or the Building, or from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Lease, or due to any other act or omission or willful misconduct of Tenant or any of its agents, employees, contractors, assigns, subtenants, guest or invitees.

6.7. Waiver of Subrogation Rights. Anything in this Lease to the contrary notwithstanding, Landlord and Tenant each hereby waives any and all rights of recovery, claim, action or cause of action, against the other, its agents, servants, partners, shareholders, officers or employees, for personal injury, loss or damage to business, and loss or damage that may occur to the Leased Premises, the Building or any improvements thereto or thereon or any personal property of such party therein or thereon by reason of fire, the elements, or any other cause to the extent such loss or damage is covered by terms of the all-risk property insurance policies referred to in **Section 6.4** hereof or any other insurance policy maintained by Landlord or Tenant, as applicable, regardless of cause or origin, including negligence of the other party hereto, its agents, officers, partners, shareholders, servants or employees, and covenants that no insurer shall hold any right of subrogation against such other party. The foregoing waiver shall apply regardless of the cause or origin of such claim, including but not limited to the negligence of a party, or such party's agents, officers, employees or contractors, but shall not apply if it would have the effect, but only to the extent of such effect, of invalidating any insurance coverage of Landlord or Tenant. Each party shall obtain any special endorsements, if any, required by their respective insurers to evidence compliance with the aforementioned waiver.

ARTICLE VII.

7.1. Default and Remedies.

(a) The occurrence of any of the following shall constitute a default under and breach of this Lease by Tenant (an ***"Event of Default"***):

(i) Failure by Tenant to pay any Rental within ten (10) days after the same becomes due hereunder;

(ii) The Leased Premises are deserted, vacated, or not used for a period exceeding thirty (30) consecutive days, even though the Tenant continues to pay the stipulated monthly rent;

(iii) Failure by Tenant to observe or perform any of the covenants in respect of assignment and subletting set forth in **Article VIII;**

(iv) Failure by Tenant to cure forthwith, immediately after receipt of notice from Landlord, any hazardous condition which Tenant has created or permitted in violation of law or of this Lease;

(v) Failure by Tenant to complete, execute and deliver any instrument or document required to be completed, executed and delivered by Tenant pursuant to **Section 7.8** or **Section 7.9** of

this Lease, within ten (10) days after the initial written demand therefor to Tenant;

(vi) Failure by Tenant to observe or perform any other covenant, agreement, condition or provision of this Lease, if such failure shall continue for thirty (30) days after written notice thereof from Landlord to Tenant; provided that such thirty (30) day period shall be extended for the time reasonably required to complete such cure, if such failure cannot reasonably be cured within said thirty (30) day period and Tenant commences to cure such failure within said thirty (30) day period and thereafter diligently and continuously proceeds to cure such failure;

(vii) The levy upon execution or the attachment by legal process of the leasehold interest of Tenant, or the filing or creation of a lien in respect of such leasehold interest, which lien shall not be released or discharged within ten (10) days from the date of such filing;

(viii) Any default under or breach by any guarantor of Tenant's obligations under this Lease of such guarantor's obligations under any agreements with Landlord;

(ix) Tenant or any guarantor of Tenant's obligations under this Lease becomes insolvent or bankrupt or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for all or a major part of its property;

(x) A trustee or receiver is appointed for Tenant, any guarantor of Tenant's obligations under this Lease or for a major part of either party's property and is not discharged within sixty (60) days after such appointment;

(xi) Any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding, or other proceeding for relief under any bankruptcy law or similar law for the relief of debtors, is instituted (A) by Tenant or any guarantor of Tenant's obligations under this Lease, or (B) against Tenant or any guarantor of Tenant's obligations under this Lease and is allowed against it or is consented to by it or is not dismissed within sixty (60) days after such institution;

(xii) Tenant's repeated or continued failure to timely pay any Rental due Landlord hereunder where such failure shall continue or be repeated for two (2) consecutive months, or for a total of four (4) months in any period of twelve (12) consecutive months; or

(xiii) Tenant's repeated failure to observe or perform any of the other covenants, terms or conditions hereof more than six (6) times, in the aggregate, in any period of twelve (12) consecutive months.

(b) Upon the occurrence of an Event of Default, Landlord shall have the option to do and perform any one or more of the following in addition to, and not in limitation of, any other remedy or right permitted it by law or in equity or by this Lease:

(i) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Leased Premises and correct or repair any condition which shall constitute a failure on Tenant's part to keep, observe, perform, satisfy, or abide by any term, condition, covenant, agreement, or obligation of this Lease or of the Rules and Regulations now in effect or hereafter adopted or of any notice given Tenant by Landlord pursuant to the terms of this Lease, and Tenant shall fully reimburse and compensate Landlord on demand.

(ii) Landlord, with or without terminating this Lease, may immediately or at any time thereafter demand in writing that Tenant vacate the Leased Premises and thereupon Tenant shall vacate the Leased Premises and remove therefrom all property thereon belonging to or placed on the Leased Premises by, at the direction of, or with consent of Tenant within ten (10) days of receipt by Tenant of such notice from Landlord, whereupon Landlord shall have the right to re-enter and take possession of the Leased Premises. Any such demand, re-entry and taking possession of the Leased Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Leased Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord.

(iii) Landlord, with or without terminating this Lease, may immediately or at any time thereafter, re-enter the Leased Premises and remove therefrom Tenant and all property belonging to or placed on the Leased Premises by, at the direction of, or with consent of Tenant. Any such re-entry and removal by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Leased Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord.

(iv) Landlord, with or without terminating this Lease, may immediately or at any time thereafter relet the Leased Premises or any part thereof for such time or times, at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable, and Landlord may make any alterations or repairs to the Leased Premises which it may deem necessary or

proper to facilitate such reletting; and Tenant shall pay all costs of such reletting including but not limited to the cost of any such alterations and repairs to the Leased Premises, attorneys' fees, leasing inducements, and brokerage commissions; and if this Lease shall not have been terminated, Tenant shall continue to pay all rent and all other charges due under this lease up to and including the date of beginning of payment of rent by any subsequent tenant of part or all of the Leased Premises, and thereafter Tenant shall pay monthly during the remainder of the term of this Lease the difference, if any, between the rent and other charges collected from any such subsequent tenant or tenants and the rent and other charges reserved in this Lease, but Tenant shall not be entitled to receive any excess of any such rents collected over the rents reserved herein.

(v) Landlord may immediately or at any time thereafter terminate this Lease, and this Lease shall be deemed to have been terminated upon receipt by Tenant of written notice of such termination; upon such termination Landlord shall recover from Tenant all damages Landlord may suffer by reason of such termination including, without limitation, unamortized sums expended by Landlord for leasing commissions and construction of tenant improvements, all arrearages in rentals, costs, charges, additional rentals, and reimbursements, the cost (including court costs and attorneys' fees) of recovering possession of the Leased Premises, the cost of any alteration of or repair to the Leased Premises which is necessary or proper to prepare the same for reletting and, in addition thereto, Landlord at its election shall have and recover from Tenant either (A) an amount equal to the excess, if any, of the total amount of all rents and other charges to be paid by Tenant for the remainder of the term of this Lease over the then reasonable rental value of the Leased Premises for the remainder of the term of this Lease, or (B) the rents and other charges which Landlord would be entitled to receive from Tenant pursuant to the provisions of **Section 7.1(b)(iv)** if the Lease were not terminated. Such election shall be made by Landlord by serving written notice upon Tenant of its choice of one of the two said alternatives within thirty (30) days of the notice of termination. All future amounts due in accordance with this **Section 7.1(b)(v)** shall be discounted to present value at the per annum interest rate publicly announced by a federally insured bank selected by Landlord in the state in which the Building is located as such bank's prime or base rate.

(c) If Landlord re-enters the Leased Premises or terminates this Lease pursuant to any of the provisions of this Lease, Tenant hereby waives all claims for damages which may be caused by such re-entry or termination by Landlord. Tenant shall and does hereby indemnify and hold Landlord harmless from any loss, cost (including court costs and

attorneys' fees), or damages suffered by Landlord by reason of such re-entry or termination. No such re-entry or termination shall be considered or construed to be a forcible entry.

(d) The exercise by Landlord of any one or more of the rights and remedies provided in this Lease shall not prevent the subsequent exercise by Landlord of any one or more of the other rights and remedies herein provided. All remedies provided for in this Lease are cumulative and may, at the election of Landlord, be exercised alternatively, successively, or in any other manner and are in addition to any other rights provided for or allowed by law or in equity.

(e) No act by Landlord with respect to the Leased Premises shall terminate this Lease, including, but not limited to, acceptance of the keys, institution of an action for detainer or other dispossessory proceedings, it being understood that this Lease may only be terminated by express written notice from Landlord to Tenant, and any reletting of the Leased Premises shall be presumed to be for and on behalf of Tenant, and not Landlord, unless Landlord expressly provides otherwise in writing to Tenant.

(f) Upon termination of Tenant's right to possess the Leased Premises, Landlord shall, only to the extent required by applicable law, use objectively reasonable efforts to mitigate damages by reletting the Leased Premises. Landlord shall not be deemed to have failed to do so if Landlord refuses to lease the Leased Premises to a prospective tenant that Landlord deems, in the exercise of Landlord's business judgment, unacceptable for or incompatible with the other tenants of the Building, or who (1) is an Affiliate (as defined below), parent or subsidiary of Tenant; (2) is not acceptable to any Mortgagee of Landlord; (3) requires improvements to the Leased Premises to be made at Landlord's expense; or (4) is unwilling to accept lease terms then proposed by Landlord, including: (a) leasing for a shorter or longer term than remains under this Lease; (b) re-configuring or combining the Leased Premises with other space, (c) taking all or only a part of the Leased Premises; and/or (d) changing the use of the Leased Premises. Notwithstanding Landlord's duty to mitigate its damages as provided herein, Landlord shall not be obligated (i) to give any priority to reletting Tenant's space in connection with its leasing of space in the Building or any complex of which the Building is or becomes a part, or (ii) to accept below market rental rates for the Leased Premises or any rate that would negatively impact the market rates for the Building. To the extent that Landlord is required by applicable law to mitigate damages, Tenant must plead and prove by clear and convincing evidence that Landlord failed to so mitigate in accordance with the provisions of this Section 7.1(f), and that such failure resulted in an avoidable and quantifiable detriment to Tenant.

7.2. Insolvency or Bankruptcy. The appointment of a receiver to take possession of all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations under this Lease, or any general assignment by Tenant or any guarantor of Tenant's obligations under this Lease for the benefit of creditors, or any action taken or suffered by Tenant or any guarantor of Tenant's obligations under this Lease under any insolvency, bankruptcy, or reorganization act, shall, at Landlord's option, constitute a breach of this Lease by Tenant. Upon the happening of any such event or at any time thereafter, this Lease shall terminate five (5) days after written notice of termination from Landlord to Tenant. In no event shall this Lease be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any

rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency, or reorganization proceedings.

7.3. Late Payments. Tenant shall pay, as a one (1) time late charge on each installment of any Rental owed by Tenant hereunder that is not paid when due, the greater of $100.00 or an amount equal to five percent (5%) of the amount due for each and every thirty (30) day period that said amount remains unpaid (but in no event shall the amount of such late charge exceed an amount based upon the highest legally permissible rate chargeable at any time by Landlord under the circumstances). Should Tenant make a partial payment of past due amounts, the amount of such partial payment shall be applied first to reduce all accrued and unpaid late charges, in inverse order of their maturity, and then to reduce all other past due amounts, in inverse order of their maturity.

7.4. Attorney's Fees. In any action to enforce a party's rights under this Lease or the terms hereof, the prevailing party shall be entitled to collect from the other party all court costs, reasonable attorneys fees and litigation expenses, including, but not limited to, costs of depositions and expert witnesses, actually incurred by the prevailing party in connection with such action.

7.5. Waiver of Homestead. Tenant hereby waives and renounces all homestead or exemption rights which Tenant may have under or by virtue of the Constitutions and Laws of the United States, the State of Tennessee, and any other State as against any debt or sum Tenant may owe Landlord under this Lease and hereby transfers, conveys, and assigns to Landlord all homestead or exemption rights which may be allowed or set apart to Tenant, including such as may be set apart in any bankruptcy proceeding, to pay any debt or sum owing by Tenant to Landlord hereunder.

7.6. No Waiver of Rights. No failure or delay of Landlord to exercise any right or power given it herein or to insist upon strict compliance by Tenant of any obligation imposed on it herein and no custom or practice of either party hereto at variance with any term hereof shall constitute a waiver or a modification of the terms hereof by Landlord or any right it has herein to demand strict compliance with the terms hereof by Tenant. No waiver of any right of Landlord or any default by Tenant on one occasion shall operate as a waiver of any of Landlord's other rights or of any subsequent default by Tenant. No express waiver shall affect any condition, covenant, rule, or regulation other than the one specified in such waiver and then only for the time and in the manner specified in such waiver. No person has or shall have any authority to waive any provision of this Lease unless such waiver is expressly made in writing and signed by an authorized officer of Landlord.

7.7. Holding Over. In the event of holding over by Tenant after expiration or termination of this Lease without the written consent of Landlord, Tenant shall pay as liquidated damages, solely for such holding over, double the Rental that would have been payable if this Lease had not so terminated or expired) for the entire holdover period. No holding over by Tenant after the term of this Lease shall be construed to extend this Lease, and Tenant shall be deemed a tenant at will, terminable on five (5) days notice from Landlord. In the event of any unauthorized holding over, Tenant shall indemnify Landlord against all claims for damages by any other tenant to whom Landlord shall have leased all or any part of the Leased Premises effective upon the termination of this Lease. Any holding over with the

express written consent of Landlord shall thereafter constitute this Lease to be a lease from month to month (terminable by either party on thirty (30) days notice) at a Base Rental, Tenant's Forecast Additional Rental, and all other sums required to be paid by Tenant prior to the expiration or termination of this Lease as may be determined by Landlord.

7.8. Subordination.

(a) Landlord may have heretofore or may hereafter encumber with a mortgage, deed of trust, deed to secure debt, financing statement or other security interests **(collectively, a *"Mortgage")*** the Land, the Project or any part thereof or any interest therein, may sell and lease back the Land, the Project or any part thereof, and may encumber the leasehold estate under such a sale and leaseback arrangement with a Mortgage. (The holder of any Mortgage is herein called a ***"Mortgagee."*** A lease creating Landlord's interest in the Land, the Project or part thereof is herein called a ***"Ground Lease"*** and the lessor under any such Ground Lease is herein called a ***"Ground Lessor."*** *)* This Lease and the rights of Tenant hereunder shall be and are hereby expressly made subject to and subordinate at all times to any Mortgage and to any Ground Lease now or hereafter existing, and to all amendments, modifications, renewals, extensions, consolidations and replacements thereof, and to all advances made or hereafter to be made upon the security thereof; provided, however, that the Mortgagee or Ground Lessor shall not, so long as Tenant shall not be in default under this Lease, disturb Tenant in its possession of the Leased Premises or terminate Tenant's rights hereunder. Tenant agrees to execute and deliver to Landlord such further instruments consenting to or confirming the subordination of this Lease to any Mortgage and to any Ground Lease and containing such other provisions which may be requested in writing by Landlord within ten (10) days after Tenant's receipt of such written request.

(b) Tenant agrees that if Landlord defaults in the performance or observance of any covenant or condition of this Lease required to be performed or observed by Landlord hereunder, Tenant will give written notice specifying such default by certified or registered mail, postage prepaid, to any Mortgagee or Ground Lessor of which Tenant has been notified in writing, and before Tenant exercises any right or remedy which it may have on account of any such default of Landlord, such Mortgagee or Ground Lessor shall have a reasonable amount of time to cure such default of Landlord, if such default can be cured without such Mortgagee or Ground Lessor taking possession of the mortgaged or leased estate, or to obtain possession of the mortgaged or leased estate and then to cure such default of Landlord, if such default cannot be cured without such Mortgagee or Ground Lessor taking possession of the mortgaged or leased estate.

(c) If any Mortgage is foreclosed, or Landlord's interest under this Lease is conveyed or transferred in lieu of foreclosure, or if any Ground Lease is terminated:

(i) No person or entity which as the result of any of the foregoing has succeeded to the interest of Landlord in this Lease (any such person or entity being hereafter called a *"**Successor**")* shall be liable for any default by Landlord or any other matter which occurred prior to the date such Successor succeeded to Landlord's interest in this Lease, nor shall such Successor be bound by or

subject to any offsets or defenses which Tenant may have against Landlord or any other predecessor in interest to such Successor.

(ii) Upon request of any Successor, Tenant will attorn to such Successor, as Landlord under this Lease, subject to the provisions of this **Section 7.8(c)** and **Section 7.8(e),** and will execute and deliver such instruments as may be necessary or appropriate to evidence such attornment within ten (10) days after receipt of a written request to do so.

(iii) No Successor shall be bound to recognize any prepayment by more than thirty (30) days of any Rental payable by Tenant hereunder.

(d) Notwithstanding anything to the contrary contained herein, any Mortgagee may subordinate, in whole or in part, its Mortgage to this Lease by sending Tenant notice in writing subordinating all or any part of such Mortgage to this Lease, and Tenant agrees to execute and deliver to such Mortgagee such further instruments consenting to or confirming the subordination of all or any portion of its Mortgage to this Lease and containing such other provisions which may be requested in writing by such Mortgagee within ten (10) days after Tenant's receipt of such written request.

(e) Whether or not any Mortgage is foreclosed or any Ground Lease is terminated, or any Mortgagee or Ground Lessor succeeds to any interest of Landlord under this Lease, no Mortgagee or Ground Lessor shall have any liability to Tenant for any security deposit paid to Landlord by Tenant hereunder, unless such security deposit has actually been received by such Mortgagee or Ground Lessor.

(f) Should any prospective Mortgagee or Ground Lessor require a modification or modifications of this Lease, which modification or modifications will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder, in the reasonable judgment of Tenant, then and in such event, Tenant agrees that this Lease may be so modified and agrees to execute whatever documents are required therefor and deliver the same to Landlord within ten (10) days following written request therefor. Should any prospective Mortgagee or Ground Lessor require execution of a short form of this Lease for recording (containing, among other customary provisions, the names of the parties, a description of the Leased Premises and the term of this Lease), Tenant agrees to execute such short form of lease and deliver the same to Landlord within ten (10) days following the request therefor.

(g) If Tenant fails within ten (10) days after initial written demand therefor to execute and deliver any instruments as may be necessary or proper to effectuate any of the covenants of Tenant set forth above in this **Section,** Tenant hereby makes, constitutes and irrevocably appoints any one of Landlord or any of Landlord's beneficiaries or partners in such beneficiaries as attorney-in-fact for Tenant (such power of attorney being coupled with an interest) with full power and authority to execute and deliver any such instruments for and in the name of Tenant.

(h) No Mortgagee or Ground Lessor of which Tenant has been notified, in writing, shall be bound any amendment or modification of this Lease made without the written consent of such Mortgagee or Ground Lessor.

7.9. Estoppel Certificate. Tenant agrees that, from time to time upon not less than ten (10) days' prior request by Landlord, or any existing or prospective Mortgagee or Ground Lessor, Tenant will, and Tenant will cause any subtenant, licensee, concessionaire or other occupant of the Leased Premises claiming by, through or under Tenant, to complete, execute and deliver to Landlord or Landlord's designee or to any existing or prospective mortgagee or ground lessor, a written estoppel certificate certifying (i) that this Lease is unmodified and is in full force and effect (or if there have been modifications, that this Lease, as modified, is in full force and effect and setting forth the modifications); (ii) the amounts of the monthly installments of Base Rental, Tenant's Forecast Additional Rental, Tenant's Additional Rental Adjustment and other sums then required to be paid under this Lease by Tenant; (iii) the date to which the Base Rental, Tenant's Forecast Additional Rental, Tenant's Additional Rental Adjustment and other sums required to be paid under this Lease by Tenant have been paid; (iv) that Landlord is not in default under any of the provisions of this Lease, or if in default, the nature thereof in detail and what is required to cure same; and (v) such other information concerning the status of this Lease or the parties' performance hereunder reasonably requested by Landlord or the party to whom such estoppel certificate is to be addressed.

ARTICLE VIII.

8.1. Sublease or Assignment by Tenant.

(a) The Tenant shall not, without the Landlord's prior written consent, (i) assign, convey, mortgage, pledge, encumber, or otherwise transfer (whether voluntarily, by operation of law, or otherwise) this Lease or any interest hereunder; (ii) allow any lien to be placed upon Tenant's interest hereunder; (iii) sublet the Leased Premises or any part thereof; or (iv) permit the use or occupancy of the Leased Premises or any part thereof by any one other than Tenant. Any attempt to consummate any of the foregoing without Landlord's consent shall be void and of no force or effect. For purposes hereof, the transfer of the ownership or voting rights in a controlling interest of the voting stock of Tenant (if Tenant is a corporation) or the transfer of a general partnership interest or a majority of the limited partnership interest in Tenant (if Tenant is a partnership), at any time throughout the term of this Lease, shall be deemed to be an assignment of this Lease.

(b) Notwithstanding anything herein to the contrary, if at any time or from time to time during the term of this Lease, Tenant desires to sublet all or any portion of the Leased Premises or assign all or any portion of Tenant's interest in this Lease, Tenant shall notify Landlord in writing (hereinafter referred to in this **Section** as the ***"Notice")*** of the terms of the proposed subletting or assignment, the identity of the proposed sublessee or assignee, the area proposed to be sublet or covered by the assignment (hereinafter referred to as ***"Sublet Space"),*** and such other information as Landlord may request to evaluate Tenant's request to sublet or assign. Landlord shall then have the option (i) to sublet the Sublet Space from Tenant as provided in subsection (c) hereof at the same Base Rental and Tenant's Additional Rental as Tenant is required to pay to Landlord under this Lease for the Sublet Space, (ii) to terminate this Lease as to the Sublet Space as provided in subsection (d)

hereof, or (iii) to allow the proposed sublease or assignment subject only to the final review for approval as provided in subsection (e) hereof. Landlord s option to sublet, to terminate, or to allow the proposed sublease or assignment subject to final review, as the case may be, shall be exercisable by Landlord in writing within a period of thirty (30) calendar days after receipt of the Notice and any failure by Landlord to exercise any of such options within said thirty (30) day period shall be deemed to constitute the election of option (iii) above.

(c) In the event Landlord exercises the option to sublet the Sublet Space pursuant to Landlord's options set forth above, the term of the subletting from the Tenant to Landlord shall be the term set forth in the Notice (which shall not be longer than the then current term of this Lease unless Landlord expressly agrees in writing that any extension or renewal option contained in this Lease will apply to such Sublet Space) and shall be on such terms and conditions as are contained in this Lease to the extent applicable, except that the Landlord shall have the right to further sublet the Sublet Space freely and without any consent or approval from Tenant and upon such terms and for such rent as Landlord shall agree upon in its sole and absolute discretion.

(d) If Landlord elects to terminate this Lease pursuant to Landlord's options set forth above, then this Lease shall terminate as to the Sublet Space on the date set forth in Landlord's notice to Tenant, which date shall be no less than thirty (30) days and no more than ninety (90) days after the date of such notice. If the Sublet Space does not constitute the entire Leased Premises and Landlord exercises its option to terminate this Lease with respect to the Sublet Space, as to that portion of the Leased Premises which is not part of the Sublet Space, this Lease shall remain in full force and effect except that Base Rental, Tenant's Forecast Additional Rental, and Tenant's Additional Rental shall be calculated on the difference between the Rentable Square Feet prior to such termination and the Rentable Square Feet of the Sublet Space.

(e) If Landlord elects or is deemed to have elected to allow the proposed sublease or assignment subject to final review, Tenant shall submit to Landlord, within twenty (20) calendar days after receipt of Landlord's notice of election (or the expiration of said thirty (30)-day period if no such election is made), a copy of the proposed sublease or assignment, which sublease or assignment must provide for the assumption of all of Tenant's obligations under this Lease, and such additional information concerning the business, reputation and credit-worthiness of the proposed sublessee or assignee as shall be sufficient to allow Landlord to form a commercially reasonable judgment with respect thereto. Landlord agrees not to unreasonably withhold its approval of any proposed sublease or assignment and, in the event Landlord fails to approve or disapprove any such sublease or assignment within thirty (30) days after Landlord's receipt of such submission from Tenant, such sublease or assignment shall be deemed to be approved; provided, however, that if Landlord approves any proposed sublease or assignment, Landlord shall receive from Tenant as additional rent hereunder seventy-five percent (75%) of any rents or other sums received by Tenant pursuant to said sublease or assignment in excess of the rentals payable to Landlord by Tenant under this Lease with respect to the Sublet Space (after deducting all of Tenant's reasonable costs associated therewith, including reasonable brokerage fees and the reasonable cost of remodeling or otherwise improving the Leased Premises for said sublessee or assignee), as such rents or other sums are received by Tenant from the approved sublessee or assignee. Landlord may require that any rent or other sums paid by a sublessee or assignee be paid directly to Landlord. If Landlord approves in writing the proposed sublessee or assignee and the terms of the proposed sublease

or assignment, but a fully executed counterpart of such sublease or assignment is not delivered to Landlord within sixty (60) calendar days after the date of Landlord's written approval, then Landlord's approval of the proposed sublease or assignment shall be deemed null and void and Tenant shall again comply with all the conditions of this **Section** as if the Notice and options hereinabove referred to had not been given, received or exercised. If Landlord fails to approve the form of sublease or assignment or the sublessee or assignee, Tenant shall have the right to submit amended forms or other sublessees or assignees to Landlord to review for approval.

(f) Notwithstanding the giving by Landlord of its consent to any sublease or assignment with respect to the Leased Premises, no sublessee or assignee may exercise any expansion option, right of first refusal option, or renewal option under this Lease except in accordance with a separate written agreement entered into directly between such sublessee or assignee and Landlord, and Tenant may not exercise any such right with respect to any space that Tenant has sublet or assigned.

(g) Notwithstanding the giving by Landlord of its consent to any subletting, assignment or occupancy as provided hereunder or any language contained in such lease, sublease or assignment to the contrary, unless this Lease is expressly terminated by Landlord, Tenant shall not be relieved of any of Tenant's obligations or covenants under this Lease and Tenant shall remain fully liable hereunder.

(h) If, with the consent of the Landlord, the Leased Premises or any part thereof is sublet or occupied by other than Tenant or this Lease is assigned, Landlord may, after default by Tenant, collect rent from the subtenant, assignee or occupant, and apply the net amount collected to the Rental herein reserved. No such subletting, assignment, occupancy, or collection shall be deemed (i) a waiver of any of Tenant's covenants contained in this Lease, (ii) a release of Tenant from further performance by Tenant of its covenants under this Lease, or (iii) a waiver of any of Landlord's other rights hereunder.

(i) In no event shall Tenant assign this Lease or enter into any sublease, license, concession or other agreement for use, occupancy or utilization of any part of the Leased Premises which provides for a rental or other payment for such use, occupancy or utilization based in whole or in part on the income or profits derived by any person from the Leased Premises leased, used, occupied or utilized (other than an amount based on a fixed percentage or percentages of gross receipts of sales), and Tenant agrees that all assignments, subleases, licenses, concessions or other agreements for use, occupancy or utilization of any part of the Leased Premises shall provide that the person having an interest in the possession, use, occupancy or utilization of the Leased Premises shall not enter into any lease, sublease, license, concession or other agreement for use, occupancy or utilization of space in the Leased Premises which provides for a rental or other payment for such use, occupancy or utilization based in whole or in part on the income or profits derived by any person from the Leased Premises leased, used, occupied or utilized (other than an amount based on a fixed percentage or percentages of gross receipts of sales) and any such purported assignment, sublease, license, concession or other agreement shall be absolutely void and ineffective as a conveyance of any right or interest in the possession, use, occupancy or utilization of any part of the Leased Premises.

8.2. Assignment by Landlord. Landlord shall have the right to transfer and assign, in whole or in part, all its rights and obligations hereunder, in the Building, the Land and all other property referred to herein, and in such event and upon such transfer (any such transferee to have the benefit of, and be subject to, the provisions of Sections 8.03 and 8.04 hereof) no further liability or obligation shall thereafter accrue against Landlord hereunder.

8.3. Peaceful Enjoyment. Landlord covenants that Tenant shall and may peacefully have, hold and enjoy the Leased Premises free from hindrance by Landlord or any person claiming by, through or under Landlord but subject to the other terms hereof, provided that Tenant pays the rental and other sums herein recited to be paid by Tenant and performs all of Tenant's covenants and agreements herein contained. It is understood and agreed that this covenant and any and all other covenants of Landlord contained in this Lease shall be binding upon Landlord and its successors only with respect to breaches occurring during the ownership of the Landlord's interest hereunder.

8.4. Limitation of Landlord's Personal Liability. Tenant specifically agrees to look solely to Landlord's equity interest in the Building for the recovery of any monetary judgment against Landlord, it being agreed that Landlord (and its partners and shareholders) shall never be personally liable for any such judgment. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or Landlord's successors in interest or any suit or action in connection with enforcement or collection of amounts which may become owing or payable under or on account of insurance maintained by Landlord.

8.5. Force Majeure. Landlord and Tenant (except with respect to the payment of Rental or any other monetary obligation under this Lease shall be excused for the period of any delay and shall not be deemed in default with respect to the performance of any of the terms, covenants and conditions of this Lease when prevented from so doing by a cause or causes beyond the Landlord's or Tenant's (as the case may be) control (excluding financial inability to perform), which shall include, without limitation, all labor disputes, governmental regulations or controls, fire or other casualty, inability to obtain any material or services, acts of God, or any other cause not within the reasonable control of Landlord or Tenant (as the case may be).

ARTICLE IX.

9.1. Notices. Any notice or other communications required or permitted to be given under this Lease must be in writing and shall be effectively given or delivered if (i) hand delivered to the addresses for Landlord and Tenant stated below, (ii) sent by certified or registered United States Mail, return receipt requested, to said addresses, or (iii) sent by nationally recognized overnight courier (such as Federal Express, UPS Next Day Air or Airborne Express), with all delivery charges paid by the sender and signature required for delivery, to said address. Any notice mailed shall be deemed to have been given upon receipt or refusal thereof. Notice effected by hand delivery shall be deemed to have been given at the time of actual delivery. Either party shall have the right to change its address to which notices shall thereafter be sent and the party to whose attention such notice shall be directed by giving the other party notice thereof in accordance with the provisions of this **Section 9.1.** The initial addresses of the parties for purposes of this Lease are:

To:	Lionstone Cash Flow Office One, LP Five Greenway Plaza Houston, Texas 77046 Attn: Daniel R. Dubrowski Telecopy: (713) 285-2911
With copy to:	Property Tennessee One Corporation c/o Lionstone Cash Flow Office One, LP Five Greenway Plaza Houston, Texas 77046 Attn: F. Russ Nicholson Telecopy: (713) 285-2911
With copy to:	Nashville Hines Development, LLC Property Management Office 2525 West End Avenue Nashville, TN 37203 Attn: Project Manager
Tenant:	Cumberland Pharmaceuticals Inc. 2525 West End Avenue, Suite 950 Nashville, TN 37203 Attn: Jean W. Marstiller Telecopy: (615) 255-0094
With a copy to:	Adams and Reese / Stokes Bartholomew LLP 424 Church Street, Suite 2800 Nashville, TN 37219-2386 Attn: Martin S. Brown Telecopy: (615) 259-1470

Tenant shall also send a copy of each such notice to each Mortgagee that notifies Tenant in writing of its interest and the address to which notices are to be sent.

9.2. Miscellaneous.

(a) This Lease shall be binding upon and inure to the benefit of the successors and assigns of Landlord, and shall be binding upon and inure to the benefit of Tenant, its successors, and, to the extent assignment may be approved by Landlord hereunder, Tenant's assigns. Where appropriate the pronouns of any gender shall include the other gender, and either the singular or the plural shall include the other.

(b) All rights and remedies of Landlord and Tenant under this Lease shall be cumulative and none shall exclude any other rights or remedies allowed by law. This Lease is declared to be a Tennessee contract, and all of the terms hereof shall be construed according to the laws of the State of Tennessee.

(c) This Lease may not be altered, changed or amended, except by an instrument in writing executed by all parties hereto. Further, the terms and provisions of this

Lease shall not be construed against or in favor of a party hereto merely because such party is the ***"Landlord"*** or the ***"Tenant"*** hereunder or such party or its counsel is the draftsman of this Lease.

(d) If Tenant is a corporation, partnership or other entity, Tenant warrants that all consents or approvals required of third parties (including but not limited to its Board of Directors or partners) for the execution, delivery and performance of this Lease have been obtained and that Tenant has the right and authority to enter into and perform its covenants contained in this Lease. Likewise, if Landlord is a corporation, partnership or other entity, Landlord warrants that all consent or approvals required of third parties (including but not limited to its Board of Directors or partners) for the execution, delivery and performance of this Lease have been obtained and that Landlord has the right and authority to enter into and perform its covenants contained in this Lease.

(e) TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HERETO SHALL AND THEY HEREBY DO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE DEMISED PREMISES AND/OR ANY CLAIM OF INJURY OR DAMAGE. IN THE EVENT LANDLORD COMMENCES ANY PROCEEDINGS FOR NONPAYMENT OF RENT OR ANY OTHER AMOUNTS PAYABLE HEREUNDER, TENANT SHALL NOT INTERPOSE ANY COUNTERCLAIM OF WHATEVER NATURE OR DESCRIPTION IN ANY SUCH PROCEEDING, UNLESS THE FAILURE TO RAISE THE SAME WOULD CONSTITUTE A WAIVER THEREOF. THIS SHALL NOT, HOWEVER, BE CONSTRUED AS A WAIVER OF TENANT'S RIGHT TO ASSERT SUCH CLAIMS IN ANY SEPARATE ACTION BROUGHT BY TENANT.

(f) Wherever in this Lease there is imposed upon Landlord the obligation to use best or reasonable efforts or due diligence, Landlord shall be required to do so only to the extent the same is economically feasible and otherwise will not impose upon Landlord extreme financial or other burdens.

(g) If any term or provision of this Lease, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and shall be enforceable to the extent permitted by law.

(h) Time is of the essence in this Lease.

(i) This Lease agreement shall not convey any leasehold estate from Landlord to Tenant. Landlord and Tenant hereby agree that this Lease creates only the interest of a usufruct in Tenant which may not be levied upon or assigned without Landlord's permission.

(j) Tenant represents and warrants to Landlord that Tenant did not deal with any broker in connection with this Lease. Tenant shall indemnify, defend and hold Landlord, Landlord's beneficiaries, the managing agent of the Building, the leasing agent of the Building and their respective agents, partners and employees and the Building harmless of, from and against any and all losses, damages, liabilities, claims, liens, costs and expenses (including, without limitation, court costs, reasonable attorneys' fees and litigation expenses) arising from any claims or demands of any broker or brokers or finders for any commission alleged to be due such other broker or brokers or finders claiming to have dealt with Tenant in connection with this Lease or with whom Tenant hereafter deals or whom Tenant employs. The provisions of this subsection shall survive the expiration or earlier termination of this Lease.

(k) If Tenant comprises more than one person, corporation, partnership, limited liability company or other entity, the liability hereunder of all such persons, corporations, partnerships or other entities shall be joint and several.

(1) Landlord's receipt of any Rental payable by Tenant hereunder with knowledge of the breach of a covenant or agreement contained in this Lease shall not be deemed a waiver of the breach. No acceptance by Landlord of a lesser amount than the installment of Rental which is due shall be considered, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed, an accord and satisfaction. Landlord may accept a check or payment without prejudice to Landlord's right to recover the balance due or to pursue any other remedy provided in this Lease.

(m) Wherever Landlord's consent or approval is required pursuant to the terms of this Lease, Landlord may grant or withhold the same in Landlord's sole and absolute discretion, except as otherwise expressly provided herein.

(n) Tenant covenants and agrees to keep strictly confidential all of the financial terms of this Lease and not to disseminate any such information to any third parties without the prior written consent of Landlord. Tenant further covenants and agrees that, at all times after the date of this Lease and prior to the Commencement Date, unless consented to in writing by Landlord, no press release or other public disclosure concerning this Lease shall be made by Tenant.

(o) Submission of this instrument for examination shall not constitute a reservation of or option to lease the Leased Premises or in any manner bind Landlord, and no lease or obligation on Landlord shall arise until this instrument is signed and delivered by Landlord and Tenant; provided, however, the execution and delivery by Tenant of this Lease to Landlord, or the managing agent of the Building or the leasing agent of the Building shall constitute an irrevocable offer by Tenant to lease the Leased Premises on the terms and conditions herein contained, which offer may not be revoked for thirty (30) days after such delivery.

(p) Financial Statements. Tenant shall deliver to Landlord, within fifteen (15) days after Landlord's request, Tenant's annual financial statement for the immediately previous fiscal year and Tenant's quarterly financial statements, if any, prepared since such annual financial statement, including balance sheets, income statements and cash flow statements,

prepared in accordance with generally accepted accounting principles consistently applied. Such financial statements shall be certified by the chief financial officer of Tenant as being true, accurate and complete in all material respects. If Tenant's annual financial statement will not be prepared or complete within such fifteen (15) day period, then Tenant's time to deliver its annual financial statement shall be extended to the day that such statement is completed in the normal course of Tenant's business and in keeping with reasonable business practices. However, if Tenant's time to respond would be extended by more than thirty (30) days, Tenant shall so notify Landlord in writing upon Tenant's receipt of Landlord's request for Tenant's financial statement, and shall offer to Landlord (in the interim) a copy of Tenant's prior year's financial statement with Tenant's chief financial officer's estimate of any material differences in Tenant's financial condition since that statement was prepared. Landlord shall only make request for such financial statements when Landlord determines, in the exercise of Landlord's reasonable judgment, that such information is of immediate value.

9.3. Option to Renew. Subject to the provisions hereinafter set forth and the expansion and renewal rights of other tenants on the floor containing the Leased Premises, Landlord hereby grants to Tenant an option to extend the Lease Term for not less than the entire initial Leased Premises (the ***"Option to Renew")*** on the same terms, conditions and provisions as contained in this Lease, as modified in this **Section 9.3**, for one period of five (5) years (the ***"Renewal Period")*** commencing on January 1, 2011 (the ***"Renewal Period Commencement Date")*** and ending at 6:00 p.m. on December 31, 2015.

(a) The Option to Renew shall be exercisable by written notice from Tenant to Landlord of Tenant's election to exercise said option ***("Tenant's Renewal Notice")*** given not earlier than twenty-four (24) months nor later than nine (9) months prior to the Renewal Period Commencement Date, time being of the essence. If the Option to Renew is not so exercised, said option shall thereupon expire.

(b) Tenant may only exercise the Option to Renew, and an exercise thereof shall only be effective, if at the time of Tenant's exercise of said option and on the Renewal Period Commencement Date this Lease is in full force and effect and there is no Event of Default under this Lease. No sublessee shall be entitled to exercise the renewal option under this **Section 9.3.**

(c) Rent per Rentable Square Foot payable during the Renewal Period with respect to all space included in the Leased Premises as of the Renewal Period Commencement Date shall be equal to Landlord's then-quoted Building rental rate for the Leased Premises, which may be a stepped rate, taking into account other pecuniary concessions such as any rent abatement, tenant improvement allowances, commissions, lese term, lease rate escalations, operating expenses, and taxes. Landlord shall give Tenant written notice of the proposed Market Rental Rate within twenty (20) days following written request by Tenant made not earlier than fourteen (14) months prior to the Renewal Period Commencement Date; provided, however, Landlord shall not be required to provide its notice of the proposed Market Rental Rate until Landlord has received Tenant's Renewal Notice.

(d) If Tenant has validly exercised the Option to Renew, within thirty (30) days after request by either party hereto, Landlord and Tenant shall enter into a written

amendment to this Lease confirming the terms, conditions and provisions applicable to the Renewal Period as determined in accordance herewith, with such revisions to the rental provisions of this Lease as may be necessary to conform such provisions to the Market Rental Rate.

[signatures appear on following page]

IN WITNESS WHEREOF, the parties hereto have executed and sealed this Lease as of the date aforesaid.

LANDLORD:

NASHVILLE HINES DEVELOPMENT, LLC,
a Delaware limited liability company

By: Cash Flow Asset Management, L.P.,
a Texas limited partnership, its sole manager

By: CFAM GP, L.L.C.,
a Texas limited liability company, its sole partner

By: /s/ F. Russ Nicholson
F. Russ Nicholson
Vice President

TENANT:

CUMBERLAND PHARMACEUTICALS INC.,
a Tennessee corporation

By: /s/ A.J. Kazimi
Name: A. J. Kazimi
Title: Chief Executive Officer

EXHIBIT A

SITE PLAN AND LOCATION OF THE BUILDING

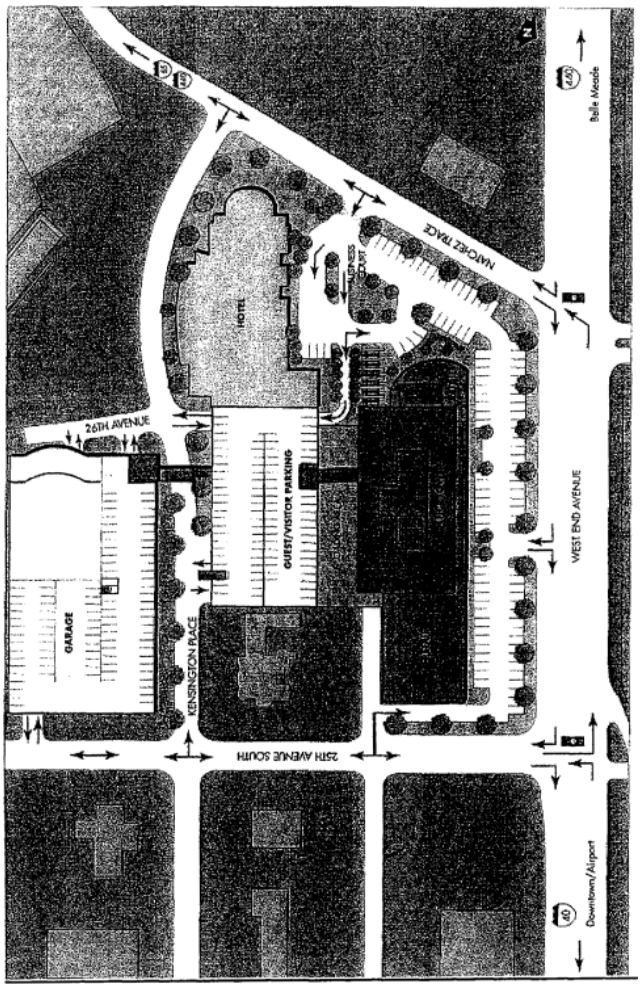


EXHIBIT A-1

DESCRIPTION OF LAND

Tract 1 / 3.01 Acres

Being a parcel of land in Nashville, First Civil District, Eighteenth Councilmanic District, Davidson County, Tennessee, generally located on the southerly side of West End Avenue between Twenty-Fifth Avenue South and Natchez Trace, being part of Lot 1, Vanderbilt University Consolidation Plat of record in Plat Book 9700, page 522, R.O.D.C. and being more particularly described as follows:

Beginning at a mag nail (new) in the westerly right-of-way line of Twenty-Fifth Avenue South (50-foot right-of-way) at the southerly terminus of a curve return to the southerly right-of-way line of West End Avenue (right-of-way varies);

THENCE, along said westerly right-of-way line of Twenty-Fifth Avenue South, S 36° 59' 53" E, 179.61 to an iron pipe (old) at the northeast corner of property conveyed to Vanderbilt University by deed of record in Book 5157, page 991, R.O.D.C.;

THENCE, along the northerly line of said property, S 53° 09' 57" W, 150.00 feet to an “x” in conc. wall;

THENCE, along the westerly line of said property, S 36° 59' 53" E, 179.81 feet to an iron pin (set) in the northerly line of a fifty foot wide ingress and egress easement;

THENCE, along the northerly line of said ingress and egress easement the following calls;

S 53° 08' 25" W, 90.85 feet to an iron pin (set) at the beginning of a curve to the left;

Along said curve to the left, 136.18 feet to a railroad spike (new), said curve having a central angle of 17° 56' 44", a radius of 434.80 feet, a tangent of 68.65 feet and a chord of S 44° 10' 03" W, 135.63 feet;

S 35° 11' 41" W, 8.07 feet to a mag nail (new);

THENCE, leaving the northerly line of said ingress and egress easement and along a severance line the following calls:

N 36° 59' 13" W, 103.37 feet to a mag nail (new);

S 53° 00' 47" W, 43.57 feet to a mag nail (new);

N 36° 59' 13" W, 3.57 feet to a mag nail (new);

S 53° 00' 47" W, 12.00 feet to a mag nail (new);

N 36° 59' 13" W, 285.90 feet to a mag nail (new) in the southerly right-of-way line of West End Avenue;

THENCE, along said right-of-way the following calls;

N 54° 13' 39" E, 33.07 feet to a mag nail (new);

N 53° 00' 47" E, 394.99 feet to an “x” in conc. (new) at the westerly terminus of a curve return to the right to the westerly right-of-way line of Twenty-Fifth Avenue South; Along said curve to the right 15.71 feet to the point of beginning, said curve having a central angle of 89° 59' 19", a radius of 10.00 feet, a tangent of 10.00 feet and a chord of S 81° 59' 33" E, 14.14 feet;

Containing 3.01 acres, more or less.

EXHIBIT B

FLOOR PLAN OF LEASED PREMISES

[to be attached]

Exhibit B

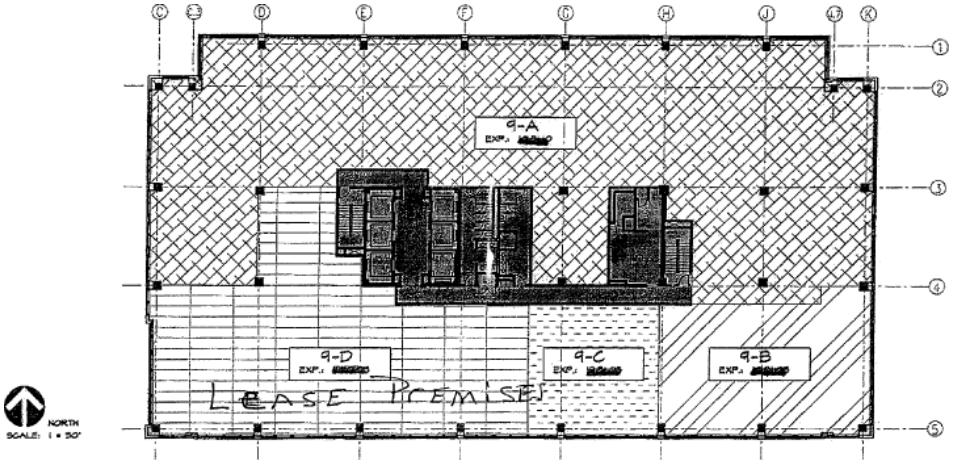

C
E3
D
E
F
G
H
J
L7
K
1
2
3
4
5
9-A
EXP.:
9-D
EXP.:
9-C
EXP.:
9-B
EXP.:
LEASE PREMISES
NORTH
SCALE: 1 = 50'

EXHIBIT C

AIR CONDITIONING AND HEATING SERVICES

Subject to the provisions of **Section 3.1(b),** Landlord will furnish Building Standard air conditioning and heating between 8 a.m. and 6 p.m. on weekdays (from Monday through Friday, inclusive) and between 8 a.m. and 1:00 p.m. on Saturdays, all exclusive of Holidays as defined below (the ***"Building Operating Hours"***). Upon request of Tenant made in accordance with the rules and regulations for the Building, Landlord will furnish air conditioning and heating at other times (that is, at times other than the times specified above), in which event Tenant shall reimburse Landlord for Landlord's actual cost of furnishing such services, plus an amount equal to fifteen percent (15%) of such costs to cover Landlord's administrative costs.

The Building Standard heating, ventilation and air conditioning system shall meet the following design conditions, at the stated outside design conditions, based on one person per 100 square feet:

1. Summer — Outdoor conditions 92 degrees Fahrenheit dry bulb, 75 degrees Fahrenheit wet bulb; indoor conditions 75 degrees Fahrenheit dry bulb, 50% relative humidity at design condition.
2. Winter — Outdoor conditions minus 16 degrees Fahrenheit dry bulb; indoor conditions 72 degrees Fahrenheit dry bulb.

The following dates shall constitute ***"Holidays"*** as said term is used in this Lease:

(a) New Year's Day

(b) Memorial Day

(c) Independence Day

(d) Labor Day

(e) Thanksgiving Day

(f) Friday following Thanksgiving Day

(g) Christmas

(h) Any other holiday generally recognized as such by landlords of office space in the metropolitan Nashville, Tennessee office market, as determined by Landlord in good faith.

If in the case of any holiday described in (a) through (g) above, a different day shall be observed than the respective day above-described, then that day which constitutes the day observed by national banks in Nashville, Tennessee on account of such holiday shall constitute the holiday under this Lease.

EXHIBIT D

BUILDING RULES AND REGULATIONS

1. Sidewalks, doorways, vestibules, halls, stairways, and other similar areas shall not be used for the disposal of trash, be obstructed by tenants, or be used by tenants for any purpose other than entrance to and exit from the Leased Premises and for going from one part of the Building to another part of the Building.

2. Plumbing fixtures shall be used only for the purposes for which they are designed, and no sweepings, rubbish, rags or other unsuitable materials shall be disposed into them. Damage resulting to any such fixtures from misuse by a tenant shall be the liability of said tenant.

3. Signs, advertisements, or notices visible in or from public corridors or from outside the Building shall be subject to Landlord's prior written approval.

4. Movement in or out of the Building of furniture, office equipment, or any other bulky or heavy materials shall be restricted to such hours as Landlord shall reasonably designate. Landlord will determine the method and routing of said items so as to ensure the safety of all persons and property concerned. Advance written notice of intent to move such items must be made to the Building management office.

5. All routine deliveries to a tenant's Leased Premises during 8:00 a.m. to 5:00 p.m. weekdays shall be made through the freight elevators. Passenger elevators are to be used only for the movement of persons, unless an exception is approved by the Building management office. Delivery vehicles shall be permitted only in such areas as are designated by Landlord, from time to time, for deliveries to the Building.

6. Building management shall have the authority to prescribe the manner that heavy furniture and equipment are positioned.

7. Corridor doors, when not in use, shall be kept closed.

8. Tenant space that is visible from public areas must be kept neat and clean.

9. All freight elevator lobbies are to be kept neat and clean. The disposal of trash or storage of materials in these areas is prohibited.

10. No animals shall be brought into or kept in, on or about the Building, except for seeing-eye dogs.

11. Tenant shall not tamper with or attempt to adjust temperature control thermostats in the Leased Premises. Landlord shall adjust thermostats as required to maintain the Building standard temperature. Landlord requests that all window blinds remain down and tilted at a 45 degree angle toward the street to help maintain comfortable room temperatures and conserve energy.

12. Tenant will comply with all security procedures during business hours and after hours and on weekends.

13. Tenants are requested to lock all office doors leading to corridors and to turn out all lights at the close of their working day.

14. All requests for overtime air conditioning or heating must be submitted in writing to the Building management office by 2:00 p.m. on the day desired for weekday requests, by 2:00 p.m. Friday for weekend requests and by 2:00 p.m. on the preceding business day for holiday requests.

15. No flammable or explosive fluids or materials shall be kept or used within the Building except in areas approved by Landlord, and Tenant shall comply with all applicable building and fire codes relating thereto.

16. Tenant may not place any items on the balconies of the Building that alter the exterior appearance of the Building without obtaining Landlord's prior written consent.

17. Any motor vehicle exceeding the height restrictions of the Parking Facility shall not be parked at any location on the Land or Parking Area.

18. Tenant may not make any modifications, additions or repairs to the Leased Premises and may not install any furniture, fixtures or equipment in the Leased Premises which is in violation of any applicable building and/or fire code governing the Leased Premises or the Building.

19. Except in those areas designated by Landlord. if any, smoking is prohibited in the Building (including, but not limited to, the Leased Premises, the main building lobby, public corridors, elevator lobbies, service elevator vestibules, stairwells, restrooms and other common areas within the Building).

20. All Tenant contractors shall abide by the contractor's rules and regulations promulgated by Landlord from time to time.

Landlord reserves the right to rescind any of these rules and regulations and to make such other and further rules and regulations as in its reasonable judgment shall, from time to time, be required for the safety, protection, care and cleanliness of the Building, the operation thereof, the preservation of good order therein and the protection and comfort of the tenants and their agents, employees and invitees. Such rules and regulations, when made and written notice thereof is given to a tenant, shall be binding upon it in like manner as if originally herein prescribed.

EXHIBIT F

[INTENTIONALLY DELETED]

EXHIBIT G

BASE RENTAL

PERIOD	ANNUAL BASE RENTAL RATE	RENTABLE SQUARE FOOTAGE	MONTHLY BASE RENTAL
1/1/06-12/31/06	[***]	6,341	[***]
1/1/07-12/31/07	[***]	6,341	[***]
1/1/08-12/31/09	[***]	6,341	[***]
1/1/09-12/31/09	[***]	6,341	[***]
1/1/10-12/31/10	[***]	6,341	[***]

EXHIBIT 10.23

*Certain portions of this exhibit have been omitted pursuant to a request for confidential treatment which has been filed separately with the SEC.

AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT (the "Lease") is made and entered into effective as of the 11th day of November, 2004 (the "Effective Date"), by and between **THE GATEWAY TO NASHVILLE, L.L.C.,** a Tennessee limited liability company, with its principal office and place of business in Nashville, Tennessee ("Landlord"), and **CUMBERLAND EMERGING TECHNOLOGIES, INC.,** A Tennessee corporation, with its principal place of business in Nashville, Tennessee ("Tenant").

WITNESSETH:

WHEREAS, pursuant to that certain Lease Agreement made by and between Landlord and Tenant dated June 1, 2002 (the "Original Lease"), Landlord leased and demised to Tenant, and Tenant leased from Landlord, the Premises (as such term is defined in Section 2 of the Original Lease, and being referred to herein as the "Original Premises"); and

WHEREAS, Landlord owns certain other premises (the "New Premises", as more particularly described in Section 1(b) hereof) that are adjacent to the Original Premises, and Landlord desires to lease and demise to Tenant, and Tenant desires to lease from Landlord, the New Premises; and

WHEREAS, Landlord has agreed to construct and prepare the New Premises for the occupancy of Tenant in accordance with the terms hereof; and

WHEREAS, Landlord has granted to Tenant a first right to lease the First Floor Option Space (as such term is defined in Section 36 hereof) and a first right to lease the Second Floor Option Space (as such term is defined in Section 37 hereof); and

WHEREAS, Landlord and Tenant desire to amend and restate the Original Lease in order to reflect the foregoing agreements and otherwise, pursuant to the terms and conditions hereof.

NOW, **THEREFORE,** for and in consideration of the foregoing premises and the mutual covenants, terms and conditions recited hereinafter, and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby amend and restate the Original Lease as follows:

1. **PREMISES.**

(a) Original Premises. Subject to and upon the terms and conditions set forth herein, Landlord does by these presents hereby lease unto Tenant, and Tenant does by these presents hereby lease from Landlord, those certain premises in The Randall G. Sender Pavilion located at 111 10th Avenue, South in Nashville, Davidson County, Tennessee, 37203 (the "Building"), containing approximately 1,500 square feet (with no common area percentage factor) and identified as the "Original Premises" in Exhibit A, attached hereto and incorporated herein by this reference (the "Original Premises").

(b) New Premises. Pursuant to the provisions of Section 4, below, Landlord has agreed to construct and prepare those certain premises in the Building containing approximately 5,390 rentable square feet (including a common area factor of twelve percent) and identified as the "New Premises" in Exhibit A, attached hereto (the "New Premises") for the occupancy of Tenant. Upon the Acceptance Date (as such term is defined in Section 4(d) below), Landlord shall lease the New Premises unto Tenant, and Tenant shall lease the New Premises from Landlord, subject to and upon the terms and conditions set forth herein. Prior to the Acceptance Date, the term "Premises", as used herein, shall refer solely to the Original Premises. Commencing on the Acceptance Date, and continuing thereafter for the remainder of the Term, the term "Premises", as used herein, shall refer to the Original Premises and the New Premises, collectively, which shall be deemed to have 6,890 rentable square feet, subject to the provisions of Section 36 and Section 37 hereof relating to the First Floor Option Space and the Second Floor Option Space.

2. TERM. Subject to and upon the terms and conditions set forth herein, or in any exhibit or addendum hereto, the term of this Lease shall commence on the date hereof and shall terminated on the date that is sixty-six (66) months after the Acceptance Date, unless this Lease is sooner terminated according to the terms hereof or unless Tenant chooses to extend this Lease for an Extension Term, as hereinafter defined (as such term may be renewed or extended, the "Term"). If Tenant is not in default under this Lease at the time of such notice and extension, Tenant may extend the Term on two (2) occasions for five (5) years (each an "Extension Term") by providing written notice to Landlord of Tenant's election to extend the Term no later than one hundred eighty (180) days prior to the end of the current Term or Extension Term, as applicable.

3. RENT.

(a) Tenant shall pay to Landlord as rent at the office of Landlord in Nashville, Tennessee, or to such other address as Landlord may direct, the amounts set forth in this Section 3 plus any other amounts due hereunder from time to time. The Annual Rent, Monthly Rent and any other amounts due Landlord from Tenant shall be referred to herein collectively as "Rent"). Any Rent not paid when due shall incur a late charge in the amount of five percent (5%) of such amount and shall additionally bear interest at the rate of ten percent (10%) per annum from the date payment was due until paid. Such late charge shall not be deemed a penalty, but is paid to reimburse Landlord for the administrative costs associated with such late payment. Tenant shall pay to Landlord the amounts set forth herein during the Term without demand, counterclaim, deduction, or set-off, except as may otherwise be provided herein. In the event the Term commences on a date other than the first (1**St**) day of a calendar month, or terminates on a date other than the last day of a calendar month, then the amount of Monthly Rent due hereunder for such month shall be prorated.

(b) From the Effective Date until May 31, 2005, Tenant shall pay to Landlord Rent at a monthly rate equal to [***] for the portion of the Premises described as

the Original Premises with a square footage of 1,500 square feet. On June 1, 2005, the Rent rate per square foot in the Original Premises shall be equal to that hereafter set forth for the Premises.

(c) On the Acceptance Date, the amount of Annual Rent due hereunder shall be increased based on an additional 2,800 rentable square feet of space in the New Premises at the then applicable Rent rate and the amount of Monthly Rent due hereunder shall increase accordingly. On the earlier to occur of (i) Tenant's use of the remainder of the New Space or (ii) the first day of the seventh calendar month after the month in which the Acceptance Date occurs, the amount of Annual Rent due hereunder shall be increased for the entirety of the Premises consisting of 6,890 rentable square feet calculated on the Rent rate then applicable.

(d) During the first twelve (12) months after the Acceptance Date, Tenant shall pay to Landlord Rent calculated at a rate of [***] per rentable square foot (as modified herein, the "Annual Rent"), payable in equal monthly installments (as modified herein, the "Monthly Rent"), each such installment being due on the first (1) day of each and every calendar month, in advance. On the first day of the thirteenth calendar month of the Term, and for the remainder of the Term, the Annual Rent due hereunder shall be calculated based on [***] per rentable square foot.

(e) During the first Extension Term, if any, the Annual Rent shall be based on [***] per rentable square foot, or [***], and the Monthly Rent shall be [***], and Rent shall increase by [***] per year during each subsequent year of the first Extension Term. During the second Extension Term, if any, the Annual Rent shall be based on [***] per rentable square foot, or [***], and the Monthly Rent shall be [***], and Rent shall increase by [***] per year during each subsequent year of the second Extension Term.

(f) Tenant shall each month promptly pay, as Rent hereunder, all utility charges for the gas, electricity and/or water used by Tenant in the Premises.

4. **LANDLORD'S IMPROVEMENTS TO PREMISES.**

(a) Landlord shall construct and prepare the New Premises for the occupancy of Tenant in accordance with the plans and specifications the "Plans") set forth in Exhibit B attached hereto and incorporated herein by this reference ("Landlord's Work") on or before , 200___(the "Completion Deadline"), subject to *force majeure* and any delays caused by Tenant.

(b) Approval of Tenant's plans and specifications by Landlord is for the sole benefit of Landlord and shall not constitute the assumption of any responsibility by Landlord for their accuracy or sufficiency or compliance with applicable laws, ordinances or regulations, including without limitation the Americans with Disabilities Act, and Tenant shall be solely responsible for such Plans.

(c) Landlord shall complete Landlord's Work in a good and workmanlike manner in accordance with the approved plans and specifications therefor, and all applicable statutes, laws, rules, codes, regulations, ordinances or other requirements of any federal, state, county or local governmental or quasi-governmental entity having jurisdiction over, or in any way applicable to, Landlord or Landlord's Work. Landlord shall obtain all licenses and permits required for Landlord to commence and complete Landlord's Work.

(d) Landlord's Work shall be deemed complete, and Tenant shall be deemed to have accepted the New Premises, on such date as all applicable permits required for the use of the New Premises have been validly issued, and copies thereof have been provided to Tenant (such date being referred to herein as the "Acceptance Date"), subject to the provision by Tenant of any "punch list" items which shall be completed by Landlord within thirty (30) days after the Acceptance Date.

(e) Tenant shall pay to Landlord as additional Rent hereunder all expenses and costs incurred by Landlord in completing the Work within thirty (30) days after presentation to Tenant of an invoice therefor, together with any supporting documentation reasonably requested by Tenant.

5. RULES AND REGULATIONS. Tenant will comply with all reasonable rules and regulations as may be adopted by Landlord for the safety, care and cleanliness of the Premises and the Building, and for preservation of good order therein, including, without limitation, the Rules and Regulations set forth in Exhibit C, attached hereto and incorporated herein by this reference, as the same may be amended from time to time upon notice to Tenant (the "Rules and Regulations").

6. USE. Tenant will use and occupy the Premises for general office and research laboratories and for no other purpose. Subject to the provisions of Section 26 of this Amendment, Tenant shall keep the Premises in good repair and tenantable condition and shall quit and surrender the Premises peaceably upon the expiration of the Term in as good condition as the reasonable use thereof will permit, reasonable wear and tear excepted. Without limiting the foregoing, Tenant shall replace at its own expense any and all broken glass in and about the Premises with glass of the same size and quality, including all signs thereon. If Tenant fails to make proper repairs, Landlord, at its option, may make such repairs at Tenant's expense.

7. CONDITIONS OF PREMISES. No representations, except as are contained herein or endorsed hereon, have been made to Tenant with respect to the condition of the Premises. The taking of possession of any portion of the Premises, including without limitation the New Premises, by Tenant shall be conclusive evidence against Tenant that such portion of the Premises was in good and satisfactory condition when possession of the same was so taken, and Tenant will, at the termination of this Lease, by lapse of time or otherwise, return the Premises to Landlord in as good condition as when received, loss by fire, storm or other casualty and ordinary wear and tear excepted.

8. SUBLETTING AND ASSIGNMENT. Tenant will not assign this Lease nor any interest hereunder, and will not permit any assignment hereof by operation of law, and will not sublet the Premises or any part thereof, and will not permit the use of the Premises by any parties other than Tenant, and the agents and servants of Tenant, without first obtaining the written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Landlord may assign this Lease or any part thereof or right thereunder. Notwithstanding the foregoing, Tenant may license or sublet portions of the Premises to users of the office and laboratory facilities in the Premises in conjunction with Tenant's business purposes.

9. ALTERATIONS AND IMPROVEMENTS. No alterations, additions or improvements to the Premises, except such as may be provided for in this Lease, shall be made without first obtaining the consent, in writing, of Landlord, and any improvements, additions or alterations made by Tenant after such consent shall have been given, including any and all fixtures installed, excepting trade fixtures, shall at Landlord's option remain on the Premises as the property of Landlord, without compensation to Tenant, or shall be removed therefrom and the Premises restored to their original condition at cost to Tenant, at the expiration or sooner termination of this Lease. Without limiting the foregoing, Tenant shall, at the expiration or sooner termination of this Lease, restore the Premises to their shell condition prior to the commencement of the Lease, remove all pipes and other equipment pursuant to Section 26 of this Lease and repair any damage or holes to the walls associated with such ducts, pipes, wiring and other equipment. Tenant shall at its own cost repair any damage caused by the removal of trade fixtures in order to restore the Premises to their original condition. Tenant agrees to save Landlord harmless on account of claims for mechanics, materialmen or other liens in connection with any alterations, additions, or improvements to which Landlord may give its consent in connection with the Premises, and Tenant will, if required by Landlord, furnish such waiver or waivers of lien or bond in form and with surety satisfactory to Landlord, as Landlord may require before starting any work in connection with alterations, additions or improvements to the Premises.

10. LIMITS OF USE AND PEACEFUL ENJOYMENT. Tenant will not use or permit upon the Premises anything that will invalidate any policies of insurance now or hereafter carried on the Building or that will increase the rate of insurance on the Premises or the Building beyond the standard rates for coverage on office space. Any increase of insurance costs due as a result of Tenant's use of the Premises for laboratory uses shall be paid to Landlord as additional Rent hereunder. Tenant will not in any manner deface or injure the Building or any part thereof, or overload the floors of the Premises, it being mutually agreed that in no event shall any weight be placed upon said floors in excess of seventy-five (75) pounds per square foot of floor space covered. Tenant will not permit any objectionable noise or odor to escape or be emitted from the Premises in any way tending to create a nuisance, or tending to disturb any other tenant in the Building or the occupants of neighboring property, or tending to injure the reputation of the Building. Tenant will comply with all governmental, health and police requirements and regulations respecting the Premises and its use thereof.

11. PERSONAL OR PROPERTY RISKS. Landlord shall not be held responsible for, and is hereby expressly relieved from, all liability by reason of any injury, loss or damage to any person or property in or about the Premises, unless caused by the negligent or willful act or omission of Landlord, Landlord's agents, employees or invitees, whether the loss, injury, or damage be to the person or property of Tenant or any other person. This provision shall apply especially (but not exclusively) to damage caused by water, snow, frost, steam, sewage, illuminating gas, sewer gas, or odors, or by the bursting or leaking of pipes or plumbing works, and shall apply equally whether such damage be caused by the act or neglect of other tenants, occupants or janitors of the Building or of any other persons, and whether such damage be caused or occasioned by anything above mentioned or referred to, or by any other thing or circumstance, whether of a like nature, or of a wholly different nature. If any such damage shall be caused by the acts of neglect of Tenant, Landlord may, at its option, repair such damage, whether caused to the Building or tenants thereof, and Tenant shall thereupon reimburse Landlord the total cost of such damage both to the Building and to tenants thereof. Tenant further agrees that all personal property upon the Premises shall be at risk of Tenant only and that Landlord shall not be liable for any damage thereto or theft thereof. Nor shall Landlord be liable for the stoppage or interruption of water, light, heat, air conditioning, janitor or elevator service, caused by riot, strike, accident, or to make needful repairs, or by any other cause over which Landlord has no control and such failure, delay or default shall not be construed or considered as an actual or constructive eviction of Tenant nor shall it in any way operate to release Tenant from the punctual performance of each and every one of the other covenants herein contained by the Tenant to be performed.

12. RIGHTS OF LANDLORD ON DEFAULT. If default shall at any time be made by Tenant in the payment of the rent hereby reserved, or any installment thereof; or if default shall be made in any of the other covenants herein contained, to be kept, observed and performed by Tenant; or if the leasehold interest shall be levied on under execution; or in the event of the insolvency or bankruptcy of Tenant, or the filing of any petition under the bankruptcy statute, voluntarily or involuntarily and whether or not resulting in an adjudication in bankruptcy, provided that involuntary filings shall be a default only if not dismissed within sixty (60) days of the date of its filing; or in the event of a partial or general assignment for the benefit of a creditor; then, and in any of said cases, Landlord may, at its option, at once, without notice to Tenant, terminate this Lease or terminate Tenant's right to occupy the Premises without termination of the Lease; and upon the termination of said Lease or Tenant's right of occupancy at the option of Landlord as aforesaid, or at the expiration by lapse of time of the Term, Tenant will at once surrender possession of the Premises to Landlord, and remove all effects therefrom, and if such possession be not immediately surrendered, Landlord may forthwith re-enter the Premises and repossess itself thereof as of its former estate and remove all persons and effects therefrom, using such force as may be necessary, without being deemed guilty of any manner of trespass or forcible entry and detainer. Tenant expressly waives the service of any notice of intention to terminate this Lease or Tenant's right to occupy the Premises or to re-enter the Premises, and waives the service of any demand for payment of rent or for possession, and waives the service of any and every other notice or demand prescribed by

any statute or other law, and agrees that the simple breach of any of the said covenants shall, of itself, without the service of any notice or demand whatever, constitute a forcible detainer by Tenant of the Premises, within the meaning of the statutes of the State of Tennessee. No receipt of moneys by Landlord from Tenant, after the termination in any way of this Lease or Tenant's right of possession thereunder, or after giving of any notice, shall reinstate, continue or extend the term of this Lease or affect any notice given to Tenant prior to the receipt of such money, it being agreed that after the service of notice of the commencement of a suit, or after final judgment for possession of the Premises, Landlord may receive and collect any rent due, and the payment of said rent shall not waive or affect said notice, said suit or said judgment. If Tenant shall not remove all effects from the Premises as above agreed, Landlord may, at its option, remove the same in any manner that Landlord shall choose and store or dispose of the same without liability to Tenant for loss thereof, and Tenant will pay Landlord, on request, any and all expense incurred in such removal and also storage of said effects for any length of time during which the same shall be in Landlord's possession; or Landlord may at its option, without notice, sell the said effects or any of the same for such price as Landlord may deem best and apply the proceeds of such sale upon any amounts due under this Lease from Tenant to Landlord, including the expenses of the removal and sale.

13. RIGHTS OF LANDLORD ON ABANDONMENT. In the event that Tenant shall vacate the Premises or abandon the same during the Term, Landlord may, at its option, without terminating this Lease, but Landlord shall not be under any obligation to do so, enter into the Premises, remove Tenant's signs therefrom, and relet the same for the account of Tenant for such rent and upon terms as shall be satisfactory to Landlord, without such reentry working a forfeiture of the rents to be paid and the covenants to be performed by Tenant during the full Term of this Lease; and for the purpose of such re-letting Landlord is authorized to make any repairs, changes, alterations or additions in or to the Premises that may be necessary or convenient, and if a sufficient sum shall not be realized monthly from such re-letting, after paying all of the costs and expenses of such re-letting the collection of the rent accruing therefrom each month to satisfy the monthly rent above provided to be paid by Tenant, then Tenant will pay and satisfy such deficiency each month upon demand therefor.

14. LOSS OR DAMAGE TO PREMISES. Should the Building be totally destroyed by fire or other cause, or so damaged that rebuilding or repairs cannot be completed within one hundred eighty (180) days from date of said fire or other cause of damage, this Lease shall terminate and Tenant shall be allowed an abatement of rent from the date of such damage or destruction. However, if the damage is such that rebuilding or repairs can be completed within one hundred eighty (180) days, Landlord covenants and agrees to make such repairs with reasonable promptness and dispatch, and to allow Tenant an abatement in the rent for such time as the Building is untenantable (in Tenant's reasonable determination), or proportionately for such portion of the Premises as shall be untenantable (in Tenant's reasonable determination), and Tenant covenants and agrees that the terms of this Lease shall not otherwise be affected.

15. CONDEMNATION. If the whole of the Premises shall be taken or condemned by any competent authority for public or quasi public use or purpose, then, and in that event, the Term shall expire when the possession of the Premises so taken shall be required for such use or purpose. If any part, less than the whole, of the Premises shall be so taken or condemned, then, and in that event, either Landlord or Tenant shall have the option, exercisable by notice in writing to the other within sixty (60) days from the date of the notice to Landlord of the taking or condemnation, to terminate this Lease; and in the event said option to so terminate this Lease is exercised by either Landlord or Tenant, the Lease shall continue in effect with respect to the portion of the Premises not taken or condemned unless the same is rendered untenantable (in Tenant's reasonable determination) by such taking and condemnation or cannot be made tenantable (in Tenant's reasonable determination) by repairs to be conducted by Landlord at its expense. In the event this Lease continues with reference to the portion of the Premises not taken, the rental specified hereunder shall be prorated and adjusted on a square footage basis. In the event that this Lease terminates by a taking or condemnation of the whole of the Premises or by the election on the part of Landlord as provided herein, the current rental shall in either case be apportioned to the date of termination of the Lease. Landlord shall be entitled to any and all awards and/or settlements that may be awarded on account of such taking or condemnation. Tenant, however, shall not be prevented from making a claim against the condemning party (but not against Landlord) for any moving or relocation expenses, loss of profits, or taking of Tenant's personal property (other than its leasehold estate) to which Tenant may be entitled; provided that any such award shall not reduce the amount of the award otherwise payable to Landlord for the taking of the Building and Premises.

16. REDECORATION. If Tenant shall move from the Premises at any time prior to the termination of this Lease, Landlord shall have the right to enter upon the Premises for the purpose of decorating the same or making alterations or changes therein, without such entry in any manner affecting the obligation of Tenant hereunder.

17. MOVING TENANT. Landlord, at its option, may substitute for the Premises other space (hereafter called "Substitute Premises") owned by Landlord in the Building at any time during the Term or any extension of this Lease. Insofar as reasonably possible, the Substitute Premises shall be of comparable quality and shall have a comparable square foot area and a configuration substantially similar to the Premises. If the parties cannot agree on the adequacy of the replacement space, an independent mediator with experience in the office real estate market in the Nashville metropolitan area shall be procured, with the costs of such mediator shared equally by the parties. Landlord shall give Tenant at least sixty (60) days notice of its intention to relocate Tenant to the Substitute Premises. This notice will be accompanied by a floor plan of the Substitute Premises. After such notice, Tenant shall have ten (10) days within which to agree with Landlord on the proposed Substitute Premises and unless such agreement is reached within such period of time, Landlord may terminate this Lease at the end of the sixty (60) day period of time following the notice. Landlord agrees to construct or alter, at its own expense, the Substitute Premises as expeditiously as possible so that they are in substantially the same condition that the Premises were in immediately prior to the relocation. Landlord shall have the right

to reuse the fixtures, improvements and alterations used in the Premises. Tenant agrees to occupy the Substitute Premises as soon as Landlord's work is substantially completed, Landlord shall pay Tenant's reasonable third-party costs of moving Tenant's furnishings, telephone and computer wiring, and other property to the Substitute Premises, and reasonable printing costs associated with the change of address. Except as provided herein, Tenant agrees that all of the obligations of this Lease, including the payment of rent (to be determined on a per rentable square foot basis and applied to the Substitute Premises), will continue despite Tenant's relocation to the Substitute Premises. Upon substantial completion of the Substitute Premises, this Lease will apply to the Substitute Premises as if the Substitute Premises had been the space originally described in this Lease.

18. RIGHTS OF LANDLORD. The right of Landlord to terminate this Lease as herein set forth is in addition to and not in exhaustion of such other rights that Landlord has, or causes of action that may accrue to Landlord because of Tenant's failure to fulfill, perform or observe the obligations, agreements or covenants of this Lease, and the exercise or pursuit by Landlord of any of the rights or causes of action accruing hereunder shall not be an exhaustion of such other rights or causes of action that Landlord might otherwise have.

19. WAIVERS. No waiver of any condition expressed in this Lease shall be implied by any neglect of Landlord to declare a forfeiture on account of the violation of such condition if such violation be repeated or continued subsequently and no express waiver shall affect any condition other than the one specified in such waiver, and that one only for the time and in the manner specifically stated.

20. ATTORNEYS. Either party hereto shall be entitled to recover from the other party hereto all reasonable attorney's fees and other costs and expenses it incurs in enforcing any of the obligations of the other party hereunder.

21. LIENS. (Intentionally omitted).

22. HOLD OVER. Tenant will pay to Landlord, as liquidated damages, rent in an amount equal to one hundred fifty percent (150%) of the rent payable hereunder immediately prior to the end of the Term, for all the time Tenant shall retain possession of the Premises or any part thereof for the first two (2) months after the termination of this Lease, whether by lapse of time or otherwise, and two hundred percent (200%) for any period beyond such time; but the provisions of this clause shall not operate as a waiver by Landlord of any right of re-entry hereinbefore provided; nor shall any waiver by Landlord of its right to terminate this Lease for breach of covenant affect its right to terminate this Lease for any later breach of the same or another covenant.

23. AIR RIGHTS. It is understood and agreed that this Lease does not grant any rights to light and air over property, except public streets adjoining the land on which the Building is situated.

24. HOLD HARMLESS. Tenant covenants to save and hold Landlord harmless from violations by Tenant of the laws of the United States, of the State of Tennessee, and the

ordinances and laws of the Metropolitan Government of Nashville and Davidson County, Tennessee.

25. EXTRA USE OF PREMISES. Tenant shall not use the Premises for any purpose except that which is above specified, and in particular will not expose nor offer for sale on the Premises, any alcoholic or other liquors, tobacco, drugs, flowers, candies, confections, nor any other thing or things whether of a like or of a wholly different nature, without the written consent of Landlord, the right being hereby reserved to Landlord to grant to any person, firm or corporation the exclusive right and privilege to conduct any particular business in the Building, and such exclusive right and privilege so granted shall be binding upon Tenant hereunder the same as though specifically incorporated in this Lease upon Landlord's notification to Tenant of the granting of such exclusive right and privilege.

26. MAINTENANCE. Landlord shall be responsible for floors (but not floor coverings), roof and all other structural elements of the Building, and for maintaining all common area mechanical systems, including but without limitation the heating, ventilation, air-conditioning, electrical and plumbing systems. Except as otherwise provided in this Lease or in the Plans, and except for customary equipment used in laboratories, Tenant shall not install or connect any air conditioning equipment, electric-driven motor or any electrical, gas or water appliance or equipment, without the prior written consent of Landlord. With respect to air conditioning or any other electrical, gas or water appliance or equipment installed by or under Tenant, Landlord shall have the right to retain all ducts, wiring, piping, and other related equipment upon the termination of this Lease, provided, however, that in the absence of specific direction from Landlord, Tenant shall be required to remove all such equipment, ducts, wiring, piping and other related equipment.

27. STORAGE. If Tenant shall fail to remove all effects from the Premises upon termination of this Lease for any cause whatsoever, Landlord may at its option remove the same in any manner that Landlord shall choose and store said effects without liability to Landlord for loss thereof, and Tenant agrees to pay Landlord on demand any and all expenses incurred in such removal, including court costs and attorney's fees and storage charge on such effects for any length of time the same shall be in Landlord's possession, or Landlord may at its option without notice sell said effects or any part of the same at private sale and without legal process for such price as Landlord may obtain and apply the proceeds of such sale upon any amounts due under this Lease from Tenant to Landlord and upon the expense incident to the removal and sale of said effects.

28. DEFECTS. Tenant shall provide Landlord or its agent prompt written notice of any accident to or defects in mechanical or other systems for which Landlord is responsible hereunder, which defects shall be remedied by Landlord with due diligence promptly after its receipt of any such notice from Tenant.

29. SUBORDINATION. This Lease is subject and subordinate to all present mortgages affecting the real estate and improvements thereon of which the Premises form a part, and to all renewals and extension thereof, and to any mortgages which may hereafter be

executed affecting the same, and Tenant shall execute a commercially reasonable form of agreement evidencing such subordination and attornment in favor of any of Landlord's lenders from time to time within three (3) business days after request therefor from Landlord, provided only that such agreement shall provide commercially reasonable nondisturbance provisions for Tenant.

30. LIQUIDATED DAMAGES. It is agreed between the parties hereto that if the rent stipulated herein at any time shall not be paid within ten (10) days of the date when due, then all subsequent installments of rent, remaining unpaid, shall forthwith become due and payable at the option of Landlord with notice to Tenant, and in case Tenant is declared bankrupt or voluntarily offers to creditors terms of composition, or in case a receiver is appointed to take charge of and conduct the affairs of Tenant, such claim for further unpaid installments of rent due under this Lease shall be considered liquidated damages and shall constitute a debt provable in bankruptcy or receivership.

31. REMEDIES. No act or thing done by Landlord or its agents during the Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless the same be made in writing and subscribed by Landlord. The provision in this Lease of any particular remedy shall not preclude Landlord from any other remedy Landlord might have, either in law or in equity, nor shall the waiver of or redress for any violation of any covenant or condition in this Lease contained or any of the Rules and Regulations, prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. In case it should be necessary or proper for Landlord to bring any action under this Lease or to consult or place said Lease, for any amount payable by Tenant thereunder, with an attorney concerning or for the enforcement of any of Landlord's rights hereunder, then Tenant agrees in each and any such case to pay to Landlord its reasonable attorney's fees actually incurred. The receipt by Landlord of rent with knowledge of the breach of any covenant in this Lease contained, shall not be deemed a waiver of such breach, The failure of Landlord to enforce any of the Rules and Regulations against Tenant and/or any other tenant in the Building shall not be deemed a waiver thereof. The receipt by Landlord of rent from any assignee, subtenant or occupant of the Premises shall not be deemed a waiver of the covenant in this Lease contained, against assignment, and subletting or an acceptance of the assignee, subtenant or occupant as Tenant, or a release of Tenant from the further observance or performance by Tenant of the covenant in this Lease contained, on the part of Tenant to be observed and performed. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver be in writing signed by Landlord. In case of termination of this Lease by Landlord under any option herein provided for, Landlord may re-enter the Premises without notice or demand, and in that event rent shall become due and be apportioned and paid up to and including the day of such entry. The sole remedy for Landlord's failure to complete Landlord's Work by the date set forth herein shall be a delay in the Acceptance Date, provided, however, that if the Acceptance Date is delayed more than ninety (90) days from the date set forth herein and such delay is not attributable to causes beyond the control of Landlord, Tenant shall have a one-time right to terminate this Lease upon written notice to Landlord within ten (10) days of the ninetieth (90^{th}) day of delay.

32. ACCESS TO PREMISES. The parties hereto agree that for the purpose of completing or of making repairs or alterations in any portion of the Building, Landlord may use one or more of the street entrances, halls, passageways and elevators of the Building, provided, however, that there shall be no unnecessary obstruction of the right of entry to the Premises while the same are occupied.

33. ESCALATION. The rent payable by Tenant during each lease year shall be adjusted in accordance with this Article:

(a) Definitions. For the purpose of this Section 33, the following definitions shall apply:

(i) The term "Base Year" shall mean the calendar year 2002.

(ii) The term "Percentage" shall mean ten and ninety-five one hundreths percent (10.95%).

(iii) The term "Real Estate Taxes" shall mean all taxes and assessments levied, assessed or imposed at any time by any governmental authority upon or against the Building or the land upon which the Premises are located, and also any taxes or assessments levied, assessed or imposed at any time by any governmental authority in connection with the receipt of income or rents from said Building and/or land to the extent that same shall be in lieu of all or a portion of any of the aforesaid taxes or assessments upon or against said Building and/or land.

(b) Real Estate Taxes. In the event that the Real Estate Taxes payable during any calendar year following the Base Year shall be estimated by Landlord to exceed the amount of the Real Estate Taxes payable during the Base Year (the "Base Year Taxes"), Tenant shall pay to Landlord as additional Rent for such calendar year an amount equal to the Percentage of such estimated excess (the "Estimated Excess Taxes") in equal monthly installments as determined by Landlord. By or after April 1st of each calendar year, Landlord shall furnish to Tenant a statement of the actual excess Real Estate Taxes payable during the preceding calendar over the Base Year Taxes (the "Actual Excess Taxes"). Landlord shall apply any amount by which the Percentage of Estimated Excess Taxes exceeds the Percentage of Actual Excess Taxes to the following year's Estimated Excess Taxes payments due hereunder, and Tenant shall pay any shortfall between the Percentage of Actual Excess Taxes and the Percentage of Estimated Excess Taxes, with such payments made as additional Rent by Tenant to Landlord within twenty (20) days after receipt of the aforesaid statement. Such payments shall be prorated for any year in which this Lease terminates.

(c) Insurance. Landlord shall maintain on the Building, associated personal property, fixtures and other improvements, such property, hazard, liability and other insurance policies as Landlord deems reasonably appropriate or as may be required by any party whose interests are secured by a lien, mortgage or other security interest in the Building (the "Insurance Coverage"). In the event that the premiums and charges for the Insurance Coverage (the "Insurance Costs") payable during any calendar year following the

Base Year shall be estimated by Landlord to exceed the amount of the Insurance Costs payable during the Base Year (the "Base Year Insurance"), Tenant shall pay to Landlord as additional Rent for such calendar year an amount equal to the Percentage of such estimated excess (the "Estimated Excess Insurance Costs") in equal monthly installments as determined by Landlord. By or after April 1st of each calendar year, Landlord shall furnish to Tenant a statement of the actual excess Insurance Costs payable during the preceding calendar over the Base Year Insurance Costs (the "Actual Excess Insurance Costs"). Landlord shall apply any amount by which the Percentage of Estimated Excess Insurance Costs exceeds the Percentage of Actual Excess Insurance Costs to the following year's Estimated Excess Insurance Costs payments due hereunder, and Tenant shall pay any shortfall between the Percentage of Actual Excess Insurance Costs and the Percentage of Estimated Excess Insurance Costs, with such payments made as additional Rent by Tenant to Landlord within twenty (20) days after receipt of the aforesaid statement. Such payments shall be prorated for any year in which this Lease terminates.

34. QUIET ENJOYMENT. Landlord covenants that Tenant, upon paying the Rent and complying with the terms, covenants and conditions set forth herein, shall and may peaceably and quietly have, hold, and enjoy the Premises during the Term.

35. TENANT'S REMEDIES. In addition to and without limiting the other rights and remedies available to Tenant hereunder, or that may otherwise be available to Tenant at law or in equity, in the event Landlord fails to perform any of its obligations or duties hereunder, or otherwise breaches any of its covenants, warranties, representations or other obligations under this Lease, after not less than thirty (30) days written notice to Landlord, Tenant may, but shall not be obligated to, remedy such failure or breach if not cured within such time frame by Landlord. All reasonable amounts expended or obligations reasonably incurred by Tenant in connection therewith shall be paid by Landlord to Tenant upon demand.

36. RIGHT OF FIRST REFUSAL TO LEASE FIRST FLOOR SPACE. During the Term, Tenant shall have the first right to lease (the "Option") that certain space identified as the "First Floor Option Space" on Exhibit A, attached hereto (the "First Floor Option Space"), in the event that same becomes available, upon the terms and conditions set forth in this Lease, except as otherwise provided in this Section 36. In the event that the First Floor Option Space becomes available during the Term, Landlord shall promptly provide to Tenant notice of such availability, provided, however, that the First Floor Option Space shall not be deemed to become available if the current tenant, by negotiation, extension of its current lease or a new lease, extends its possession of the First Floor Option Space. Upon receipt of such notice from Landlord, Tenant shall have fifteen (15) days to notify Landlord in writing of its intention to exercise the Option. Tenant's failure to exercise the Option shall not result in a termination of this Lease. Further, if Tenant does not exercise the Option, the Option shall not terminate and, should Landlord fail to lease the First Floor Option Space within six (6) months following Tenant's notice of its election not to exercise the Option, Landlord may not thereafter lease the First Floor Option Space without again offering it to Tenant pursuant to the terms of this Section 36. Notwithstanding anything to the contrary set

forth herein, Landlord and Tenant hereby acknowledge and agree that in the event Tenant exercises the Option at any time during the Term: (i) the amounts of the Annual Rent and Monthly Rent applicable to the First Floor Option Space shall be on market rate terms based on leases of similar duration and services within the Building, and (ii) the First Floor Option Space shall be deemed to be a part of the Premises for the purposes of this Lease.

37. RIGHT OF FIRST REFUSAL TO LEASE SECOND FLOOR SPACE. During the Term, and so long as Tenant is not in default under this Lease, Tenant shall have the first right to lease (the "Second Option") that certain space identified as the "Second Floor Option Space" on Exhibit A, attached hereto (the "Second Floor Option Space"), in the event that same becomes available, upon the terms and conditions set forth in this Lease, except as otherwise provided in this Section 37. Notwithstanding the foregoing, Tenant acknowledges that the Second Floor Option Space is currently available and Tenant has elected not to rent the Second Floor Option Space at this time. Accordingly, the Second Option shall not arise until after any lease for the Second Floor Option Space into which Landlord may subsequently enter. In the event that the Second Floor Option Space becomes available during the Term, Landlord shall promptly provide to Tenant notice of such availability, provided, however, that the Second Floor Option Space shall not be deemed to become available if any future tenant, by negotiation, extension of its current lease or a new lease, extends its possession of the Second Floor Option Space. Upon receipt of such notice from Landlord, Tenant shall have fifteen (15) days to notify Landlord in writing of its intention to exercise the Second Option. Tenant's failure to exercise the Second Option shall not result in a termination of this Lease. Further, if Tenant does not exercise the Second Option, the Second Option shall not terminate and, should Landlord fail to lease the Second Floor Option Space within six (6) months following Tenant's notice of its election not to exercise the Second Option, Landlord may not thereafter lease the Second Floor Option Space without again offering it to Tenant pursuant to the terms of this Section 37. Notwithstanding anything to the contrary set forth herein, Landlord and Tenant hereby acknowledge and agree that in the event Tenant exercises the Second Option at any time during the Term: (i) the amounts of the Annual Rent and Monthly Rent applicable to the Second Floor Option Space shall be on market rate terms based on leases of similar duration and services within the Building, and (ii) the Second Floor Option Space shall be deemed to be a part of the Premises for the purposes of this Lease.

38. PARKING. Landlord will provide Tenant, its employees and invitees, twenty-five (25) spaces in the parking lot known as Gateway to Nashville, throughout the terms of Lease. Such parking entitlement shall be on a nonexclusive basis with other tenants and parking licensees and no guarantee is made that parking spaces will be available at all times.

39. MISCELLANEOUS PROVISIONS.

(a) Remedies Cumulative. All rights and remedies of either party hereunder shall be cumulative, and none shall exclude any other rights and remedies allowed by law.

(b) Grammar. The words “Landlord” and “Tenant” whenever used herein shall be construed to mean Landlords and Tenants in all cases where there is more than one Landlord or Tenant, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

(c) Homestead Exemption. Tenant hereby waives and renounces any and all homestead exemption rights he may have now, or hereafter, under or by virtue of the constitution and laws of the State of Tennessee, or of any other state, or of the United States, as against the payment of said rental or any portion thereof, or any other obligation or damage that may accrue under the terms of this agreement.

(d) Notices. All notices herein required shall be in writing. Whenever any notice, demand or request is required or permitted hereunder, such notice, demand or request shall be (i) hand-delivered personally, (ii) sent by express mail or courier service, (iii) sent by United States mail registered or certified, postage prepaid, or (iv) sent by confirmed facsimile transmission, addressed as follows:

If to Landlord:
The Gateway To Nashville, L.L.C.
Attention: Zach Liff
209 10th Avenue South, Suite 432
Nashville, Tennessee 37203
Facsimile: (615) 259-3141

If to Tenant:
Cumberland Emerging Technologies, Inc.
Attention: A.J. Kazimi, Chief Executive Officer
2525 West End Avenue, Suite 950
Nashville, Tennessee 37203
Facsimile: (615) 255-0094

Any notice or demand to be given hereunder shall be deemed sufficiently given for all purposes hereunder (a) at the time such notices or demands are hand-delivered, (b) one (1) day after depositing any such notice or demand with any express mail or other overnight courier service, (c) three (3) days after depositing any such notice or demand in the United States mail with the proper postage affixed thereto, certified, return receipt requested, or (d) if sent by facsimile, upon receipt by the sender of an acknowledgment or transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the recipient’s facsimile number; provided that if a notice, request or other communication is served by hand or is received by facsimile on a day which is not a business day, or after 5:00 P.M. on any business day at the addressee’s location, such notice or communication shall be deemed to be duly received by the recipient at 9:00 a.m. on the first business day thereafter. Any party hereto may change its address by notice in writing to the other parties in the manner herein provided.

IN WITNESS WHEREOF, the parties hereto have, on the day and year first above written, executed this Lease agreement in duplicate, one copy to be retained by each of the parties and each such copy to be considered as an original for all purposes.

LANDLORD:

THE GATEWAY NASHVILLE, L.L.C.

ATTEST:

By: /s/ [ILLEGIBLE]

/s/ Tracy N. Marsh

Its: Chief Manager

TENANT:

CUMBERLAND EMERGING
TECHNOLOGIES, INC.

ATTEST:

By: /s/ A.J. Kazimi

/s/ [ILLEGIBLE]

Its: C.E.O.

EXHIBIT A

DESCRIPTION OF THE PREMISES

See attached First Level Floor Plan

Existing space is that marked as Phase I (completed)

New premises is that marked as Phase II, IIa, and III

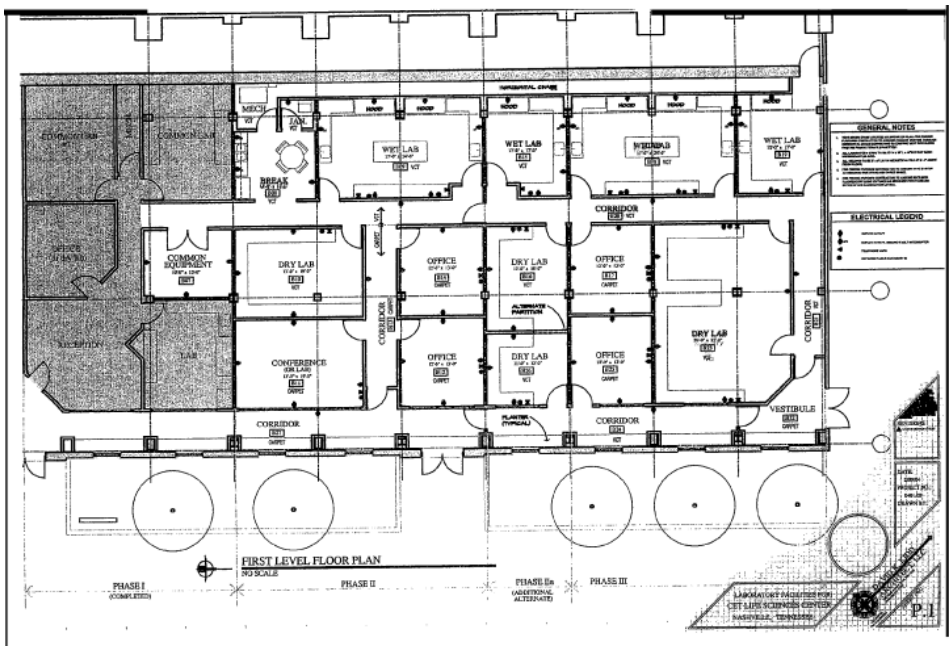

GENERAL NOTES
ELECTRICAL LEGEND
WET LAB
DRY LAB
OFFICE
CONFERENCE
CORRIDOR
VESTIBULE
COMMON EQUIPMENT
RECEPTION
LAB
BREAK AREA
MECH
TANK
HOOD
ALTERNATE PARTITION
PLASTER (TYPICAL)
FIRST LEVEL FLOOR PLAN
NO SCALE
PHASE I
(COMPLETED)
PHASE II
PHASE IIa
(ADDITIONAL ALTERNATE)
PHASE III
P.1

EXHIBIT B

PLANS AND SPECIFICATIONS
FOR LANDLORD'S WORK

EXHIBIT C

RULES AND REGULATIONS

Rule 1. No sign, picture, advertisement, or notice shall be displayed, inscribed, painted or affixed, on any part of the outside or inside of the Building, or on or about the Premises hereby demised, except on the glass of the doors and windows of the Premises and on the Directory Board of the Building, and then only of such color, size, style and materials as shall be first specified by Landlord in writing on this Lease, which consent shall not be unreasonably withheld, conditioned or delayed. Landlord shall place a sign on a prominent location on the exterior of the Building with the name and logo of Cumberland Emerging Technologies, Inc. or any other name as designed by Tenant. No "For Rent" signs shall be displayed by Tenant, and no showcases, or obstructions, signs, flags, barber poles, statuary, or any advertising device of any kind whatever shall be placed in front of the Building or in the passageways, halls, lobbies, or corridors thereof by Tenant; and Landlord reserves the right to remove all such showcases, obstructions, signs, flags, barber poles, statuary or advertising devices and all signs other than those provided for, without notice to Tenant and at his expense.

Rule 2. Tenant shall not, without Landlord's written consent, put up or operate any steam engine, boiler, machinery or stove upon the Premises, or carry on any mechanical business thereon, or do any cooking thereon, or use or allow to be used upon the Premises oil, burning fluids, camphene, kerosene for heating, warming or lighting, or anything (except gas or incandescent electric lights, and those only of such company or companies as may be supplying the Building) for illuminating the Premises. No article deemed extra hazardous on account of fire and no explosives shall be brought into the Premises.

Rule 3. No additional locks shall be placed upon any doors of the Premises. Upon the Termination of the Lease Tenant shall surrender to Landlord all keys of the Premises.

Rule 4. Safes, furniture, boxes or other bulky articles shall be carried into the Premises only with written consent of Landlord first obtained, and then only by means of the elevators, by the stairways or through the windows of the Building as Landlord may in writing direct, and at such times and in such manner and by such persons as Landlord may direct. Safes and other heavy articles shall be placed by Tenant in such places only as may be first specified in writing by Landlord, and any damage done to the Building or to Tenants or to other persons taking a safe or other heavy article in or out of the Premises, from overloading a floor, or in any other manner shall be paid for by Tenant causing such damage.

Rule 5. Elevator service and/or self-service elevator will be furnished by Landlord daily whenever said service shall, in Landlord's judgement, be required for the proper occupation and use of the Premises.

Rule 6. Any person employed by Tenant to do janitor work, shall, while in the Building and outside of the Premises, be subject to and under the control and direction of the Superintendent of the Building (but not as agent or servant of said Superintendent or of Landlord).

Landlord may retain a pass key to the Premises and be allowed admittance thereto at all times to enable its representatives to examine the Premises from time to time.

Rule 7. Landlord and its agents shall have the right to enter the Premises at all reasonable hours for the purpose of examining or exhibiting the same upon advance notice and without interfering with Tenant's operations.

Rule 8. Landlord, and its agents, shall have the right to enter the Premises at all reasonable hours for the purpose of making any repairs, alterations, or additions which it or they shall deem necessary for the safety, preservation, or improvement of the Premises of the Building, and Landlord shall be allowed to take all material into and upon the Premises that may be required to make such repairs, improvements and additions, or any alterations for the benefit of Tenant without in any way being deemed or held guilty of an eviction of Tenant; and the Rent reserved shall in no wise abate while said repairs, alterations, or additions are being made; and Tenant shall not be entitled to maintain a set-off or counter-claim for damages against Landlord by reason of loss or interruption to the business of Tenant because of the prosecution of any such work except in the event that such repairs render the Premises untenantable. All such repairs, decorations, alterations, additions, and improvements shall be done during ordinary business hours.

Rule 9. If Tenant desires telegraphic or telephonic connections, or the installation of any other electrical wiring, Landlord will, upon receiving a written request from Tenant, direct the electricians as to where and how the wires are to be introduced and run, and without such directions no boring, cutting or installations of wires will be permitted.

Rule 10. Tenant shall not allow anything to be placed against or near the glass in the partitions, between the Premises and the halls or corridors of the Building, which shall diminish the light in, or prove unsightly from the halls or corridors.

Rule 11. No electric current, intended for light or power purposes, shall be used by Tenants, excepting that furnished or approved by Landlord; nor shall electric or other wires be brought into the Premises, except upon the written consent and approval of Landlord.

Rule 12. Tenant, when closing its office for business at any time, shall see that all windows are closed, thus avoiding possible damage from fire, storm, rain or freezing.

Rule 13. Tenant shall not allow anything to be placed on the outside window ledges of the Premises, nor shall anything be thrown by Tenant, or his employees, out of the windows of the Building; nor shall they undertake to regulate the thermostats, if any, which control the heat or air conditioning.

Rule 14. The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags, or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be home by Tenant who, or whose servants, employees, agents, visitors or licensees, shall have caused the same.

Rule 15. No bicycle or other vehicle, and no animal shall be brought into the offices, halls, corridors, elevators or any other parts of the Building, by Tenant, his agents or employees, except as required by law.

Rule 16. No person shall disturb the occupants of this or any adjoining building premises by the use of any musical instruments, unseemly noises, whistling, singing or in any other way.

Rule 17. The Premises shall not be used for lodging or sleeping, nor for any immoral or illegal purposes or for any purpose that will damage the Premises.

Rule 18. The entrances, corridors, passages, stairways and elevators shall be under the exclusive control of Landlord and shall not be obstructed, or used by Tenant for any other purpose than ingress and egress to and from the Premises.

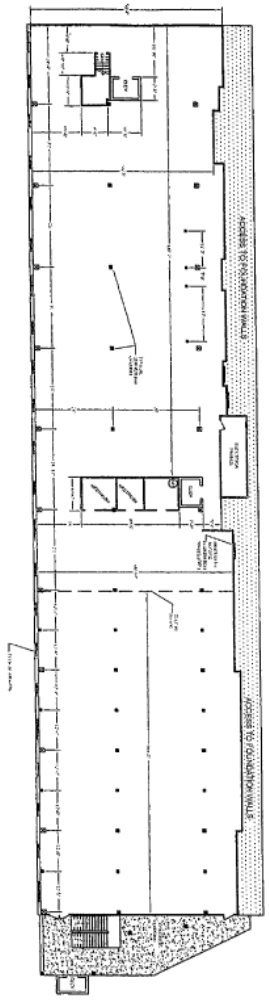
Rule 19. Canvassing, soliciting and peddling in the Building is prohibited and each Tenant shall co-operate to prevent the same.

Rule 20. All office or other equipment of any electrical or mechanical nature shall be placed by Tenant in Premises in approved settings to absorb or prevent any vibration, noise or annoyance.

Rule 21. No water cooler, air conditioning unit or system or other apparatus shall be installed or used by any Tenant without the written consent of Landlord.

Rule 22. There shall not be used in any space, or in the public halls of the Building, either by any Tenant or by jobbers or others, in the delivery or receipt of merchandise, any hand trucks, except those equipped with rubber tires and side guards.

Rule 23. Landlord reserves the right to make such other and further reasonable rules and regulations as in its judgment may from time to time be needful for the safety, care and cleanliness of the Premises, and for the preservation of good order therein, and any such other or further rules and regulations shall be binding upon the parties hereto with the same force and effect as if they had been inserted herein at the time of the execution hereof.



The Excelsior Group, LLC
D.B.A.
EXCELSIOR ENGINEERING
1630 N.W. BROAD STREET, SUITE 200
MURFREESBORO, TN 37129
PHONE: 615.893.3334
FAX: 615.895.2050

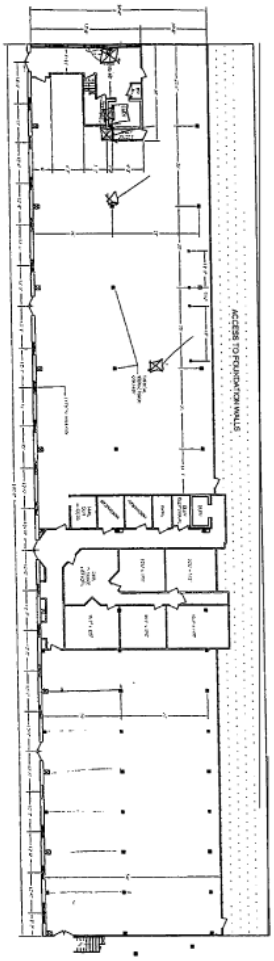
FILE #: 17

SCALE: N.T.S.

SHEET(S): 111

Gateway Building
2nd Level

Nashville, TN



The Excelsior Group, LLC
D.B.A.
EXCELSIOR ENGINEERING
1630 N.W. BROAD STREET, SUITE 200
MURFREESBORO, TN 37129
PHONE: 615.893.3334
FAX: 615.895.2050

FILE #: 17

SCALE: N.T.S.

SHEET(S): 1 / 1

Gateway Building
1st Level

Nashville, TN

EXHIBIT 10.24

FIRST AMENDMENT TO
AMENDED AND RESTATED LEASE AGREEMENT

THIS FIRST AMENDMENT TO AMENDED AND RESTATED LEASE AGREEMENT (the "Amendment") is made and entered into effective as of the 23rd day of August, 2005 (the "Effective Date"), by and between **THE GATEWAY TO NASHVILLE, L.L.C.,** a Tennessee limited liability company, with its principal office and place of business in Nashville, Tennessee ("Landlord"), and **CUMBERLAND EMERGING TECHNOLOGIES, INC**., a Tennessee corporation, with its principal office and place of business in Nashville, Tennessee ("Tenant").

WITNESSETH:

WHEREAS, pursuant to that certain Amended and Restated Lease Agreement made by and between Landlord and Tenant dated November 11, 2004 (the "Lease"), Landlord leased and demised to Tenant, and Tenant leased from Landlord, the Premises, consisting of the Original Premises and the New Premises; and

WHEREAS, Landlord and Tenant desire to set forth the Completion Date for the New Premises; and

WHEREAS, Landlord and Tenant desire to amend the Lease to reflect the foregoing agreements and otherwise, pursuant to the terms and conditions hereof.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants, terms and conditions recited hereinafter, and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby amend the Lease as follows:

1. Section 4(a) of the Lease is amended to provide that the Completion Date shall be January 1, 2006, provided however, that, if in the event the Landlord's master electrical panels have not been installed and certified by October 15, 2005, then the Completion Date will be redefined to be the date reflecting seventy-five (75) days after completion of the Landlord's master electrical panel installation as certified by Davidson County Codes.

2. Section 4(d) of the Lease is amended to provide that the Acceptance Date shall be the earlier of (a) the date that Tenant takes beneficial occupancy of the New Premises and (b) the Completion Date.

3. Except as herein modified and amended, the terms and conditions of the Lease shall remain in full force and effect.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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

LANDLORD:

THE GATEWAY TO NASHVILLE, L.L.C.

By: /s/ [Illegible]

Its: Member

TENANT:

CUMBERLAND EMERGING
TECHNOLOGIES, INC.

By: /s/ A.J. Kazimi

Its: C.E.O.

EXHIBIT 21

SUBSIDIARIES OF CUMBERLAND PHARMACEUTICALS INC.

The subsidiaries of Cumberland Pharmaceuticals Inc. are listed below.

Name	State of Organization
Cumberland Emerging Technologies, Inc.	Tennessee
Cumberland Pharma Sales Corp.	Tennessee

EXHIBIT 23.1

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Cumberland Pharmaceuticals, Inc.:

We consent to the use of our report included herein and to the reference to our firm under the heading “Experts” in the prospectus. Our report refers to a change in accounting for stock-based compensation in 2006.

KPMG LLP

Nashville, Tennessee
May 1, 2007