

AMPHASTAR PHARMACEUTICALS, INC.

FORM 10-Q (Quarterly Report)

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

FORM 10-Q

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

FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2017
or

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

For the transition period from _____ to _____
Commission file number 001-36509

AMPHASTAR PHARMACEUTICALS, INC.
(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

33-0702205
(I.R.S. Employer
Identification No.)

11570 6th Street
Rancho Cucamonga, CA 91730
(Address of principal executive offices, including zip code)

(909) 980-9484
(Registrant's telephone number, including area code)

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

Indicate by check mark whether the Registrant (1) has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the Registrant was required to submit and post such files). Yes No

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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

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

The number of shares outstanding of the Registrant's only class of common stock as of November 2, 2017 was 45,975,746.

AMPHASTAR PHARMACEUTICALS, INC.
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SPECIAL NOTE ABOUT FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q, or Quarterly Report, contains “forward-looking statements” that involve substantial risks and uncertainties. In some cases, you can identify forward-looking statements by the following words: “may,” “might,” “will,” “could,” “would,” “should,” “expect,” “intend,” “plan,” “anticipate,” “believe,” “estimate,” “predict,” “project,” “potential,” “continue,” “ongoing” or the negative of these terms or other comparable terminology, although not all forward-looking statements contain these identifying words. Forward-looking statements relate to future events or future financial performance or condition and involve known and unknown risks, uncertainties and other factors that could cause actual results, levels of activity, performance or achievement to differ materially from those expressed or implied by the forward-looking statements. These forward-looking statements include, but are not limited to, statements about:

- our expectations regarding the sales and marketing of our products, including our enoxaparin product following termination of our profit sharing agreement with Actavis;
- our expectations regarding our manufacturing and production and the integrity of our supply chain for our products, including the risks associated with our single source suppliers;
- the timing and likelihood of FDA approvals and regulatory actions on our product candidates, manufacturing activities and product marketing activities;
- our ability to advance product candidates in our platforms into successful and completed clinical trials and our subsequent ability to successfully commercialize our product candidates;
- our ability to compete in the development and marketing of our products and product candidates;
- the potential for adverse application of environmental, health and safety and other laws and regulations on our operations;
- our expectations for market acceptance of our new products and proprietary drug delivery technologies, as well as those of our API customers;
- the potential for our marketed products to be withdrawn due to patient adverse events or deaths, or if we fail to secure FDA approval for products subject to the Prescription Drug Wrap-Up program;
- our expectations in obtaining insurance coverage and adequate reimbursement for our products from third-party payers;
- the amount of price concessions or exclusion of suppliers adversely affecting our business;
- our ability to establish and maintain intellectual property protection for our products and our ability to successfully defend our intellectual property in cases of alleged infringement;
- the implementation of our business strategies, product development strategies and technology utilization;
- the potential for exposure to product liability claims;
- future acquisitions, divestitures or investments, including the anticipated benefits of such acquisitions, divestitures or investments;
- our ability to expand internationally;
- economic and industry trends and trend analysis;
- our ability to remain in compliance with laws and regulations that currently apply or become applicable to our business both in the United States and internationally;
- the timing for completion of construction and validation at our IMS facility; and
- our financial performance expectations, including our expectations regarding our backlog, revenue, cost of revenue, gross profit or gross margin, operating expenses, including changes in research and development, sales and marketing and general and administrative expenses, and our ability to achieve and maintain future profitability.

You should read this Quarterly Report and the documents that we reference elsewhere in this Quarterly Report completely and with the understanding that our actual results may differ materially from what we expect as expressed or implied by our forward-looking statements. In light of the significant risks and uncertainties to which our forward-looking statements are subject, you should not place undue reliance on or regard these statements as a representation or warranty by us or any other person that we will achieve our objectives and plans in any specified timeframe, or at all. We discuss many of these risks and uncertainties in greater detail in this Quarterly Report and in our Annual Report on Form 10-K for the year ended December 31, 2016, particularly in Item 1A. “Risk Factors.” These forward-looking statements represent our estimates and assumptions only as of the date of this Quarterly Report regardless of the time of delivery of this Quarterly Report, and such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. Except as required by law, we undertake no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise after the date of this Quarterly Report.

Unless expressly indicated or the context requires otherwise, references in this Quarterly Report to “Amphastar,” “the Company,” “we,” “our,” and “us” refer to Amphastar Pharmaceuticals, Inc. and our subsidiaries.

PART I. – FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

AMPHASTAR PHARMACEUTICALS, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share data)

	September 30, 2017 (unaudited)	December 31, 2016
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 66,920	\$ 72,354
Short-term investments	2,522	527
Restricted short-term investments	4,155	1,390
Accounts receivable, net	24,152	26,777
Inventories	69,640	79,754
Income tax refunds and deposits	443	22
Prepaid expenses and other assets	8,660	3,272
Total current assets	176,492	184,096
Property, plant, and equipment, net	173,046	152,944
Goodwill and intangible assets, net	45,731	50,307
Other assets	10,623	9,390
Deferred tax assets	31,874	31,001
Total assets	<u>\$ 437,766</u>	<u>\$ 427,738</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 9,590	\$ 16,196
Accrued liabilities	16,421	15,703
Income taxes payable	4,181	7,705
Accrued payroll and related benefits	17,344	13,847
Current portion of product return accrual	3,649	1,800
Current portion of long-term debt and capital leases	6,212	5,366
Total current liabilities	57,397	60,617
Long-term product return accrual	1,865	1,343
Long-term reserve for income tax liabilities	845	845
Long-term deferred revenue	1,215	97
Long-term debt and capital leases, net of current portion	42,232	32,356
Deferred tax liabilities	1,586	1,455
Other long-term liabilities	1,971	1,770
Total liabilities	107,111	98,483
Commitments and contingencies:		
Stockholders' equity:		
Preferred stock: par value \$0.0001; 20,000,000 shares authorized; no shares issued and outstanding	—	—
Common stock: par value \$0.0001; 300,000,000 shares authorized; 48,991,134 and 45,896,393 shares issued and outstanding as of September 30, 2017 and 47,765,149 and 46,248,622 shares issued and outstanding as of December 31, 2016, respectively	5	5
Additional paid-in capital	303,208	283,123
Retained earnings	74,767	70,855
Accumulated other comprehensive loss	(2,595)	(4,696)
Treasury stock	(44,730)	(20,032)
Total stockholders' equity	330,655	329,255
Total liabilities and stockholders' equity	<u>\$ 437,766</u>	<u>\$ 427,738</u>

See Accompanying Notes to Condensed Consolidated Financial Statements.

AMPHASTAR PHARMACEUTICALS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATION S
(Unaudited; in thousands, except per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Net revenues	\$ 57,916	\$ 64,223	\$ 179,773	\$ 191,622
Cost of revenues	37,275	36,611	109,557	107,394
Gross profit	20,641	27,612	70,216	84,228
Operating (income) expenses:				
Selling, distribution, and marketing	1,756	1,291	4,831	3,975
General and administrative	11,665	10,801	35,237	31,129
Research and development	10,040	9,723	32,022	28,922
Gain on sale of intangible assets	—	—	(2,643)	—
Total operating expenses	23,461	21,815	69,447	64,026
Income (loss) from operations	(2,820)	5,797	769	20,202
Non-operating income (expense):				
Interest income	124	63	302	187
Interest expense	(264)	(281)	(692)	(970)
Other income, net	969	422	2,307	150
Total non-operating income (expense), net	829	204	1,917	(633)
Income (loss) before income taxes	(1,991)	6,001	2,686	19,569
Income tax expense (benefit)	(2,166)	2,111	(354)	6,295
Net income	\$ 175	\$ 3,890	\$ 3,040	\$ 13,274
Net income per share:				
Basic	\$ 0.00	\$ 0.09	\$ 0.07	\$ 0.29
Diluted	\$ 0.00	\$ 0.08	\$ 0.06	\$ 0.29
Weighted-average shares used to compute net income per share:				
Basic	46,101	45,398	46,065	45,132
Diluted	48,215	47,953	48,046	46,365

See Accompanying Notes to Condensed Consolidated Financial Statements.

AMPHASTAR PHARMACEUTICALS, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(Unaudited; in thousands)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Net income	\$ 175	\$ 3,890	\$ 3,040	\$ 13,274
Other comprehensive income (loss), net of income taxes				
Foreign currency translation adjustment	625	109	2,101	(106)
Total other comprehensive income (loss)	625	109	2,101	(106)
Total comprehensive income	\$ 800	\$ 3,999	\$ 5,141	\$ 13,168

See Accompanying Notes to Condensed Consolidated Financial Statements.

AMPHASTAR PHARMACEUTICALS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited; in thousands)

	Nine Months Ended September 30,	
	2017	2016
Cash Flows From Operating Activities:		
Net income	\$ 3,040	\$ 13,274
Reconciliation to net cash provided by operating activities:		
Loss (gain) on disposal and impairment of long-lived assets	(2,283)	994
Depreciation of property, plant, and equipment	9,376	9,009
Amortization of product rights, trademarks, and patents	2,139	1,751
Share-based compensation expense	12,905	11,604
Changes in operating assets and liabilities:		
Accounts receivable, net	2,909	6,756
Inventories	12,382	(19,477)
Prepaid expenses and other assets	(3,791)	173
Income tax refund, deposits, and payable	(5,213)	3,215
Accounts payable and accrued liabilities	(2,020)	(2,745)
Net cash provided by operating activities	<u>29,444</u>	<u>24,554</u>
Cash Flows From Investing Activities:		
Business Acquisitions	—	(12,461)
Purchases and construction of property, plant, and equipment	(24,981)	(16,045)
Sale of intangible assets	2,000	—
Purchase of short-term investments	(5,645)	(2,270)
Maturity of short-term investments	3,650	1,414
Changes in restricted short-term investments	(2,765)	(105)
Payment of deposits and other assets	(885)	(2,921)
Net cash used in investing activities	<u>(28,626)</u>	<u>(32,388)</u>
Cash Flows From Financing Activities:		
Net proceeds from equity plans	7,255	17,157
Purchase of treasury stock	(24,773)	(8,986)
Proceeds from issuance of long-term debt	18,983	10,198
Principal payments on long-term debt	(8,381)	(9,968)
Net cash provided by (used in) financing activities	<u>(6,916)</u>	<u>8,401</u>
Effect of exchange rate changes on cash	<u>664</u>	<u>(43)</u>
Net increase (decrease) in cash and cash equivalents	(5,434)	524
Cash and cash equivalents at beginning of period	72,354	66,074
Cash and cash equivalents at end of period	<u>\$ 66,920</u>	<u>\$ 66,598</u>
Noncash Investing and Financing Activities:		
Equipment acquired under capital leases	\$ —	\$ 1,263
Supplemental Disclosures of Cash Flow Information:		
Interest paid, net of capitalized interest	\$ 1,334	\$ 1,381
Income taxes paid	\$ 4,876	\$ 3,263

See Accompanying Notes to Condensed Consolidated Financial Statements.

AMPHASTAR PHARMACEUTICALS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 1. General

Amphastar Pharmaceuticals, Inc., a California corporation, was incorporated on February 29, 1996 and merged with and into Amphastar Pharmaceuticals, Inc., a Delaware corporation, in July 2004 (together with its subsidiaries, hereinafter referred to as “the Company”). The Company is a specialty pharmaceutical company that primarily develops, manufactures, markets, and sells generic and proprietary injectable, inhalation, and intranasal products, including products with high technical barriers to market entry. Additionally, the Company sells insulin active pharmaceutical ingredient, or API, products. Most of the Company’s products are used in hospital or urgent care clinical settings and are primarily contracted and distributed through group purchasing organizations and drug wholesalers. The Company’s insulin API products are sold to other pharmaceutical companies for use in their own products and are being used by the Company in the development of injectable finished pharmaceutical products. The Company’s inhalation products will be primarily distributed through drug retailers if they are approved and brought to market.

The accompanying unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements of the Company for the year ended December 31, 2016, and the notes thereto as filed with the Securities and Exchange Commission, or SEC, in the Company’s Annual Report on Form 10-K for the year ended December 31, 2016. Certain information and footnote disclosures normally included in annual financial statements prepared in accordance with generally accepted accounting principles, or GAAP, have been condensed or omitted from the accompanying condensed consolidated financial statements. The accompanying year-end condensed consolidated balance sheet was derived from the audited financial statements. The accompanying interim financial statements are unaudited, but reflect all adjustments which are, in the opinion of management, necessary for a fair statement of the Company’s consolidated financial position, results of operations, comprehensive income (loss) and cash flows for the periods presented. Unless otherwise noted, all such adjustments are of a normal, recurring nature. The Company’s results of operations, comprehensive income (loss) and cash flows for the interim periods are not necessarily indicative of the results of operations and cash flows that it may achieve in future periods.

Note 2. Summary of Significant Accounting Policies

Basis of Presentation

The unaudited condensed consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries, and are prepared in accordance with the requirements of the SEC for interim reporting. Certain amounts in the prior period condensed consolidated statements of operations and statement of cash flows have been reclassified to conform to the current quarter presentation. All significant intercompany activity has been eliminated in the preparation of the condensed consolidated financial statements. Effective January 1, 2017, the Company prospectively adopted certain requirements of Auditing Standards Update, or ASU, No. 2016-09 to classify cash flows related to excess tax benefits in operating activities without adjusting prior periods. In the opinion of management, the accompanying unaudited condensed consolidated financial statements include all adjustments (consisting only of normal recurring adjustments) necessary to present fairly the consolidated financial position, results of operations, and cash flows of the Company.

The Company’s subsidiaries include: (1) International Medication Systems, Limited, or IMS, (2) Armstrong Pharmaceuticals, Inc., or Armstrong, (3) Amphastar Nanjing Pharmaceuticals Inc., or ANP, (4) Nanjing Letop Fine Chemistry Co., Ltd., or Letop, (5) Nanjing Hanxin Medical Technology Co., Ltd, or Hanxin, (6) Amphastar France Pharmaceuticals, S.A.S., or AFP, (7) Amphastar UK Ltd., or AUK, and (8) International Medication Systems (UK) Limited, or IMS UK.

Use of Estimates

The preparation of consolidated financial statements in accordance with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual

AMPHASTAR PHARMACEUTICALS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

results could differ from those estimates. The principal accounting estimates include: determination of allowances for doubtful accounts and discounts, provision for chargebacks, provision for product returns, adjustment of inventory to their net realizable values, impairment of long-lived and intangible assets and goodwill, self-insured claims, workers' compensation liabilities, litigation reserves, stock price volatilities for share-based compensation expense, valuation allowances for deferred tax assets, and liabilities for uncertain income tax positions.

Foreign Currency

The functional currency of the Company, its domestic subsidiaries, its Chinese subsidiary, ANP, and its U.K. subsidiary, AUK, is the U.S. dollar, or USD. ANP maintains its books of record in Chinese Yuan. These books are remeasured into the functional currency of USD using the current or historical exchange rates. The resulting currency remeasurement adjustments and other transactional foreign currency exchange gains and losses are reflected in the Company's statements of operations.

The Company's French subsidiary, AFP, maintains its books of record in Euros. Its Chinese subsidiary, Letop, maintain its books of record in Chinese Yuan. Its U.K. subsidiary, IMS UK, maintains its books of record in Great Britain Pounds. These local currencies have been determined to be the subsidiaries' respective functional currencies. These books of record are translated into USD using average exchange rates during the period. Assets and liabilities are translated at the rate of exchange prevailing on the balance sheet date. Equity is translated at the prevailing rate of exchange at the date of the equity transactions. Translation adjustments are reflected in stockholders' equity and are included as a component of other accumulated comprehensive income (loss). The unrealized gains or losses of intercompany foreign currency transactions that are of a long-term investment nature are reported in other accumulated comprehensive income (loss). The unrealized gains and losses of intercompany foreign currency transactions that are of a long-term investment nature for the three and nine months ended September 30, 2017 were a \$1.1 million gain and a \$3.8 million gain, respectively, and for the three and nine months ended September 30, 2016 were a \$0.3 million gain and a \$0.6 million gain, respectively.

Additionally, the Company does not undertake hedging transactions to cover its foreign currency exposure.

Comprehensive Income (loss)

For the three and nine months ended September 30, 2017 and 2016, the Company included its foreign currency translation as part of its comprehensive income (loss).

Financial Instruments

The carrying amounts of cash and cash equivalents, short-term investments, restricted short-term investments, accounts receivable, accounts payable, accrued expenses, and short-term borrowings approximate fair value due to the short maturity of these items. A majority of the Company's long-term obligations consist of variable rate debt, and their carrying value approximates fair value as the stated borrowing rates are comparable to rates currently offered to the Company for instruments with similar maturities. However, the Company has one fixed-rate, long-term mortgage for which the carrying value differs from the fair value and is not remeasured on a recurring basis (see Note 12). The Company at times enters into fixed interest rate swap contracts to exchange the variable interest rates for fixed interest rates without the exchange of the underlying notional debt amounts. Such interest rate swap contracts are recorded at their fair values.

Deferred Income Taxes

The Company utilizes the liability method of accounting for income taxes, under which deferred taxes are determined based on the temporary differences between the financial statements and the tax basis of assets and liabilities using

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enacted tax rates. A valuation allowance is recorded when it is more likely than not that the deferred tax assets will not be realized.

Business Combinations

If an acquired set of activities and assets is capable of being operated as a business consisting of inputs and processes from the viewpoint of a market participant, the asset acquired and liabilities assumed are a business. Business combinations are accounted for using the acquisition method of accounting, which requires an acquirer to recognize the assets acquired and the liabilities assumed at the acquisition date measured at their fair values as of that date. Fair value determinations are based on discounted cash flow analyses or other valuation techniques. In determining the fair value of the assets acquired and liabilities assumed in a material acquisition, the Company may utilize appraisals from third party valuation firms to determine fair values of some or all of the assets acquired and liabilities assumed, or may complete some or all of the valuations internally. In either case, the Company takes full responsibility for the determination of the fair value of the assets acquired and liabilities assumed. The value of goodwill reflects the excess of the fair value of the consideration conveyed to the seller over the fair value of the net assets received.

Acquisition-related costs that the Company incurs to effect a business combination are expensed in the periods in which the costs are incurred. When the operations of the acquired businesses were not material to the Company's condensed consolidated financial statements, no pro forma presentations were disclosed.

Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board, or FASB, issued Accounting Standard Update, or ASU, No. 2014-09 *Revenue from Contracts with Customers*, which creates a single source of revenue guidance for companies in all industries. Subsequently, the FASB issued multiple updates. The new standard provides guidance for all revenue arising from contracts with customers and affects all entities that enter into contracts to provide goods or services to their customers, unless the contracts are within the scope of other accounting standards. It also provides a model for the measurement and recognition of gains and losses on the sale of certain nonfinancial assets. The guidance also requires expanded disclosures relating to the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers. Additionally, qualitative and quantitative disclosures are required regarding customer contracts, significant judgments and changes in judgments, and assets recognized from the costs to obtain or fulfill a contract. This guidance permits two methods of adoption: retrospectively to each prior reporting period presented (full retrospective method), or retrospectively with the cumulative effect of initially applying the guidance recognized at the date of initial application (the cumulative catch-up transition method). Based on ASU No. 2015-14 *Deferral of the Effective Date*, issued in August 2015, this guidance will be effective for the Company beginning in the first quarter of 2018, including interim periods within the year. The Company expects to adopt the standard in 2018 using the modified retrospective transition method. The majority of the Company's revenue relates to sale of pharmaceutical products to various customers, and the adoption of the new standard is not expected to have a material impact on these transactions. The Company is continuing to evaluate the impact of all transactions.

In February 2016, the FASB issued ASU No. 2016-02 *Leases*, that is aimed at making leasing activities more transparent and comparable, and which requires substantially all leases be recognized by lessees on their balance sheets as a right-of-use asset and corresponding lease liability, including leases currently accounted for as operating leases. This guidance will become effective for the Company's interim and annual reporting periods during the year ending December 31, 2019, and all annual and interim reporting periods thereafter. Early adoption is permitted. The Company is required to use a modified retrospective approach for leases that exist or are entered into after the beginning of the earliest comparative period in the financial statements for the reporting periods in which the guidance is adopted. The Company is currently evaluating the impact that the adoption of this guidance will have on its consolidated financial statements and related disclosures.

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In June 2016, the FASB issued ASU No. 2016-13 *Financial Instruments – Credit Losses*, which is aimed at providing financial statement users with more useful information about the expected credit losses on financial instruments and other commitments to extend credit. The standard update changes the impairment model for financial assets measured at amortized cost, requiring presentation at the net amount expected to be collected. The measurement of expected credit losses requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. Available-for-sale debt securities with unrealized losses will be recorded through an allowance for credit losses. The guidance is effective for the Company's interim and annual reporting periods during the year ending December 31, 2020. Early adoption is permitted for interim or annual periods during the year ended December 31, 2019. The Company will be required to apply the standard's provisions as a cumulative-effect adjustment to retained earnings as of the beginning of the first reporting period in which the guidance is effective. The Company does not believe that the adoption of this accounting guidance will have a material impact on its consolidated financial statements and related disclosures.

In August 2016, the FASB issued ASU No. 2016-15 *Classification of Certain Cash Receipts and Cash Payments*, which is aimed at addressing certain issues regarding classifications of certain cash receipts and cash payments on the statement of cash flows where diversity in practice was identified. The guidance is effective for the Company's interim and annual reporting periods during the year ending December 31, 2018. Early adoption is permitted. The Company will be required to apply the guidance retrospectively in the first interim and each annual period in which the guidance is adopted. The Company does not believe that the adoption of this accounting guidance will have a material impact on the Company's consolidated financial statements and related disclosures.

In October 2016, the FASB issued ASU No. 2016-16 *Intra-Entity Transfers of Assets Other Than Inventory*, which requires an entity to recognize the income tax consequences of intra-entity transfer of an asset other than inventory when the transfer occurs. The guidance is effective for the Company's interim and annual reporting periods during the year ending December 31, 2018. Early adoption is permitted as of the beginning of an annual reporting period for which financial statements, interim or annual, have not been issued. The amendments will be applied on a modified retrospective basis through a cumulative-effect adjustment directly to retained earnings as of the beginning of the period of adoption. The Company is currently evaluating the impact that the adoption of this guidance will have on its consolidated financial statements and related disclosures.

In November 2016, the FASB issued ASU No. 2016-18 *Statement of Cash Flows: Restricted Cash*, which requires entities to show the changes in the total of cash, cash equivalents, restricted cash and restricted cash equivalents in the statement of cash flows. As a result, the Company will no longer present transfers between cash and cash equivalents and restricted cash and restricted cash equivalents in the statement of cash flows. The guidance is effective for the Company's interim and annual reporting periods during the year ending December 31, 2018. Early adoption is permitted, including adoption in an interim period. The amendments will be applied using a retrospective transition method to each period presented. The Company will be required to apply the guidance retrospectively when adopted. The Company does not believe that the adoption of this accounting guidance will have a material impact on its consolidated financial statements and related disclosures.

In January 2017, the FASB issued ASU No. 2017-01 *Clarifying the Definition of a Business*, which provides guidance to assist entities with evaluating when a set of transferred assets and activities is a business. Under the updated guidance, a set is not a business if substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or a group of similar assets. If the threshold is not met, the update requires that, to be a business, the set must include, at a minimum, an input and a substantive process that together significantly contribute to the ability to create outputs. The definition of outputs was also aligned with Accounting Standard Codification, or ASC, 606 by focusing on revenue-generating activities. The guidance is effective for the Company's interim and annual reporting periods during the year ending December 31, 2018, and prospectively applicable to any transactions occurring within the period of adoption. Early adoption is permitted. The Company is currently evaluating the impact that the adoption of this guidance will have on its consolidated financial statements and related disclosures.

AMPHASTAR PHARMACEUTICALS, INC.
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(Unaudited)

In January 2017, the FASB issued ASU No. 2017-04 *Simplifying the Test for Goodwill Impairment*, which eliminates the requirement to calculate the implied fair value of goodwill. An entity should perform its annual, or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. The update also eliminated the requirements for any reporting unit with a zero or negative carrying amount to perform a qualitative assessment and, if it fails that qualitative test, to perform Step 2 of the goodwill impairment test. An entity is required to disclose the amount of goodwill allocated to each reporting unit with a zero or negative carrying amount of net assets. The guidance is effective for the Company's interim and annual reporting periods during the year ending December 31, 2020, and applied on a prospective basis. Early adoption is permitted for interim and annual goodwill impairment testing dates after January 1, 2017. The Company currently does not believe that the adoption of this accounting guidance will have a material impact on its consolidated financial statements and related disclosures.

In May 2017, the FASB issued ASU No. 2017-09 *Scope of Modification Accounting*, that clarifies when changes to the terms or conditions of a share-based payment award must be accounted for as modifications. The new guidance is effective for the Company's interim and annual reporting periods during the year ending December 31, 2018, and applied prospectively to awards modified on or after the adoption date. Early adoption is permitted. The Company does not believe that the adoption of this accounting guidance will have a material impact on its consolidated financial statements and related disclosures.

In August 2017, the FASB issued ASU No. 2017-12 *Targeted Improvements to Accounting for Hedging Activities*, which amends the hedge accounting model in ASC 815 to enable entities to better portray the economics of their risk management activities in the financial statements and enhance the transparency and understandability of hedge results. The amendments also simplify the application of hedge accounting in certain situations. The new guidance is effective for the Company's interim and annual reporting periods during the year ending December 31, 2019. Early adoption is permitted. The Company does not believe that the adoption of this accounting guidance will have a material impact on its consolidated financial statements and related disclosures.

Note 3. Business Acquisitions

Acquisition of International Medication Systems (UK) Limited from UCB PHARMA GmbH

In August 2016, the Company's UK subsidiary, AUK, acquired IMS UK, a UK-based subsidiary of UCB PHARMA GmbH, including its trademarks, assets related to the products, as well as marketing authorizations for 33 products in the UK, Ireland, Australia, and New Zealand, representing 11 different injectable chemical entities. The Company paid \$7.7 million in cash as consideration for the transaction. The Company is in the process of transferring the manufacturing of the purchased products to its facilities in California. The transfer will require approval of the UK Medicines and Healthcare products Regulatory Agency and other related regulatory agencies before the products can be sold by the Company. The transaction is accounted for as a business combination in accordance with ASC 805.

The fair values of the assets acquired and liabilities assumed include marketing authorizations of \$9.2 million, manufacturing equipment of \$0.1 million, and deferred tax liability of \$1.6 million. The acquired marketing authorizations intangible assets are subject to a straight-line amortization over a useful life of approximately 10 years.

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Acquisition of fourteen injectable products from Hikma Pharmaceuticals PLC

In March 2016, the Company acquired 14 abbreviated new drug application, or ANDAs, representing 11 different injectable chemical entities from Hikma Pharmaceuticals PLC, or Hikma, for \$4.0 million. This transaction was accounted for as a business combination in accordance with ASC 805. The ANDAs had an estimated fair value of \$4.0 million, and were subject to a straight-line amortization over a useful life of approximately 15 years.

In February 2017, the Company sold these products to an unrelated party (see Note 9).

Acquisition of Nanjing Letop Medical Technology Co. Ltd.

In January 2016, the Company's Chinese subsidiary, ANP, acquired Nanjing Letop Medical Technology Co. Ltd. for \$1.7 million consisting of \$0.8 million in cash and a deposit of \$0.9 million that ANP had previously paid to Letop and which was effectively eliminated upon the consummation of the transaction. The Company accounted for this transaction as a business combination in accordance with ASC 805. The Company recognized \$1.4 million of acquired assets, \$0.1 million of assumed liabilities, and \$0.4 million of goodwill. Letop had previously supplied ANP with intermediates used in making various active pharmaceutical ingredients. In March 2016, the acquired subsidiary was renamed Nanjing Letop Fine Chemistry Co., Ltd.

Acquisition of Merck's API Manufacturing Business

On April 30, 2014, the Company completed the acquisition of the Merck Sharpe & Dohme's API manufacturing business in Éragny-sur-Epte, France, or the Merck API Transaction, which manufactures porcine insulin API and recombinant human insulin API, or RHI API. The purchase price of the transaction totaled €24.8 million, or \$34.4 million on April 30, 2014, subject to certain customary post-closing adjustments and currency exchange rate fluctuations. The terms of the purchase include multiple payments over four years as follows (see Note 12):

	Euros	U.S. Dollars	
	(in thousands)		
At Closing, April 2014	€ 13,252	\$	18,352
December 2014	4,899		5,989
December 2015	3,186		3,483
December 2016	3,186		3,427
December 2017	500		591
	<u>€ 25,023</u>	<u>\$</u>	<u>31,842</u>

In order to facilitate the acquisition, the Company established AFP in France. The Company is continuing the current site manufacturing activities, which consist of the manufacturing of porcine insulin API and RHI API. As part of the transaction, the Company has entered into various additional agreements, including various supply agreements, as well as the assignment and/or licensing of patents under which Merck was operating at this facility. In addition, certain existing customer agreements have been assigned to AFP. Currently, the Company is in the process of transferring the manufacturing of starting material for RHI API from Merck to AFP. This process will require capital expenditures at AFP and is expected to take up to two years to complete.

Note 4. Revenue Recognition

Generally, revenue is recognized at the time of product delivery to the Company's customers. In some cases, revenue is recognized at the time of shipment when stipulated by the terms of the sale agreements. Revenues derived from contract manufacturing services are recognized when third-party products are shipped to customers, after the customer has accepted test samples of the products to be shipped. On June 30, 2016, the Company and Actavis, Inc., or Actavis,

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amended the distribution agreement, which terminated the agreement in December 2016. Profit-sharing revenue under this agreement was recognized at the time Actavis sold the products to its customers.

The Company does not recognize product revenue unless the following fundamental criteria are met: (i) persuasive evidence of an arrangement exists, (ii) transfer of title has occurred, (iii) the price to the customer is fixed or determinable, and (iv) collection is reasonably assured. Furthermore, the Company does not recognize revenue until all customer acceptance requirements have been met. The Company estimates and records reductions to revenue for discounts, product returns, and pricing adjustments, such as wholesaler chargebacks, in the same period that the related revenue is recorded.

The Company's accounting policy is to review each agreement involving contract development and manufacturing services to determine if there are multiple revenue-generating activities that constitute more than one unit of accounting. Revenues are recognized for each unit of accounting based on revenue recognition criteria relevant to that unit. The Company does not have any revenue arrangements with multiple deliverables.

Provision for Wholesaler Chargebacks

The provision for chargebacks is a significant estimate used in the recognition of revenue. As part of its sales terms with wholesale customers, the Company agrees to reimburse wholesalers for differences between the gross sales prices at which the Company sells its products to wholesalers, or list prices, and the actual prices of such products at the time wholesalers resell them under the Company's various contractual arrangements with third parties such as retailers, hospitals and group purchasing organizations. The Company estimates chargebacks at the time of sale to wholesalers based on wholesaler inventory stocking levels, historic chargeback rates, and current contract pricing. The settlement of chargebacks generally occurs within 30 days after the sale to wholesalers.

The provision for chargebacks is reflected in net revenues. Accounts receivable and/or accrued liabilities are also reduced and/or increased by the chargebacks amount depending on whether the Company has the right of offset with the customer. The following table is an analysis of the chargeback provision:

	Nine Months Ended September 30,	
	2017	2016
	(in thousands)	
Beginning balance	\$ 37,820	\$ 15,217
Provision for chargebacks	115,824	105,772
Credits issued to third parties	(144,142)	(110,073)
Ending balance	\$ 9,502	\$ 10,916

Changes in chargeback provision from period to period are primarily dependent on the Company's sales to its wholesalers, the level of inventory held by the wholesalers, and on the wholesaler's customer mix. The approach that the Company uses to estimate chargebacks has been consistently applied for all periods presented. Variations in estimates have been historically small. The chargeback provision has decreased in the nine months ended September 30, 2017, primarily due to a decrease in the list price of enoxaparin in the first half of 2017. The Company continually monitors the provision for chargebacks and makes adjustments when it believes that the actual chargebacks may differ from the estimates. Chargeback provisions as of September 30, 2017 and 2016 are included as a reduction to account receivables.

Accrual for Product Returns

The Company offers most customers the right to return qualified excess or expired inventory for partial credit; however, products sold to Actavis and API product sales are non-returnable. The Company's product returns primarily consist of the returns of expired products from sales made in prior periods. Returned products cannot be resold. At the time product revenue is recognized, the Company records an accrual for estimated returns. The accrual is based, in part, upon the

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historical relationship of product returns to sales and customer contract terms. The Company also assesses other factors that could affect product returns including market conditions, product obsolescence, and the introduction of new competition. Although these factors do not normally give the Company's customers the right to return products outside of the regular return policy, the Company realizes that such factors could ultimately lead to increased returns. The Company analyzes these situations on a case-by-case basis and makes adjustments to the product return reserve as appropriate. If the available information is not sufficient to estimate a reasonable product return accrual, revenues from the sales of the new product would not be recognized until the product is consumed by the end customer or rights of return granted under the return policy have expired. As of September 30, 2017 and December 31, 2016, cumulative sales of approximately \$1.1 million and \$0.5 million, respectively, for one of the Company's products were not recognized in revenues, due to insufficient information available to estimate a reasonable product return accrual.

The provision for product returns is reflected in net revenues. The following table is an analysis of product return liability:

	Nine Months Ended September 30,	
	2017	2016
Beginning balance	\$ 3,143	\$ 2,621
Provision for product returns	4,196	958
Credits issued to third parties	(1,825)	(873)
Ending balance	<u>\$ 5,514</u>	<u>\$ 2,706</u>

For the nine months ended September 30, 2017 and 2016, the Company's aggregate product return rate was 1.2% and 1.1% of qualified sales, respectively.

Note 5. Income per Share

Basic income per share is calculated based upon the weighted-average number of shares outstanding during the period. Diluted income per share gives effect to all potential dilutive shares outstanding during the period, such as stock options, nonvested deferred stock units and restricted stock units (collectively referred to herein as "RSUs"), and shares issuable under the Company's Employee Stock Purchase Plan, or ESPP.

For the three and nine months ended September 30, 2017, options to purchase 1,162,850 and 2,424,430 shares of stock with a weighted-average exercise price of \$27.87 per share and \$21.93 per share, respectively, were excluded in the computation of diluted net income per share because the effect from the assumed exercise of these options would be anti-dilutive.

For the three and nine months ended September 30, 2016, options to purchase 1,357,154 and 4,510,729 shares of stock with a weighted-average exercise price of \$29.31 per share and \$19.84 per shares, respectively, were excluded in the computation of diluted net income per share because the effect from the assumed exercise of these options would be anti-dilutive.

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The following table provides the calculation of basic and diluted net income per share for each of the periods presented:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(in thousands, except per share data)			
Basic and dilutive numerator:				
Net income	\$ 175	\$ 3,890	\$ 3,040	\$ 13,274
Denominator:				
Weighted-average shares outstanding — basic	46,101	45,398	46,065	45,132
Net effect of dilutive securities:				
Incremental shares from equity awards	2,114	2,555	1,981	1,233
Weighted-average shares outstanding — diluted	48,215	47,953	48,046	46,365
Net income per share — basic	\$ 0.00	\$ 0.09	\$ 0.07	\$ 0.29
Net income per share — diluted	\$ 0.00	\$ 0.08	\$ 0.06	\$ 0.29

Note 6. Segment Reporting

The Company has established two reporting segments that each report to the Chief Operating Decision Maker, or CODM, as defined in ASC 280, Segment Reporting. The Company's performance is assessed and resources are allocated by the CODM based on the following two reportable segments:

- Finished pharmaceutical products
- Active pharmaceutical ingredients, or API

The finished pharmaceutical products segment manufactures, markets and distributes enoxaparin, naloxone, lidocaine, as well as various other critical and non-critical care drugs. The API segment manufactures and distributes recombinant human insulin API and porcine insulin API for external customers and internal product development.

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Selected financial information by reporting segment is presented below:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(in thousands)			
Net revenues:				
Finished pharmaceutical products	\$ 54,455	\$ 59,058	\$ 174,154	\$ 181,368
API	3,461	5,165	5,619	10,254
Total net revenues	57,916	64,223	179,773	191,622
Gross profit:				
Finished pharmaceutical products	21,310	28,621	74,486	85,042
API	(669)	(1,009)	(4,270)	(814)
Total gross profit	20,641	27,612	70,216	84,228
Operating expenses	23,461	21,815	69,447	64,026
Income (loss) from operations	(2,820)	5,797	769	20,202
Non-operating income (expenses)	829	204	1,917	(633)
Income (loss) before income taxes	\$ (1,991)	\$ 6,001	\$ 2,686	\$ 19,569

The Company manages its business segments to the gross profit level and manages its operating and other costs on a company-wide basis. The Company does not identify total assets by segment for internal purposes, as the Company's CODM does not assess performance, make strategic decisions, or allocate resources based on assets.

The amount of net revenues in the finished pharmaceutical product segment is presented below:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(in thousands)			
Finished pharmaceutical products net revenues:				
Enoxaparin	\$ 6,549	\$ 15,363	\$ 25,247	\$ 51,049
Naloxone	12,709	12,407	33,909	38,222
Lidocaine	9,596	8,279	27,218	26,378
Phytonadione	9,352	8,667	27,242	23,555
Epinephrine	2,027	5,303	22,249	14,921
Other finished pharmaceutical products	14,222	9,039	38,289	27,243
Total finished pharmaceutical products net revenues	\$ 54,455	\$ 59,058	\$ 174,154	\$ 181,368

Discontinuation of epinephrine injection, USP vial product

In February 2017, the U.S. Food and Drug Administration, or FDA, requested the Company to discontinue the manufacturing and distribution of its epinephrine injection, USP vial product, which has been marketed under the "grandfather" exception to the FDA's "Prescription Drug Wrap-Up" program. The Company discontinued selling this product in the second quarter of 2017. For the year ended December 31, 2016, the Company recognized \$18.6 million in net revenues for the sale of this product. A charge of \$3.3 million was included in the cost of revenues in its consolidated statements of operations for the year ended December 31, 2016 to adjust the related inventory and firm purchase commitments to their net realizable value due to the anticipated discontinuation of the product.

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Net revenues and carrying values of long-lived assets of enterprises by geographic regions are as follows:

	Net Revenue				Long-Lived Assets	
	Three Months Ended September 30,		Nine Months Ended September 30,		September 30,	December 31,
	2017	2016	2017	2016	2017	2016
	(in thousands)					
United States	\$ 55,346	\$ 62,691	\$ 175,075	\$ 188,865	\$ 105,311	\$ 104,110
China	—	—	—	—	39,639	35,085
France	2,570	1,532	4,698	2,757	28,004	13,659
United Kingdom	—	—	—	—	92	90
Total	\$ 57,916	\$ 64,223	\$ 179,773	\$ 191,622	\$ 173,046	\$ 152,944

Note 7. Customer and Supplier Concentration

Customer Concentrations

Three large wholesale drug distributors, AmerisourceBergen Corporation, or AmerisourceBergen, Cardinal Health, Inc., or Cardinal, and McKesson Corporation, or McKesson, are all distributors of the Company's products, as well as suppliers of a broad range of health care products. Actavis had exclusive marketing rights of the Company's enoxaparin product to the U.S. retail pharmacy market until December 2016. The Company considers these four customers to be its major customers, as each individually, and these customers collectively, represented a significant percentage of the Company's net revenue for the three and nine months ended September 30, 2017 and 2016, and accounts receivable as of September 30, 2017 and December 31, 2016, respectively. The following table provides accounts receivable and net revenue information for these major customers:

	% of Total Accounts Receivable		% of Net Revenue			
	September 30,	December 31,	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016	2017	2016
Actavis ⁽¹⁾	—	1 %	—	16 %	—	19 %
AmerisourceBergen	12 %	30 %	24 %	19 %	27 %	19 %
Cardinal Health	23 %	28 %	25 %	19 %	25 %	20 %
McKesson	27 %	19 %	27 %	21 %	27 %	20 %

(1) The agreement with Actavis was terminated in December 2016.

Supplier Concentrations

The Company depends on suppliers for raw materials, active pharmaceutical ingredients, and other components that are subject to stringent FDA, requirements. Some of these materials may only be available from one or a limited number of sources. Establishing additional or replacement suppliers for these materials may take a substantial period of time, as suppliers must be approved by the FDA. Furthermore, a significant portion of raw materials may only be available from foreign sources. If the Company is unable to secure, on a timely basis, sufficient quantities of the materials it depends on to manufacture and market its products, it could have a materially adverse effect on the Company's business, financial condition, and results of operations.

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Note 8. Fair Value Measurements

The accounting standards of the FASB, define fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants in the principal or most advantageous market for the asset or liability at the measurement date (an exit price). These standards also establish a hierarchy that prioritizes observable and unobservable inputs used in measuring fair value of an asset or liability, as described below:

- *Level 1* – Inputs to measure fair value are based on quoted prices (unadjusted) in active markets on identical assets or liabilities;
- *Level 2* – Inputs to measure fair value are based on the following: a) quoted prices in active markets on similar assets or liabilities, b) quoted prices for identical or similar instruments in inactive markets, or c) observable (other than quoted prices) or collaborated observable market data used in a pricing model from which the fair value is derived; and
- *Level 3* – Inputs to measure fair value are unobservable and the assets or liabilities have little, if any, market activity; these inputs reflect the Company's own assumptions about the assumptions that market participants would use in pricing the assets or liabilities based on best information available in the circumstances.

The fair values of the Company's cash equivalents, short-term investments, and restricted short-term investments approximate their respective carrying amounts.

As of September 30, 2017 and December 31, 2016, cash equivalents include money market accounts and money market funds. Short-term investments consist of certificate of deposits and held-to-maturity municipal bonds with original maturities greater than three months. The municipal bonds are carried at amortized cost in the Company's consolidated balance sheet, which approximates their fair value determined based on Level 2 inputs. The Company does not intend to and will not be required to sell the investments before recovery of their amortized cost basis. Restricted short-term investments consist of certificates of deposits with original maturities great than three months. The restrictions placed on the certificate of deposit accounts have a negligible effect on the fair value of these financial assets; these funds are restricted to meet the Company's obligation for workers' compensation claims and performance bonds.

The Company does not hold any Level 3 instruments that are measured for fair value on a recurring basis.

Nonfinancial assets and liabilities are not measured at fair value on a recurring basis but are subject to fair value adjustments in certain circumstances. These items primarily include long-lived assets, goodwill, and intangible assets for which the fair value of assets is determined as part of the related impairment test. As of September 30, 2017 and December 31, 2016, there were no significant adjustments to fair value for nonfinancial assets or liabilities.

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Note 9. Goodwill and Intangible Assets

The table below shows the weighted-average life, original cost, accumulated amortization, and net book value by major intangible asset classification:

	Weighted-Average Life (Years)	Original Cost	Accumulated Amortization	Net Book Value
(in thousands)				
<i>Definite-lived intangible assets</i>				
Cortrosyn® product rights	12	\$ 27,134	\$ 25,797	\$ 1,337
IMS (UK) international product rights ⁽¹⁾	10	9,371	1,093	8,278
Patents	12	486	160	326
Land-use rights	39	2,540	403	2,137
Other intangible assets	4	69	42	27
Subtotal	12	39,600	27,495	12,105
<i>Indefinite-lived intangible assets</i>				
Trademark	*	29,225	—	29,225
Goodwill - Finished pharmaceutical products	*	4,401	—	4,401
Subtotal	*	33,626	—	33,626
As of September 30, 2017	*	\$ 73,226	\$ 27,495	\$ 45,731

	Weighted-Average Life (Years)	Original Cost	Accumulated Amortization	Net Book Value
(in thousands)				
<i>Definite-lived intangible assets</i>				
Cortrosyn® product rights	12	\$ 27,134	\$ 24,461	\$ 2,673
IMS (UK) international product rights ⁽¹⁾	10	8,632	359	8,273
Acquired ANDAs ⁽²⁾	15	4,000	222	3,778
Patents	10	293	137	156
Land-use rights	39	2,540	354	2,186
Other intangible assets	1	574	534	40
Subtotal	12	43,173	26,067	17,106
<i>Indefinite-lived intangible assets</i>				
Trademark	*	29,225	—	29,225
Goodwill - Finished pharmaceutical products	*	3,976	—	3,976
Subtotal	*	33,201	—	33,201
As of December 31, 2016	*	\$ 76,374	\$ 26,067	\$ 50,307

¹Intangible assets with indefinite lives have an indeterminable average life.

⁽¹⁾In August 2016, the Company acquired International Medication Systems (UK) Limited from UCB PHARMA GmbH for \$7.7 million. The fair value of the marketing authorization was \$9.2 million as of the acquisition date (see Note 3).

⁽²⁾In February 2017, the Company sold the 14 ANDAs it had acquired from Hikma to an unrelated party for \$6.4 million.

Sale of Fourteen Injectable ANDAs

In February 2017, the Company sold the 14 ANDAs it acquired in March 2016 from Hikma to an unrelated party. The consideration included a purchase price of \$6.4 million of which the amount of \$1.0 million was received upon closing, \$1.0 million was received in the second quarter of 2017 and the remaining \$4.4 million will be paid upon certain milestones. If the purchaser is not able to achieve these milestones by December 31, 2017, the purchaser will pay the remaining payments within 30 days of December 31, 2017. In addition to the purchase price, the purchaser agreed to pay the Company a royalty fee equal to 2% of net sales derived from purchaser's sales of the products for the period from February 2017 through February 2027. The Company has not recognized any royalty fees. The Company is also subject to

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certain indemnification liability payable to the purchaser, which is limited up to \$0.6 million. The Company recognized a gain of \$2.6 million within operating (income) expenses on its condensed consolidated statement of operations for the nine months ended September 30, 2017, and a receivable of \$4.4 million in current other assets on its condensed consolidated balance sheet as of September 30, 2017.

Goodwill

The changes in the carrying amounts of goodwill were as follows:

	September 30, 2017	December 31, 2016
	(in thousands)	
Beginning balance	\$ 3,976	\$ 3,726
Goodwill related to acquisition of business	—	391
Currency translation and other adjustments	425	(141)
Ending balance	\$ 4,401	\$ 3,976

Primatene[®] Trademark

In January 2009, the Company acquired the exclusive rights to the trademark, domain name, website and domestic marketing, distribution and selling rights related to Primatene[®] Mist, an over-the-counter bronchodilator product, which are recorded at the allocated fair value of \$29.2 million, which is its carrying value as of September 30, 2017.

The trademark was determined to have an indefinite life. In determining its indefinite life, the Company considered the following: the expected use of the intangible; the longevity of the brand; the legal, regulatory and contractual provisions that affect their maximum useful life; the Company's ability to renew or extend the asset's legal or contractual life without substantial costs; effects of the regulatory environment; expected changes in distribution channels; maintenance expenditures required to obtain the expected future cash flows from the asset; and considerations for obsolescence, demand, competition and other economic factors.

As a result of environmental concerns about Chlorofluorocarbons, or CFCs, the FDA issued a final ruling on January 16, 2009 that required the CFC formulation of its Primatene[®] Mist product to be phased out by December 31, 2011. The former formulation of Primatene[®] Mist contained CFCs as a propellant; however, the Company intends to use the trademark for a future version of Primatene[®] that utilizes hydrofluoroalkane, or HFA, as a propellant.

In 2013, the Company filed a new drug application, or NDA, for Primatene[®] Mist and received a Prescription Drug User Fee Act date set for May 2014. In May 2014, the Company received a complete response letter, or CRL, from the FDA, which required additional non-clinical information, label revisions and follow-up studies (label comprehension, behavioral/human factors and actual use) to assess consumers' ability to use the device correctly to support approval of the product in the over-the-counter setting. The Company met with the FDA in October 2014 to discuss preliminary data results and to clarify the FDA requirements for further studies. The Company received further advice regarding its ongoing studies from the FDA in January 2016 and subsequently completed the process of generating the remaining data required by the CRL and plans to submit human factor studies accordingly. The Company submitted a responsive NDA amendment in June 2016 and received another CRL from the FDA in December 2016, which requires additional packaging and label revisions and follow-up studies to assess consumers' ability to use the device correctly to support approval of the product in the over-the-counter setting. The Company intends to continue to work with the FDA during the post-action phase to address their concerns in the CRL and bring Primatene[®] Mist back to the over-the-counter market. However, there can be no guarantee that any future amendment to the Company's NDA will result in timely approval of Primatene[®] Mist or approval at all.

Based on the Company's filed version of Primatene[®] Mist, the long history of the Primatene[®] trademark (marketed since

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1963), and the Company's perpetual rights to the trademark, the nature of the CRL received in December 2016, the plan that the HFA version will be marketed under the same trademark if approved by the FDA, and other factors previously considered, the trademark continues to have an indefinite useful life, and an impairment charge is not required based on the Company's qualitative assessment as of September 30, 2017.

Note 10. Inventories

Inventories consist of the following:

	September 30, 2017	December 31, 2016
	(in thousands)	
Raw materials and supplies	\$ 22,008	\$ 36,209
Work in process	24,780	22,266
Finished goods	22,852	21,279
Total inventories	\$ 69,640	\$ 79,754

A charge of \$2.2 million and \$7.3 million were included in the cost of revenues in the Company's condensed consolidated statements of operations for the three and nine months ended September 30, 2017, respectively, to adjust inventory to their net realizable value, including a \$2.0 million and \$4.9 million charge in the three and nine months ended September 30, 2017, respectively, related to enoxaparin inventory as a result of a decrease in the forecasted average selling price.

Note 11. Property, Plant, and Equipment

Property, plant, and equipment consist of the following:

	September 30, 2017	December 31, 2016
	(in thousands)	
Buildings	\$ 87,313	\$ 85,283
Leasehold improvements	29,807	24,619
Land	7,092	6,857
Machinery and equipment	116,777	111,041
Furniture, fixtures, and automobiles	15,679	15,113
Construction in progress	46,759	32,044
Total property, plant, and equipment	303,427	274,957
Less accumulated depreciation	(130,381)	(122,013)
Total property, plant, and equipment, net	\$ 173,046	\$ 152,944

As of September 30, 2017 and December 31, 2016, the Company had \$2.3 million and \$2.6 million, respectively, in capitalized manufacturing equipment that is intended to be used specifically for the manufacture of Primatene[®] Mist. The Company will continue to monitor developments with the FDA as it relates to its Primatene[®] Mist indefinite lived intangible assets in determining if there is an impairment of these related fixed assets (see Note 9).

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Note 12. Debt

Debt consists of the following:

	September 30, 2017	December 31, 2016
	(in thousands)	
Loans with East West Bank		
Equipment loan paid off April 2017	\$ —	\$ 433
Line of credit facility due December 2018	—	—
Equipment loan due January 2019	2,053	3,208
Mortgage payable due February 2021	3,598	3,660
Equipment loan due June 2021	4,592	2,882
Equipment line of credit due December 2022	—	—
Mortgage payable due October 2026	3,539	3,582
Mortgage payable due June 2027	8,968	—
Loans with Cathay Bank		
Line of credit facility due May 2018	—	—
Acquisition loan due April 2019	15,580	17,079
Mortgage payable due August 2027	7,836	4,367
Loans with Seine-Normandie Water Agency		
French government loan 1 due March 2018	17	30
French government loan 2 due June 2020	83	99
French government loan 3 due July 2021	233	262
Payment Obligation to Merck	585	506
Equipment under Capital Leases	1,360	1,614
Total debt and capital leases	48,444	37,722
Less current portion of long-term debt and capital leases	6,212	5,366
Long-term debt and capital leases, net of current portion	\$ 42,232	\$ 32,356

Loans with East West Bank*Equipment Loan—Paid off April 2017*

In March 2012, the Company entered into an \$8.0 million revolving credit facility. In March 2013, the Company converted the outstanding principal balance of \$4.9 million into an equipment loan. Borrowings under the facility were secured by equipment. Borrowings under the facility bore a variable interest rate at the prime rate as published by *The Wall Street Journal*, plus 0.25%, with a minimum interest rate of 3.50%. In April 2017, the Company repaid all outstanding amounts due under this loan.

Line of Credit Facility—Due December 2018

In March 2012, the Company entered into a \$10.0 million line of credit facility, which bears a variable interest rate at the prime rate as published by *The Wall Street Journal*. Borrowings under the facility are secured by inventory and accounts

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receivable. This facility matured in March 2016. In March 2016, the facility was amended to increase the line of credit to \$15.0 million and to extend the maturity date to September 2017. In May 2017, the Company amended the facility to extend the maturity date to December 2018. As of September 30, 2017, the Company did not have any amounts outstanding under this facility.

Equipment Loan—Due January 2019

In July 2013, the Company entered into an \$8.0 million line of credit facility.

In January 2015, the Company drew down \$6.2 million from the line of credit facility. Subsequently, the facility was converted into a term equipment loan with an outstanding principal balance of \$6.2 million and a maturity date of January 2019. Borrowings under the facility are secured by equipment. As of September 30, 2017, the fair value of the loan approximates its book value. The interest rate used in the fair value estimation was determined to be a Level 2 input. The Company has entered into a fixed interest rate swap contract on this facility to exchange the variable interest rate for a fixed interest rate of 4.48% over the life of the facility without the exchange of the underlying notional debt amount. The interest rate swap contract does not qualify for hedge accounting and is recorded at fair value for an immaterial amount based on Level 2 inputs.

Mortgage Payable—Due February 2021

The Company refinanced the mortgage term loan in January 2016, which had an outstanding principal balance of \$3.7 million at December 31, 2015, and a maturity date of February 2021. The refinanced loan is payable in monthly installments with a final balloon payment of \$3.3 million. The refinanced loan is secured by one of the buildings at the Company's Rancho Cucamonga, California, headquarters complex. The refinanced loan has a variable interest rate at the prime rate as published by *The Wall Street Journal*. As of September 30, 2017, the fair value of the loan approximates its book value. The interest rate used in the fair value estimation was determined to be a Level 2 input. The Company has entered into a fixed interest rate swap contract on this loan to exchange the variable interest rate for a fixed interest rate of 4.39% over the life of the loan without the exchange of the underlying notional debt amount. The interest rate swap contract does not qualify for hedge accounting, and is recorded at fair value for an immaterial amount based on Level 2 inputs.

Equipment Loan—Due June 2021

In March 2016, the Company entered into a \$5.0 million equipment credit facility.

In May 2017, the Company converted the outstanding balance of \$5.0 million into a term equipment loan which matures in June 2021. Borrowings under the loan are secured by equipment. The loan bears a variable interest rate at the prime rate as published by *The Wall Street Journal*. As of September 30, 2017, the fair value of the loan approximates its book value. The interest rate used in the fair value estimation was determined to be a Level 2 input. The Company has entered into a fixed interest rate swap contract on this facility to exchange the variable interest rate for a fixed interest rate of 4.86% over the life of the facility without the exchange of the underlying notional debt amount. The interest rate swap contract does not qualify for hedge accounting and is recorded at fair value for an immaterial amount based on Level 2 inputs.

Equipment Credit Line—Due December 2022

In June 2017, the Company entered into an \$8.0 million equipment credit line with an 18-month draw down period. Interest payments are due monthly through December 2018 at the prime rate as published by *The Wall Street Journal*. After the draw down period, the outstanding principal balance converts into a 48-month term loan which bears a variable interest rate at the prime rate as published by *The Wall Street Journal*. The loan matures in December 2022, and the

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principal and interest payments are due monthly. Borrowings under the facility are secured by equipment. As of September 30, 2017, the Company did not have any amounts outstanding under this facility.

Mortgage Payable—Due October 2026

In September 2006, the Company entered into a mortgage term loan in the principal amount of \$2.8 million, which matured in September 2016.

The Company refinanced the mortgage term loan in September 2016, which increased the principal amount to \$3.6 million and extended the maturity date to October 2026. The refinanced loan is payable in monthly installments with a final balloon payment of \$2.9 million. The refinanced loan was secured by one of the buildings at the Company's Rancho Cucamonga, California, headquarters complex. The refinanced loan bears a variable interest rate at the one-month LIBOR rate plus 2.75%. As of September 30, 2017, the fair value of the loan approximates its book value. The interest rate used in the fair value estimation was determined to be a Level 2 input. Subsequently, the Company entered into a fixed interest rate swap contract on this loan to exchange the variable interest rate for a fixed interest rate of 4.15% until October 2021 without the exchange of the underlying notional debt amount. The interest rate swap contract does not qualify for hedge accounting, and is recorded at fair value for an immaterial amount based on Level 2 inputs.

Mortgage Payable—Due June 2027

In May 2017, the Company entered into a mortgage term loan in the principal amount of \$9.0 million, which matures in June 2027. The loan is payable in monthly installments with a final balloon payment of \$7.4 million plus interest. The loan is secured by one of the buildings at the Company's Rancho Cucamonga, California, headquarters complex and two buildings at the Company's Chino, California, facility. The loan bears a variable interest rate at the one-month LIBOR rate plus 2.5%. As of September 30, 2017, the fair value of the loan approximates its book value. The interest rate used in the fair value estimation was determined to be a Level 2 input. The Company entered into a fixed interest rate swap contract on this loan to exchange the variable interest rate for a fixed interest rate of 4.79% until June 2024 without the exchange of the underlying notional debt amount. The interest rate swap contract does not qualify for hedge accounting, and is recorded at fair value of approximately \$0.2 million based on Level 2 inputs.

Loans with Cathay Bank

Line of Credit Facility—Due May 2018

In April 2012, the Company entered into a \$20.0 million revolving line of credit facility. Borrowings under the facility are secured by inventory, accounts receivable, and intangibles held by the Company. The facility bears a variable interest rate at the prime rate as published by *The Wall Street Journal* with a minimum interest rate of 4.00%. In June 2016, the Company amended the facility to extend the maturity date from May 2016 to May 2018. As of September 30, 2017, the Company did not have any amounts outstanding under this facility.

Acquisition Loan with Cathay Bank—Due April 2019

On April 22, 2014, in conjunction with the Merck API Transaction, the Company entered into a secured term loan with Cathay Bank as lender. The principal amount of the loan is \$21.9 million and bears a variable interest rate at the prime rate as published by *The Wall Street Journal*, with a minimum interest rate of 4.00%. Beginning on June 1, 2014, and through the maturity date April 22, 2019, the Company must make monthly payments of principal and interest based on the then outstanding amount of the loan amortized over a 120-month period. On April 22, 2019, all amounts outstanding under the loan become due and payable, which would be approximately \$12.0 million based upon an interest rate of 4.00%. The loan is secured by 65% of the issued and outstanding shares of stock in AFP and certain assets of the Company, including accounts receivable, inventory, certain investment property, goods, deposit accounts, and general

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intangibles but not including the Company's equipment and real property. As of September 30, 2017, the fair value of the loan approximates its book value. The interest rate used in the fair value estimation was determined to be a Level 2 input.

The loan includes customary restrictions on, among other things, the Company's ability to incur additional indebtedness, pay dividends in cash or make other distributions in cash, make certain investments, create liens, sell assets, and make loans. The loan also includes customary events of defaults, the occurrence and continuation of any of which provide Cathay Bank the right to exercise remedies against the Company and the collateral securing the loan. These events of default include, among other things, the Company's failure to pay any amounts due under the loan, the Company's insolvency, the occurrence of any default under certain other indebtedness or material agreements, and a final judgment against the Company that is not discharged in 30 days.

Mortgage Payable—Due August 2027

In April 2014, the Company refinanced the mortgage term loan, which had a principal balance outstanding of \$4.6 million. The loan was payable in monthly installments with a final balloon payment of \$3.9 million. The loan was secured by the building at the Company's Canton, Massachusetts location, and bore interest at a fixed rate of 5.42% and was to have matured in April 2021.

In August 2017, the Company refinanced the mortgage term loan, with a principal balance outstanding of \$7.9 million. The loan is payable in monthly installments and is secured by the building at the Company's Canton, Massachusetts location. The loan bears interest at a fixed rate of 4.70% for the first five years of the loan, thereafter, the loan bears a variable interest rate at the prime rate as published by *The Wall Street Journal* and matures in June 2027. As of September 30, 2017, the fair value of the loan approximates its book value. The interest rate used in the fair value estimation was determined to be a Level 2 input.

Loans with Seine-Normandie Water Agency

In January 2015, the Company entered into three French government loans with the Seine-Normandie water agency in the aggregate amount of €0.6 million, or \$0.7 million, subject to currency exchange fluctuations. The life of the loans range between three to six years, and includes annual equal payments and bears no interest over the life of the loans.

As of September 30, 2017, the payment obligation had an aggregate book value of €0.3 million, or \$0.3 million, subject to currency exchange rate fluctuations, which approximates fair value. The fair value of the payment obligation was determined by using the interest rate associated with the Company's acquisition loan with Cathay Bank that bears a variable interest rate at the prime rate as published by *The Wall Street Journal*, with a minimum interest rate of 4.00%. Such interest rate is deemed to be a Level 2 input for measuring fair value.

Payment Obligation to Merck

Merck—Due December 2017

On April 30, 2014, in conjunction with the Merck API Transaction, the Company entered into a commitment obligation with Merck, in the principal amount of €11.6 million, or \$16.0 million, subject to currency exchange rate fluctuations. The terms of the purchase price include annual payments over four years and bear a fixed interest rate of 3.00%. As of September 30, 2017, the payment obligation had a balance of €0.5 million, or \$0.6 million, which approximates fair value. The fair value of the payment obligation was determined by using the interest rate associated with the Company's acquisition loan with Cathay Bank that bears a variable interest rate at the prime rate as published by *The Wall Street Journal*, with a minimum interest rate of 4.00%. Such interest rate is deemed to be a Level 2 input for measuring fair value.

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Covenants

At September 30, 2017 and December 31, 2016, the Company was in compliance with its debt covenants, which include a minimum current ratio, minimum debt service coverage, minimum tangible net worth, maximum debt-to-effective-tangible-net-worth ratio, and minimum deposit requirement, computed on a consolidated basis.

Equipment under Capital Leases

The Company entered into leases for certain equipment under capital leasing arrangements, which will expire at various times through 2021. The cost of equipment under capital leases was \$1.6 million and \$2.0 million at September 30, 2017 and December 31, 2016, respectively.

The accumulated depreciation of equipment under capital leases was \$0.1 million and \$0.2 million at September 30, 2017 and December 31, 2016, respectively. Depreciation of assets recorded under capital leases is included in depreciation expense in the accompanying consolidated financial statements.

Note 13. Income Taxes

The following table sets forth the Company's income tax provision for the periods indicated:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(in thousands)			
Income (loss) before taxes	\$ (1,991)	\$ 6,001	\$ 2,686	\$ 19,569
Income tax expense (benefit)	(2,166)	2,111	(354)	6,295
Net income	\$ 175	\$ 3,890	\$ 3,040	\$ 13,274
Income tax provision as a percentage of income before income taxes	108.8 %	35.2 %	(13.2)%	32.2 %

The Company has a full valuation allowance against its French deferred tax assets; however, a tax benefit is included in the annual effective tax rate computation due to the French entity reporting a year-to-date foreign exchange gain in other comprehensive income. The Company calculates an estimated annual effective income tax rate based upon its forecasted income. This estimated effective tax rate factors in various permanent differences, including domestic deductions, the impact of foreign operations, and various credits, as well as discrete tax items recognized during each period. During the three and nine months ended September 30, 2017, the Company recognized discrete tax benefits of \$1.3 million and \$1.4 million, respectively. During the three and nine months ended September 30, 2016, the Company recognized discrete tax benefits of \$0.3 million and \$0.3 million, respectively.

Effective January 1, 2017, the Company adopted ASU 2016-09, under which, differences between the tax deduction for share-based awards and the related compensation expenses recognized under ASC 718 are prospectively accounted for as a component of the provision for income taxes. In addition, ASU 2016-09 eliminated the requirement that excess tax benefits from share-based compensation reduce taxes payable prior to being recognized in the financial statements. As a result of the adoption of ASU 2016-09, the cumulative excess benefits of stock compensation of \$0.9 million that was not previously recognized was established on the balance sheet resulting in an increase in deferred tax assets and retained earnings.

The Company's income tax return for the 2015 tax year is currently under examination by the Internal Revenue Service. There are differing interpretations of tax laws and regulations and, as a result, significant disputes may arise with tax authorities involving issues of timing and amount of deductions and allocations of income. Resolution of uncertain tax positions may have an impact on the results of operations for that period.

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Valuation Allowance

In assessing the need for a valuation allowance, management considers whether it is more likely than not that some portion or all of the deferred tax assets will be realized. Ultimately, the realization of deferred tax assets depends on the existence of future taxable income. Management considers sources of taxable income such as income in prior carryback periods, future reversal of existing deferred taxable temporary differences, tax-planning strategies, and projected future taxable income.

In 2015, the Company assessed the realizability of the deferred tax assets of AFP and determined that it was not more likely than not that the net deferred tax assets of AFP would be realized. Therefore, the Company established a full valuation allowance of \$0.9 million as of December 31, 2015, and continues to maintain a full valuation allowance on all AFP deferred tax assets.

Note 14. Stockholders' Equity

A summary of the changes in stockholders' equity for the nine months ended September 30, 2017, consisted of the following:

	Nine Months Ended September 30, 2017 (in thousands)
Stockholders' equity as of December 31, 2016	\$ 329,255
Beginning balance adjustment to retained earnings as a result of the adoption of ASU 2016-09	872
Adjusted stockholders' equity as of January 1, 2017	330,127
Net income	3,040
Other comprehensive income	2,101
Net proceeds from equity plans	7,255
Share-based compensation expense	12,905
Purchase of treasury stock	(24,773)
Stockholders' equity as of September 30, 2017	\$ 330,655

2014 Employee Stock Purchase Plan

In June 2014, the Company adopted the Employee Stock Purchase Plan, or ESPP, in connection with its initial public offering. A total of 2,000,000 shares of common stock are reserved for issuance under this plan. The Company's ESPP permits eligible employees to purchase common stock at a discount through payroll deductions during defined offering periods. Under the ESPP, the Company may specify offerings with durations of not more than 27 months, and may specify shorter purchase periods within each offering. Each offering will have one or more purchase dates on which shares of its common stock will be purchased for employees participating in the offering. An offering may be terminated under certain circumstances. The price at which the stock is purchased is equal 85% of the lower of the fair market value of the common stock at the beginning of an offering period or on the date of purchase.

As of September 30, 2017, the Company has issued 320,623 shares of common stock under the ESPP and 1,679,377 shares of its common stock remained available for issuance.

For the three and nine months ended September 30, 2017, the Company recorded ESPP expense of \$0.1 million and \$0.4 million, respectively. For the three and nine months ended September 30, 2016, the Company recorded ESPP expense of \$0.1 million and \$0.4 million, respectively.

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Share Buyback Program

On November 6, 2014, the Company's Board of Directors authorized a \$10.0 million share buyback program, which was completed in December 2015. On November 10, 2015, the Company's Board of Directors authorized an additional \$10.0 million to the Company's share buyback program, which was completed in December 2016. On November 7, 2016, the Company's Board of Directors authorized an increase of \$20.0 million to the Company's share buyback program, which was completed in August 2017. On August 7, 2017, the Company's Board of Directors authorized an additional \$20.0 million to the Company's share buyback program, which is expected to continue for an indefinite period of time. The primary goal of the program is to offset dilution created by the Company's equity compensation programs.

Purchases are made through open market and private block transactions pursuant to Rule 10b5-1 plans, privately negotiated transactions or other means as determined by the Company's management and in accordance with the requirements of the SEC. The timing and actual number of treasury stock share purchases depend on a variety of factors including price, corporate and regulatory requirements, and other conditions. These treasury stock share purchases are accounted for under the cost method and are included as a component of treasury stock in the Company's consolidated balance sheets.

Pursuant to the Company's share buyback program, the Company purchased 472,379 and 1,584,661 shares of its common stock during the three and nine months ended September 30, 2017, for total consideration of \$7.6 million and \$24.8 million, respectively. The Company purchased 46,333 and 710,833 shares of its common stock during the three and nine months ended September 30, 2016, for total consideration of \$0.8 million and \$9.0 million, respectively.

2015 Equity Incentive Plan

In March 2015, the Board of Directors adopted the Company's 2015 Equity Incentive Plan, or the 2015 Plan, which was approved by the Company's stockholders in May 2015 and is set to expire in March 2025. The 2015 Plan is designed to meet the needs of a publicly traded company, including the requirements for granting "performance based compensation" under Section 162(m) of the Internal Revenue Code. The 2015 Plan provides for the grant of incentive stock options, nonstatutory stock options, restricted stock, restricted stock units, stock appreciation rights, performance units, performance shares, and other stock or cash awards to employees of the Company and its subsidiaries, members of the Board of Directors and consultants.

The Company initially reserved 5,000,000 shares of common stock for issuance under the 2015 Plan. This number will be increased by the number of shares available for issuance under the Company's prior equity incentive plans or arrangements that are not subject to options or other awards, plus the number of shares of common stock related to options or other awards granted under the Company's prior equity incentive plans or arrangements that are repurchased, forfeited, expired, or cancelled on or after the effective date of the 2015 Plan. The 2015 Plan also contains an "evergreen provision" that allows for an annual increase in the number of shares available for issuance on January 1 of each year during the 10 year term of the 2015 Plan, beginning January 1, 2016. The annual increase in the number of shares shall be the lesser of (i) 3,000,000 shares, (ii) two and one-half percent (2.5%) of the outstanding shares on the last day of the immediately preceding fiscal year, or (iii) such number of shares as determined by the Board of Directors. As of the effective date, there were 5,300,296 shares available for grant under the 2015 Plan.

In January 2017, an additional 1,156,216 shares were reserved under the 2015 Plan pursuant to the evergreen provision. As of September 30, 2017, the Company reserved an aggregate of 3,469,873 shares of common stock for future issuance under the 2015 Plan.

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Share-Based Award Activity and Balances

The Company accounts for share-based compensation payments in accordance with ASC 718, which requires measurement and recognition of compensation expense at fair value for all share-based payment awards made to employees and directors. Under these standards, the fair value of option awards and the option components of the ESPP awards are estimated at the grant date using the Black-Scholes option-pricing model. The fair value of RSUs is estimated at the grant date using the Company's common share price. Non-vested stock options held by non-employees are revalued at each balance sheet date. The portion that is ultimately expected to vest is amortized and recognized in the compensation expenses on a straight-line basis over the requisite service period, generally from the grant date to the vesting date.

The weighted-averages for key assumptions used in determining the fair value of options granted during the three and nine months ended September 30, 2017 and 2016, are as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Average volatility	36.9 %	31.9 %	37.0 %	30.4 %
Risk-free interest rate	2.0 %	1.3 %	2.1 %	1.5 %
Weighted-average expected life in years	6.3	6.3	5.5	5.5
Dividend yield rate	— %	— %	— %	— %

A summary of option activity under all plans for the nine months ended September 30, 2017, is presented below:

	Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value ⁽¹⁾ (in thousands)
Outstanding as of December 31, 2016	12,530,297	\$ 14.57		
Options granted	1,815,813	14.23		
Options exercised	(1,134,259)	11.60		
Options cancelled	(44,473)	13.57		
Options expired	(118,378)	25.48		
Outstanding as of September 30, 2017	<u>13,049,000</u>	\$ 14.69	4.49	\$ 53,235
Exercisable as of September 30, 2017	<u>8,683,400</u>	\$ 15.22	3.05	\$ 34,772

(1) The aggregate intrinsic value is calculated as the difference between the exercise price of the underlying awards and the estimated fair value of the Company's common stock for those awards that have an exercise price below the estimated fair value at September 30, 2017.

For the three and nine months ended September 30, 2017, the Company recorded expenses of \$1.9 million and \$5.9 million, respectively, related to stock options granted to employees under all plans and expenses of \$0.2 million and \$0.5 million, respectively, related to stock options granted to the Board of Directors under all plans. For the three and nine months ended September 30, 2016, the Company recorded expenses of \$1.8 million and \$6.2 million, respectively, related to stock options granted to employees under all plans and expenses of \$0.1 million and \$0.5 million, respectively, related to stock options granted to the Board of Directors under all plans.

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Information relating to option grants and exercises is as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(in thousands, except per share data)			
Weighted-average grant date fair value per option share	\$ 6.23	\$ 6.34	\$ 4.95	\$ 3.42
Intrinsic value of options exercised	1,668	4,998	4,730	5,980
Cash received from options exercises	782	14,331	9,521	17,584
Total fair value of the options vested during the year	779	2,688	6,984	7,948

A summary of the status of the Company's non-vested options as of September 30, 2017, and changes during the nine months ended September 30, 2017, is presented below:

	Options	Weighted-Average Grant Date Fair Value
Non-vested as of December 31, 2016	4,592,187	\$ 3.61
Options granted	1,815,813	4.95
Options vested	(1,997,927)	3.50
Options forfeited	(44,473)	4.71
Non-vested as of September 30, 2017	4,365,600	4.21

As of September 30, 2017, there was \$12.9 million of total unrecognized compensation cost, net of forfeitures, related to non-vested stock option based compensation arrangements granted under all plans. The cost is expected to be recognized over a weighted-average period of 2.3 years and will be adjusted for future changes in estimated forfeitures.

Deferred Stock Units/Restricted Stock Units

Beginning in 2007, the Company granted deferred stock units, or DSUs, to certain employees and members of the Board of Directors with a vesting period of up to five years, and commencing in 2015, such equity was issued as restricted stock units, or RSUs (such RSUs and DSUs are collectively referred to herein as RSUs). The grantee receives one share of common stock at a specified future date for each RSU awarded. The RSUs may not be sold or otherwise transferred until certificates of common stock have been issued, recorded, and delivered to the participant. The RSUs do not have any voting or dividend rights prior to the issuance of certificates of the underlying common stock. The share-based expense associated with these grants was based on the Company's common stock fair value at the time of grant and is amortized over the requisite service period, which generally is the vesting period using the straight-line method. During the three and nine months ended September 30, 2017, the Company recorded expenses of \$1.7 million and \$5.4 million, respectively, related to RSU awards granted to employees under all plans and expenses of \$0.2 million and \$0.5 million, respectively, related to RSU awards granted to the Board of Directors. During the three and nine months ended September 30, 2016, the Company recorded expenses of \$1.4 million and \$3.9 million, respectively, related to RSU awards granted to employees under all plans and expenses of \$0.2 million and \$0.5 million, respectively, related to RSU awards granted to the Board of Directors.

As of September 30, 2017, there was \$14.2 million of total unrecognized compensation cost, net of forfeitures, related to non-vested RSU-based compensation arrangements granted under all plans. The cost is expected to be recognized over a weighted-average period of 2.4 years and will be adjusted for future changes in estimated forfeitures.

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Information relating to RSU grants and deliveries is as follows:

	Total RSUs Issued	Total Fair Market Value of RSUs Issued as Compensation ⁽¹⁾ (in thousands)
RSUs outstanding at December 31, 2016	1,215,786	
RSUs granted	676,482	\$ 9,298
RSUs forfeited	(13,302)	
RSUs vested ⁽²⁾	(484,739)	
RSUs outstanding at September 30, 2017	<u>1,394,227</u>	

(1) The total fair market value is derived from the number of RSUs granted times the current stock price on the date of grant.

(2) Of the vested RSUs, 184,341 shares of common stock were surrendered to fulfil tax withholding obligations.

Equity Awards to Consultants and Advisory Board Members

The Company pays certain consultants and advisory board members in the form of share-based awards. Such share-based compensation expense is recorded over the service period based on the estimated fair market value of the equity award at the date services are performed or upon completion of services. During the three and nine months ended September 30, 2017, the Company recorded expenses of \$0.1 million and \$0.3 million, respectively, in relation to such share-based compensation. During the three months ended September 30, 2016, the Company recorded an immaterial amount of expense in relation to such share-based compensation. During the nine months ended September 30, 2016, the Company recorded an expense of approximately \$0.1 million in relation to such share-based compensation.

The Company recorded share-based compensation expense under all plans and it is included in the Company's consolidated statement of operations as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(in thousands)			
Cost of revenues	\$ 815	\$ 675	\$ 2,843	\$ 2,245
Operating expenses:				
Selling, distribution, and marketing	88	45	237	176
General and administrative	2,947	2,593	8,715	8,339
Research and development	306	242	1,110	844
Total share-based compensation	<u>\$ 4,156</u>	<u>\$ 3,555</u>	<u>\$ 12,905</u>	<u>\$ 11,604</u>

Note 15. Employee Benefits

401(k) Plan

The Company has a defined contribution 401(k) plan, or the Plan, whereby eligible employees voluntarily contribute up to a defined percentage of their annual compensation. The Company matches contributions at a rate of 50% on the first 6% of employee contributions, and pays the administrative costs of the Plan. Employer contributions vest over four years. Total employer contributions for the three and nine months ended September 30, 2017, were approximately \$0.3 million and \$0.8 million, respectively, compared to the prior year expense of \$0.3 million and \$0.7 million for the three and nine months ended September 30, 2016, respectively.

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Defined Benefit Pension Plan

In connection with the Merck API Transaction, the Company assumed an obligation associated with a defined-benefit plan for eligible employees of AFP. This plan provides benefits to the employees from the date of retirement and is based on the employee's length of time employed by the Company. The calculation is based on a statistical calculation combining a number of factors that include the employee's age, length of service, and AFP employee turnover rate.

The liability under the plan is based on a discount rate of 1.60% and 1.75% as of September 30, 2017 and December 31, 2016, respectively. The liability is included in accrued liabilities in the accompanying consolidated balance sheets. The plan is currently unfunded, and the benefit obligation under the plan was \$1.9 million and \$1.7 million at September 30, 2017 and December 31, 2016, respectively. The Company recorded an immaterial amount of expense under the plan for the three months ended September 30, 2017, and \$0.1 million for the nine months ended September 30, 2017. The Company recorded an immaterial amount of expense under the plan for the three months ended September 30, 2016, and \$0.1 million for the nine months ended September 30, 2016.

Note 16. Commitments and Contingencies

Supply Agreement with MannKind Corporation

On July 31, 2014, the Company entered into a supply agreement with MannKind Corporation, or MannKind, or the Supply Agreement, pursuant to which the Company agreed to manufacture for and supply to MannKind certain quantities of RHI API for use in MannKind's product Afrezza[®]. Under the Supply Agreement, MannKind agreed to purchase annual minimum quantities of RHI API in an aggregate amount of approximately €120.1 million, or approximately \$146.0 million, over five years from calendar years 2015 through 2019. Specifically, the minimum annual purchase commitment was approximately €27.1 million in 2015 and approximately €23.3 million each year from 2016 through 2019.

In January 2015, the Company entered into a supply option agreement with MannKind, or the Option Agreement, pursuant to which MannKind will have the option to purchase RHI API, in excess of the minimum amounts specified in the Supply Agreement in calendar years 2016 through 2019. In the event MannKind elects not to exercise its minimum annual purchase option for any year under the Option Agreement, MannKind is obligated to pay the Company a specified capacity cancellation fee.

In October 2015, MannKind informed the Company that it was not exercising the option to purchase additional quantities of RHI API for 2016 under the Option Agreement and paid the Company the specified capacity cancellation fee of \$0.8 million. Such capacity cancellation fee was recorded as net revenue in the Company's consolidated statement of operations for the year ended December 31, 2015.

For the year ended December 31, 2016, sales of RHI API to MannKind totaled \$6.8 million, which fulfilled the remaining unfulfilled 2015 commitment of RHI under the Supply Agreement.

In November 2016, the Company amended the Supply Agreement with MannKind, whereby MannKind's aggregate total commitment of RHI API under the Supply Agreement has not been reduced; however, the annual minimum purchase commitments of RHI API under the Supply Agreement have been modified and extended through 2023, which timeframe had previously lapsed after calendar year 2019. Specifically, the minimum annual purchase commitment in calendar year 2016 has been cancelled, and the minimum annual purchase commitments in calendar years 2017 through 2023 have been modified to be €2.7 million of insulin in the fourth quarter of 2017, €8.9 million in 2018, €11.6 million in 2019, €15.5 million in 2020 and in 2021, and €19.4 million in 2022 and in 2023. MannKind may request to purchase additional quantities of RHI API in excess of its annual minimum purchase commitments. The Supply Agreement Amendment also (i) shortened the required expiry dates for RHI API delivered to MannKind pursuant to the Supply Agreement, (ii) modified the timing of MannKind's payment for the minimum annual purchase commitment in calendar year 2017, and

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(iii) added a pre-payment requirement for purchases of RHI API by MannKind in calendar years 2017 and 2018. The amendment can be renewed for additional, successive two-year terms upon 12 months' written notice, given prior to the end of the initial term or any additional two-year term.

Concurrent with the amendment of the Supply Agreement, the Company amended the Option Agreement with MannKind, whereby the amendment to the Option Agreement extends the timing for payment of the capacity cancellation fee for 2017 and decreases the amounts payable as capacity cancellation fees for 2018 and 2019 in the event MannKind fails to exercise its minimum annual purchase option for any given year. The Company recognized the cancellation fee for 2017 of \$1.5 million in net revenues in its consolidated statement of operations for the year ended December 31, 2016, and subsequently collected on this receivable. In August 2017, MannKind notified the Company that it would not exercise its minimum annual purchase option of RHI API for 2018. The Company recognized the cancellation fee for 2018 of \$0.9 million in net revenues in its condensed consolidated statements of operations for the three and nine months ended September 30, 2017, and subsequently collected on this receivable.

In addition to, and in consideration of the amended timeframe and other amendments contained in the amendment to the Supply Agreement in the amendment to the Option Agreement, the Supply Agreement Amendment provided the Company right of first refusal to participate in the development and commercialization of Afrezza[®] in China through a collaborative arrangement.

Collaboration Agreement with a Medical Device Manufacturer

In 2014, the Company entered into a collaboration agreement with a medical device manufacturer to develop a drug delivery system to be used by the Company for one of its pipeline products. As of September 30, 2017, the Company has paid an upfront payment of \$0.5 million and has paid \$1.5 million in milestone payments under this agreement, which were classified as research and development expense as the milestones were met. The Company is obligated to pay up to an additional \$0.5 million if certain milestones are met. As of September 30, 2017, no such obligation existed. Pursuant to the collaboration agreement, if the medical device manufacturer is successful in the development of this drug delivery system and the Company's pipeline products receive appropriate regulatory approval, the Company intends to enter into a commercial supply agreement with such medical device manufacturer for a minimum purchase of 1.0 million units during the first 12 months.

Operating Lease Agreements

The Company leases real and personal property, in the normal course of business, under various non-cancelable operating leases. The Company, at its option, can renew a substantial portion of its leases, at the market rate, for various renewal periods ranging from one to six years. Rental expense under these leases for the three and nine months ended September 30, 2017, was approximately \$0.9 million and \$2.6 million, respectively, compared to \$0.8 million and \$2.5 million for the three and nine months ended September 30, 2016, respectively.

Purchase Commitments

As of September 30, 2017, the Company has entered into commitments to purchase equipment and raw materials for an aggregate amount of approximately \$48.4 million. The Company anticipates that most of these commitments with a remaining term in excess of one year will be fulfilled by 2018. In addition, the Company is obligated to pay a supplier certain payments up to \$1.5 million based on its launch and sale of one of the Company's pipeline products.

The Company entered into agreements with a Chinese governmental entity to acquire land-use rights to real property in Nanjing, China. Under the terms of these agreements, the Company committed to invest capital in its wholly-owned subsidiary, ANP, and to develop these properties as an API manufacturing facility for the Company's pipeline products. In conjunction with these agreements, ANP modified its business license on July 3, 2012, to increase its authorized

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capital. As of December 31, 2016, the Company had completed its investment of total registered capital commitment of \$61.0 million to ANP. This investment in ANP resulted in cash being transferred from the U.S. parent company to ANP.

Per these agreements, in January 2010, the Company acquired certain land-use rights with a carrying value of \$1.2 million. In addition, the Company purchased additional land-use rights in November 2012 for \$1.3 million. The Company committed to spend approximately \$15.0 million in land development. The agreements require the construction of fixed assets on the property and specified a timetable for the construction of these fixed assets. The current pace of development of the property is behind the schedules described in the purchase agreements and, per the purchase agreement, potential monetary penalties could result if the development is delayed or not completed in accordance with the guidelines stated in the purchase agreements. The Company is in discussions with the Chinese government regarding the development and believes that the likelihood of incurring any penalty is remote.

Note 17. Litigation

Enoxaparin Patent Litigation

In September 2011, Momenta Pharmaceuticals, Inc., or Momenta, a Boston-based pharmaceutical company, and Sandoz Inc., or Sandoz, the generic division of Novartis, initiated litigation against the Company for alleged patent infringement of two patents related to testing methods for batch release of enoxaparin, which the Company refers to as the “‘886 patent” and the “‘466 patent.” The lawsuit was filed in the United States District Court for the District of Massachusetts, or the Massachusetts District Court. In October 2011, the Massachusetts District Court issued a preliminary injunction barring the Company from selling its generic enoxaparin product and also requiring Momenta and Sandoz to post a \$100.1 million bond. The preliminary injunction was stayed by the United States Court of Appeals for the Federal Circuit, or the Federal Circuit, in January 2012, and reversed by the Federal Circuit in August 2012.

In January 2013, the Company moved for summary judgment of non-infringement of both patents. Momenta and Sandoz withdrew their allegations as to the ‘466 patent, and in July 2013, the Massachusetts District Court granted the Company’s motion for summary judgment of non-infringement of the ‘886 patent and denied Momenta and Sandoz’s motion for leave to amend their infringement contentions. On January 24, 2014, the Massachusetts District Court judge entered final judgment in the Company’s favor on both patents. Momenta and Sandoz also filed a motion to collect attorneys’ fees and costs relating to a discovery motion, which the Massachusetts District Court granted. On May 9, 2016, the Massachusetts District Court issued an order imposing fees and costs of approximately \$0.4 million in relation to this discovery motion. This amount has been accrued in the general and administrative expense for the quarter ended March 31, 2016. On January 30, 2014, Momenta and Sandoz filed a notice of appeal to the Federal Circuit appealing the court’s final judgment including summary judgment denying Momenta and Sandoz’s motion for leave to amend their infringement contentions.

Following appeal briefing filed by the parties, the Federal Circuit held oral argument on May 4, 2015. On November 10, 2015, the Federal Circuit panel affirmed-in-part and vacated-in-part the decision of the Massachusetts District Court granting summary judgment of non-infringement as to the Company, and it remanded the case to the Massachusetts District Court for further proceedings consistent with its opinion. The Federal Circuit panel affirmed the Massachusetts District Court’s holding in the Company’s favor that the Company does not infringe under 35 U.S.C. 271(g), and the panel vacated the grant of summary judgment to the extent it was based on the determination that the Company’s activities fall within the 35 U.S.C. 271(e)(1) safe harbor. The Federal Circuit panel also left to the Massachusetts District Court’s discretion whether to reconsider on remand its denial of leave for Momenta and Sandoz to amend their infringement contentions. On January 11, 2016, the Company filed a Petition for Rehearing En Banc with the Federal Circuit. On February 17, 2016, the Federal Circuit denied the Company’s Petition, and the Federal Circuit issued its mandate on February 24, 2016, whereby the case returned to the Massachusetts District Court for further proceedings.

On March 18, 2016, the parties filed a joint status report with the Massachusetts District Court. On June 21, 2016, the Massachusetts District Court granted Momenta and Sandoz’s Motion for Leave to Amend its Infringement Contentions.

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In light of Momenta and Sandoz's Amended Infringement Contentions and recent changes in Supreme Court precedent since the case was stayed in 2012, the Company sought to amend its Non-Infringement and Invalidity Contentions.

On July 18, 2016, the Company submitted its Motion for Leave to Amend Its Non-Infringement and Invalidity Contentions and Momenta and Sandoz responded on July 25, 2016. In light of the new arguments made in their response, the Company further filed a Motion For Leave to Reply in Further Support of Defendants' Motion for Leave to Amend Non-Infringement and Invalidity Contentions, which was granted. A hearing was held on August 23, 2016, where the Magistrate Judge ordered the Company to file its proposed amended contentions, which it filed on August 31, 2016. On February 4, 2017, the Magistrate Judge issued an order denying the Company leave to amend its contentions. The Company filed objections to this order with the District Court on February 21, 2017. On April 13, 2017, the District Court rejected the determination of the Magistrate Judge with respect to the Company's amended non-infringement contentions, and allowed the Company to amend its non-infringement contentions. With respect to the Company's amended invalidity contentions, the District Court accepted the Magistrate Judge's determination; however, the District Court specifically stated that the Company can argue changes in law at the summary judgment stage or at trial.

In parallel with the Massachusetts District Court proceedings, the Company appealed the Federal Circuit's decision to vacate the grant of the Company's summary judgment to the extent it was based on the determination that the Company's activities are protected under the Safe Harbor. The Company filed a Petition for a Writ of Certiorari with the Supreme Court on May 17, 2016. Momenta and Sandoz initially waived their right to respond to the petition; however, on May 31, 2016, the Supreme Court requested a response from Momenta and Sandoz. The response from Momenta and Sandoz was initially due on June 30, 2016, but they requested an extension. Momenta and Sandoz filed their response on August 1, 2016. On October 3, 2016, the Supreme Court declined the Petition for a Writ of Certiorari.

Fact discovery in the Massachusetts District Court proceedings closed on November 22, 2016, and the parties proceeded with expert discovery and exchanged opening and rebuttal expert reports. Expert discovery closed on March 24, 2017. On April 14, 2017, Plaintiffs filed a Motion for Summary Judgment seeking to dismiss the Company's equitable defenses. On April 14, 2017, the Company filed Defendants' Motion for Summary Judgment of Invalidity and Noninfringement. In the Motion, the Company moved for the District Court to grant summary judgment in favor of the Company on the following issues: (1) the '886 patent is invalid under 35 U.S.C. § 101 as claiming non-patentable subject matter; (2) the '886 patent is invalid under 35 U.S.C. § 112 because the claims are indefinite; and (3) the Company's tests do not infringe the claims of the '886 patent. Oppositions to the motions for summary judgment were filed on May 5, 2017. Replies in support of the motions for summary judgment were filed on May 19, 2017. On June 16, 2017, the District Court issued an order denying the summary judgment motions. The District Court also denied Plaintiffs' motion for summary judgment dismissing the Company's defenses of implied waiver and equitable estoppel, and denied Plaintiffs' alternative request for a separate hearing on the implied waiver and equitable estoppel defenses holding that the defenses would be submitted to the jury for an advisory verdict.

Trial in the Massachusetts District Court on all claims and defenses began on July 10, 2017. On July 21, 2017, the jury returned a unanimous verdict finding that although the Company's tests infringed the asserted patent, the patent was invalid for lack of enablement and lack of written description and the jury further found that Plaintiffs are entitled to zero (\$0) damages. As for the Company's defenses of implied waiver and equitable estoppel, the jury found that Plaintiffs waived their right to recover for infringement of the asserted patent and that Plaintiffs are estopped from enforcing the asserted patent against the Company. The verdict on these equitable defenses will be briefed by the parties and submitted to the court, which will render a final judgment on the matter.

In the post-trial briefing, the Company has requested the Massachusetts District Court to adopt the findings of the jury on the equitable defenses, and has requested the Massachusetts District Court to set aside the jury's finding of infringement. In Plaintiffs' post-trial briefing, Plaintiffs have requested a new trial, and have requested the Massachusetts District Court to set aside the jury's finding that the asserted patent was invalid for lack of enablement and lack of written description. Post-trial briefing on the issues of infringement, invalidity, the equitable defenses, and Plaintiffs' request for a new trial concluded on October 25, 2017.

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The Company will continue to vigorously defend the jury's verdict, including against any potential appeal by the Plaintiffs. The Company intends to attempt to collect the \$100.1 million bond posted by Momenta and Sandoz following a final judgement by the Massachusetts District Court.

False Claims Act Litigation

In January 2009, the Company filed a qui tam complaint in the U.S. District Court for the Central District of California, or the California District Court, alleging that Aventis Pharma S.A., or Aventis, through its acquisition of a patent through false and misleading statements to the U.S. Patent and Trademark Office, as well as through false and misleading statements to the FDA, overcharged the federal and state governments for its Lovenox® product. If the Company is successful in this litigation, it could be entitled to a portion of any damage award that the government ultimately may recover from Aventis. In October 2011, the California District Court unsealed the Company's complaint.

On February 28, 2014, Aventis filed a motion for summary judgment on the issue of the adequacy of the Company's notice letter to the government, and the California District Court denied Aventis' motion for summary judgment in a final order it issued on May 12, 2014. On June 9, 2014, at Aventis' request, the California District Court issued an order certifying for appeal its order denying Aventis' motion for summary judgment. On June 9, 2014, Aventis filed with the United States Court of Appeals for the Ninth Circuit, or the Ninth Circuit, a petition for permission to appeal the California District Court's denial of Aventis' motion for summary judgment, and the Company filed an opposition to Aventis' petition on June 19, 2014. On August 22, 2014, the Ninth Circuit granted Aventis' petition. The parties filed their respective appeal briefs with the Ninth Circuit. On November 10, 2016, the Ninth Circuit heard oral argument on the appeal.

The California District Court set an evidentiary hearing for July 7, 2014 on the "original source" issue, a key element under the False Claims Act. The evidentiary hearing was conducted as scheduled, from July 7, 2014 through July 10, 2014. On July 13, 2015, the California District Court issued a ruling concluding that the Company is not an original source under the False Claims Act, and entered final judgment dismissing the case for lack of subject matter jurisdiction.

On July 20, 2015, the Company filed with the Ninth Circuit a notice of appeal of the California District Court's dismissal of the case, and Aventis filed a notice of cross-appeal on August 5, 2015. On November 12, 2015, Aventis filed a pleading asking that the California District Court impose various monetary penalties and fines against the Company, including disgorgement of enoxaparin revenues and attorneys' fees expended by Aventis in this action, based on Aventis's allegations that the Company engaged in sanctionable conduct. On November 23, 2015, the California District Court issued an order setting forth a procedure for sanctions proceedings as to the Company as well as its outside counsel. On December 24, 2015, the Company filed a pleading with the California District Court opposing the imposition of sanctions, and on January 20, 2016, Aventis filed a response pleading further pressing for the imposition of sanctions. On May 4, 2016, the California District Court issued three orders requesting that the Company and its outside counsel file a document showing cause as to why sanctions should not be imposed and to set up a conference call with the parties and the court to discuss whether any discovery and/or a hearing is necessary. On June 13, 2016, the Company and its outside counsel each filed responses to the court's order to show cause as to why sanctions should not be imposed. On July 21, 2016, Aventis filed a response contending that the court should impose sanctions. On February 10, 2017, the Court held a show cause hearing regarding the potential imposition of sanctions and took the matter under submission. On September 18, 2017, the District Court issued its decision that no sanctions will be imposed on either the Company or its counsel.

On March 28, 2016, the Company filed its opening brief with the Ninth Circuit Court of Appeals setting forth detailed arguments as to why the False Claims Act litigation should not have been dismissed by the California District Court. On June 20, 2016, Aventis filed its principal brief in the appeal, responding to the Company's arguments regarding dismissal of the False Claims Act litigation, and setting forth Aventis's argument that it should be awarded attorneys' fees and expenses. On September 19, 2016, the Company filed its reply brief to Aventis's principal brief. On October 3, 2016,

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Aventis filed its reply brief in support of its cross-appeal of the District Court's denial of attorneys' fees. On November 10, 2016, the Ninth Circuit heard oral argument on the appeals.

On May 11, 2017, the Ninth Circuit issued an opinion affirming the California District Court's dismissal of the action for lack of subject matter jurisdiction; dismissing as moot Aventis's appeal from the District Court's denial of its motion for summary judgment on the issue of the adequacy of the Company's notice letter to the government; reversing the District Court's denial of Aventis's motion for attorneys' fees; and remanding the case to the District Court for resolution of the attorneys' fees issue. On July 14, 2017, Aventis filed an application with the District Court for entitlement to attorneys' fees and expenses. The Company intends to continue to vigorously defend against any such imposition of attorneys' fees or sanctions.

Momenta/Sandoz Antitrust Litigation

On September 17, 2015, the Company initiated a lawsuit by filing a complaint in the California District Court against Momenta and Sandoz, or the Defendants. The Company's complaint generally asserts that Defendants have engaged in certain types of illegal, monopolistic, and anticompetitive conduct giving rise to various causes of action against them. On December 9, 2015, Defendants filed a motion to dismiss and a motion to transfer the case to the District of Massachusetts. On January 4, 2016, the Company filed oppositions to both motions. On January 26, 2016, the California District Court granted Defendants' motion to transfer and did not rule on Defendants' motion to dismiss. Accordingly, the case was transferred to the District of Massachusetts. On February 9, 2016, the Company filed a writ of mandamus with the Ninth Circuit to attempt to appeal the California District Court's granting of Defendants' motion to transfer to the District of Massachusetts. The Ninth Circuit denied this petition on May 20, 2016, and as such the case will remain before the District of Massachusetts. On July 27, 2016, the Massachusetts District Court granted Defendants' motion to dismiss based on antitrust immunity doctrine, without addressing the substantive merits of the claims.

On August 25, 2016, the Company filed with the First Circuit Court of Appeals a notice of appeal of the Massachusetts District Court's dismissal of the antitrust case. On October 31, 2016, the Company filed its appeal brief with the First Circuit. On December 5, 2016, Defendants filed their response brief with the First Circuit Court of Appeals. On December 19, 2016, the Company filed its reply brief with the First Circuit Court of Appeals, which concluded the briefing on this appeal. On February 9, 2017, the First Circuit Court of Appeals heard oral arguments. On March 6, 2017, the First Circuit Court of Appeals issued its decision, in which it held 3 to 0 that the District Court of Massachusetts erred in dismissing the Company's antitrust case and sent the case back to the District Court to consider additional arguments.

On April 6, 2017, the District Court held a status conference to address scheduling matters for the rest of the case. The Court set a briefing schedule for Defendants' supplemental motion to dismiss and a full case schedule in the event that it denies Defendants' supplemental motion to dismiss. On April 20, 2017, Defendants filed their supplemental motion to dismiss and the Company filed its opposition on May 4, 2017. No reply briefs are allowed. The Court promised to rule on the motion to dismiss by the end of May but did not do so. If the Court denies Defendants' supplemental motion to dismiss, discovery will commence. Summary judgment arguments would be due on November 15, 2018; oppositions would be due on December 15, 2018; and replies would be due on January 15, 2019. Trial is currently scheduled for April 1, 2019.

Other Litigation

The Company is also subject to various other claims and lawsuits from time-to-time arising in the ordinary course of business. The Company records a provision for contingent losses when it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. In the opinion of management, the ultimate resolution of any such matters is not expected to have a material adverse effect on its financial position, results of operations, or cash flows; however, the results of litigation and claims are inherently unpredictable and the Company's view of these matters may change in the future. Regardless of the outcome, litigation can have an adverse impact on the Company because of

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defense and settlement costs, diversion of management resources, and other factors.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following is a discussion and analysis of the consolidated operating results, financial condition, liquidity and cash flows of our company as of and for the periods presented below. The following discussion and analysis should be read in conjunction with the "Condensed Consolidated Financial Statements" and the related notes thereto included in this Quarterly Report on Form 10-Q, or Quarterly Report. This discussion contains forward-looking statements that are based on the beliefs of our management, as well as assumptions made by, and information currently available to our management. Actual results could differ materially from those discussed in or implied by forward-looking statements. These risks, uncertainties, and other factors include, among others, those identified under the "Special Note About Forward-Looking Statements," above and described in greater detail elsewhere in this Quarterly Report and in our Annual Report on Form 10-K for the year ended December 31, 2016, particularly in Item 1.A. "Risk Factors".

Overview

We are a specialty pharmaceutical company that focuses primarily on developing, manufacturing, marketing and selling technically challenging generic and proprietary injectable, inhalation and intranasal products as well as insulin API products. We currently manufacture and sell 19 products. In addition, in September 2017, the FDA granted approval of our ANDA for Neostigmine Methylsulfate Injection, therapeutically equivalent to Avadel's Bloxiverz[®].

We are currently developing a portfolio of 16 generic ANDAs, three generic biosimilar product candidates and six proprietary product candidates, which are in various stages of development and target a variety of indications. With respect to these product candidates, we have six ANDAs, and two NDAs on file with the FDA.

To complement our internal growth and expertise, we have made several strategic acquisitions of companies, products and technologies. These acquisitions collectively have strengthened our core injectable and inhalation product technology infrastructure by providing additional manufacturing, marketing, and research and development capabilities including the ability to manufacture raw materials, APIs and other components for our products.

Included in these acquisitions are marketing authorizations for 33 products in the UK, Ireland, Australia, and New Zealand, representing 11 different injectable chemical entities, from UCB Pharma GmbH. We are in the process of transferring the manufacturing of these products to our facilities in California, which will require approvals from the UK Medicines and Healthcare products Regulatory Agency before the product candidates can be re-launched by us.

One of our largest products by net revenues is enoxaparin sodium injection, the generic equivalent of Sanofi S.A.'s Lovenox[®]. Enoxaparin is a difficult to manufacture injectable form of low molecular weight heparin that is used as an anticoagulant and has multiple indications, including the prevention and treatment of deep vein thrombosis.

We have agreements with established group purchasing organizations and wholesaler networks to distribute enoxaparin, which is marketed under our own label for the hospital and clinic market. Since December 2016, we have been distributing enoxaparin directly in the U.S. retail market under our own label.

Business Segments

Our performance is assessed and resources are allocated based on the following two reportable segments: (1) finished pharmaceutical products and (2) API products. The finished pharmaceutical products segment currently manufactures, markets and distributes enoxaparin, Cortrosyn[®], Amphadase[®], naloxone, lidocaine, as well as various other critical and non-critical care drugs. The API segment currently manufactures and distributes RHI API, and porcine insulin API. Information reported herein is consistent with how it is reviewed and evaluated by our chief operating decision maker. Factors used to identify our segments include markets, customers and products.

For more information regarding our segments, see "Part I – Item 1. Financial Statements – Notes to Condensed Consolidated Financial Statements – Segment Reporting".

Results of Operations

Three Months Ended September 30, 2017 Compared to Three Months Ended September 30, 2016

Net revenues

	Three Months Ended September 30,		Change	
	2017	2016	Dollars	%
	(in thousands)			
Net revenues				
Finished pharmaceutical products	\$ 54,455	\$ 59,058	\$ (4,603)	(8)%
API	3,461	5,165	(1,704)	(33)%
Total net revenues	\$ 57,916	\$ 64,223	\$ (6,307)	(10)%
Cost of revenues				
Finished pharmaceutical products	\$ 33,145	\$ 30,438	\$ 2,707	9 %
API	4,130	6,173	(2,043)	(33)%
Total cost of revenues	\$ 37,275	\$ 36,611	\$ 664	2 %
Gross profit	\$ 20,641	\$ 27,612	\$ (6,971)	(25)%
as % of net revenues	36 %	43 %		

The increase in net revenues of the finished pharmaceutical products for the three months ended September 30, 2017, was due to the following changes:

	Three Months Ended September 30,		Change	
	2017	2016	Dollars	%
	(in thousands)			
Finished pharmaceutical products net revenues				
Enoxaparin	\$ 6,549	\$ 15,363	\$ (8,814)	(57)%
Naloxone	12,709	12,407	302	2 %
Lidocaine	9,596	8,279	1,317	16 %
Phytonadione	9,352	8,667	685	8 %
Epinephrine	2,027	5,303	(3,276)	(62)%
Other finished pharmaceutical products	14,222	9,039	5,183	57 %
Total finished pharmaceutical products net revenues	\$ 54,455	\$ 59,058	\$ (4,603)	(8)%

The decrease in sales of enoxaparin was driven by lower unit volumes, which resulted in a decrease of approximately \$5.8 million, as well as lower average selling prices, which resulted in a decrease of approximately \$3.0 million. We expect that the average selling price and unit volumes of enoxaparin will continue to fluctuate in the near term as a result of competition.

The increase in sales of lidocaine was primarily driven by higher unit volumes. The decrease in sales of epinephrine was a result of the discontinuation of our epinephrine injection, USP vial product in the second quarter of 2017 in accordance with the FDA's request. Our epinephrine injection, USP vial product, was marketed under the "grandfather" exception to the FDA's "Prescription Drug Wrap-Up" program. Sales of other finished pharmaceutical products rose due to an increase in units shipped, resulting from competitor shortages.

Sales of RHI API decreased because there were no shipments to MannKind during the period. We anticipate that sales of our API business will continue to fluctuate and will likely decrease due to the inherent uncertainties related to sales of RHI API to MannKind. In addition, most of our API sales are denominated in Euros, and the fluctuation in the value of the Euro versus the dollar has had, and will continue to have, an impact on API sales revenues in the near term. In August 2017, MannKind notified us that it would not exercise its minimum annual purchase option of RHI API for 2018. We recognized the cancellation fee for 2018 of \$0.9 million in net revenues in our condensed consolidated statements of operations for the three months ended September 30, 2017, and subsequently collected on this receivable.

Cost of revenues

The increase in cost of revenue was primarily due to a charge of \$2.0 million to adjust enoxaparin inventory to their net realizable value. Gross margins decreased due to lower selling prices for enoxaparin as well as due to the discontinuation of our epinephrine vial product in the second quarter of 2017 in accordance with the FDA's request.

Declining average selling prices and unit volume of enoxaparin and the discontinuation of our epinephrine injection, USP vial product will continue to put downward pressure on our gross margins. However, we believe that this trend will be partially offset by increases in prices and unit volumes of several other finished pharmaceutical products and new product launches. As a result, gross margin is expected to fluctuate depending on revenue mix.

Selling, distribution and marketing, and general and administrative

	Three Months Ended September 30,		Change	
	2017	2016	Dollars	%
	(in thousands)			
Selling, distribution, and marketing	\$ 1,756	\$ 1,291	\$ 465	36 %
General and administrative	\$ 11,665	\$ 10,801	\$ 864	8 %

The increase in general and administrative expenses was primarily due to an increase in legal expenses relating to our July 2017 patent trial (see Note 17 to the condensed consolidated financial statements for more information).

We expect that general and administrative expenses will increase on an annual basis due to increased costs associated with ongoing compliance with public company reporting obligations.

Research and development

	Three Months Ended September 30,		Change	
	2017	2016	Dollars	%
	(in thousands)			
Salaries and personnel-related expenses	\$ 3,392	\$ 3,955	\$ (563)	(14)%
Clinical trials	13	248	(235)	(95)%
FDA fees	15	14	1	7 %
Testing, operating and lab supplies	4,579	3,313	1,266	38 %
Depreciation	1,093	1,174	(81)	(7)%
Other expenses	948	1,019	(71)	(7)%
Total research and development expenses	\$ 10,040	\$ 9,723	\$ 317	3 %

Research and development costs consist primarily of costs associated with the research and development of our product candidates, such as salaries and other personnel related expenses for employees involved with research and development activities, manufacturing pre-launch inventory, clinical trials, FDA fees, testing, operating and lab supplies, depreciation and other related expenses. We expense research and development costs as incurred.

Testing, operating and lab supplies increased due to expenditures on materials for our pipeline products.

We have made, and expect to continue to make, substantial investments in research and development to expand our product portfolio and grow our business. These costs will fluctuate significantly from quarter to quarter based on the timing of various clinical trials, the pre-launch costs associated with new products, and FDA filing fees. As we undertake new and challenging research and development projects, we anticipate that the associated annual costs will increase significantly over the next several quarters and years.

Provision for income tax expense (benefit)

	Three Months Ended September 30,		Change	
	2017	2016	Dollars	%
Income tax expense (benefit)	\$ (2,166)	\$ 2,111	\$ (4,277)	NM
<i>Effective tax rate</i>				%
				109 %
				35

The difference in income tax expense (benefit) was primarily due to the change in pre-tax income positions and discrete tax benefits recognized (see Note 13 to the condensed consolidated financial statements for more information).

Nine Months Ended September 30, 2017 Compared to Nine Months Ended September 30, 2016

Net revenues

	Nine Months Ended September 30,		Change	
	2017	2016	Dollars	%
	(in thousands)			
Net revenues				
Finished pharmaceutical products	\$ 174,154	\$ 181,368	\$ (7,214)	(4)%
API	5,619	10,254	(4,635)	(45)%
<i>as % of net revenues</i>	\$ 179,773	\$ 191,622	\$ (11,849)	(6)%
Cost of revenues				
Finished pharmaceutical products	\$ 99,668	\$ 96,326	\$ 3,342	3 %
API	9,889	11,068	(1,179)	(11)%
Total cost of revenues	\$ 109,557	\$ 107,394	\$ 2,163	2 %
Gross profit	\$ 70,216	\$ 84,228	\$ (14,012)	(17)%
<i>as % of net revenues</i>	39 %	44 %		

The decrease in net revenues of the finished pharmaceutical products for the nine months ended September 30, 2017, was due to the following changes:

	Nine Months Ended September 30,		Change	
	2017	2016	Dollars	%
	(in thousands)			
Finished pharmaceutical products net revenues				
Enoxaparin	\$ 25,247	\$ 51,049	\$ (25,802)	(51)%
Naloxone	33,909	38,222	(4,313)	(11)%
Lidocaine	27,218	26,378	840	3 %
Phytonadione	27,242	23,555	3,687	16 %
Epinephrine	22,249	14,921	7,328	49 %
Other finished pharmaceutical products	38,289	27,243	11,046	41 %
Total finished pharmaceutical products net revenues	\$ 174,154	\$ 181,368	\$ (7,214)	(4)%

The decrease in sales of enoxaparin was driven by lower unit volumes, which resulted in a decrease of approximately \$18.6 million, as well as lower average selling prices, which resulted in a decrease of approximately \$7.2 million. We expect that the average selling price and unit volumes of enoxaparin will continue to fluctuate in the near term as a result of competition.

Lower unit volumes of naloxone led to a decrease in sales of approximately \$3.9 million, while lower average selling price caused a decrease in sales of approximately \$0.4 million. We anticipate that sales of this product may fluctuate due to increased competition driven by future competitor launches.

The increase in phytonadione sales was primarily the result of higher unit volumes. An increase in average selling prices of epinephrine caused an increase of approximately \$9.6 million in net revenues, which was partially offset by the decrease in unit volumes which was primarily a result of the discontinuation of our epinephrine injection, USP vial product in the second quarter of 2017 in accordance with the FDA's request. Our epinephrine injection, USP vial product, was marketed under the "grandfather" exception to the FDA's "Prescription Drug Wrap-Up" program. For the nine months ended September 30, 2017, we recognized \$17.9 million in net revenues for the sale of this product.

Sales of RHI API decreased because there were no shipments to MannKind during the period. We anticipate that sales of API will continue to fluctuate and will likely decrease due to the inherent uncertainties related to sales of RHI API to MannKind. In addition, most of our API sales are denominated in Euros, and the fluctuation in the value of the Euro versus the dollar has had, and will continue to have, an impact on API sales revenues in the near term. In August 2017, MannKind notified us that it would not exercise its minimum annual purchase option of RHI API for 2018. We recognized the cancellation fee for 2018 of \$0.9 million in net revenues in our condensed consolidated statements of operations for the nine months ended September 30, 2017, and subsequently collected on this receivable.

Cost of revenues

The increase in cost of revenues was primarily due to an increase in unabsorbed manufacturing expense and a charge of \$7.3 million to adjust certain inventory to their net realizable value, including \$4.9 million for enoxaparin inventory due to a decrease in the forecasted average selling price. Gross margins decreased primarily due to lower pricing of enoxaparin.

Declining average selling prices and unit volume of enoxaparin and the discontinuance of our epinephrine injection, USP vial product will continue to put downward pressure on our gross margins. However, we believe that this trend will be partially offset by increases in prices and unit volumes of several other finished pharmaceutical products. As a result, gross margin is expected to fluctuate depending on revenue mix.

Selling, distribution and marketing, and general and administrative

	Nine Months Ended September 30,		Change	
	2017	2016	Dollars	%
	(in thousands)			
Selling, distribution, and marketing	\$ 4,831	\$ 3,975	\$ 856	22 %
General and administrative	\$ 35,237	\$ 31,129	\$ 4,108	13 %

The increase in general and administrative expenses was primarily due to an increase in legal expenses relating to our July 2017 patent trial (see Note 17 to the condensed consolidated financial statements for more information).

Research and development

	Nine Months Ended September 30,		Change	
	2017	2016	Dollars	%
	(in thousands)			
Salaries and personnel-related expenses	\$ 10,862	\$ 10,911	\$ (49)	(0)%
Pre-launch inventory	711	—	711	N/A
Clinical trials	2,064	1,246	818	66 %
FDA fees	115	2,416	(2,301)	(95)%
Testing, operating and lab supplies	12,341	7,741	4,600	59 %
Depreciation	3,278	3,571	(293)	(8)%
Other expenses	2,651	3,037	(386)	(13)%
Total research and development expenses	\$ 32,022	\$ 28,922	\$ 3,100	11 %

Research and development costs consist primarily of costs associated with the research and development of our product candidates, such as salaries and other personnel related expenses for employees involved with research and development activities, manufacturing pre-launch inventory, clinical trials, FDA fees, testing, operating and lab supplies, depreciation and other related expenses. We expense research and development costs as incurred.

Pre-launch inventory expense increased due to purchases related to Primatene[®] Mist. Testing, operating and lab supplies increased due to expenditures on materials for our pipeline products, particularly production of APIs for our pipeline at our ANP facility. Clinical trials expense increased due to external studies related to our generic product pipeline. This increase was partially offset by a decrease in FDA fees pertaining to the NDA filing of our intranasal naloxone product candidate that was submitted in the second quarter of 2016.

We have made, and expect to continue to make, substantial investments in research and development to expand our product portfolio and grow our business. These costs will fluctuate significantly from quarter to quarter based on the timing of various clinical trials, the pre-launch costs associated with new products, and FDA filing fees. As we undertake new and challenging research and development projects, we anticipate that the associated annual costs will increase significantly over the next several quarters and years.

Gain on sale of intangible assets

	Nine Months Ended September 30,		Change	
	2017	2016	Dollars	%
Gain on sale of intangible assets	\$ (2,643)	\$ —	\$ (2,643)	N/A

In February 2017, we sold the ANDAs that we acquired in March 2016 and recognized a gain of \$2.6 million (see Note 3 and Note 9 to the condensed consolidated financial statements for more information).

Provision for income tax expense (benefit)

	Nine Months Ended September 30,		Change	
	2017	2016	Dollars	%
Income tax expense (benefit)	\$ (354)	\$ 6,295	\$ (6,649)	NM
<i>Effective tax rate</i>		(13)%	32%	

The difference in income tax expense (benefit) was primarily due to the change in pre-tax income positions and discrete tax benefits recognized (see Note 13 to the condensed consolidated financial statements for more information).

Liquidity and Capital Resources

Cash Requirements and Sources

We need capital resources to maintain and expand our business. We expect our cash requirements to increase significantly in the foreseeable future as we sponsor clinical trials for, seek regulatory approvals of, and develop, manufacture and market our current development-stage product candidates and pursue strategic acquisitions of businesses or assets. Our future capital expenditures include projects to upgrade, expand and improve our manufacturing facilities in the United States, China and France. Our cash obligations include the principal and interest payments due on our existing loans and lease payments, as described below and throughout this Quarterly Report on Form 10-Q. As of September 30, 2017, our foreign subsidiaries collectively held \$22.5 million in cash and cash equivalents. We do not plan to repatriate foreign earnings to the United States. Cash or cash equivalents held at foreign subsidiaries are not available to fund the parent company's operations in the United States. We believe that our cash reserves, operating cash flows, and borrowing availability under our credit facilities will be sufficient to fund our operations for at least the next 12 months. We expect additional cash flows to be generated in the longer term from future product introductions.

although there can be no assurance as to the receipt of regulatory approval for any product candidates that we are developing or the timing of any product introductions, which could be lengthy or ultimately unsuccessful.

We maintain a shelf registration statement on Form S-3 pursuant to which we may, from time to time, sell up to an aggregate of \$250 million of our common stock, preferred stock, depository shares, warrants, units, or debt securities. If we require or elect to seek additional capital through debt or equity financing in the future, we may not be able to raise capital on terms acceptable to us or at all. To the extent we raise additional capital through the sale of equity or convertible debt securities, the issuance of such securities will result in dilution to our stockholders. If we are required and unable to raise additional capital when desired, our business, operating results and financial condition may be adversely affected.

Working capital decreased by \$4.4 million to \$119.1 million at September 30, 2017, compared to \$123.5 million at December 31, 2016.

Cash Flows from Operations

The following table summarizes our cash flows used in operating, investing, and financing activities for the nine months ended September 30, 2017 :

	Nine Months Ended September 30, 2017 (in thousands)	
Statement of Cash Flow Data:		
Net cash provided by (used in)		
Operating activities	\$	29,444
Investing activities		(28,626)
Financing activities		(6,916)
Effect of exchange rate changes on cash		664
Net increase in cash and cash equivalents	\$	(5,434)

Sources and Use of Cash

Operating Activities

Net cash provided by operating activities was \$29.4 million for the nine months ended September 30, 2017, which included net income of \$3.0 million. Non-cash items were comprised of \$11.5 million of depreciation and amortization, \$12.9 million of share-based compensation expense, a \$5.2 million change in tax related items, and a gain of \$2.3 million on the sale of long-lived assets.

Over the nine months ended September 30, 2017, accounts receivable declined by approximately \$2.9 million primarily due to the timing of customer purchases and payments, inventories decreased by approximately \$12.4 million primarily due to the timing of component and raw material purchases and sales deliveries as well as a non-cash charge of \$7.3 million to adjust certain inventory items to their net realizable value.

Investing Activities

Net cash used in investing activities was \$28.6 million for the nine months ended September 30, 2017, primarily as a result of \$25.0 million in purchases of property, machinery, and equipment, including the associated capitalized labor and interest on self-constructed assets, an increase of \$2.0 million in short-term investments, an increase of \$2.8 million in restricted short-term investment. The cash used was partially offset by the receipt of the \$2.0 million initial payment relating to the sale of the various ANDAs in February 2017 (see Note 9 to the condensed consolidated financial statements for more information).

Financing Activities

Net cash used in financing activities was \$6.9 million for the nine months ended September 30, 2017, primarily as a result of \$24.8 million used to purchase treasury stock, which was offset by \$7.3 million of proceeds received from our equity plans. Additionally, we received proceeds of \$19.0 million from borrowings on a mortgage loan and an equipment line of credit, and made \$8.4 million in principal payments on our long-term debts.

Indebtedness

For more information regarding our outstanding indebtedness, see “Part I – Item 1. Financial Statements – Notes to Consolidated Financial Statements – Debt”.

Contractual Obligations

There have been no material changes outside the ordinary course of our business in the contractual obligations disclosed in our Annual Report on Form 10-K for the year ended December 31, 2016, except that our outstanding debt obligations have changed as follows:

	September 30, 2017	December 31, 2016	Change
		(in thousands)	
Short-term debt and current portion of long-term debt	\$ 6,212	\$ 5,366	\$ 846
Long-term debt	42,232	32,356	9,876
Total debt	<u>\$ 48,444</u>	<u>\$ 37,722</u>	<u>\$ 10,722</u>

As of September 30, 2017, we had \$43.0 million in unused borrowing capacity under revolving lines of credit with Cathay Bank and East West Bank.

Collaboration Agreement with a Medical Device Manufacturer

In 2014, we entered into a collaboration agreement with a medical device manufacturer to develop a drug delivery system to be used by us for one of our pipeline products. As of September 30, 2017, we have paid an upfront payment of \$0.5 million and have paid \$1.5 million in milestone payments under this agreement, which were classified as research and development expense as the milestones were met. We are obligated to pay up to an additional \$0.5 million if certain milestones are met. As of September 30, 2017, no such obligation existed. Pursuant to the collaboration agreement, if the medical device manufacturer is successful in the development of this drug delivery system and our pipeline products receive appropriate regulatory approval, we intend to enter into a commercial supply agreement with such medical device manufacturer for a minimum purchase of 1.0 million units during the first 12 months.

Critical Accounting Policies

The preparation of our condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and the notes to the financial statements. Some of those judgments can be subjective and complex, and therefore, actual results could differ materially from those estimates under different assumptions or conditions. A summary of our critical accounting policies is presented in Part II, Item 7, of our Annual Report on Form 10-K for the year ended December 31, 2016. There were no material changes to our critical accounting policies during the nine months ended September 30, 2017.

Recent Accounting Pronouncements

For information regarding recent accounting pronouncements, refer to Note 2 in the accompanying “Notes to Condensed Consolidated Financial Statements” in this Quarterly Report.

Off-Balance Sheet Arrangements

We do not have any relationships or financial partnerships with unconsolidated entities, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. In addition, we do not engage in trading activities involving non-exchange traded contracts.

Government Regulation

Our products and facilities are subject to regulation by a number of federal and state governmental agencies. The FDA, in particular, maintains oversight of the formulation, manufacture, distribution, packaging, and labeling of all of our products. The Drug Enforcement Administration, or DEA, maintains oversight over our products that are considered controlled substances.

From November 29, 2016 through December 7, 2016, our IMS facility in South El Monte, California was subject to an inspection by the FDA. The inspection included a review of our compliance with cGMP regulations and verification of corrective actions implemented from a previous inspection in July 2015. The inspection resulted in multiple observations on Form 483, an FDA form on which deficiencies are noted after an FDA inspection. We responded to those observations on December 29, 2016. A follow up letter to the FDA District Office was additionally sent on January 31, 2017, outlining additional progress on our corrective action plan submitted in December. We believe that our responses to the observations satisfied the requirements of the FDA and the inspection is considered closed.

From January 30, 2017 through February 09, 2017, our IMS facility in South El Monte, California was subject to a preapproval inspection by the FDA. The inspection included a review of our corrective actions taken from the recent cGMP inspection as well as review of data to support our pending application. The inspections resulted in multiple observations on Form 483. We responded to those observations on February 14, 2017. We believe that our responses to the observations will satisfy the requirements of the FDA and that no significant further actions will be necessary.

From March 13, 2017 through March 31, 2017, our Amphastar facility in Rancho Cucamonga, California was subject to a preapproval inspection by the FDA. The inspection included a review of our corrective actions taken from the previous cGMP inspection in July 2014 as well as review of data to support our pending applications. The inspections resulted in multiple observations on Form 483. We fully responded to those observations on April 22, 2017. We believe that our responses to the observations will satisfy the requirements of the FDA and that no significant further actions will be necessary.

From April 24, 2017 through April 28, 2017, our facility in Nanjing, China was subject to an inspection by the FDA. The purpose was a pre-approval inspection for the manufacture of API. The inspection resulted in several observations on Form 483. We responded to those observations on May 19, 2017, and believe that our responses to the observations satisfied the requirements of the FDA and the inspection is considered closed.

On October 20, 2017, a representative from the U.S. Department of Agriculture, or USDA inspected our facility in Chino, California. The inspection covered compliance with USDA regulations regarding laboratory animal handling and well-being. No citations were made.

From October 23, 2017 through October 26, 2017, our facility in Nanjing, China was subject to an inspection by the FDA. The purpose was a general cGMP inspection to cover the facility for FDA fiscal year 2018. The inspection included a review of Quality Systems, Production Controls, Laboratory Controls, Material Management, and Facilities and Equipment Maintenance. The inspection also included a review of our corrective actions taken from the previous inspection in April 2017. There were no Form 483 observations issued.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

The following discussion provides forward-looking quantitative and qualitative information about our potential exposure to market risk. Market risk represents the potential loss arising from adverse changes in the value of financial instruments. The risk of loss is assessed based on the likelihood of adverse changes in fair values, cash flows or future earnings. We are exposed to market risk for changes in the market values of our investments (Investment Risk), the impact of interest rate changes (Interest Rate Risk), and the impact of foreign currency exchange changes (Foreign Currency Exchange Risk).

Investment Risk

We regularly review the carrying value of our investments and identify and recognize losses, for income statement purposes when events and circumstances indicate that any declines in the fair values of such investments below our accounting basis are other than temporary. As of September 30, 2017, we did not have any such investments.

As of September 30, 2017, we had \$ 13.6 million deposited in five banks located in China, \$8.7 million deposited in one bank located in France, and \$0.2 million deposited in one bank located in the United Kingdom. We also maintained \$36.9 million in cash equivalents that include money market accounts and money market funds, as of September 30, 2017. The remaining amounts of our cash equivalent as of September 30, 2017, are in non-interest bearing accounts.

Interest Rate Risk

Our primary exposure to market risk is interest-rate-sensitive investments and credit facilities, which are affected by changes in the general level of U.S. interest rates. Due to the nature of our short-term investments, we believe that we are not subject to any material interest rate risk with respect to our short-term investments.

As of September 30, 2017, we had \$48.4 million in long-term debts and capital leases outstanding. Of this amount, \$15.6 million had variable interest rates which were not locked-in through fixed interest rate swap contracts. The debt with variable interest rate exposure had a weighted-average interest rate of 4.3% at September 30, 2017. An increase in the index underlying these rates of 1% (100 basis points) would increase our annual interest expense on the debts with variable interest rate exposure by approximately \$0.2 million per year.

Foreign Currency Exchange Risk

Our products are primarily sold in the U.S. domestic market, and for the three and nine months ended September 30, 2017 and 2016, foreign sales were minimal. Therefore, we have little exposure to foreign currency price fluctuations. However, as a result of our acquisition of the API manufacturing business in Éragny-sur-Epte, France, we are exposed to market risk related to changes in foreign currency exchange rates. Specifically, our insulin sales contracts are primarily denominated in Euros, which are subject to fluctuations relative to the USD. We do not currently hedge our foreign currency exchange rate risk. At this time, an immediate 10% change in currency exchange rates would not have a material effect on our financial position, results of operations or cash flows.

Our Chinese subsidiary, ANP, maintains their books of record in Chinese Yuan. These books are remeasured into the functional currency of USD, using the current or historical exchange rates. The resulting currency remeasurement adjustments and other transactional foreign exchange gains and losses are reflected in our statement of operations.

Our French subsidiary, AFP, maintains their books of record in Euros. Our U.K. subsidiary, IMS UK, maintain its books of record in Great Britain Pounds. These books are translated to USD at the average exchange rates during the period. Assets and liabilities are translated at the rate of exchange prevailing on the balance sheet date. Equity is translated at the prevailing exchange rate at the date of the equity transactions. Translation adjustments are reflected in stockholders' equity and are included as a component of other comprehensive income (loss). We do not undertake hedging transactions to cover our foreign currency exposure.

As of September 30, 2017, we had cash balances denominated in foreign currencies in the amount of \$9.0 million.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management, under the supervision and with the participation of our Chief Executive Officer and our Chief Financial Officer, our principal executive and principal financial officers, respectively, conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act of 1934, as amended, as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on this evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that our disclosure controls and procedures were effective (a) to ensure that information that we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and (b) to include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in reports filed or submitted under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting that occurred during the three months ended September 30, 2017, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act).

Inherent Limitations of Internal Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or our internal controls over financial reporting will prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management overriding of the controls. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

For information regarding legal proceedings, refer to Litigation in Note 17 in the accompanying “Notes to Condensed Consolidated Financial Statements” in this Quarterly Report.

ITEM 1A. RISK FACTORS

Except as noted below, there were no material changes from the risk factors previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2016, filed with the SEC on March 15, 2017.

Some of our products are marketed without FDA approval and may be subject to enforcement actions by the FDA.

A number of our prescription products are marketed without FDA approval. These products, like many other prescription drugs on the market that FDA has not formally evaluated as being effective, contain active ingredients that were first marketed prior to the enactment of the Federal Food, Drug, and Cosmetic Act, or FDCA. The FDA has assessed these products in a program known as the “Prescription Drug Wrap-Up” and has stated that these drugs cannot be lawfully marketed unless they comply with certain “grandfather” exceptions to the definition of “new drug” in the FDCA. These exceptions have been strictly construed by FDA and by the courts, and the FDA has stated that it is unlikely that any of the unapproved prescription drugs on the market, including certain of our drugs, qualify for the exceptions. At any time, the FDA may require that some or all of our unapproved prescription drugs be submitted for approval and may direct that we recall these products and/or cease marketing the products until they are approved. The FDA may also take enforcement actions based on our marketing of these unapproved products, including but not limited to the issuance of an untitled letter or a warning letter, and a judicial action seeking injunction, product seizure and civil or criminal penalties. The enforcement posture could change at any time and our ability to market such drugs could terminate with little or no notice. Moreover, if our competitors seek and obtain approval and market FDA-approved prescription products that compete against our unapproved prescription products, we would be subject to a higher likelihood that FDA may seek to take action against our unapproved products. Such competitors have brought and may bring claims against us alleging unfair competition or related claims.

As a result of our meetings with the FDA in 2009, we decided to discontinue all of our products that were subject to the Prescription Drug Wrap-Up program, with the exception of epinephrine in vial form. These products were all produced at our subsidiary, IMS. During the third quarter of 2010, the FDA requested that we reintroduce several of the withdrawn products to cope with a drug shortage, while we prepared and filed applications for approval of the products. Between August and October, 2010, we reintroduced atropine, calcium chloride, morphine, dextrose, epinephrine prefilled syringes, epinephrine injection, USP vial, and sodium bicarbonate injections. For the years ended December 31, 2016, 2015, and 2014, we recorded net revenues of \$46.2 million, \$35.6 million, and \$22.5 million, respectively, from unapproved products. For the nine months ended September 30, 2017 and 2016, we recorded net revenues of \$43.3 million, \$29.5 million, respectively. The FDA requested us to discontinue the manufacturing and distribution of our epinephrine injection, USP vial product, which had been marketed under the “grandfather” exception to the FDA’s “Prescription Drug Wrap-Up” program. We discontinued selling this product in the second quarter of 2017. For the nine months ended September 30, 2017 and for the year ended December 31, 2016, we recognized \$17.9 million and \$18.6 million, in net revenues for the sale of this product, respectively. The charge of \$3.3 million was included in the cost of revenues in our consolidated statements of operations for the year ended December 31, 2016, to adjust the related inventory and firm purchase commitments to their net realizable value due to the anticipated discontinuation of the product. In September 2017, the FDA granted approval of our ANDA for Sodium Bicarbonate injections. We have filed three ANDAs and are preparing additional applications with respect to other products in order to mitigate all risk associated with the marketing of unapproved drug products. In the interim, we continue to operate within the FDA Compliance Policy Guide, CPG Sec. 440.100 Marketed New Drugs Without Approved NDAs and ANDAs.

Our reported financial results may be adversely affected by changes in accounting principles generally accepted in the United States.

Generally accepted accounting principles, or U.S. GAAP in the United States are subject to interpretation by the Financial Accounting Standards Board, or FASB, the SEC and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported financial results, and could affect the reporting of transactions completed before the announcement of a change. For example, in May 2014, the FASB issued ASU No. 2014-09, Revenue From Contracts With Customers (Topic 606), (as amended in June 2016, by ASU No. 2016-12-Revenue-Narrow-Scope Improvements and Practical Expedients, and in December 2016, by ASU No. 2016-20-Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers), which supersedes nearly all existing revenue recognition guidance under U.S. GAAP and becomes effective for us beginning the first quarter of fiscal 2018. In addition, were we to change our critical accounting estimates, our results of operations could be significantly impacted. These or other changes in accounting principles could adversely affect our financial results. See Note 2 of the Notes to Condensed Financial Statements in Part I, Item 1 of this Quarterly Report on Form 10-Q for information regarding the effect of new accounting pronouncements on our financial statements. Any difficulties in implementing these pronouncements could cause us to fail to meet our financial reporting obligations, which could result in regulatory discipline and harm investors' confidence in us. Furthermore, the adoption of Topic 606 is expected to impact the amount and timing of revenue recognized and the related disclosures on our financial statements and will also require that we defer all incremental commission costs to obtain a customer contract; as such the adoption could have a material adverse effect on our financial position or results of operations.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**(c) Issuer Purchases of Equity Securities**

The table below provides information with respect to repurchases of our common stock:

<u>Period</u>	<u>Total Number of Shares Purchased⁽¹⁾</u>	<u>Average Price Paid per Share</u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</u>	<u>Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs</u>
July 1 – July 31, 2017	66,100	\$ 17.86	66,100	—
August 1 – August 31, 2017	209,079	15.61	209,079	—
September 1 – September 30, 2017	197,200	15.90	197,200	—

(1) During the third quarter of 2017, we repurchased shares of our common stock as part of the share buyback program authorized by our Board of Directors on November 7, 2016 and August 7, 2017. As of September 30, 2017, \$15.1 million remained available under such program.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

Not applicable.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

Not applicable.

ITEM 6. EXHIBIT S

Exhibit No.	Description
10.1	Business Loan Agreement, dated August 14, 2017, between Armstrong Pharmaceuticals, Inc. and Cathay Bank in the original principal sum of \$7,865,000
31.1	Certification of Chief Executive Officer pursuant to Rules 13a-14(a) and 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Chief Financial Officer pursuant to Rules 13a-14(a) and 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1#	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2#	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definitions Linkbase Document

The information in Exhibits 32.1 and 32.2 shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities of that section, nor shall they be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act (including this Report), unless the Registrant specifically incorporates the foregoing information into those documents by reference.

SIGNATURE S

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

AMPHASTAR PHARMACEUTICALS, INC.
(Registrant)

By: _____
/s/ JACK Y. ZHANG
Jack Y. Zhang
Chief Executive Officer
(Principal Executive Officer)

Date: November 9, 2017

AMPHASTAR PHARMACEUTICALS, INC.
(Registrant)

By: _____
/s/ WILLIAM J. PETERS
William J. Peters
Chief Financial Officer
(Principal Financial and Accounting Officer)

Date: November 9, 2017

COMMERCIAL REAL ESTATE TERM NOTE

US \$7,865,000

August 14, 2017
Canton, Massachusetts

For value received, the undersigned, Armstrong Pharmaceuticals, Inc. a Delaware corporation with a principal place of business at 25 John Road, Canton, Massachusetts 02021 (hereinafter referred to as "Borrower") promises to pay to Cathay Bank, a California banking corporation having an address at 9650 Flair Drive, El Monte, CA 91731 (together with its successors and assigns and any subsequent holder of this Note, the "Lender"), or order, the principal amount of Seven Million Eight Hundred Sixty Five Thousand (\$7,865,000) Dollars (the "Loan") on or before August 14, 2027, (the "Maturity Date"), in one hundred and twenty (120) consecutive monthly installments of combined principal and interest, with each of the first sixty (60) of such installments to be in the amount of Forty Four Thousand Six Hundred Thirteen and 84/100 (\$44,613.84) Dollars, and with the first such payment installment to be made on September 14, 2017, and subsequent installments to be made on the same day of each month thereafter through August 14, 2022, (the "Interest Rate Adjustment Date"), on which date the interest rate and the monthly combined interest and principal payment shall be reset for the remainder of the term of this Note based on the "Variable Interest Rate" as defined below. On the Maturity Date or upon the acceleration of the Loan following the occurrence of an Event of Default as defined below, a final balloon payment consisting of all principal, accrued interest and other obligations due the Lender in connection with the Loan shall be due and payable.

During the first five years of the term of this Note, the aggregate principal balance outstanding under this Note shall bear interest at a fixed annual interest rate of Four and Seventy Hundredths (4.70%) Percent (the "Initial Interest Rate"), calculated on the basis of actual days elapsed and a 360-day year, and shall be payable monthly in arrears together with the required monthly installment of principal. The combined monthly principal and interest payment of Forty Four Thousand Six Hundred Thirteen and 84/100 (\$44,613.84) Dollars for the initial five years of the term of this Note is calculated based on a twenty five (25) year principal amortization schedule as if the Loan were for a term expiring approximately twenty five (25) years after the date of this Note (the "Amortization Period") and as if this Note were payable in equal monthly payments of principal and interest during the entire Amortization Period at the Initial Interest Rate. Commencing with the payment due on the first payment date following the Interest Rate Adjustment Date, and on the same day of each month for the remainder of the term of this Note, the monthly combined principal and interest payments under this Note shall be payable and calculated at the then applicable Variable Interest Rate, as defined below, and as if this Note were payable in equal monthly payments of principal during the entire Amortization Period at such Variable Interest Rate. Once repaid, amounts borrowed hereunder may not be reborrowed. The Borrower agrees and acknowledges that Lender is not obligated to refinance or extend the term of this Note upon or any time after the Maturity Date.

As of the Interest Rate Adjustment Date, and for the last five years of the term of this Note, the aggregate unpaid principal balance outstanding under this Note shall bear interest at a variable fluctuating annual interest rate (the "Variable Interest Rate") based on the Prime Rate as published from time to time in the Wall Street Journal as the Prime Rate ("WSJP"), calculated on the basis of actual days elapsed and a 360-day year, and shall be payable monthly in

arrears, together with the required monthly installment of principal. The combined monthly principal and interest payment under this Note after the Interest Rate Adjustment Date shall be reset each month based on the Amortization Period and any change in the WSJP, as if this Note were payable in equal monthly payments of principal and interest during the remaining portion of the Amortization Period at the then applicable Variable Interest Rate.

The WSJP is a base, or reference, rate used for calculating interest on certain loans but does not necessarily represent the Lender's lowest lending rate. In no event shall the annual interest rate hereunder be more than the maximum rate allowed by applicable law. Borrower understands, agrees and acknowledges that the interest rate due on the Loan after the Interest Rate Adjustment Date may change on a daily basis. For the purpose of computing the amount of interest accruing during the month preceding each payment due date, the Variable Interest Rate shall be based on the actual WSJP in effect during the month preceding the date each payment is due.

Principal and interest shall be payable at the Lender's main office in Boston in lawful money of the United States of America without set-off, deduction or counterclaim.

This Note is secured by a Mortgage and Security Agreement (the "Mortgage") and a Collateral Assignment of Leases and Rents dated of even date herewith (the "Assignment, and together with the Mortgage, the "Security Documents") on certain real property owned by Borrower and located at 25 John Road, Canton Massachusetts (the "Property"). Additional terms and conditions of the Loan are set forth in a certain Loan Agreement between the Borrower and the Lender of even date herewith ("the "Loan Agreement").

The Borrower agrees that all loan and commitment fees and any other prepaid finance charges are fully earned by the Lender as of the date of this Note, and will not be subject to refund upon early payment (whether voluntary or as a result of acceleration by reason of default), except as otherwise required by law. The Borrower understands and agrees that early payments of this Note will not, unless agreed to by the Bank in writing, relieve the Borrower of its obligation to continue to make payments under the payment schedule, and that any such payments will reduce the principal balance due, shall be applied in inverse order to the last payments due and may result in the Borrower making fewer payments.

The Borrower shall be entitled to prepay the entire outstanding balance of this Note in whole or in part, at any time during the term of this Note without penalty.

At the option of the holder, this Note shall become immediately due and payable without notice or demand upon the occurrence at any time of an "Event of Default", as such term is defined in the Loan Agreement.

Any payments received by the Lender on account of this Note prior to the occurrence of an Event of Default shall be applied first, to accrued and unpaid interest; second, to the unpaid principal balance hereof; and third, to late fees, and fourth, to any costs, expenses or charges then owed to the Lender by Borrower. Any payments received after the occurrence of an Event of Default shall be applied in such manner as the Lender may determine.

Borrower hereby authorizes the Lender to charge any deposit account that Borrower may maintain with the Lender for any payment required hereunder.

Any and all deposits or other sums at any time credited by or due to the undersigned from the Lender or any of its banking or lending affiliates or any Lender acting as a participant or a co-lender under any loan arrangement between the Lender and the Borrower, and any cash, securities, instruments or other property of the undersigned in the possession of the Lender, or any of its banking or lending affiliates or any Lender acting as a participant or co-lender under any loan arrangement between the Lender and the Borrower, whether for safekeeping or otherwise, or in transit to or from the Lender or any of its banking or lending affiliates or any such participant, or in the possession of any third party acting on the Lender's behalf (regardless of the reason the Lender had received same or whether the Lender has conditionally released the same) shall at all times constitute security for all of the liabilities and obligations of the undersigned to the Lender and may after an Event of Default be applied or set off against such liabilities and obligations of the undersigned to the Lender hereunder or under the Loan Documents.

No delay or omission on the part of the holder in exercising any right hereunder shall operate as a waiver of such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or any other right on any future occasion. The Borrower and every other maker and every endorser or guarantor of this Note, regardless of the time, order or place of signing, waives presentment, demand, protest and notices of every kind and assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of collateral, and to the addition or release of any other party or person primarily or secondarily liable.

The Borrower and each endorser and guarantor of this Note shall indemnify, defend and hold the Lender and its directors, officers, employees, agents and attorneys (collectively, the "Lender Parties") harmless against any claim brought or threatened against the Lender by the Borrower or by any other person (as well as from attorneys' reasonable fees and expenses in connection therewith) on account of the Lender's lending relationship with the Borrower (each of which may be defended, compromised, settled or pursued by the Lender with counsel of the Lender's selection, at the expense of the Borrower and any endorser and/or guarantor); provided, however that the foregoing indemnity shall not apply in the case of claims determined by a court of competent jurisdiction to be caused by any Lender Party's negligence or misconduct.

The Borrower agrees to pay, upon demand, reasonable out-of-pocket costs of collection of the principal of and interest on this Note, including without limitation reasonable attorneys' fees. Following demand after an Event of Default, interest shall accrue at a rate per annum equal to the aggregate of five (5%) percent plus the rate provided for herein. If any payment due under this Note is unpaid for ten (10) days or more, the Borrower shall pay, in addition to any other sums due under this Note (and without limiting the holder's other remedies on account thereof), a late charge equal to five (5%) percent of such unpaid amount.

The Lender may at any time pledge all or any portion of its rights under this Note and any other obligations of the Borrower to the Lender to any of the twelve (12) Federal Reserve Lenders organized under Section 4 of the Federal Reserve Act, 12 U.S.C. Section 341.

The Borrower and each endorser and guarantor hereof each authorizes the Lender to complete this Note if delivered incomplete in any respect. This Note may be transmitted to Lender or its counsel by facsimile machine or by electronic mail in portable document format ("pdf") and signature(s) appearing on faxed instruments and/or electronic mail instruments shall be treated as the original signature(s). The Borrower shall deliver the original Note to the Lender, but the

failure to deliver said original Note shall not affect the validity, enforceability or binding effect hereof.

The Lender may make a photographic or other reproduction of this Note, and any such reproduction shall be admissible in evidence with the same effect of the original itself in any judicial or administrative proceeding, whether or not the original is in existence, provided however that the Lender shall indemnify the Borrower to the extent it makes payment pursuant to such reproduced note and Borrower is subsequently required to make payment hereunder to a third party in possession of the original Note.

This Note is delivered to the Lender at one of its offices in Massachusetts, shall be governed by the laws of The Commonwealth of Massachusetts, and shall take effect as a sealed instrument. The Borrower submits to the jurisdiction of the courts of The Commonwealth of Massachusetts for all purposes with respect to this Note, any collateral given to secure its liabilities, obligations, and indebtedness to the Lender, and its relationship with the Lender.

THE BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AND AFTER AN OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL, WAIVES ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING IN CONNECTION WITH THIS NOTE, THE OBLIGATIONS HEREUNDER, AND ALL MATTERS CONTEMPLATED HEREBY AND DOCUMENTS EXECUTED IN CONNECTION HEREWITH AND ANY RIGHT IT MAY HAVE OR HEREAFTER HAVE TO SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

Witness

ARMSTRONG PHARMACEUTICALS, INC.

/s/JACOB LIAWATIDEWI

/s/ JACK Y. ZHANG

Jack Y. Zhang, Chief Executive Officer

CATHAY BANK
LOAN AGREEMENT
ARMSTRONG PHARMACEUTICALS, INC

This LOAN AGREEMENT is made and entered into as of this 14th day of August, 2017 between Armstrong Pharmaceuticals, Inc. a Delaware corporation with a principal place of business at 25 John Road, Canton, Massachusetts 02021 (hereinafter referred to as "Borrower") and Cathay Bank, a California banking corporation having an address at 9650 Flair Drive, El Monte, CA 91731 (the "Lender").

1. THE LOAN.

(a) Subject to the terms and provisions of this Agreement, the Lender has agreed to extend to the Borrower a ten (10) year term loan (the "Loan") in the principal amount of Seven Million Eight Hundred Sixty Five Thousand (\$7,865,000), which is payable on or before August 14, 2027, (the "Maturity Date"), in one hundred and twenty (120) consecutive monthly installments of principal and interest with each of the first sixty (60) of such installments to be in the amount of Forty Four Thousand Six Hundred Thirteen and 84/100 (\$44,613.84) Dollars, and with the first such payment installment to be made on September 14, 2017, and subsequent installments to be made on the same day of each month thereafter until August 14, 2022, (the "Interest Rate Adjustment Date"), on which date the interest rate and the monthly combined interest and principal payment shall be reset for the remainder of the term of the Loan based on the "Variable Interest Rate" as defined below. On the Maturity Date or upon the acceleration of the Loan following the occurrence of an Event of Default as defined below, a final balloon payment consisting of all principal, accrued interest and other obligations due the Lender in connection with the Loan shall be due and payable.

(b) The Loan is evidenced by that certain Commercial Real Estate Term Note of even date herewith (the "Note"). During the first five years of the term of the Loan, the aggregate principal balance outstanding under the Note shall bear interest at a fixed annual interest rate of Four and 70/100 (4.70%) Percent (the "Initial Interest Rate"), calculated on the basis of actual days elapsed and a 360-day year, and shall be payable monthly in arrears together with the required monthly installment of principal. The combined monthly principal and interest payment of Forty Four Thousand Six Hundred Thirteen and 84/100 (\$44,613.84) Dollars for the initial five years of the term of the Loan is calculated based on a twenty five (25) year principal amortization schedule as if the Loan were for a term expiring approximately twenty five (25) years after the date of the Note (the "Amortization Period") and as if the Loan were payable in equal monthly payments of principal and interest during the entire Amortization Period at the Initial Interest Rate. As of the Interest Rate Adjustment Date, and for the last five years of the term of the Loan, the outstanding Loan balance shall bear interest at a variable fluctuating annual interest rate (the "Variable Interest Rate") based on the Prime Rate as published from time to time in the Wall Street Journal as the Prime Rate ("WSJP"), calculated on the basis of actual days elapsed and a 360-day year, and shall be payable monthly in arrears, together with the required monthly installment of principal. The monthly combined principal and interest Loan payment after the Interest Rate Adjustment Date shall be reset each month based on the Amortization Period and any change in the WSJP, and as if the Loan were payable in equal monthly payments of principal during the entire Amortization Period at such Variable Interest Rate. Commencing with the payment due on the first payment date following the Interest Rate

Adjustment Date, and on the same day of each month for the remainder of the term of the Loan, the monthly combined principal and interest payments shall be payable and calculated at the then applicable Variable Interest Rate. The WSJP is a base, or reference, rate used for calculating interest on certain loans but does not necessarily represent the Lender's lowest lending rate. In no event shall the annual interest rate hereunder be more than the maximum rate allowed by applicable law. Borrower understands, agrees and acknowledges that the interest rate due on the Loan after the Interest Rate Adjustment Date may change on a daily basis. For the purpose of computing the amount of interest accruing during the month preceding each payment due date, the Variable Interest Rate shall be based on the actual WSJP in effect during the month preceding the date each payment is due.

(c) Following demand after an Event of Default, interest shall, at the option of the Lender, accrue on the principal balance of the Loan at a rate per annum equal to the aggregate of five (5%) percent plus the Interest Rate. If any Loan payment due under the Note is unpaid for ten (10) days or more, the Borrower shall pay, in addition to any other sums due thereunder (and without limiting the Lender's other remedies on account thereof), a late charge equal to five (5%) percent of such unpaid amount.

(d) The Borrower agrees and acknowledges that Lender is not obligated to refinance or extend the term of the Loan upon or any time after the Maturity Date. Principal and interest due on the Loan shall be payable to Lender in lawful money of the United States of America without set-off, deduction or counterclaim. The Borrower authorizes Lender to charge its deposit account(s) with Lender for all interest and Loan payments when due.

(e) Borrower also agrees and acknowledges that the Loan and all "Obligations" as such term is defined below are secured by that certain Mortgage and Security Agreement (the "Mortgage") and that certain Collateral Assignment of Leases and Rents dated of even date herewith (together with the Mortgage, the "Security Documents") granted by Borrower to Lender on the real property located at 25 John Road, Canton, Massachusetts ("the Property"). In addition, all Obligations of Borrower to Lender are guaranteed pursuant to the unlimited "Corporate Guaranty" dated of even date herewith of Borrower's parent corporation, Amphastar Pharmaceuticals, Inc. ("Amphastar").

(f) The Loan proceeds are to be used to refinance Borrower's prior mortgage loan with Lender and for working capital purposes.

2. CERTAIN DEFINITIONS. As used herein the following terms have the meanings set forth below:

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended. "Plan" means any employee plan subject to provisions of Title IV of ERISA maintained for employees of Borrower or any other trade or business under common control with Borrower within the meaning of Section 414(c) of the Internal Revenue Code or the regulations thereunder. "Reportable Event" means any reportable event as defined in ERISA. "PBGC" means the Pension Benefit Guaranty Corporation.

"GAAP" means generally accepted accounting principals in the United States of America, as in effect on the applicable date of the preparation and delivery of the financial statements, and consistently followed.

"Indebtedness" shall mean, with respect to any Person (as defined below), (i) all indebtedness for borrowed money or for the deferred purchase price of property or services, and all obligations under leases which are or should be, under GAAP, recorded as capital leases, in respect of which such Person is directly or contingently liable as obligor, guarantor, endorser or otherwise, or in respect of which such Person otherwise assures a creditor against loss, (ii) all indebtedness for borrowed money or for the deferred purchase price of property or services secured by (or for which the holder has an existing right, contingent or otherwise, to be secured by) any Lien upon property (including without limitation accounts receivable and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment thereof, and (iii) all other liabilities or obligations which would, in accordance with GAAP, be classified as debt of such Person.

"Lien" means any mortgage, pledge, assignment, lien, charge, encumbrance or security interest of any kind whatsoever, or the interest of a vendor or lessor under a conditional sale, title retention or capital lease agreement.

"Obligations" means all loans, advances, debts, liabilities, obligations (including without limitation for reimbursement in connection with guaranties and letters of credit), agreements, undertakings, covenants and duties owing or to be performed or observed by Borrower to or in favor of Lender, of every kind and description (whether or not: evidenced by the Note or any other note or other instrument; for the payment of money; arising out of this Agreement, the Note, the Security Documents or any other agreement between Lender and Borrower or any other instrument of Borrower in favor of Lender; arising out of or relating to transactions described herein collectively, the "Loan Documents"), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, expressly including the Borrower's obligations and liabilities to Lender under any interest rate swap agreements, interest rate cap agreements, interest rate collar agreements, and all other agreements or arrangements with the Lender designed to protect the Borrower against fluctuations in interest rates or currency exchange rates, and including without limitation all interest, fees, charges, and amounts chargeable to Borrower under Sections 11 and 12.

"Person" means any individual, partnership, firm, association, business enterprise, trust, estate, company, joint venture, governmental authority, corporation or other entity.

3. REPRESENTATIONS AND WARRANTIES. Borrower represents and warrants to Lender that:

(a) Borrower is a Delaware corporation duly organized and validly existing in good standing under the laws of the State of Delaware and is duly qualified to do business and is in good standing in the Commonwealth of Massachusetts and every other state in which such qualification may be necessary by reason of the nature or location of its assets or operations;

(b) Borrower's exact legal name is as set forth in the preface to this Agreement;

(c) The execution, delivery and performance of this Agreement and all related Loan Documents, including the Note and the Security Documents, are within Borrower's authority, require no action by or in respect of, or filing with, any governmental authority, and do not contravene or constitute a default under any provision of applicable law or regulation or of any judgment, order, decree, injunction or material agreement or other instrument by which

Borrower or any of the Property may be bound, or result in creation or imposition of any Lien on any of Borrower's assets except in favor of Lender;

(d) This Agreement has been duly executed and delivered by and constitutes a valid and binding agreement of Borrower, enforceable against Borrower in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency or other similar law affecting creditors' rights generally;

(e) Borrower's financial statements which have been furnished to Lender have been prepared in accordance with GAAP applied on a basis consistent with that of prior financial periods and are true and correct and fairly present its financial position as at the close of business on the date(s) thereof and the results of its business operations during the period(s) covered thereby. Borrower has no liabilities, contingent or otherwise, involving material amounts that are not disclosed in said statements or the notes thereto. Since the date of the most recent of such statements there has occurred no material adverse change in Borrower's financial condition or business;

(f) Borrower owns all of the assets reflected in the most recent of such financial statements, except assets sold or otherwise disposed of in the ordinary course of business since the date thereof, and such assets together with any assets acquired since such date, including without limitation the Property, are subject to no Liens except (i) as reflected in such statement or the notes thereto; (ii) as permitted in the Security Documents or (iii) in favor of Lender;

(g) All Borrower's books and records, including without limitation its books of account with respect to its business operations, are accurate and up-to-date;

(h) Borrower has made or filed all income and sales tax returns, reports and declarations relating to any material tax liability required by any jurisdiction to which Borrower is subject; has paid all taxes shown or determined to be due thereon except those being contested in good faith; and has made adequate provision for the payment of all taxes so contested or in respect of subsequent periods;

(i) Borrower (i) is subject to no legal restriction, or any judgment, award, decree, order, governmental rule or regulation or contractual restriction which could have a material adverse effect on Borrower's financial condition, business or prospects, and (ii) to the best of its knowledge, is in compliance with all contractual requirements by which Borrower or any of Borrower's properties may be bound and all applicable laws, rules and regulations (including without limitation those relating to environmental protection) other than laws, rules or regulations the validity or applicability of which Borrower is contesting in good faith or provisions of any of the foregoing the failure to comply with which cannot reasonably be expected to materially adversely affect Borrower's financial condition or business or the value of the Property;

(j) There is no action, suit, proceeding or investigation pending or, to Borrower's knowledge, threatened in writing against or affecting Borrower or any of Borrower's assets before or by any court or other governmental authority which, if determined adversely to Borrower, would have a material adverse effect on Borrower's financial condition or business or the value of or title to the Property;

(k) Borrower is in compliance with ERISA; no Reportable Event has occurred and is continuing with respect to any Plan; and Borrower has no unfunded vested liability under any Plan.

(l) Borrower's principal executive office and the office where Borrower keeps its records is that shown at the beginning of this Agreement.

(m) After giving effect to the transactions contemplated hereby, the aggregate value of all assets and properties of Borrower, at a fair valuation, will be greater than the total amount of Borrower's liability on claims, and the aggregate present fair salable value of its assets will be greater than the amount that will be required to pay its probable liability on Borrower's existing debts as they become absolute and mature; Borrower has (and has no reason to believe it will not have) sufficient capital for the conduct of its business; Borrower does not intend to incur and does not believe it has incurred, debts beyond its ability to pay as they mature.

(n) Neither the Borrower, owners, affiliates or respective agents of the Borrower acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement, the Note or any of the Loan documents is (i) in violation of any anti-terrorism law (including but not limited to Executive Order 13224, the USA Patriot Act, the Laws compromising or implementing the Bank Secrecy Act and the Laws administered by the US Department of Treasury Office of Foreign Assets Control), (ii) engaged in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, and of the prohibitions set forth in any anti-terrorism law, (iii) a "specially designated national" or "blocked person on the most current list published by OFAC or other similar list (a "Blocked Person"), (iv) acting or will act for or on behalf of a Blocked Person, (v) associated with, or will become associated with, a Blocked Person; (vi) providing or will provide, material, financial or technological support or other services to or in support of acts of terrorism of a Blocked Person; (vii) engaged in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds from any category of prohibited offenses designated by the Organization for Economic Co-operation and Development's Financial Action Task Force on Money Laundering; or (viii) in violation of the US Foreign Corrupt Practices Act of 1977. Neither Borrower nor any affiliate, owner or agent acting or benefiting in any capacity in connection with the transactions contemplated by the Loan Documents (x) conducts any business or engages in making or receiving any contribution of funds, goods, services to or for the benefit of any Blocked Person, (y) deals in, or otherwise engages in any transaction relating to, any property or interest in property blocked pursuant to Executive Order 13224, any similar executive order or other anti-terrorism law, or (z) has paid or offered to, pay, promised to pay, or authorized payment of money, or to offer, give, or promise to give anything of value to a foreign official in order to obtain or retain business or secure an improper business advantage..

4. BORROWER'S REPORTS AND NOTICES. Borrower will deliver to Lender:

(a) quarterly, as soon as available, but in any event within ninety (90) days of the end of each of Borrower's and Amphastar's fiscal quarters during the term of the Loan, a consolidated and consolidating balance sheet and statement of profit and loss reflecting the financial condition of Amphastar and its subsidiaries, including Borrower, at the end of such period and the results of its operations during such period, such balance sheet and statement of profit and loss to be internally prepared and certified by Amphastar's President or Treasurer to fairly present its and Borrower's financial condition at the end of such period and the results of

its operations (on a consolidated and consolidating basis) during such period in accordance with GAAP, subject to changes resulting from year-end audit adjustments;

(b) quarterly, as soon as available, but in any event within ninety (90) days of the end of each of Borrower's and Amphastar's fiscal quarters during the term of the Loan, a review report based on the internally prepared consolidated and consolidating interim financial statements described in section 4(a) prepared by a certified public accountant satisfactory to Lender;

(c) annually, as soon as available, but in any event within one hundred and fifty (150) days after the close of each annual fiscal period of Amphastar during the term of the Loan, a consolidated audited balance sheet and statement of profit and loss reflecting Amphastar operations at the end of such period and the results of such operations during such period, such balance sheet and statement of profit and loss to be certified by Amphastar's certified public accountants satisfactory to Lender to fairly present the results of such consolidated operations during such period in accordance with GAAP, consistently applied, such report to include any so-called "management reports";

(d) annually, as soon as available, but in any event within fifteen (15) days of the applicable filing date for the tax reporting period then ended, a complete copy of Amphastar's and its subsidiaries' consolidated federal and state corporate tax returns;

(e) promptly, such other information concerning the Borrower, Amphastar, the Property, and copies of such governmental filings and other documentation as Lender may from time to time reasonably request;

(f) promptly after Borrower obtains actual knowledge of any such occurrence, notice of:

(i) any event described in Section 9 or any event which, with notice or lapse of time or both, might reasonably be expected to become such an event;

(ii) any material change in the primary business or financial affairs of Borrower or any change in the legal status of Borrower;

(iii) the institution or commencement of any action, suit, proceeding or investigation against or affecting Borrower or any of its assets by filing with the appropriate court or governmental authority which, if determined adversely to Borrower, could have a material adverse effect on the financial condition or business of Borrower or the value or title to the Property, or any final judgment, award, decree, order or determination relating thereto;

(iv) the imposition or creation of any Lien, other than taxes that are not yet due and payable, against the Property except in favor of Lender or which is a permitted encumbrance under the Mortgage;

(v) any Reportable Event, together with a statement of Borrower's Manager as to the details thereof and a copy of its notice thereof to the PBGC; or

(vi) any release or immanent threat of release of hazardous or toxic chemicals, materials or oil from the Property or any other site owned or operated by Borrower or

upon Borrower's obtaining knowledge of any investigation, action or the incurrence of any expense or loss by any governmental authority in connection with the containment or removal of any hazardous or toxic chemical, material or oil for which expense or loss Borrower may reasonably be expected to be liable or potentially responsible; or

(vii) any material loss or destruction of the Property whether or not covered by insurance;

(g) promptly after receipt or filing, a copy of (i) any notice Borrower may receive from the PBGC relating to the PBGC's intention to terminate or appoint a trustee to administer any Plan and (ii) any report or notice relating to any Reportable Event which Borrower may file under ERISA with the PBGC, the Internal Revenue Service or the United States Department of Labor; and

(h) if requested in writing by Lender, within five (5) days after the accrual in accordance with applicable law of Borrower's obligation to make deposits for F.I.C.A and withholding taxes, evidence reasonably satisfactory to Lender that such deposits have been made as required.

5. INTENTIONALLY OMITTED.

6. BORROWER'S AFFIRMATIVE COVENANTS. Borrower agrees that it will:

(a) maintain broad form coverage casualty (fire and hazard) insurance and general liability insurance (at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate) with responsible insurance companies having at least a "B+" or better rating by Best's Key Rating Guide, (and with deductibles) in such amounts as is usually carried by companies engaged in similar businesses and as specified in the Mortgage; such broad form coverage casualty policies to include or be supplemented by lender's loss payable endorsements, replacement cost coverage endorsements, and extended coverage endorsements, and Borrower shall deliver to Lender copies of such insurance policies (and all renewals thereof) promptly upon receipt, and such policies shall name Lender as loss payee and mortgagee (in the case of casualty insurance) and as an additional insured (in the case of liability insurance), and such policies shall provide that coverage may not be modified or terminated without prior notice to the Lender;

(b) comply with all contractual requirements by which Borrower or the Property may be bound and all applicable laws, rules and regulations (including without limitation ERISA and those relating to environmental protection) other than laws, rules or regulations the validity or applicability of which the Borrower shall contest in good faith or provisions of any of the foregoing, the failure to comply with which cannot reasonably be expected to materially adversely affect the financial condition, business or prospects of Borrower or the Property;

(c) maintain and preserve the Property in good working order and condition, ordinary wear and tear, casualty and condemnation excepted;

(d) pay and discharge prior to delinquency all taxes, assessments and governmental charges or levies imposed upon Borrower and the Property, including without limitation taxes, assessments, charges or levies relating to real and personal property, franchises, income, unemployment, old age benefits, withholding, or sales or use, prior to the date on which penalties attach thereto, and all lawful claims (whether for any of the foregoing or otherwise) which, if unpaid, might give rise to a Lien upon any Property, except any of the foregoing which is being contested in good faith and by appropriate proceedings and for which Borrower has established adequate reserves.

(e) establish and maintain its primary deposit accounts with the Lender and maintain sufficient funds therein so that the monthly Loan payments can be debited by the Lender when due,

(f) keep and maintain at all times at Borrower's address stated in this Agreement, or such other place as Lender may approve in writing, complete, proper and accurate records and books of account in which full, true and correct entries shall be made in accordance with GAAP reflecting the results of the operation of the Property, and copies of all written contracts, leases and other instruments which affect any Property. Such records, books of account, contracts, leases and other instruments shall be subject to examination, inspection and copying by Lender at any reasonable time by Lender with prior notice to Borrower. Prior to any Event of Default, the cost of same shall be borne by Borrower only once during any twelve month period during which the Obligations remain unpaid. From and after an Event of Default (which term shall include the passage of applicable grace and cure periods), no prior notice need be given, and all reasonable out-of-pocket costs thereof shall be borne by Borrower.

7. BORROWER'S NEGATIVE COVENANTS. Borrower will not without the prior written consent of Lender any time:

(a) permit the ratio obtained by dividing (i) the Loan balance by (ii) the value of the Property, as determined by the most recent appraisal obtained by and approved by the Lender, to be more than 0.65:1.0 (65%) at any time, with the understanding that in the absence of an Event of Default or the Lender's reasonably deeming itself insecure based on identified tangible evidence, any new appraisals may be required only as mandated by law or applicable governmental authority;

(b) permit Amphastar's Debt Service Coverage Ratio to be less than 1.50:1.00, measured as of the end of each fiscal year during the Loan term, based upon Amphastar's consolidated financial reports delivered by Borrower as required under this Agreement. "Debt Service Coverage Ratio" shall mean, as of any reference date, the ratio of Amphastar's consolidated net profit before taxes for the preceding twelve month period to Amphastar's consolidated debt service expenses (meaning the sum of the payments of principal and interest made by Amphastar and its subsidiaries, including the Borrower, as well any other indebtedness for borrowed money, as reflected in its consolidated financial statements provided to the Bank) for the same period, all as determined in accordance with GAAP."

(c) create, permit to be created or suffer to exist any Lien upon the Property, now owned or hereafter acquired, except the following ("Permitted Encumbrances") : (i) as permitted by the Security Documents or (ii) in favor of the Lender;

(d) assume, guaranty, endorse or otherwise become directly or contingently liable in respect of (including without limitation by way of agreement, contingent or otherwise, to purchase, provide funds to or otherwise invest in a debtor or otherwise to assure a creditor against loss), any Indebtedness (except guaranties by endorsement of instruments for deposit or collection in the ordinary course of business) of any Person, except in favor of the Lender and except for such indebtedness or liabilities as are existing and have been disclosed to lender prior to the date hereof, provided however, no such indebtedness or liability (other than in favor of the Lender) may be secured by a lien or other encumbrance on the Property;

(e) use any Loan proceeds to purchase or carry any "margin stock" (as defined in Regulation U of the Board of Governors of the Federal Reserve System) or invest in or purchase any stock or securities of any Person, except readily marketable direct obligations of, or obligations guarantied by, the United States of America or any agency thereof or time deposits with or certificates of deposit issued by the Lender or for any other purpose than as set forth in Section 1(f) hereof;

(f) directly or indirectly, without the prior written consent of Lender in each instance: (a) sell, convey, assign, transfer, lease, option, mortgage pledge, hypothecate or dispose of the Property, or any part thereof or interest therein, except as expressly permitted by the terms of the Security Documents; or (b) create or suffer to be created or to exist any lien, encumbrance, security interest, mortgage, pledge, restriction, attachment or other charge of any kind upon the Property, or any part thereof or interest therein, except for Permitted Encumbrances or as set forth in Paragraph 3 hereof; or

(g) directly or indirectly, without the prior written consent of Lender in each instance (a) merge into or consolidate with any other entity; (b) make any substantial change in the nature of Borrower's business as conducted as of the date hereof; (c) acquire all or substantially all of the assets of any other entity or (d) sell, lease, transfer or otherwise dispose of all or a substantial or material portion of Borrower's assets except in the ordinary course of business.

8. ADDITIONAL COVENANTS AND ASSURANCES.

(a) Borrower will notify Lender, at least thirty (30) days prior to any such event, of any change in Borrower's exact legal name, any change in its place(s) of business or its establishment of any new place of business or office where its records with respect to the Property are kept.

(b) At Lender's written request, Borrower at its expense (i) will promptly and duly execute and deliver such documents and assurances and take such actions as may be reasonably necessary or desirable or as Lender may reasonably request in order to correct any defect, error or omission which may at any time be discovered or in order to more effectively carry out the intent and purpose of this Agreement and to establish, perfect and protect Lender's rights and remedies created or intended to be created hereunder and (ii) without limiting the generality of the above, authorizes the Lender to file financing and continuation statements pursuant to the Uniform Commercial Code in connection with the security interest granted by the Borrower to the Lender under the Security Documents, or other notices appropriate under applicable federal or state law in form satisfactory to Lender and filing the same in all public offices and jurisdictions wherever and whenever reasonably requested by Lender.

(c) Any and all deposits or other sums at any time credited by or due from Lender to Borrower shall at all times constitute security for Obligations and may be set-off against any Obligations at any time after demand or following an Event of Default whether or not they are then due or other security held by Lender is considered by Lender to be adequate. Any and all instruments, documents, policies and certificates of insurance, securities, goods, accounts, choses in action, general intangibles, chattel paper, cash, property and the proceeds thereof (whether or not the same are the Lender's collateral or proceeds thereof) owned by Borrower or in which Borrower has an interest, which now or hereafter are at any time in possession or control of Lender or in transit by mail or carrier to or from Lender or in the possession of any third party acting in Lender's behalf, without regard to whether Lender received the same in pledge, for safekeeping, as agent for collection or transmission or otherwise or whether Lender had conditionally released the same, shall constitute security for Obligations and may following an Event of Default be applied at any time to Obligations which are then owing, whether due or not due. Borrower acknowledges that the Lender shall at all time have "control," as such term is defined in Section 9-104 of the Uniform Commercial Code, of all such deposits and other credits. The Lender shall be entitled to presume, in the absence of clear and specific written notice to the contrary hereinafter provided by Borrower to Lender that any and all deposits maintained by Borrower with Lender are general accounts as to which no person or entity other than Borrower has any legal or equitable interest whatsoever.

(d) It is expressly understood and agreed that all of the rights of Lender contained in this Agreement shall likewise apply, insofar as applicable, to any modification of or supplement to this Agreement and to any other agreements between Lender and Borrower.

(e) The Borrower authorizes the Lender to complete this Agreement if delivered incomplete in any respect. This Agreement may be transmitted to Lender or its counsel by facsimile machine or by electronic mail in portable document format ("pdf") and signature(s) appearing on faxed instruments and/or electronic mail instruments shall be treated as the original signature(s). The Borrower shall deliver the original Agreement to the Lender, but the failure to deliver said original Agreement shall not affect the validity, enforceability or binding effect hereof.

9. LOANS PAYABLE UPON DEFAULT: The occurrence of one or more of the following events (each, an "Event of Default") shall be an Event of Default under this Agreement:

(a) failure by Borrower to pay any amount due under the Note within ten (10) days following the due date thereof or any other Loan Document executed by Borrower in connection herewith beyond applicable notice, grace and cure periods;

(b) failure by Borrower to pay within thirty (30) days following demand (or when due after the expiration of applicable notice and cure periods, if not payable on written demand) any other Obligation;

(c) failure by Borrower to perform, discharge, observe or comply with any Obligation (other than for payment or the occurrence of any of the other Events of Default enumerated hereunder) in accordance with the terms thereof and, if such default is susceptible of cure, the Borrower has failed to cure such default within thirty (30) days (or if such other obligation, covenant, condition or agreement cannot be cured within such thirty (30) day period, and provided that Borrower has promptly initiated a cure and diligently prosecutes such cure and the

failure to effect such cure does not have a material adverse effect on the Loan, the Borrower, or the Property, then the thirty (30) day period specified herein shall be expanded to such period of time as may be reasonably required to effect such cure), or the occurrence of any event of default under any other Loan Document, subject to the expiration of applicable cure or grace periods;

(d) any material representation, warranty or statement of Borrower to Lender heretofore, now or hereafter knowingly made in connection with any Obligation (including without limitation any made any other Loan Document or in a document provided by Borrower under Section 4) is found to have been false or misleading in any material respect as of the time when made;

(e) occurrence of any event of default as defined in any other instrument evidencing or governing Indebtedness in a material amount of Borrower (other than Obligations) now or hereafter outstanding which entitles any holder or trustee of such Indebtedness to accelerate its maturity and which is not cured as provided thereby;

(f) Borrower's liquidation, termination, or dissolution merger or consolidation with any other entity, or the transfer or sale of the equity ownership interest in Borrower (except as expressly permitted herein or in any of the Loan Documents) or upon a material change in Borrower's management without the Lender's prior consent, which shall not be unreasonably withheld or delayed.

(g) commencement by Borrower of a voluntary proceeding seeking relief with respect to itself or its debts under any Bankruptcy, insolvency or other similar law, or seeking appointment of a trustee, receiver, liquidator or other similar official for Borrower or any substantial part of Borrower's assets; or Borrower's consent to any of the foregoing in an involuntary proceeding against Borrower; or Borrower shall generally not be paying its debts as they become due or admit in writing its inability to do so; or an assignment for the benefit of, or the offering to or entering into by Borrower of any composition, extension, reorganization or other agreement or arrangement with, Borrower's creditors;

(h) commencement of an involuntary proceeding against Borrower seeking relief with respect to Borrower or Borrower's debts under any Bankruptcy, insolvency or other similar law, or seeking appointment of a trustee, receiver, liquidator or other similar official for Borrower or any substantial part of its assets, which proceeding remains undismissed and unstayed for sixty ninety (60) days; or entry of an order for relief against Borrower in any such proceeding;

(i) service upon Lender of a writ naming Lender as trustee for Borrower, or of any other similar process of attachment;

(j) entry beyond all applicable appeal periods of any uninsured or unbonded final judgment or judgments against Borrower in an amount in excess of \$250,000 that is not satisfied within thirty (30) days of such entry;

(k) attachment of any Lien not expressly permitted hereunder upon the Property not in favor of Lender without Lender's prior written consent, unless such Lien is being diligently contested by Borrower and cash reserves have been set aside or contributed by Borrower's owners to cover the amount of such Lien and further provided that no such Lien takes priority over any Lien or security interest granted to the Lender by Borrower;

(l) entry of any court order which enjoins, restrains or in any way prevents Borrower from conducting all or any material part of Borrower's business or materially and adversely affects the Property;

(m) any loss, theft, damage or destruction to or of any material asset(s) of Borrower in excess of \$250,000 and not covered by insurance;

(n) reclamation or repossession of any material portion of asset(s) of Borrower unless paid for or replaced by contributions from Borrower's owners;

(o) there shall occur and be continuing any Reportable Event which constitutes grounds for termination of or for appointment by a United States district court of a trustee to administer any Plan; the PBGC shall institute proceedings to terminate or to appoint a trustee to administer any Plan; a United States district court shall appoint a trustee to administer any Plan; or any Plan shall be terminated in circumstances giving rise to liabilities having a material adverse effect on Borrower's financial condition;

(p) Borrower's conviction of any illegal activity, whether or not related to the business of the Borrower, that is reasonably likely to subject the assets of the Borrower to (i) a restraining order or any form of injunction issued by any federal or state court that prevents Borrower from conducting its business or from fulfilling any of its obligations hereunder or the Loan Documents or (ii) seizure or forfeiture or confiscation by any federal or state government instrumentality;

(q) the occurrence of any of the foregoing events described above with respect to Amphastar, or the termination or repudiation by Amphastar of its guaranty of the Obligations;

(q) the Lender's reasonable determination that there has been a material adverse change in the condition or affairs (financial or otherwise) of Borrower, Amphastar or the Property, which in the opinion of the Lender, exercised in good faith, materially increases its risk or the risk that the prospects for timely or full payment or performance of the Obligations have been impaired, or that the value of the Property may be inadequate to fully secure the Obligations;

(r) the occurrence of a material event of default under Borrower's commercial line of credit loan arrangements with the Lender, or the occurrence of a material event of default under Amphastar's or any of Borrower's affiliates' respective loan arrangements with Lender; or

(s) the termination for any reason by the Borrower or any of its affiliates of their respective commercial line of credit loan arrangements with Lender.

10. LENDER'S RIGHTS AND REMEDIES AFTER DEFAULT (a) Following and during the continuance of an Event of Default, all Obligations shall be accelerated and become immediately due and payable at Lender's option without further notice or demand to Borrower; Lender may proceed to enforce payment of any of the foregoing and shall have and may exercise any and all rights under the Uniform Commercial Code or which are afforded to Lender herein, under the Loan Documents or otherwise, including but not limited to its rights to foreclose the Security Documents; and all Obligations (including without limitation principal, interest accrued to the time of demand, amounts payable under Section 11(a) or upon entry of any judgment) shall bear interest payable on demand at the rate per annum of five percent (5%)

in excess of the rate provided in Section 1(b); and in the event that Lender elects to exercise its remedies under the Security Documents, Borrower shall remain liable to Lender for any deficiency.

(b) Any Event of Default of this Agreement by Borrower shall constitute, likewise, an Event of Default by Borrower and Amphastar and any of Borrower's affiliates of any of their other existing agreements with Lender, and any Event of Default by Borrower or Amphastar or any of Borrower's affiliates under any other agreement with Lender shall constitute an Event of Default under this Agreement.

(c) If Lender elects to waive a particular Event of Default, including a covenant violation, which election shall be at Lender's sole discretion, Lender reserves the right to condition any such waiver upon the Borrower's payment of Lender's standard Covenant Violation Fee in effect at the time of such waiver.

11. ATTORNEYS FEES, INDEMNIFICATION, ETC. (a) Borrower shall pay to Lender on demand any and all reasonable out of pocket counsel fees and other reasonable expenses reasonable incurred by the Lender in connection with the preparation, interpretation, enforcement, administration, or amendment of this Agreement, documents relating thereto or modifications thereof, and any and all expenses, including, all reasonable attorneys' fees and out-of-pocket expenses, and all other reasonable expenses of like or unlike nature which may be expended by the Lender to obtain or enforce payment either as against, Borrower or in the prosecution or defense of any action or concerning any matter growing out of or connected with the subject matter of this Agreement, the Obligations or any of Lender's rights or interests therein or thereto, including, without limiting the generality of the foregoing, any reasonable counsel fees or reasonable out of pocket expenses incurred in any Bankruptcy or insolvency proceedings, and all reasonable costs and expenses incurred or paid by Lender in connection with the administration, supervision, protection or realization on any security held by Lender for the Obligations, whether such security was granted by Borrower or by any other person primarily or secondarily liable (with or without recourse) with respect to such debt, and all reasonable out of pocket costs and expenses incurred by Lender in connection with the defense, settlement or satisfaction of any action, claim or demand asserted against Lender in connection with the Obligations.

(b) In the absence of gross negligence or willful misconduct, neither Lender nor any nor any of its attorneys, agents or representatives shall be liable to Borrower or any other Person for any act or omission, any mistake of fact or any error of judgment in exercising any right or remedy granted herein.

12. CAPITAL ADEQUACY. If after the date hereof, Lender determines that (i) the adoption of any applicable law, rule, or regulation regarding capital requirements for Lenders or Lender holding companies or the subsidiaries thereof, (ii) any change in the interpretation or administration of any such law, rule or regulation by any governmental authority, central Lender, or comparable agency charged with the interpretation or administration thereof, or (iii) compliance by Lender or its holding company with any request or directive of any such governmental authority, central Lender or comparable agency regarding capital adequacy (whether or not having the force of law), has the effect of reducing the return

on Lender's capital to a level below that which Lender could have achieved (taking into consideration Lender's and its holding company's policies with respect to capital adequacy immediately before such adoption, change, or compliance and assuming that Lender's capital was fully utilized prior to such adoption, change, or compliance) but for such adoption, change, or compliance as a consequence of Lender's making advances pursuant hereto by any amount deemed by Lender to be material:

(a) Lender shall promptly, after Lender's determination of such occurrence, give written notice thereof to Borrower.

(b) Unless Borrower elects to repay (without penalty) all Obligations outstanding under this Agreement, Borrower shall pay to Lender as an additional fee from time to time, on written demand, such amount as Lender certified to be the amount that will compensate Lender for such reduction.

(c) A certificate of Lender claiming entitlement to compensation as set forth above will be conclusive in the absence of manifest error. Such certificate will set forth the nature of the occurrence giving rise to such compensation, the additional amount or amounts to be paid to Lender, and the method by which such amounts were determined. In determining such amount, Lender may use any reasonable averaging and attribution method, and the payment of such amount by Borrower shall not be subject to a prepayment penalty, fee or charge.

13. MISCELLANEOUS PROVISIONS (a) Notices by Lender under Sections 1 or 2 may be in writing or by telephone (provided they are confirmed in writing, with the understanding that the tolling of any time or grace periods shall run from the date of written notice). Unless otherwise specified herein, all notices hereunder shall be in writing, and shall be deemed to have been properly given or served by personal delivery or by sending same by overnight courier or by depositing same in the United States Mail, postpaid and registered or certified, return receipt requested, and addressed to the addresses set forth on page one hereof. Notice to Lender shall be sent to Cathay Bank, 9650 Flair Drive, El Monte, CA 91731, Att: Kenneth Chan, Vice President, Business Development Department, and to Siri F. Boreske, Esq., 189 Bay State Road, Boston, Massachusetts 02215. Notice to Borrower shall be sent to Armstrong Pharmaceuticals, Inc., c/o Amphastar Pharmaceuticals, Inc., 11570 Sixth Street, Rancho Cucamonga, CA 91730, Att: General Counsel. Written notices and communications shall be effective and shall be deemed received on the day when delivered by hand; on the next day if by commercial courier and on the third day after sending if by registered or certified mail, postage prepaid.

(b) No failure to exercise and no delay in exercising on the part of Lender, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right or remedy. Waiver by Lender of any right or remedy on any one occasion shall not be construed as a bar to or waiver thereof or of any other right or remedy on any future occasion. Without limiting the generality of the foregoing, Borrower expressly agrees that no failure by Lender to detect or to communicate with Borrower or take action in response to any failure by Borrower to perform or observe any Obligation shall operate as a waiver of any right or remedy of Lender; Lender's rights and remedies hereunder, under any agreement or instrument supplemental hereto or under any other agreement or instrument shall be cumulative, may be exercised singly or concurrently and are not exclusive of any rights or remedies provided by law.

(c) This Agreement shall be binding upon and shall inure to the benefit of Borrower and Lender and their respective successors and assigns; PROVIDED THAT except as otherwise expressly permitted hereunder, Borrower may not assign or transfer any rights or Obligations hereunder without Lender's prior written consent.

(d) The headings contained herein are for convenience only and shall not affect the construction hereof. If one or more provisions of this Agreement (or the application thereof) shall be invalid, illegal or unenforceable in any respect in any jurisdiction, the same shall not, to the fullest extent permitted by applicable law, invalidate or render illegal or unenforceable such provision (or its application) in any other jurisdiction or any other provision of this Agreement (or its application). This Agreement is the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior written or verbal communications or instruments relating thereto.

(e) This Agreement shall continue in full force and effect so long as any of the Obligations remains outstanding or has not been fully and finally paid, performed or satisfied.

(f) Borrower acknowledges that the transactions contemplated hereby are commercial transactions and waives, to the fullest extent it may do so under applicable law and subject to Section 10(b), such rights as it may have or hereafter have to notices and/or hearings under applicable Federal or state laws relating to exercise of any of Lender's rights, including without limitation the right to deprive Borrower of or affect its use, possession or enjoyment of property prior to rendition of a final judgment against Borrower.

14. GOVERNING LAW; JURISDICTION; WAIVER OF JURY TRIAL, LENDER'S ELECTION TO ARBITRATE AND CERTAIN DAMAGES

(a) This Agreement shall take effect as a sealed instrument and shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

(b) Borrower irrevocably submits to the non-exclusive jurisdiction of any Federal or state court sitting in Boston, Massachusetts over any suit, action or proceeding arising out of or relating to this Agreement. Borrower irrevocably waives, to the fullest extent it may effectively do so under applicable law, any objection it may have or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that the same has been brought in an inconvenient forum. Borrower irrevocably appoints the Secretary of State of the Commonwealth of Massachusetts as its authorized agent to accept and acknowledge on its behalf any and all process which may be served in any such suit, action or proceeding, consents to such process being served by (i) mailing a copy thereof by registered or certified mail, postage prepaid, return receipt requested, to Borrower's address shown above or (ii) by serving the same upon such agent and agrees that such service shall in every respect be deemed effective service upon Borrower, but only if and in the event the Lender is unable to effect regular service upon Borrower at the address set forth above or at such other address as Borrower may subsequently designate as its principal place of business.

(c) BORROWER AND LENDER EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, AND EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY

ARMSTRONG PHARMACEUTICALS, INC.

SECRETARY'S CERTIFICATE

The undersigned Secretary of Armstrong Pharmaceuticals, Inc., a Delaware corporation (the "Corporation"), does hereby certify to Cathay Bank (the Bank") on behalf of the Corporation that:

1. The Articles of Incorporation and By-laws of the Corporation previously delivered to the Bank have not been amended or modified and, on the date hereof, are in full force and effect, and no proceedings for the amendment, modification or rescission of the Articles of Incorporation or by-laws are pending or contemplated.
2. Attached hereto as Exhibit "A" is a true, correct and complete copy of certain resolutions duly adopted by written consent of the Directors of the Corporation; said resolutions have not been revoked, rescinded or modified and, at the date hereof, are in full force and effect.
3. The following person is, on and as of the date hereof, a qualified and acting Officer of the Corporation and holds the titles set forth opposite his name, and the signature appearing opposite his name is his genuine signature:

Chief Executive Officer: Jack Y. Zhang _____ /s/ JACK Y. ZHANG _____

IN WITNESS WHEREOF, the undersigned has hereunto set his hand on this 14th day of August, 2017.

By: _____ /s/ JASON B. SHANDELL _____
Jason Shandell, Secretary

EXHIBIT "A"

**CONSENT OF DIRECTORS
OF
ARMSTRONG PHARMACEUTICALS, INC.**

The undersigned, being the Directors of Armstrong Pharmaceuticals, Inc., a Delaware corporation (the "Corporation"), hereby adopt as of the 14th day of August, 2017 the following actions and resolutions:

WHEREAS, it is in the best interest of the Corporation to borrow such amounts from Cathay Bank ("the Bank ") and to secure such loan by a mortgage on certain property owned by the Corporation and located at 25 John Street, Canton, MA (the "Property") as the Chief Executive Officer deems appropriate and in the best interests of the Corporation;

NOW THEREFORE, BE IT RESOLVED, that the Corporation be, and hereby is, authorized and empowered to refinance the existing loan from the Bank and enter into a new loan transaction for a ten year term loan in the principal amount of \$7,865,000 and to borrow such sum from Bank and in connection therewith to execute such loan documents (the "Loan Documents") as may be necessary or appropriate, including but not limited to a Commercial Real Estate Term Note, a Loan Agreement, a Mortgage and Security Agreement, a Collateral Assignment of Leases and Rents, an Environmental Indemnity Agreement and such other documents as the Bank and its counsel may require;

FURTHER RESOLVED, that the Chief Executive Officer of the Corporation, be, and hereby is, authorized and empowered to negotiate, execute and deliver on behalf of the Corporation and as an official act of the Corporation the Loan Documents, and such other documents as may be required by the Bank as a condition to the Loan, the form of said documents to be in form as the Chief Executive Officer of the Corporation shall deem necessary, and the signature of the Chief Executive Officer of the corporation being conclusive evidence of the Corporation's agreement to the form of such documents;

FURTHER RESOLVED, that all actions heretofore taken by the Chief Executive Officer for and on behalf of the Corporation be, and hereby are, authorized, ratified and confirmed in all respects.

AMPHASTAR PHARMACEUTICALS, INC.

SECRETARY'S CERTIFICATE

The undersigned, Secretary of Amphastar Pharmaceuticals, Inc., a Delaware corporation with a principal place of business at 11570 Sixth Street, Rancho Cucamonga, CA 91730, hereby certifies that by unanimous written consent of its Directors, the following resolutions were adopted:

"Resolved: That the Chief Executive Officer, be and he hereby is authorized and empowered on behalf of this Corporation:

To authorize the Corporation to guaranty the obligations of the Corporation's subsidiary, Armstrong Pharmaceuticals, Inc. (the "Borrower") to Cathay Bank ("Lender") (it being determined that the delivery of such guaranty is in furtherance of this Corporation's purposes);

To make, execute, seal, acknowledge and deliver, in the name of this Corporation, guarantees, and all other instruments, documents and agreements required by Lender in connection with, or to give effect to, any of the powers and authority herein granted and to amend the same, from time to time, all such notes and other instruments, documents, and agreements, to be in such form and on such terms and conditions as said officer shall, by his execution and delivery thereof, deem satisfactory; hereby ratifying approving and confirming all that said officer has done or may do in the premises; and that the Board of Directors may, from time to time, delegate the authority hereinbefore granted to such additional officers or agents of this Corporation as the Board of Directors may determine; and

That all resolutions relative to the authority of any officer or other agent to act on behalf of his Corporation in any dealing or transaction with the Lender shall remain in full force and effect until written notice of modification thereof shall be received by Lender and that the Lender may conclusively rely on the signatures of the officers or agents designated in such resolutions until notified in writing by the Secretary of this Corporation of any change in such officers or agents and thereafter the Lender may conclusively rely on the signatures of the successors in office."

I further certify that the foregoing resolution has not been altered, amended or rescinded but remains in full force and effect and that the person currently authorized and empowered to act thereunder and his specimen signature is as follows:

Chief Executive Officer: _____
/s/ JACK Y. ZHANG
Jack Y. Zhang

WITNESS my hand and the seal of said Corporation this 14th day of August, 2017.

/s/ JACOB LIAWATEDEWI
Jacob Liawatedewi , Secretary

CORPORATE GUARANTY

This GUARANTY, dated as of this 14th day of August, 2017 by Amphastar Pharmaceuticals, Inc., a Delaware corporation with a principal place of business at 11570 Sixth Street, Rancho Cucamonga, CA 91730 (hereinafter referred to as "Guarantor"), in favor of Cathay Bank, a California banking corporation having an address at 9650 Flair Drive, El Monte, CA 91731 (the "Lender").

WHEREAS, the Lender has agreed to extend credit to the Guarantor's subsidiary, Armstrong Pharmaceuticals, Inc. (the "Borrower"), pursuant to a certain Loan Agreement dated as of even date herewith (the "Loan Agreement") subject to certain terms and conditions, including the requirement that the Guarantor shall have guaranteed the "Obligations" (as such term is defined in the Loan Agreement). Guarantor will derive substantial direct and indirect benefit from the loan to Borrower contemplated by the Loan Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Lender to extend credit to the Borrower, Guarantor hereby agrees as follows:

SECTION 1. Guarantor hereby absolutely, unconditionally and irrevocably guarantees the punctual payment when due, whether at stated maturity, by acceleration or otherwise, of the Obligations of the Borrower to the Lender, whether for principal, interest, fees, expenses or otherwise (such Obligations being the "Guaranteed Obligations"), and agrees to pay any and all reasonable expenses (including reasonable counsel fees and expenses) incurred by the Lender in enforcing any rights under this Guaranty or any other Loan Document, as such term is defined in the Loan Agreement. Without limiting the generality of the foregoing, Guarantor's liability shall extend to all amounts that constitute part of the Guaranteed Obligations that would be owed by the Borrower but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Borrower.

SECTION 2. Guaranty Absolute. Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the Loan Documents, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Lender with respect thereto. The Obligations of Guarantor under this Guaranty are independent of the Guaranteed Obligations or any other Obligations of any other the Borrower or any other guarantor or surety for the Obligations, and a separate action or actions may be brought and prosecuted against Guarantor to enforce this Guaranty, irrespective of whether any action is brought against the Borrower or any other guarantor or endorser, or whether the Borrower or any or any other guarantor or surety for the Obligations is joined in any such action or actions. The liability of Guarantor under this Guaranty shall be absolute and unconditional irrespective of, and Guarantor hereby irrevocably waives any defenses it may now or hereafter have in any way relating to, any or all of the following:

- (a) any lack of validity or enforceability of any Loan Document or any agreement or instrument relating thereto;
 - (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations or any other amendment or waiver of or any consent to departure from any Loan Document, including, without limitation, any increase in the Guaranteed Obligations resulting from the extension of additional credit to Borrower;
 - (c) any taking, exchange, release or non-perfection of any collateral, or any taking, release or amendment or waiver of or consent to departure from any other guaranty, for all or any of the Guaranteed Obligations;
 - (d) any manner of application of collateral, or proceeds thereof, to all or any of the Guaranteed Obligations, or any manner of sale or other disposition of any collateral for all or any
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of the Guaranteed Obligations or any other assets of Borrower or any other guarantor or surety for the Obligations;

(e) any change, restructuring or termination of the corporate structure or existence of Borrower or Guarantor; or

(f) any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by the Lender that might otherwise constitute a defense available to, or a discharge of, the Borrower, Guarantor or any other guarantor or surety for the Obligations.

This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by Lender upon the insolvency, bankruptcy or reorganization of the Borrower or any other guarantor or surety for the Obligations, or otherwise, all as though such payment had not been made.

SECTION 3. Waiver and Acknowledgements. (a) Guarantor hereby waives, to the fullest extent permitted under applicable law, promptness, diligence, notice of acceptance and any other notice with respect to any of the Guaranteed Obligations and this Guaranty and any requirement that the Lender protect, secure, perfect or insure any lien or any collateral subject thereto or exhaust any right or take any action against Borrower or any other guarantor or surety for the Obligations, or any collateral securing the Obligations; (b) Guarantor waives, to the fullest extent permitted under applicable law, any right to revoke this Guaranty, and acknowledges that this Guaranty is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future; and (c) Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Loan Documents and that the waivers set forth in this Section 3 are knowingly made in contemplation of such benefits.

SECTION 4. Subrogation of Claims and Subordination of Indebtedness.

(a) Guarantor will not exercise any rights that it may now or hereafter acquire against the Borrower or any other guarantor or surety for the Obligations that arise from the existence, payment, performance or enforcement of Guarantor's Obligations under this Guaranty or any other Loan Document, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of the Lender against the Borrower or any other insider guarantor or any collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from the Borrower or any other insider guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right, unless and until all of the Obligations and all other amounts payable under this Guaranty shall have been paid in full in cash. If any amount shall be paid to Guarantor in violation of the preceding sentence at any time prior to the payment in full in cash of the Guaranteed Obligations and all other amounts payable under this Guaranty, such amount shall be held in trust for the benefit of the Lender and shall forthwith be paid to the Lender to be credited and applied to the Guaranteed Obligations and all other amounts payable under this Guaranty, whether matured or unmatured, in accordance with the terms of the Loan Documents, or to be held as collateral for any Guaranteed Obligations or other amounts payable under this Guaranty thereafter arising.

(b) Any obligations now or hereafter owed to Guarantor by Borrower or any other guarantor of Borrower's Obligations to Lender is not and will not be represented by any notes or other negotiable instruments, except such notes or negotiable instruments, if any, as have either been endorsed and delivered by the Guarantor to Lender or expressly legended as being subordinated to Borrower's (or as applicable such other guarantor's) obligations to Lender. The Guarantor hereby subordinates all such indebtedness to Guarantor to any and all indebtedness now or hereafter owing by the Borrower to Lender, and except as may be expressly consented to in writing by Lender, agrees not to demand, accept or receive any payment of principal or interest upon or on account of the indebtedness so subordinated or any collateral therefor, until all indebtedness of the Borrower to Lender has been paid in full. Should any payment not permitted hereunder be received by Guarantor for or on account of such subordinated indebtedness prior

to the satisfaction of all said obligations of Borrower to Lender, Guarantor will forthwith deliver the same to Lender, and until so delivered, the same shall be held in trust by the Creditor as the property of Lender.

SECTION 5. Payments Free and Clear of Taxes, Etc. (a) Any and all payments by any Guarantor hereunder shall be made free and clear of and without deduction for any and all present or future taxes or other charges. If Guarantor shall be required by law to deduct any taxes or other charges from or in respect of any sum payable hereunder to the Lender, (i) the sum payable by Guarantor shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) Guarantor shall make such deductions and (iii) Guarantor shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. Guarantor shall indemnify the Lender for and hold it harmless against the full amount of taxes or other charges paid by the Lender and any liability (including penalties, additions to tax, interest and expenses) arising therefrom or with respect thereto. Payment of any amounts subject to this indemnification shall be made within ten (10) days from the date the Lender makes written demand therefor.

SECTION 6. Representations and Warranties. Guarantor hereby represents and warrants as follows:

(a) Guarantor (i) is a Delaware corporation duly formed and validly existing under the laws of Delaware; (ii) is duly qualified in each jurisdiction in which it owns or leases property or in which the conduct of its business requires it to so qualify or be licensed except where the failure to so qualify or be licensed could not reasonably be expected to have a material adverse effect and (iii) has all requisite power and authority (including, without limitation, all governmental licenses, permits and other approvals) to own or lease and operate its properties and to carry on its business as now conducted and as proposed to be conducted.

(b) The execution, delivery and performance by Guarantor of this Guaranty are within Guarantor's powers, have been duly authorized by all necessary manager and member votes or consents, and do not (i) contravene Guarantor's charter documents, (ii) violate any, rule, regulation, order, writ, judgment, injunction, decree, determination or award, (iii) conflict with or result in the breach of, or constitute a default under, any material contract, loan agreement, indenture, mortgage, deed of trust, lease or other instrument binding on or affecting Guarantor, or any of its properties or (iv) result in or require the creation or imposition of any lien or encumbrance upon or with respect to any of the properties of Guarantor or Borrower other than in favor of Lender. Neither Guarantor nor any Borrower is in violation of any such law, rule, regulation, order, writ, judgment, injunction, decree, determination or award or in breach of any such contract, loan agreement, indenture, mortgage, deed of trust, lease or other instrument, the violation or breach of which could reasonably be expected to have a material adverse effect on either the Guarantor's or Borrower's financial condition or business operations or prospects.

(c) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body or any other third party is required for (i) the due execution, delivery, recordation, filing or performance by Guarantor of this Guaranty or any other Loan Document to which Guarantor is a party and (ii) to the best of Guarantor's knowledge, the exercise by the Lender of its rights under this Guaranty or any other Loan Document to which Guarantor is a party.

(d) There is no action, suit, investigation, litigation or proceeding affecting Guarantor, including any environmental action proceeding or investigation, pending or to the best of Guarantor's knowledge threatened before any court, governmental agency or arbitrator that (i) could reasonably be expected to have a material adverse effect on either the Guarantor's or Borrower's financial condition or business operations or prospects, or (ii) purports to affect the

legality, validity or enforceability of this Guaranty or any other Loan Document to which such Guarantor is a party.

(e) This Guaranty and each other Loan Document to which Guarantor is a party has been duly executed and delivered by Guarantor. This Guaranty and each other Loan Document to which Guarantor is a party is the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms except as may be limited by bankruptcy or insolvency laws or similar laws affecting creditors' rights generally or by general equitable principles. Respectively. This Guaranty may be transmitted to Lender or its counsel by facsimile machine or by electronic mail in portable document format ("pdf") and signature(s) appearing on faxed instruments and/or electronic mail instruments shall be treated as the original signature(s). The Guarantor shall deliver the original Guaranty to the Lender, but the failure to deliver said original Guaranty shall not affect the validity, enforceability or binding effect hereof.

(f) There are no conditions precedent to the effectiveness of this Guaranty that have not been satisfied or waived.

(g) Guarantor has, independently and without reliance upon the Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Guaranty, and Guarantor has established adequate means of obtaining from the Borrower on a continuing basis information pertaining to, and is now and on a continuing basis will be completely familiar with, the financial condition, operations, properties and prospects of the Borrower.

SECTION 7. Covenants and Financial Information; Cross-Default. Guarantor covenants and agrees that, so long as any part of the Guaranteed Obligations shall remain unpaid, Guarantor will at all times perform or observe, and will cause Borrower to perform or observe, all of the terms, covenants and agreements that the Loan Documents state or require that the Borrower is to cause Guarantor to perform or observe, including but not limited to providing Lender with the financial and other reports required to be provided by Guarantor under Section 4 of the Loan Agreement. Guarantor further acknowledges and agrees that the Guaranteed Obligations are cross defaulted with any obligations of Guarantor to Lender, such that an event of default under the Guaranteed Obligations will be an event of Default under Guarantor's obligations to Lender, and any event of default under Guarantor's obligations to Lender will give rise to an event of default under the Guaranteed Obligations.

SECTION 8. Amendments, Etc. No amendment or waiver of any provision of this Guaranty and no consent to any departure by Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by the Lender. Delivery by telecopier or electronic transmission of an executed counterpart of any amendment or waiver of any provision of this Guaranty shall be effective as delivery of a manually executed counterpart thereof.

SECTION 9. Notices, Etc. All notices and other communications provided for hereunder shall be in writing and mailed, or delivered to it by certified mail or overnight delivery service, if to Guarantor, to Borrower at Borrower's address set forth in the Loan Agreement and if to the Lender, at its address specified in the Loan Agreement, or as to any party at such other address as shall be designated by such party in a written notice to each other party. All such notices and other communications shall, when mailed, telecopied, emailed or sent by courier, be effective when deposited in the mails, transmitted by telecopier, electronic transmission confirmed by telex or electronic answerback or confirmation or delivered to the overnight courier.

SECTION 10. No Waiver; Remedies. No failure on the part of the Lender to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

SECTION 11. Indemnification. Without limitation on any other Guaranteed Obligations of Guarantor or remedies of the Lender under this Guaranty, Guarantor shall, to the fullest extent permitted by law, indemnify, defend and save and hold harmless the Lender from and against, and shall pay on demand, any and all losses, liabilities, damages, costs, expenses and charges (including the reasonable fees and disbursements of the Lender's legal counsel) suffered or incurred by the Lender as a result of any failure of any Guaranteed Obligations to be the legal, valid and binding obligations of Guarantor enforceable against Guarantor in accordance with their terms.

SECTION 12. Continuing Guaranty; Assignments under the Loan Agreement. This Guaranty is a continuing guaranty and shall (a) remain in full force and effect until the indefeasible payment in full in cash of the Guaranteed Obligations and all other amounts payable under this Guaranty and the final termination of the Loan Agreement; (b) be binding upon Guarantor, its successors and assigns; and (c) inure to the benefit of and be enforceable by the Lender and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (c) the Lender may assign or otherwise transfer all or any portion of its rights and obligations under the Loan Agreement (including, without limitation, all or any portion of the loans owing to it and the Loan Documents) to any other person or party, and such other person or party shall thereupon become vested with all the benefits in respect thereof granted to Lender herein or otherwise, in each case as and to the extent provided in the Loan Documents. Guarantor shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lender.

SECTION 13. Massachusetts Law. This Agreement is intended to take effect as a sealed instrument and has been executed or completed and is to be performed in Massachusetts, and it and all transactions thereunder or pursuant thereto shall be governed as to interpretation, validity, effect, rights, duties and remedies of the parties thereunder and in all other respects by the domestic laws of Massachusetts.

SECTION 14. California Venue. The Guarantor irrevocably (a) submits to the nonexclusive jurisdiction of any federal or state court sitting in California, over any suit, action or proceeding arising out of or relating to this Agreement and (b) waives, to the fullest extent it may effectively do so under applicable law, any objection it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that the same has been brought in an inconvenient forum.

SECTION 15. JURY WAIVER. THE GUARANTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AND AFTER AN OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL, WAIVES ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING IN CONNECTION WITH THIS GUARANTY, THE OBLIGATIONS HEREUNDER, AND ALL MATTERS CONTEMPLATED HEREBY AND DOCUMENTS EXECUTED IN CONNECTION HEREWITH, AS WELL AS ANY RIGHT IT MAY HAVE OR HEREAFTER HAVE TO SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

IN WITNESS WHEREOF, Guarantor has caused this Agreement to be executed under seal as of the day and year first written above.

AMPHASTAR PHARMACEUTICALS, INC.

By: _____
/s/ JACK Y. ZHANG
Jack Y. Zhang, Chief Executive Officer

August 14, 2017

Cathay Bank
9650 Flair Drive
El Monte, CA 91731

Re: \$ 7,865,000 real estate term loan to Armstrong Pharmaceuticals, Inc.

Gentlemen and Ladies:

This letter authorizes you to disburse the funds under the above loan arrangement as set forth on Exhibit A attached hereto.

Very truly yours,

Armstrong Pharmaceuticals, Inc.

By : _____
/s/ JACK Y. ZHANG
Jack Y. Zhang, Chief Executive Officer

<u>Disbursements</u>			
1	Siri F. Boreske, Esq, Cathay Bank counsel		
	Legal Fees	\$ 6,250.00	
	Registry recording fees	\$ 465.00	
	Municipal lien certificate (Town of Canton)	\$ 100.00	
	Certificates of Legal existence (MA & Del)	\$ 176.00	
		\$ 6,991.00	\$ (6,991.00)
2	Marsh Moriarty Ontell & Golder		
	Title Policy Premium @\$1.15 per \$1,000 including ALTA 3.1 zoning	\$ 9,044.75	
	Title examination, rundown and recording services	\$ 250.00	
	Photocopies and courier /Fedex to Registry	\$ 22.00	
		\$ 9,316.75	\$ (9,316.75)
3	Cathay Bank		
	Upfront Loan Fee	\$ 19,662.50	
	Appraisal Fee	\$ 5,000.00	
	Appraisal Review Fee	\$ 800.00	
	Environmental Report fee	\$ 300.00	
	Tax Service Fee	\$ 810.00	
		\$ 26,572.50	\$ (26,572.50)
4	Cathay Bank (prior mortgage principal balance)	\$ 4,301,029.31	\$ (4,301,029.31)
5	Cathay Bank (accrued interest thru 8/14/17)		
	(p.d @647.5439 thereafter)	\$ 3,237.72	\$ (3,237.72)
	Total Funds Available	\$ 7,865,000.00	
	Total Disbursements	\$ (4,347,147.28)	\$ (4,347,147.28)
	Net Cash Proceeds Available to Borrower	\$ 3,517,852.72	

MORTGAGE AND SECURITY AGREEMENT

(Property Address: 25 John Road, Canton, MA)

THIS MORTGAGE (hereinafter referred to as this "Mortgage") is made and entered into as of this 14th day of August, 2017 between Armstrong Pharmaceuticals, Inc. a Delaware corporation with a principal place of business at 25 John Road, Canton, Massachusetts 02021 (hereinafter referred to as "Borrower" or the "Mortgagor"), as grantor or mortgagor, to Cathay Bank, a California banking corporation having an address at 9650 Flair Drive, El Monte, CA 91731 (the "Lender"), as the grantee or mortgagee.

NOW THEREFORE, IN CONSIDERATION OF GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency whereof are hereby acknowledged by Borrower, and in order to secure the Secured Obligations (as hereinafter defined), Borrower does hereby grant, bargain, sell, transfer, assign, mortgage and convey unto Lender, and its successors and assigns, with MORTGAGE COVENANTS, all of the following described property (hereinafter collectively referred to as the "Property", which term shall expressly exclude any revenues from the Borrower's business operations, with any parcel comprising the Property also being referred to as a "Property"):

- (a) The real property consisting of the land and the building located at 25 John Road, Canton, Norfolk County, Massachusetts and more particularly described in Exhibit A attached hereto and by this reference made a part hereof, together with all right, title and interest of Borrower, including any after-acquired title or reversion, in and to the rights-of-ways, streets and alleys adjacent thereto, and all easements, rights-of-way, licenses, operating agreements, strips and gores of land, vaults, streets, ways, alleys, passages, sewers, sewer rights, waters, water courses, water rights and powers, oil, gas and other minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the land or under or above same, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating to or appertaining to said tract or parcel of land or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Borrower and the reversion and reversions, remainder and remainders, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Borrower of, in and to the same (hereinafter referred to as the "Land"); and
 - (b) All buildings, structures, parking areas, landscaping, and other improvements of every nature now or hereafter situated, erected or placed on the Land (hereinafter referred to as the "Improvements"), and all materials intended for construction, reconstruction, alteration and repairs of the Improvements now or hereafter erected, all of which materials shall
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be deemed to be included within the Improvements immediately upon the delivery thereof to the Land; and

- (c) All fixtures, building supplies, appliances and other articles of personal property (hereinafter collectively referred to as the "Personal Property", which term shall expressly exclude any equipment, machinery, inventory or supplies used or acquired by Borrower for its business operations), including, but not limited to, all gas and electric fixtures, radiators, heaters, furnaces, engines and machinery, boilers, elevators and motors, bathtubs, sinks, commodes, basins, pipes, faucets and other plumbing, heating and air conditioning equipment, , carpeting, floor coverings, light fixtures, signs, lawn equipment, water heaters, and appurtenances, and all other fixtures and equipment now or hereafter owned by Borrower and located in, on or about, or used or intended to be used with or in connection with the use, operation, or enjoyment of the Land or the Improvements, whether installed in such a way as to become a part thereof or not, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing and all the right, title and interest of Borrower in and to any of the foregoing now owned or hereafter acquired by Borrower, all of which are hereby declared and shall be deemed to be fixtures and accessions to the freehold and a part of the Improvements as between the parties hereto and all persons claiming by, through or under them; and
- (d) All other interests of Borrower as defined in the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts, which in any way now or hereafter belong, relate or appertain to the Land, the Improvements or the Personal Property or any part thereof now owned or hereafter acquired by Borrower, including, without limitation, all condemnation payments, insurance proceeds and escrow funds (hereinafter referred to as the "Intangible Property"); and
- (e) All present and future leases, tenancies, occupancies and licenses, whether written or oral ("Leases"), of the Land, the Improvements, the Personal Property and the Intangible Property, or any combination or part thereof, and all income, rents, issues, royalties, profits, revenues, accounts, payment entitlements as well all fees, charges, accounts or other payments for the use or occupancy of rooms and any public facilities; security deposits and other benefits of the Land, the Improvements, the Personal Property and the Intangible Property, from time to time accruing, all payments under Leases, and all payments on account of oil and gas and other mineral Leases, working interests, production payments, royalties, overriding royalties, rents, delay rents, operating interests, participating interests and other such entitlements, and all the estate, right, title, interest, property, possession, claim and

demand whatsoever at law, as well as in equity, of Borrower of, in and to the same (hereinafter collectively referred to as the "Revenues");

- (f) All the right, title, interest of Borrower in and to all contracts, agreements, subcontracts, permits, licenses and approvals entered into or obtained by or on behalf of Borrower relating to the construction, reconstruction, development and use of the Property, now existing or hereafter obtained or entered into, including without limitation construction contracts and bonds, architectural, engineering and consulting contracts, contracts for materials and fixtures, building permits, variances, special permits and curb cuts, occupancy permits, health permits, and licenses, agreements and letters of assurance from utilities and Mortgagor's rights in all plans, drawings and specifications relating to or prepared in connection with or relating to the construction of Improvements on the Land, whether now or hereafter existing, including, without limitation (i) any architectural or engineering agreement entered into with respect to the design of said Improvements and other architectural or engineering services, (ii) the plans and specifications for the construction of said Improvements prepared by the architect, and (iii) any contractor's agreement entered into with respect to construction of Improvements on the Land as well as all purchase and sales agreements for sale of any portion of the (hereinafter collectively referred to as the "Contracts and Permits"); and

- (g) All proceeds, products, substitutions and accessions of the foregoing of every type.

TO HAVE AND TO HOLD the Property and all parts, rights, members and appurtenances thereof, to the use and benefit of Lender and the successors and assigns of Lender, in fee simple forever; and Borrower covenants that Borrower is lawfully seized and possessed of the Property and holds marketable fee simple absolute title to the same and has good right to convey the Property and that the conveyances in this Mortgage are subject to only those matters (hereinafter referred to as the "Permitted Encumbrances") expressly set forth in the title policy insuring this Mortgage and accepted by the Lender. Except for the Permitted Encumbrances, Borrower does warrant and will forever defend the title to the Property against the claims of all persons whomsoever.

This Mortgage is intended to constitute: (i) a mortgage deed under Massachusetts General Laws c. 183, §18, (ii) a security agreement and financing statement under the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts, and (iii) a notice of assignment of rents or profits under Massachusetts General Laws c. 183, §4. This Mortgage is also intended to operate and be construed following any Event of Default, as an absolute present assignment of the rents, issues and profits of the Property, Borrower hereby agreeing, as provided for in Massachusetts General Laws c. 183, §4, that following any Event of Default, Lender is entitled to

receive the rents, issues and profits of the Property and without entering upon or taking possession of the Property.

This Mortgage is given to secure the payment and performance of the following described indebtedness and obligations (hereinafter collectively referred to as the "Secured Obligations"):

- (a) All payments to be made to the Lender by Borrower under that certain Commercial Real Estate Term Note from Borrower to Lender dated as of even date herewith in the maximum principal amount of Seven Million Eight Hundred Sixty Five Thousand (\$7,865,000) Dollars (the "Note," and together with this Mortgage and all other documents executed and delivered in connection therewith, hereinafter collectively referred to as the "Loan Documents"), each as they may be extended, renewed, amended, modified, restated, or replaced.
- (b) The full and prompt payment and performance of all of the provisions, agreements, covenants and obligations herein contained and contained in the Loan Documents and all obligations therein described and defined, including but not limited to without limitation: (i) all of the provisions, agreements, covenants and obligations under any other agreements, documents or instruments now or hereafter evidencing, securing or otherwise relating to the Loan, (iii) all obligations to the Lender under any interest rate swap agreements, interest rate cap agreements, interest rate collar agreements, and all other agreements or arrangements with the Lender designed to protect the Borrower against fluctuations in interest rates or currency exchange rates under the Loan Agreement, (iv) any and all additional advances made by Lender to protect or preserve the Property or the security interest created hereby on the Property, or for taxes, assessments or insurance premiums as hereinafter provided or for performance of any of Borrower's obligations hereunder or under the other Loan Documents or for any other purpose provided herein or in the other Loan Documents (whether or not the Borrower remains the owner of the Property at the time of such advances); and (v) all loans, advances, debts, liabilities, obligations (including without limitation for reimbursement in connection with guaranties and letters of credit), agreements, undertakings, covenants and duties owing or to be performed or observed by Borrower to or in favor of Lender, of every kind and description, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising under the Loan Documents.

This Mortgage is upon the STATUTORY CONDITION, upon the breach of which Lender shall have the STATUTORY POWER OF SALE.

Borrower hereby further covenants and agrees with Lender as follows:

1. Payment and Performance of Secured Obligations. Borrower shall promptly pay the Secured Obligations when due, and fully and promptly perform all of the provisions, agreements, covenants and obligations of the Secured Obligations.
2. Funds for Impositions. Subject to Lender's option under Paragraphs 3 and 4 hereof, following the occurrence and continuance of any Event of Default, Borrower shall pay to Lender on the first day of each month during the term of the Loan Agreement, a sum (hereinafter referred to as the "Funds") equal to one-twelfth (1/12) of the following items (hereinafter collectively referred to as the "Impositions"): (a) the yearly water and sewer bills, real estate taxes, ad valorem taxes, personal property taxes, assessments, betterments, and all governmental charges of every name and restriction which may be levied on the Property, and (b) the yearly premium installments for the insurance covering the Property and required by Lender pursuant to Paragraph 4 hereof. The Impositions shall be estimated initially and from time to time by Lender on the basis of assessments and bills and estimates thereof. The Funds shall be held by Lender, free of interest and free of any liens or claims on the part of creditors of Borrower and as part of the security for the Secured Obligations. The Funds shall not be, nor be deemed to be, trust funds but may be commingled with the general funds of Lender. Lender shall apply the Funds to pay the Impositions with respect to which the Funds were paid to the extent of the Funds then held by Lender and provided Borrower has delivered to Lender the assessments or bills therefor. Lender shall make no charge for so holding and applying the Funds or for verifying and compiling said assessments and bills. The Funds are pledged as additional security for the Secured Obligations, and may be applied, at Lender's option and without notice to Borrower, to the payment of the Secured Obligations upon any Event of Default hereunder. If at any time the amount of the Funds held by Lender shall be less than the amount deemed necessary by Lender to pay Impositions as such become due, Borrower shall pay to Lender any amount necessary to make up the deficiency within five (5) days after notice from Lender to Borrower requesting payment thereof. Upon payment in full of the Secured Obligations, Lender shall promptly refund to Borrower any Funds held by Lender.
3. Impositions, Liens and Charges. Borrower shall pay all Impositions and other charges, if any, attributable to the Property, and at Lender's option following the occurrence of any Event of Default, shall pay the same in the manner provided under Paragraph 2 hereof. Upon the Lender's request, Borrower shall furnish to Lender all bills and notices of amounts due under this Paragraph 3 as soon as received, and in the event Borrower shall make payment directly, Borrower shall furnish to Lender receipts evidencing such payments prior to the dates on which such payments are due. Borrower shall promptly discharge (by bonding, payment or otherwise) any lien filed against the Property and will keep and maintain the Property free from the claims of all persons supplying labor or materials to the Property. Prior to an Event of Default (hereinafter defined) Borrower may dispute any Impositions and other such charges provided the

amounts in dispute are deposited with the Lender or the governmental agency assessing such imposition; the Borrower promptly initiates and diligently and continuously prosecutes the dispute to completion; Borrower advises Lender on an ongoing basis as to the status of such dispute; and the dispute does not in the reasonable judgment of Lender jeopardize its interests in the Property.

4. Property and Other Insurance.

- (a) Borrower, at its expense, shall procure and maintain for the benefit of Borrower and Lender, insurance policies issued by such insurance companies, in such reasonable amounts, in such form and substance, and with such coverages, endorsements, deductibles, and expiration dates as are reasonably acceptable to Lender, providing the following types of insurance covering the Property:
- i) "All Risks" property insurance (including broad form flood, broad form earthquake and comprehensive boiler and machinery coverages) on each Property in an amount not less than the greater of the applicable release fee as designated in the Loan Agreement for such Property or the full replacement cost of the any improvements and Personal Property of any Property (such amount in the case of any Unit to be determined based on the Unit percentage of the applicable condominium applied to the gross amount of the condominium master insurance policy), with deductibles on any Property not to exceed \$10,000 for any one occurrence, with a replacement cost coverage endorsement and coverages equivalent to an ISO broad form endorsement. Full replacement cost as used herein means the cost of replacing the improvements (exclusive of the cost of excavations, foundations and footings below the lowest basement floor) and the Personal Property without deduction for physical depreciation thereof;
 - (ii) Flood insurance if at any time the Improvements are located in any federally designated "special hazard area" (including any area having special flood, mud slide and/or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map published by the Federal Emergency Management Agency as Zone A, AO, A1-30, AE, A99, AH, V0, V1-30, VE, V, M or E) and if the broad form flood coverage required by clause (i) above is not available, in an amount equal to the full replacement cost or the maximum amount then available under the National Flood Insurance Program;
 - (iii) Commercial general liability insurance against claims for personal injury (to include, without limitation, bodily injury and personal and advertising injury) and property damage liability, all on an

occurrence basis, if available, with such coverages as Lender may reasonably request (including, without limitation, contractual liability coverage, completed operations coverage for a period of two (2) years following completion of construction of any Improvements on the Land, and coverages equivalent to an ISO broad form endorsement), with a general aggregate limit of not less than \$2,000,000, a completed operations aggregate limit of not less than \$1,000,000, and a combined single "per occurrence" limit of not less than \$1,000,000 for bodily injury, property damage.

- (iv) Umbrella liability insurance with limits of not less than \$1,000,000 to be in excess of the limits of the insurance required by clauses (v), (vi) and (vii) above, with coverage at least as broad as the primary coverages of the insurance required above, with any excess liability insurance to be at least as broad as the coverages of the lead umbrella policy. All such policies shall be endorsed to provide defense coverage obligations;
- (v) Such other insurance in such form and in such amounts as may from time to time be reasonably required by Lender against other insurable hazards and casualties which at the time are commonly insured against in the case of properties of similar character and location to the Land and the Improvements.

Borrower shall pay all premiums on insurance policies, and at Lender's option, shall pay in the manner provided under Paragraph 2 hereof. The insurance policies provided for in clauses (iii) and (iv) above shall name Lender as an additional insured and shall contain a cross liability/severability endorsement. The insurance policies provided for in clauses (i), and (ii) above shall name Lender as mortgagee and loss payee, shall be first payable in case of loss to Lender, and shall contain mortgage clauses and Lender's loss payable endorsements in form and substance reasonably acceptable to Lender. Borrower shall deliver duplicate originals or certified copies of all such policies to Lender, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty (30) days prior to the expiration date of the policies, Borrower shall deliver to Lender duplicate originals or certified copies of renewal policies in form satisfactory to Lender. Lender may force-place the required insurance when deemed necessary, in which case Borrower shall pay Lender the force-placed insurance premium plus a \$50.00 service charge.

- (b) All policies of insurance required by this Mortgage shall contain lender's loss payable clauses or endorsements to the effect that (i) no act or omission of either Borrower or anyone acting for Borrower (including, without limitation, any representations made by Borrower in the

procurement of such insurance), which might otherwise result in a forfeiture of such insurance or any part thereof, no occupancy or use of any Property for purposes more hazardous than permitted by the terms of the policy, and no foreclosure or any other change in title to the Property or any part thereof, shall affect the validity or enforceability of such insurance insofar as Lender is concerned, (ii) the insurer waives any right of setoff, counterclaim, subrogation, or any deduction in respect of any liability of Borrower and Lender, (iii) such insurance is primary and without right of contribution from any other insurance which may be available, (iv) such policies shall not be modified, cancelled or terminated without the insurer thereunder giving at least thirty (30) days prior written notice to Lender by certified or registered mail, and (v) that Lender shall not be liable for any premiums thereon or subject to any assessments thereunder, and shall in all events be in amounts sufficient to avoid any coinsurance liability.

- (c) With the prior consent of Lender, which shall not be unreasonably withheld or delayed, the insurance required by this Mortgage may be effected through a blanket policy or policies covering additional locations and property of Borrower and its affiliated entities not included in the Property, provided that such blanket policy or policies comply with all of the terms and provisions of this Paragraph 4 and contain endorsements or clauses assuring that any claim recovery will not be less than that which a separate policy would provide, including, without limitation, a priority claim endorsement in the case of property insurance and an aggregate limits of insurance per location endorsement in the case of liability insurance.
- (d) All policies of insurance required by this Mortgage shall be issued by companies licensed to do business in the state where the policy is issued and also in the Commonwealth of Massachusetts and having a rating in Best's Key Rating Guide of at least "B+" and a financial size category of at least "VIII".
- (e) Borrower shall not carry separate insurance, concurrent in kind or form or contributing in the event of loss, with any insurance required under this Mortgage unless such insurance complies with the terms and provisions of this Paragraph 4.
- (f) In the event of any loss or damage to any Property, Borrower shall give prompt written notice to the insurance carrier and Lender. With respect to any loss or damage claim in excess of \$250,000, Borrower hereby irrevocably authorizes and empowers Lender, at Lender's option and in Lender's sole discretion, as attorney in fact for Borrower, to make proof of such loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, in accordance with this

subsection 4(f), and to deduct therefrom Lender's reasonable out-of pocket expenses incurred in the collection of such proceeds. If (i) no Event of Default has occurred then (x) in the event the cost of repairing such damage or loss is estimated by the Lender to be less than eighty percent (80%) of the amount outstanding under the Note, and such repair is reasonably expected to be completed within eighteen (18) months from the date of such loss or damage, Lender shall make available such insurance proceeds received by Lender to Borrower and whether or not such insurance proceeds shall be sufficient for the purpose (Borrower to forthwith fund any deficiency thereof), Borrower will promptly commence and complete such repair, or at Lender's option such fund shall be disbursed by the Lender to Borrower in installments as repair work progresses, in conformity with the Lender's then customary practices and in any event including contribution of equity, delivery of plans and specifications, construction contracts, project budget and schedule, draw requests, inspections and the like; otherwise Lender shall apply such insurance proceeds, or the balance thereof after repair, to the Note and any other Secured Obligations.

(g) If under Paragraph 22 hereof the Property is sold or acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds thereof resulting from loss or damage to the Property prior to the sale or acquisition shall pass to Lender or any other successor in interest to Borrower or purchaser or grantor of the Property.

5. Preservation and Maintenance. Borrower (a) shall not permit or commit waste, impairment, or deterioration of any Property or abandon any Property, (b) shall restore or repair promptly and in a good and workmanlike manner all or any part of any Property in the event of any damage, injury or loss thereto, to the equivalent of its condition prior to such damage, injury or loss, or such other condition as Lender may approve in writing, which approval shall not be unreasonably withheld, delayed or denied, (c) shall keep the Property, including the Improvements and the Personal Property, in good order, repair and tenable condition (meaning in the same condition as now or better), reasonable wear and tear and casualty excepted, and shall replace the Personal Property when necessary to keep such items in good order, repair, and tenable condition (meaning in the same condition as now or better),, and (d) shall comply in all material respects with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property. Borrower covenants and agrees to give Lender prompt notice of any non-compliance with such laws, ordinances, regulations or requirements of which it is actually aware and of any notice of non-compliance therewith which it receives or any written threatened or pending proceedings in respect thereto or with respect to any Property (including, without limitation, changes in zoning). Neither Borrower nor any tenant or other person shall remove, demolish or alter any Improvements

now existing or hereafter erected on any Property or any Personal Property in or on any Property except when incident to the replacement of Personal Property with items of like kind, or with the Lender's prior written approval, which approval shall not be unreasonably withheld, delayed or denied.

6. Transfers. Borrower will not, directly or indirectly, voluntarily or involuntarily without the prior written consent of Lender in each instance, which shall not be unreasonably withheld: (a) sell, convey, assign, transfer, lease, option, mortgage pledge, hypothecate or dispose of the Property, or any part thereof or any legal, equitable or beneficial interest therein (including but not limited to any sale or transfer of such interest by outright sale, deed, installment sales contract, land contract, contract for deed, leasehold interest for a term greater than three years, lease option contract or by sale, assignment of any beneficial or ownership interest in any entity holding title to all or any portion of the Property); or (b) create or suffer to be created or to exist any lien, encumbrance, security interest, mortgage, pledge, restriction, attachment or other charge of any kind upon the Property, or any part thereof or interest therein, except for Permitted Encumbrances or as set forth in Paragraph 3 hereof, provided, however, Borrower may, without the prior written consent of Lender (i) enter into a new lease of all or any part of the Property if such lease is in the ordinary course of operating Borrower's business at the Property; and/or (ii) modify any leases provided such modification is in the ordinary course of operating Borrower's business at the Property; and (iii) permit transfers of non-controlling interests by any party so long as there is no resulting change in the control and management of the Borrower.

7. Hazardous Materials Warranties and Indemnification.

(a) Definitions. The following definitions shall apply for purposes of this Paragraph 7:

- (i) "Environmental Laws" shall mean and include each and every applicable federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereafter enacted, promulgated or issued, with respect to any Hazardous Materials (as hereinafter defined), drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water run-off, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes and regulations promulgated thereunder as well as any amendments and successors to such statutes and regulations, as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (codified in scattered sections of 26 U.S.C., 33 U.S.C., 42 U.S.C. and 42 U.S.C. §9601 et seq.); (ii) the Resource

Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.); (iii) Hazardous Materials Transportation Act (49 U.S.C. §1801 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. §2061 et seq.); (v) the Clean Water Act (33 U.S.C. §1251 et seq.); (vi) the Clean Air Act (42 U.S.C. §7401 et seq.); (vii) the Safe Drinking Water Act (21 U.S.C. §349; 42 U.S.C. §201 and §300f et seq.); (viii) the National Environmental Policy Act of 1969 (42 U.S.C. §4321); (ix) the Superfund Amendment and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendment and Reauthorization Act (40 U.S.C. §1101 et seq.); (xi) the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c.21E; and (xii) the Massachusetts Hazardous Waste Management Act, M.G.L. c.21C.

(ii) "Hazardous Materials" shall mean each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law. Without limiting the generality of the foregoing, the term shall mean and include:

(A) "hazardous substances" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Superfund Amendment and Reauthorization Act of 1986, or Title III of the Superfund Amendment and Reauthorization Act, each as amended, and regulations promulgated thereunder;

(B) "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976, as amended, and regulations promulgated thereunder;

(C) "hazardous materials" as defined in the Hazardous Materials Transportation Act, as amended, and regulations promulgated thereunder;

(D) "chemical substance or mixture" as defined in the Toxic Substances Control Act, as amended, and regulations promulgated thereunder;

(E) "hazardous material" and "oil" as defined in the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, as amended, and regulations promulgated thereunder; and

(F) "hazardous waste" as defined in the Massachusetts Hazardous Waste Management Act, as amended, and regulations promulgated thereunder.

(iii) "Indemnified Parties" shall mean Lender, Lender's parent, subsidiaries and affiliates, each of their respective shareholders, directors, officers, and employees, and the successors and assigns of any of them; and "Indemnified Party" shall mean any one of the Indemnified Parties. Provided however, Indemnified Parties shall not include any owner or operator of the Property that is not, directly or indirectly owned by the holder of this Mortgage or any parent, subsidiaries, affiliate, shareholder, director, officer, employee or agent of such entity or individual.

(iv) "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaching, dumping, or discarding, burying, abandoning, or disposing into the environment.

(v) "Threat of Release" shall mean a substantial likelihood of a Release which requires action to prevent or mitigate damage to the environment which may result from such Release.

(b) Environmental Representations and Warranties of Borrower. Borrower represents and warrants to Lender, except as may otherwise be set forth or disclosed in any environmental reports concerning the Land delivered by the Borrower to the Lender or obtained directly by the Lender (the "Environmental Reports") and to the best of Borrower's knowledge, as follows:

(i) To the best of Borrower's actual knowledge, no condition, activity or conduct exists on or in connection with the Property that constitutes a violation of any Environmental Law.

(ii) To the best of Borrower's actual knowledge, there has been no Release or Threat of Release of any Hazardous Materials on, upon or into the Property.

(iii) There are no existing or closed underground storage tanks (the "USTs") on the Property, except for the USTs disclosed in the Environmental Reports.

(iv) intentionally omitted.

- (v) There are no existing or closed sanitary landfills, solid waste disposal sites, or hazardous waste treatment, storage or disposal facilities on or affecting the Property.
- (vi) No written notice has been received by Borrower from any agency, authority, or unit of government indicating that Borrower has been identified as a potentially responsible party under any Environmental Law.
- (vii) There exists no investigation, action, proceeding, or claim by any agency, authority, or unit of government or by any third party of which Borrower has actual knowledge which could reasonably be expected to result in any liability, penalty, sanction, or judgment under any Environmental Law with respect to any condition, use or operation of the Property or any other real property owned, leased or operated by Borrower in Massachusetts.
- (viii) There has been no claim of which the Borrower has actual knowledge by any party that any use, operation, or condition of the Property has caused any nuisance or any other liability or adverse condition on any other property.

(c) Environmental Covenants of Borrower. The Borrower covenants and agrees with Lender that Borrower shall:

- (i) comply with all Environmental Laws in all material respects;
- (ii) not store (except in compliance with all Environmental Laws pertaining thereto), dispose of, Release or allow the Release of any Hazardous Materials on the Property;
- (iii) neither directly nor indirectly transport or arrange for the transport of any Hazardous Materials (except in compliance with all Environmental Laws pertaining thereto); and
- (iv) upon the reasonable written request of Lender, based on objective evidence that a Release of Hazardous Materials may have occurred, take all such action as may be reasonably necessary (including, without limitation, the conducting of environmental assessments at the sole expense of the Borrower in accordance with subparagraph (e) hereof) to confirm that no Release of Hazardous Materials has occurred.

Provided, however that the foregoing representations and covenants shall not be construed to prevent or limit Borrower from conducting (in

compliance with all applicable Environmental Laws) the business of pharmaceutical manufacturing at the Property, it being acknowledged that such business requires the transport, receipt, presence, storage consumption and use of materials that may or do fall within the definition of Hazardous Materials

(d) Environmental Indemnity. Borrower covenants and agrees, at Borrower's sole cost and expense, to indemnify, defend (at trial and appellate levels, and with attorneys, consultants and experts reasonably acceptable to Lender) and hold each Indemnified Party harmless from and against any and all liens, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, reasonable attorneys', consultants' and experts' fees and disbursements incurred in investigating, defending, settling or prosecuting any claim, litigation or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against such Indemnified Party or the Property and arising directly or indirectly from or out of: (A) the Release or Threat of Release of any Hazardous Materials on, in, under or affecting all or any portion of the Property, regardless of whether or not caused by or within the control of Borrower; (B) the violation of any Environmental Laws relating to or affecting the Property or the Borrower, whether or not caused by or within the control of Borrower; (C) the failure of Borrower to comply fully with the terms and conditions of this Paragraph 7; (D) the violation of any Environmental Laws in connection with other real property of Borrower which gives or may give rise to any rights whatsoever in any party with respect to the Property by virtue of any Environmental Laws; (E) the breach of any representation or warranty contained in this Paragraph 7; or (F) the enforcement of this Paragraph 7, including, without limitation (i) the costs of assessment, containment and/or removal of any and all Hazardous Materials from all or any portion of the Property, (ii) the costs of any actions taken in response to a Release or Threat of Release of any Hazardous Materials on, in, under or affecting all or any portion of the Property to prevent or minimize such Release or Threat of Release so that it does not migrate or otherwise cause or threaten danger to present or future public health, safety, welfare or the environment, and (iii) costs incurred to comply with the Environmental Laws in connection with all or any portion of the Property. Lender's rights under this Paragraph shall be in addition to all other rights of Lender under this Mortgage, and the other Loan Documents and payments by Borrower under this Paragraph shall not reduce Borrower's obligations and liabilities under any of the Loan Documents. Notwithstanding the foregoing, this indemnity shall not apply to any Release of Hazardous Materials first occurring after (i) the taking of

possession of the Property by Lender or any agent or receiver of Lender, or (ii) the taking of title to the Property by Lender or any third party following foreclosure, deed in lieu of foreclosure or similar proceeding.

(e) Notice to Lender. If Borrower receives any notice or obtains knowledge of (i) any potential or known Release or Threat of Release of any Hazardous Materials at or from the Property, notification of which must be given to any governmental agency under any Environmental Law, or notification of which has, in fact, been given to any governmental agency, or (ii) any complaint, order, citation or notice with regard to air emissions, water discharges, or any other environmental health or safety matter affecting Borrower or the Property (an "Environmental Complaint") from any person or entity (including, without limitation, the Environmental Protection Agency), then Borrower shall promptly notify Lender orally and in writing of said Release or Threat of Release or Environmental Complaint. Upon such notification, Lender may, at its election without regard to whether an Event of Default has occurred, but after notice to Borrower, obtain one or more environmental assessments of the Property prepared by a geohydrologist, an independent engineer or other qualified consultant or expert approved by the Lender and reasonably acceptable to Borrower, which evaluates or confirms (i) whether any Hazardous Materials are present in the soil or water at or adjacent to the Property, and (ii) whether the use and operation of the Property comply with all Environmental Laws. Environmental assessments may include detailed visual inspections of the Property, including, without limitation, any and all storage areas, storage tanks, drains, dry wells and leaching areas, and the taking of soil samples, surface water samples and ground water samples, as well as such other investigations or analyses as are necessary or appropriate for a complete determination of the compliance of the Property and the use and operation thereof with all applicable Environmental Laws. All such environmental assessments shall be at the cost and expense of the Borrower, and in scope and expense shall be reasonably related to the magnitude and peril posed by said Release or Threat of Release or Environmental Complaint.

(f) Survival, Assignability, and Transferability.

(i) Except as set forth herein, the warranties, representations and indemnity set forth in subparagraphs (b) and (d) of this Paragraph 7 shall survive the payment and performance of the Secured Obligations and any exercise by Lender of any remedies under this Mortgage, including without limitation, the power of sale, or any other remedy in the nature of foreclosure, and shall not merge with any deed given by Borrower to Lender in lieu of foreclosure or any deed under a power of sale.

- (ii) It is agreed and intended by Borrower and Lender that the warranties, representations, and indemnity set forth above in subparagraphs (b) and (d) of this Paragraph 7 may be assigned or otherwise transferred by Lender to its successors and assigns holding the Note and this Mortgage and shall apply to any claims asserted against Lender or its successors or assigns by any subsequent purchasers of all or any portion of the Property by, through or under Lender, but shall not extend to any subsequent owner or operator of the Property.

8. Use of Property. Borrower shall not permit any use of any Property that is prohibited under the Loan Agreement. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property (other than any such change which would result in the zoning becoming more permissive than the zoning in effect as of the date hereof) or subject the Property to restrictive or negative covenants without Lender's written consent, which consent shall not be unreasonably withheld, delayed or denied. Borrower shall comply with, observe and perform all zoning and other laws affecting the Property, all restrictive covenants affecting the Property, and all licenses and permits affecting the Property.

9. Protection of Lender's Security. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option (provided an Event of Default has occurred and is continuing or Lender's interest may be materially and adversely affected if no action is taken) may make such appearances, disburse such sums and take such action as Lender reasonably deems necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorneys' fees, payment, contest or compromise or any lien or security interest which is prior to the lien or security interest of this Mortgage, and after reasonable notice to Borrower, entry upon the Property to make repairs. Any amounts disbursed by Lender pursuant to this Paragraph 9, with interest thereon, shall become a portion of the Secured Obligations. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable within then (10) days written notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the default rate stated in the Note unless collection from Borrower of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Borrower shall have the right to prepay such amounts in whole or in part at any time. Nothing contained in this Paragraph 9 shall require Lender to incur any expense or do any act.

10. Inspection. Lender may, at Borrower's expense, make or cause to be made with prior notice to Borrower (such notice required to be given only if no Event of Default has occurred) reasonable entries upon and inspections of any Property and subject to the

rights of any tenants during normal business hours, or at any other time when necessary to protect or preserve any Property. When possible such notice shall be given at least two (2) business days prior to such entry and inspection

11. Books and Records.

- (a) Borrower shall keep and maintain at all times at Borrower's address stated in this Mortgage, or such other place as Lender may approve in writing, complete, proper and accurate records and books of account in which full, true and correct entries shall be made in accordance with generally accepted accounting principles reflecting the results of the operation of the Property, and copies of all written contracts, leases and other instruments which affect the Property. Such records, books of account, contracts, leases and other instruments shall be subject to examination, inspection and copying by Lender at any reasonable time by Lender with prior notice to Borrower. Prior to any Event of Default, the cost of same shall be borne by Borrower only once during any twelve month period during which the Secured Obligations remain unpaid. Upon such Event of Default, no prior notice need be given, and all costs thereof shall be borne by Borrower.
- (b) Upon request of Lender in writing, Borrower shall promptly provide Lender with all documents reasonably requested by Lender prepared in the form and the manner called for in such request and as may reasonably relate to the Property or the construction, use, maintenance, operation or condition thereof, or the financial condition of Borrower, and which are in the Borrower's possession, control or ability to prepare, including, without limitation, all leases or leasehold interests granted to or by Borrower, rent rolls and tenant lists, rent and damage deposit ledgers, and including such financial statements and other information as are required in Borrower's Loan Agreement with Bank of even date herewith (the "Loan Agreement").

12. Condemnation. If any Property or any portion thereof shall be taken through condemnation (which term, when used in this Mortgage, shall include any damage or taking by any governmental authority, quasi-governmental authority, any party having the power of condemnation, or any transfer by private sale in lieu thereof), which renders such Property, in the reasonable estimation of Lender, no longer usable by Borrower for its intended purposes, then Borrower authorizes Lender, at Lender's option, as attorney in fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of such Property and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation, or other taking of such Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned and shall be paid to Lender. Borrower authorizes Lender to apply such awards, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, to restoration or repair of such Property or to payment of the

Secured Obligations, only if such Property is rendered unusable as aforesaid, whether or not then due, with the balance, if any, to Borrower. Borrower agrees to execute such further assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or injury that Lender may reasonably require.

13. Borrower and Lien Not Released. From time to time, without affecting the obligation of Borrower or Borrower's successors or assigns to pay the Secured Obligations and to observe the covenants of Borrower contained in this Mortgage and the other Loan Documents, and without affecting the guaranty of any person, corporation, partnership or other entity for payment or performance of the Secured Obligations, and without affecting the lien or priority of lien of this Mortgage on the Property, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any guarantor, and without liability on Lender's part, grant extensions or postponements of the time for payment of the Secured Obligations or any part thereof, release anyone liable on any of the Secured Obligations, release from this Mortgage any part of the Property, take or release other or additional security, , and agree in writing with Borrower and the holder of the Note to modify the rate of interest or terms and time of payment or period of amortization of the Loan or change the amount of the monthly installments payable under the Loan Agreement, as may be permitted thereunder. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred, at Lender's option, for any such action if taken at Borrower's request.

14. Forbearance Not Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy hereunder. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the Secured Obligations. Lender's receipt of any awards, proceeds or damages under Paragraphs 4 and 12 hereof shall not operate to cure or waive Borrower's default in payment of the Secured Obligations.

15. Estoppel Certificates. Borrower shall within ten (10) business days of a written request from Lender (which shall not be requested more than twice during any twelve month period) furnish Lender with a written statement, duly acknowledged, setting forth the amount of the Secured Obligations and any right of set-off, counterclaim or other defense which may exist or be claimed by Borrower against the Secured Obligations and the obligations of Borrower under this Mortgage.

16. Security Agreement. Insofar as any item of property included in the Property which is or might be deemed to be "personal property" is concerned, this Mortgage is hereby made and declared to be a security agreement, granting a security interest in and to each and every item of such property included in the Property (hereinafter collectively referred to as the "Collateral"), in compliance with the provisions of the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts. A financing statement or statements reciting this Mortgage to be a security agreement,

covering all of the Collateral, may be appropriately filed by Lender. The remedies for any violation of the covenants, terms and conditions of the security agreement herein contained shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Lender's sole election. Borrower and Lender agree that the filing of such financing statement(s) in the records normally having to do with personal property shall never be construed as in any way derogating from or impairing this declaration and hereby stated intention of Borrower and Lender that everything used in connection with the production of income from the Property and/or adapted for use therein and/or which is described or reflected in this Mortgage, is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such item is physically attached to the Land or the Improvements, (ii) serial numbers are used for the better identification of certain items capable of being thus identified in a recital contained herein, or (iii) any such item is referred to or reflected in any such financing statement(s) so filed at any time. Similarly, the mention in any such financing statement(s) of the rights in and to the proceeds of any hazard insurance policy, or any award in eminent domain proceedings for a taking or for loss of value, or Borrower's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Property, whether pursuant to lease or otherwise, shall never be construed as in any way altering any of the rights of Lender as determined by this instrument or impugning the priority of Lender's lien granted hereby or by any other recorded document, but such mention in such financing statement(s) is declared to be for the protection of Lender in the event any court shall at any time hold, with respect to any such matter, that notice of Lender's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records.

17. Leases and Revenues.

- (a) As part of the consideration for the Secured Obligations, Borrower has absolutely and unconditionally assigned and transferred to Lender all of Borrower's right, title and interest in and to the Leases and the Revenues, including those now due, past due or to become due by virtue of any Lease for the occupancy or use of all or any part of the Property. Borrower hereby authorizes Lender or Lender's agents to collect the Revenues and hereby directs such tenants, lessees and licensees of the Property to pay the Revenues to Lender or Lender's agents; provided, however, that prior to written notice given by Lender to Borrower of any Event of Default by Borrower, Borrower shall collect and receive the Revenues as Lender for the benefit of Lender, to apply the Revenues so collected to the Secured Obligations, to the extent then due, with the balance, so long as no Event of Default has occurred, to the account of Borrower. Borrower agrees that each and every tenant, lessee and licensee of the Property shall pay, and hereby irrevocably authorizes and directs each and every tenant, lessee and licensee of the Property to pay, the Revenues to Lender or Lender's agents on Lender's written demand

therefor without any obligation on the part of said tenant, lessee or licensee to inquire as to the existence of an Event of Default and notwithstanding any notice or claim of Borrower to the contrary, and Borrower agrees that Borrower shall have no right or claim against said tenant, lessee or licensee for or by reason of any Revenues paid to Lender following receipt of such written demand.

- (b) Borrower hereby covenants that Borrower has not executed any prior assignment of the Leases or the Revenues (other than in favor of Lender), that Borrower has not performed, and will not perform, any acts or has not executed, and will not execute, any instruments which would prevent Lender from exercising the rights of holder under this Mortgage, and that at the time of execution of this Mortgage, there has been no anticipation or prepayment of any of the Revenues for more than one (1) month prior to the due dates of such Revenues, except for last months' rents collected and security deposits. Borrower further covenants that Borrower will not hereafter collect or accept payment of any Revenues more than one (1) month prior to the due dates of such Revenues.
- (c) Borrower agrees that neither the foregoing assignment of Leases and Revenues nor the exercise of any of Lender's rights and remedies under Paragraph 22 hereof shall be deemed to make Lender a mortgagee-in-possession or otherwise responsible or liable in any manner with respect to the Leases, the Property or the use, occupancy, enjoyment or operation of all or any portion thereof, unless and until Lender, in person or by agent, assumes actual possession thereof. Nor shall the appointment of any receiver for the Property by any court at the request of Lender or by agreement with Borrower, or the entering into possession of any part of the Property by such receiver, be deemed to make Lender a mortgagee-in-possession or otherwise responsible or liable in any manner with respect to the Leases, the Property or the use, occupancy, enjoyment or operation of all or any portion thereof.
- (d) If Lender or a court-appointed receiver enters upon, takes possession of and maintains control of the Property pursuant to Paragraph 22 hereof, all Revenues thereafter collected shall be applied first to the reasonable costs of taking control of and managing the Property and collecting the Revenues, including, but not limited to, reasonable attorneys' fees actually incurred, receiver's fees, premiums on receiver's notes, costs of repairs to the Property, premiums on insurance policies, Impositions and other charges on the Property, and the costs of discharging any obligation or liability of Borrower as landlord, lessor or licensor of the Property and then to the Secured Obligations. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those Revenues actually received. Lender shall not be liable to Borrower, anyone claiming under or

through Borrower or anyone having an interest in the Property by reason of anything done or left undone by Lender pursuant to Paragraph 22 hereof except as a result of Lender's gross negligence or willful misconduct. If the Revenues are not sufficient to meet the costs of taking control of and managing the Property and collecting the Revenues, any monies expended by Lender for such purposes shall become a portion of the Secured Obligations. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable within ten (10) days written notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the default rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. The entering upon and taking possession of and maintaining of control of the Property by Lender or the receiver pursuant to Paragraph 22 hereof and the application of Revenues as provided herein shall not cure or waive any Event of Default or invalidate any other right or remedy of Lender hereunder.

18. Leases of the Property. . Borrower shall not, without the prior written consent of Lender, which shall not be unreasonably withheld, delayed or denied (i) enter into any new Lease of all or any part of the Property other than in the ordinary course of operating Borrower's business at the Property; (ii) modify any of the Leases other than in the ordinary course of operating Borrower's business at the Property; (iii) terminate the term or accept the surrender of any of the Leases; (iv) waive or release the Tenant from the performance or observation by the Tenant of any obligation or condition of any of the Leases; (v) give any consent to any assignment by the Tenant under any of the Leases; (vi) agree to subordinate any of the Leases to any mortgage or other encumbrance other than in favor of the Bank; or (viii) modify the terms of any guaranty of any of the Leases, or terminate any such guaranty. Each lease on any portion of the Property shall be absolutely subordinate to the lien of this Mortgage, and shall contain a provision reasonably satisfactory to the Lender that in the event of the exercise of the power of sale or a foreclosure hereunder, such lease, at the option of the purchaser at such sale, shall not be terminated and the tenant thereunder shall attorn to such purchaser, and if requested to do so, shall enter into a new lease for the balance of the term of such lease then remaining upon the same terms and conditions. Borrower, at Lender's written request, shall furnish Lender with executed copies of all Leases hereafter made of all or any part of the Property, and all Leases now or hereafter entered into will be in form and substance subject to the approval of Lender, which approval shall not be unreasonably withheld, delayed or denied. Upon Lender's request, Borrower shall make a separate and distinct assignment to Lender, as additional security, of all Leases hereafter made of all or any part of the Property.

19. Remedies Cumulative. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or under the other Loan

Documents or afforded by law or equity, and may be exercised concurrently, independently or successively.

20. Taxation of Mortgages. In the event of the enactment of any law deducting from the value of the Property any mortgage lien thereon, or imposing upon Lender the payment of all or part of the taxes, charges or assessments previously paid by Borrower pursuant to this Mortgage, or changing the law relating to the taxation of mortgages or debts secured by mortgages in the Property so as to impose new incidents of tax on Lender, then Borrower shall pay such taxes or assessments or shall reimburse Lender, provided that, however, if in the opinion of counsel to Lender, such payment cannot lawfully be made by Borrower, then Lender may, at Lender's option, declare the Secured Obligations to be due and payable within 30 days after such declaration and to otherwise invoke within thirty (30) days after such declaration any remedies permitted by Paragraph 22 of this Mortgage.

21. Events of Default and Acceleration. The term "Event of Default", wherever used in this Mortgage, shall mean any one or more of the following conditions or events:

- (a) Failure by Borrower to pay as and when due and payable any interest on or principal of or other sum payable under the Note, subject to any notice and cure period contained therein or in that certain Loan Agreement of even date herewith (the "Loan Agreement"), or the occurrence of any "Event of Default" as such term is defined in the Loan Agreement; or
- (b) Failure by Borrower to pay as and when due and payable any other sums to be paid by Borrower under this Mortgage (including, but not limited to, any payment of Funds), and if no time is provided for payment of any amount due hereunder, then within ten (10) days after written notice from Lender to Borrower thereof; or
- (c) Failure by Borrower to duly observe or perform any term, covenant, condition or agreement contained in Paragraphs 3, 4, or 6 of this Mortgage; or
- (d) Failure by Borrower to duly observe or perform any other term, covenant, condition or agreement of this Mortgage or the Loan Agreement and the continuance of such failure for a period of thirty (30) days after written notice thereof from Lender; provided, however, that if such other obligation, covenant, condition or agreement cannot be cured within such thirty (30) day period; and provided that Borrower has promptly initiated a cure and diligently prosecutes such cure, the thirty (30) day period specified herein shall be expanded to such period of time as may be reasonably required to effect such cure; or

- (e) Any representation or warranty of Borrower contained in this Mortgage shall prove to have been knowingly false or incorrect in any material respect upon the date when made; or
- (f) The filing by any Borrower of a voluntary petition in bankruptcy under Title 11 of the United States Code, or the issuing of an order for relief against any Borrower or any guarantor in any involuntary petition in bankruptcy under Title 11 of the United States Code, or the filing by any Borrower of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or, other relief for debtors, or any Borrower's seeking or consenting to or acquiescing in the appointment of any custodian, trustee, receiver, conservator or liquidator of any Borrower, respectively, or of all or any substantial part of its respective property, or the making by any Borrower of any assignment for the benefit of creditors, or any Borrower's failure generally to pay its debts, as such debts become due, or Borrower's giving of notice to any governmental authority or body of insolvency or pending insolvency or suspension of operations; or
- (g) The entry by a court of competent jurisdiction of any order, judgment or decree approving a petition filed against any Borrower seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or appointing any custodian, trustee, receiver, conservator or liquidator of all or any substantial part of any Borrower's property and not released, discharged or terminated within sixty (60) days; or
- (h) The breach of the STATUTORY CONDITION herein contained.

If an Event of Default shall have occurred, Lender may, at Lender's option, by notice to Borrower declare the entire Secured Obligations to be due and payable, whereupon the same shall become due and payable on such date, subject to any applicable grace periods, and without presentment, protest, further demand or other notice of any kind, all of which are hereby expressly waived by Borrower; provided that if any Event of Default specified in clauses (f) or (g) of this Paragraph shall occur, the Secured Obligations automatically shall become and be immediately due and payable, without any declaration or other act on the part of Lender. No omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right.

22. Rights and Remedies.

(a) Power of Sale and other Remedies. Upon the occurrence of any Event of Default, and whether or not Lender shall have accelerated the maturity of the Secured Obligations pursuant to Paragraph 21 hereof, Lender, at its option, may:

- (i) exercise the STATUTORY POWER OF SALE;
- (ii) either with or without entering upon or taking possession of the Property, demand, collect and receive any or all Revenues;
- (iii) take possession of all or any part of the Collateral, and for such purpose Lender may, so far as Borrower can give authority, enter upon any premises on which the Collateral or any part thereof may be situated and remove the same;
- (iv) either with or without taking possession of the Collateral, sell, lease or otherwise dispose of the Collateral in its then condition or following such preparation as Lender reasonably deems advisable;
- (v) either with or without entering upon or taking possession of the Property, and without assuming any obligations of Borrower thereunder, exercise the rights of Borrower under, use or benefit from, any of the Contracts, Leases or Intangible Property;
- (vi) in person, by agent or by court-appointed receiver, enter upon, take possession of, and maintain full control of the Property in order to perform all acts necessary or appropriate to complete construction of the Improvements and to maintain and operate the Property, including, but not limited to, the execution, cancellation or modification of Leases, the making of repairs to the Property and the execution or termination of contracts providing for the construction, management or maintenance of the Property, all on such terms as Lender, in its sole discretion, deems proper or appropriate;
- (vii) proceed by a suit or suits in law or in equity or by other appropriate proceeding to enforce payment of the Secured Obligations or the performance of any term, covenant, condition or agreement of this Mortgage, the Note or any of the other Loan Documents, or any other right, and to pursue any other remedy available to it, all as Lender shall determine most effectual for such purposes;
- (viii) institute and maintain such suits and proceedings as Lender may deem expedient to prevent any impairment of the Property by any acts which may be unlawful or in violation of this Mortgage, to preserve or protect its interest in the Property and the Revenues,

and to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that would impair the security hereunder or be prejudicial to the interest of Lender;

- (ix) apply all or any portion of the Property, or the proceeds thereof, towards (but not necessarily in complete satisfaction of) the Secured Obligations;
 - (x) foreclose any and all rights of Borrower in and to the Property, whether by sale, entry or in any other manner provided for hereunder or under the laws of the Commonwealth of Massachusetts;
 - (xi) in the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrower or the creditors or property of Borrower, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount of the Secured Obligations at the date of the Borrower of such proceedings and for any additional portion of the Secured Obligations accruing after such date;
 - (xii) exercise any other right or remedy of a mortgagee or secured party under the laws of the Commonwealth of Massachusetts.
- (b) Receiver. If an Event of Default shall have occurred, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right without notice and without regard to the occupancy or value of any security for the Secured Obligations or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Property and to collect and apply the Revenues. The receiver shall have all of the rights and powers permitted under the laws of the Commonwealth of Massachusetts Borrower will pay to Lender upon demand, all reasonable expenses, including receiver's fees, attorneys' fees, costs and agent's compensation, incurred pursuant to such appointment and all such expenses shall be a portion of the Secured Obligations.
- (c) Sale or Other Disposition of Property. Any sale or other disposition of the Collateral may be at public or private sale, to the extent such private sale is authorized under the provisions of the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts upon such terms and in such manner as Lender deems advisable. Lender may conduct any such sale or other disposition of the Property upon the Land, in which event

Lender shall not be liable for any rent or charge for such use of the Land. Lender may purchase the Property, or any portion of it, at any sale held under this Paragraph 22. With respect to any Collateral to be sold pursuant to the Uniform Commercial Code, Lender shall give Borrower at least ten (10) days written notice of the date, time, and place of any proposed public sale, or such additional notice as may be required under the laws of the Commonwealth of Massachusetts, and of the date after which any private sale or other disposition may be made. Lender may sell any of the Collateral as part of the real property comprising the Property, or any portion or unit thereof, at the foreclosure sale or sales conducted pursuant hereto. If the provisions of the Uniform Commercial Code are applicable to any part of the Collateral which is to be sold in combination with or as part of the real property comprising the Property, or any part thereof, at one or more foreclosure sales, any notice required under such provisions shall be fully satisfied by the notice given in execution of the STATUTORY POWER OF SALE with respect to the real property or any part thereof. Borrower waives any right to require the marshalling of any of its assets in connection with any disposition conducted pursuant hereto. In the event all or part of the Property is included at any foreclosure sale conducted pursuant hereto, a single total price for the Property, or such part thereof as is sold, may be accepted by Lender with no obligation to distinguish between the application of such proceeds amongst the property comprising the Property.

(d) Collection of Revenues. In connection with the exercise by Lender of the rights and remedies provided for in subparagraph (a)(ii) of this Paragraph 22:

- (i) Lender may notify any tenant, lessee or licensee of the Property, or any account debtor either in the name of Lender or Borrower, to make payment of Revenues directly to Lender or Lender's agents, may advise any person of Lender's interest in and to the Revenues, and may collect directly from such tenants, lessees and licensees all amounts due on account of the Revenues;
- (ii) At Lender's request, Borrower will provide written notification to any or all tenants, lessees and licensees of the Property and account debtors concerning Lender's interest in the Revenues and will request that such tenants, lessees and licensees and account debtors forward payment thereof directly to Lender;
- (iii) Borrower shall hold any proceeds and collections of any of the Revenues in trust for Lender and shall not commingle such proceeds or collections with any other funds of Borrower; and

- (iv) Borrower shall deliver all such proceeds to Lender immediately upon the receipt thereof by Borrower in the identical form received, but duly endorsed or assigned on behalf of Borrower to Lender.
- (e) Use and Occupation of Property. In connection with the exercise of Lender's rights under Subparagraph (a)(vi) of this Paragraph 22, Lender may enter upon, occupy, and use all or any part of the Property and may exclude Borrower from the Land and the Improvements or portion thereof as may have been so entered upon, occupied, or used. Lender shall not be required to remove any Personal Property from the Land and the Improvements upon Lender's taking possession thereof, and may render any Personal Property unusable to Borrower. In the event Lender manages the Land and the Improvements in accordance with Subparagraph (a)(vi) herein, Borrower shall pay to Lender on demand a reasonable fee for the management thereof in addition to the Secured Obligations. Further, Lender may construct such Improvements on the Land or make such alterations, renovations, repairs, and replacements to the Improvements, as Lender, in its sole discretion, deems proper or appropriate. The obligation of Borrower to pay such amounts and all expenses incurred by Lender in the exercise of its rights hereunder shall be included in the Secured Obligations and shall accrue interest at the default rate of interest stated in the Loan Agreement.
- (f) Partial Sales. Borrower agrees that in case Lender, in the exercise of the power of sale contained herein or in the exercise of any other rights hereunder given, elects to sell in parts or parcels, said sales may be held from time to time and that the power shall not be exhausted until all of the Property not previously sold shall have been sold, notwithstanding that the proceeds of such sales exceed, or may exceed, the Secured Obligations.
- (g) Assembly of Collateral. Upon the occurrence of any Event of Default, Lender may require Borrower to assemble the Collateral and make it available to Lender, at Borrower's sole risk and expense, at a place or places to be designated by Lender that are reasonably convenient to both Lender and Borrower.
- (h) Power of Attorney. Upon the occurrence of any Event of Default, Borrower hereby irrevocably constitutes and appoints Lender as Borrower's true and lawful attorney in fact to take any action with respect to the Property reasonably necessary to preserve, protect, or realize upon Lender's interest therein, each at the sole risk, cost and expense of Borrower, except in connection with Lender's gross negligence or willful misconduct, but for the sole benefit of Lender. The rights and powers granted Lender by the within appointment include, but are not limited to, the right and power to: (i) prosecute, defend, compromise, settle, or release any action relating to the Property; (ii) endorse the name of

Borrower in favor of Lender upon any and all checks or other items constituting Revenues; (iii) sign and endorse the name of Borrower on, and to receive as secured party, any of the Collateral; (iv) sign and file or record on behalf of Borrower any financing or other statement in order to perfect or protect Lender's security interest; (v) enter into leases or subleases relative to all or a portion of the Land or the Improvements; (vi) enter into any contracts or agreements relative to, and to take all action deemed necessary in connection with, the construction of any Improvements on the Land; (vii) manage, operate, maintain, or repair the Land and the Improvements; and (viii) exercise the rights of Borrower under any Contracts, Leases, or Intangible Personal Property. Lender shall not be obligated to perform any of such acts or to exercise any of such powers, but if Lender elects so to perform or exercise, Lender shall not be accountable for more than it actually receives as a result of such exercise of power, and shall not be responsible to Borrower except for Lender's willful misconduct or gross negligence. All powers conferred upon Lender by this Mortgage, being coupled with an interest, shall be irrevocable until terminated by a written instrument executed by a duly authorized officer of Lender.

23. Notices. Except as otherwise specified in this Mortgage, any and all notices, demands, elections or requests provided for or permitted to be given pursuant to this Mortgage (hereinafter in this Paragraph 23 referred to as "Notice") shall be in writing and shall be deemed to have been properly given or served by personal delivery or by sending same by overnight courier or by depositing same in the United States Mail, postpaid and registered or certified, return receipt requested, and addressed to the addresses set forth on page one hereof. A duplicate copy of each Notice to Lender shall be sent to to Cathay Bank, 9650 Flair Drive, El Monte, CA 91731, Att: Ken Chan, Vice President, Business Development Department, and to Siri F. Boreske, Esq., 189 Bay State Road, Boston, Massachusetts 02215. A copy of each Notice to Borrower shall be sent to Armstrong Pharmaceuticals, Inc., c/o Amphastar Pharmaceuticals, Inc., 11570 Sixth Street, Rancho Cucamonga, CA 91730, Att: General Counsel. Each Notice shall be effective upon being personally delivered or upon being sent by overnight courier or upon being deposited in the United States Mail as aforesaid. However, the time period in which a response to such Notice must be given or any action taken with respect thereto, if any, shall commence to run from the date of receipt if personally delivered or sent by overnight courier, or, if so deposited in the United States Mail, the earlier of three (3) business days following such deposit and the date of receipt as disclosed on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address for which no Notice was given shall be deemed to be receipt of the Notice sent. By giving at least thirty (30) days prior Notice thereof, Borrower or Lender shall have the right from time to time and at any time during the term of this Mortgage to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

24. Successors and Assigns Bound; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Paragraph 6 hereof. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

25. Governing Law; Severability. This Mortgage and the obligations of Borrower hereunder shall be governed by and interpreted and determined in accordance with the laws of the Commonwealth of Massachusetts. In the event that any provision or clause of this Mortgage or the Loan Documents conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Loan Documents that can be given effect without the conflicting provision, and to this end, the provisions of this Mortgage and the Loan Documents are declared to be severable. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge for which provision is made in this Mortgage or in the Loan Agreement, whether considered separately or together with other charges permitted to be collected from Borrower, is interpreted so that any such charge, whether considered separately or together with other charges that are considered a part of the transaction represented by this Mortgage and the Loan Agreement, violates such law, and Borrower is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Lender in excess of the amounts payable to Lender pursuant to such charges as reduced shall be applied by Lender to reduce the principal of the Secured Obligations.

26. Discharge. Upon full and final payment and performance of the Secured Obligations, Lender shall discharge this Mortgage. Borrower shall pay Lender's reasonable costs incurred in discharging this Mortgage.

27. Waivers. Borrower agrees to the full extent permitted by law, that in case of an Event of Default hereunder, neither Borrower nor anyone claiming through or under Borrower shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension, homestead, exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Property, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and Borrower, for Borrower and all who may at any time claim through or under Borrower, hereby waives to the fullest extent that Borrower may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprised in the security intended to be created hereby marshalled upon any foreclosure of the lien hereof. No delay or omission of Lender or of any holder of the Note to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein; and every right, power and remedy given by this Mortgage to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver, expressed or implied, by Lender to or of any Event of Default shall be deemed or construed to be a consent or waiver to or of any other Event of Default. Failure on

the part of Lender to complain of any act or failure to act which constitutes an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Lender of Lender's rights hereunder or impair any rights, powers or remedies consequent on any Event of Default. No act or omission of Lender as described in Paragraph 13 above shall preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any Event of Default then made or of any subsequent Event of Default; nor, except as otherwise expressly provided in an instrument or instruments executed by Lender, shall the lien of this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Property, Lender, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Property or the Secured Obligations or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings (including, without limitation, the restrictions upon transfer contained in Paragraph 6).

28. Further Assurances. At any time and from time to time, upon request by Lender, Borrower will make, execute and deliver, or cause to be made, executed and delivered, to Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Lender, any and all such other and further assignments, mortgages, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the reasonable determination of Lender, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve (a) the obligations of Borrower under this Mortgage, and (b) the lien and security interest created by this Mortgage upon the Property. Upon any failure by Borrower so to do, Lender may make, execute, record, file, re-record and/or refile any and all such assignments, mortgages, security agreements, financing statements, continuation statements, instruments, certificates, and documents for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender the agent and attorney in fact of Borrower so to do.

29. Subrogation. Lender shall be subrogated to all right, title, lien or equity of all persons to whom Lender may have paid any monies in settlement of liens, charges or assessments, or in acquisition of title or for its benefit hereunder, or for the benefit or account of Borrower subsequently paid under any provisions hereof.

30. Time of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Borrower under this Mortgage, the Loan Agreement, and any and all other Loan Documents.

31. Indemnification; Subrogation; Waiver of Offset.

(a) Borrower shall indemnify, defend and hold Lender harmless against: (i) any and all claims for brokerage, leasing, finders or similar fees which may

be made relating to the Property or the Secured Obligations, and (ii) any and all liability, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses (including Lender's reasonable attorneys' fees, together with reasonable appellate counsel fees, if any) of whatever kind or nature which may be asserted against, imposed on or incurred by Lender in connection with the Secured Obligations, this Mortgage, the Property, or any part thereof, or the exercise by Lender of any rights or remedies granted to it under this Mortgage; provided, however, that nothing herein shall be construed to obligate Borrower to indemnify, defend and hold harmless Lender from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses enacted against, imposed on or incurred by Lender by reason of Lender's willful misconduct or negligence.

- (b) If Lender is made a party defendant to any litigation or any claim is threatened or brought against Lender concerning the Secured Obligations, this Mortgage, the Property, or any part thereof, or any interest therein, or the construction, maintenance, operation or occupancy or use thereof, then Borrower shall indemnify, defend and hold Lender harmless from and against all liability by reason of said litigation or claims, including reasonable attorneys' fees (together with reasonable appellate counsel fees, if any) and expenses incurred by Lender in any such litigation or claim, whether or not any such litigation or claim is prosecuted to judgment; provided, however, that nothing herein shall be construed to obligate Borrower to indemnify, defend and hold harmless Lender from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses enacted against, imposed on or incurred by Lender by reason of Lender's willful misconduct or gross negligence. If following the occurrence and continuance of an Event of Default, Lender commences an action against Borrower to enforce any of the terms hereof or to prosecute any breach by Borrower of any of the terms hereof or to recover any sum secured hereby, Borrower shall pay to Lender its reasonable attorneys' fees (together with reasonable appellate counsel, fees, if any) and expenses provided, however, that in such litigation the Lender shall be the prevailing party. The right to such attorneys' fees (together with reasonable appellate counsel fees, if any) and expenses shall be deemed to have accrued on the commencement of such action, and shall be enforceable whether or not such action is prosecuted to judgment. If an Event of Default has occurred and is continuing, Lender may engage the services of an attorney or attorneys to protect its rights hereunder, and in the event of such engagement, Borrower shall pay Lender reasonable attorneys' fees (together with reasonable appellate counsel fees, if any) and expenses incurred by Lender, whether or not an action is actually commenced against Borrower by reason of such Event of Default. All references to "attorneys" in this subparagraph and elsewhere in this Mortgage shall include without

limitation any attorney or law firm engaged by Lender, and all references to "fees and expenses" in this subparagraph and elsewhere in this Mortgage shall include without limitation any reasonable fees of such attorney.

- (c) A waiver of subrogation shall be obtained by Borrower from its insurance carrier in form and substance reasonably acceptable to Lender. Borrower waives any and all right to claim or recover against Lender, its officers, employees, agents and representatives, for loss of or damage to Borrower, the Property, Borrower's property or the property of others under Borrower's control from any cause insured against or required to be insured against by the provisions of this Mortgage; provided however that the foregoing waiver shall not apply to any claim arising from the gross negligence or willful misconduct of Lender, its officers, employees, agents and representatives and any related insurance deductible amount.
- (d) All sums payable by Borrower hereunder shall be paid without notice (except as may otherwise be provided herein), demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Borrower hereunder shall in no way be released, discharged or otherwise affected by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Property or any part thereof; (ii) any restriction or prevention of or interference with any use of the Property or any part thereof; (iii) any title defect or encumbrance or any eviction from the Land or the Improvements on the Land or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation, or other like proceeding relating to Lender, or any action taken with respect to this Mortgage by any Lender or receiver of Lender, or by any court, in such proceeding; (v) any claim which Borrower has, or might have, against Lender; (vi) any default or failure on the part of Lender to perform or comply with any of the terms hereof or of any other agreement with Borrower; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Borrower shall have notice or knowledge of any of the foregoing. Borrower waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution, or reduction of any sum secured hereby and payable by Borrower.

IN WITNESS WHEREOF, Borrower has executed this Mortgage under seal, as of the day and year first above written.

AMPHASTAR PHARMACEUTICALS, INC.

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By: _____
/s/ JACK Y. ZHANG
Jack Y. Zhang, Chief Executive Officer

By: _____
/s/ WILLIAM J. PETERS
William J. Peters, CFO/Treasurer

SCHEDULE A

**DESCRIPTION OF PROPERTY
(25 Dan Road, Canton, MA)**

A certain parcel of land in the Town of Canton, Norfolk County, Commonwealth of Massachusetts shown as Lot 40 on a plan entitled "Subdivision Plan of Land in Canton" by the BSC Group, Inc., Surveyors dated September 21, 1992 and filed with the Norfolk County Registry District of the Land Court as Plan No. 370810.

Together with the appurtenant right, in common with all others entitled thereto, to use Dan Road and John Road for all purposes for which ways are commonly used in the Town of Canton as set forth in deed of Boston Sand & Gravel Company dated June 5, 1980 and filed as Document No. 402842.

Together with the benefit of the rights set forth in deed of J.M.D. Realty, Inc. dated August 15, 1986 and filed as Document No. 498786.

For Mortgagor's title, see deed dated March 2, 2007 and filed with Norfolk County Registry District of the Land Court as Document No. 1123644, and noted on Certificate of Title No. 174316

COLLATERAL ASSIGNMENT OF LEASES AND RENTS

(Property Address: 25 John Road, Canton, MA)

THIS COLLATERAL ASSIGNMENT OF LEASES AND RENTS (hereinafter referred to as this "Assignment"), granted as of this 14th day of August, 2017 by Armstrong Pharmaceuticals, Inc. a Delaware corporation with a principal place of business at 25 John Road, Canton, Massachusetts as grantor or assignee ("Borrower") to Cathay Bank, a California banking corporation having an address at 9650 Flair Drive, El Monte, CA 91731 (the "Lender"), as the grantee or the assignee.

NOW THEREFORE, IN CONSIDERATION of good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the indebtedness and other obligations of Borrower hereinafter set forth, Borrower does hereby grant, transfer and assign to Lender, its successors, successors-in-title and assigns, all of Borrower's right, title and interest in, to and under any and all leases, tenancies, agreements or licenses, written or oral, now existing or hereafter entered into by Borrower as "landlord", "lessor" or "licensor", for the use or occupancy of all or any portion of the real property owned by Borrower and situated at 25 John Road, Canton, Massachusetts, as more particularly described in Exhibit A attached hereto and by this reference made a part hereof, including any and all extensions, renewals and modifications thereof and guaranties of the performance or obligations of any tenants, lessees or licensees thereunder (said leases, tenancies, agreements and licenses are hereinafter referred to collectively as the "Leases," and said tenants, lessees and licensees are hereinafter referred to collectively as "Tenants" or individually as a "Tenant" as the context requires), together with all of Borrower's right, title and interest in and to all rents, issues and profits from the Leases and from the Property. This Assignment constitutes a present and absolute assignment of leases and rents, subject only to Borrower's rights under Paragraph 1.03(a) hereof.

TO HAVE AND TO HOLD unto Lender, its successors and assigns forever, subject to and upon the terms and conditions set forth herein.

This Assignment is made for the purpose of securing:

- (a) All payments to be made to the Lender by Borrower under that certain Commercial Real Estate Term Note from Borrower to Lender dated as of even date herewith in the maximum principal amount of Seven Million Eight Hundred Sixty Five Thousand (\$7,865,000) Dollars (the "Note," and together with the Mortgage and Security Agreement of even date herewith granted to the Lender and encumbering the Property (the "Mortgage"), this Assignment and all other documents executed and delivered in connection therewith, (hereinafter collectively referred to as the "Loan Documents"), each as they may be extended, renewed, amended, modified, restated, or replaced.
- (b) The full and prompt payment and performance of all of the provisions, agreements, covenants and obligations herein contained and contained in the Loan Documents and all obligations therein described and defined, including but not limited to without limitation: (i) all of the provisions, agreements, covenants and obligations under any other agreements, documents or instruments now or hereafter evidencing, securing or otherwise relating to the Note, (iii) all obligations to the Lender under any interest rate swap agreements, interest rate cap agreements, interest rate collar agreements, and all other agreements or arrangements with the Lender designed to protect the Borrower against fluctuations in interest rates or currency exchange rates under the Loan Documents, (iv) any and all additional advances made by Lender to protect or preserve the Property or the security interest created on the Property, or for taxes, assessments or insurance premiums as hereinafter provided or for performance of any of Borrower's obligations hereunder or under the other Loan Documents or for any other purpose provided herein or in the other Loan Documents (whether or not the Borrower remains the owner of the Property at the time of such advances); and (v) all loans, advances, debts, liabilities, obligations (including without limitation for reimbursement in connection with guaranties and letters of credit), agreements, undertakings, covenants and duties owing or to be performed or observed by Borrower to or in favor of Lender, of every kind and description, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising under the Loan.

As further security for the Obligations and the full and prompt payment and performance of any and all obligations of Borrower to Lender under the Loan Documents, Borrower hereby assigns to Lender any awards or payments which may be made in respect of Borrower's interest in any of the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court. Borrower hereby

appoints Lender as its attorney-in-fact to appear in any such proceeding and/or to collect any such award or payment.

ARTICLE I : WARRANTIES AND COVENANTS

1.01 Representations and Warranties of Borrower.

(a) Borrower hereby represents and warrants that Borrower is currently the sole occupant of the Property.

(b) Neither the execution and delivery of this Assignment, the performance of each and every covenant of Borrower under this Assignment, nor the meeting of each and every condition contained in this Assignment, conflicts with, or constitutes a breach or default under, any agreement, indenture or other instrument to which Borrower is a party, or any law, ordinance, administrative regulation or court decree which is applicable to Borrower;

(c) No action has been brought or, so far as is actually known to Borrower, is threatened in writing, which would interfere in any material way with the right of Borrower to execute this Assignment and perform all of Borrower's obligations contained in this Assignment.

1.02 Covenants of Borrower. Borrower hereby covenants and agrees as follows that in the event that there are any Leases and future Tenants:

(a) Borrower shall (i) fulfill, perform and observe each and every material term, condition and covenant of landlord or lessor contained in each of the Leases; (ii) give prompt notice to Lender of any written claim of default under any of the Leases, whether given by the Tenant to Borrower, or given by Borrower to the Tenant, together with a complete copy of any such notice; (iii) at no cost or expense to Lender, enforce, short of termination, the performance and observance of each and every term, condition and covenant of each of the Leases to be performed or observed by the Tenant thereunder; and (iv) appear in and defend any action arising out of, or in any manner connected with, any of the Leases, or the obligations or liabilities of Borrower as the landlord or lessor thereunder, or of the Tenant or any guarantor thereunder;

(b) Borrower shall not, without the prior written consent of Lender, (i) permit the prepayment of any rents under any of the Leases for more than one (1) month prior to the accrual thereof other than last month's rents and security deposits; or (ii) assign its interest in, to or under any of the Leases or the rents, issues and profits from any of the Leases or from the Property to any person or entity other than Lender;

(c) Borrower shall not, without the prior written consent of Lender, which shall not be unreasonably withheld, delayed or denied (i) enter into any new Lease of all or any part of any Property other than in the ordinary course of operating Borrower's business at such Property; (ii) modify any of the Leases other than in the ordinary course of operating Borrower's business at any Property; (iii) terminate the term or accept the surrender of any of the Leases; (iv) waive or release the Tenant from the performance or observation by the Tenant of any obligation or condition of any of the Leases; (v) give any consent to any assignment by the Tenant under any of the Leases; (vi) agree to subordinate any of the Leases to any mortgage or other encumbrance other than in favor of the Bank; or (vii) modify the terms of any guaranty of any of the Leases, or terminate any such guaranty;

(d) Borrower shall take no action that will cause or permit the estate of the Tenant under any of the Leases to merge with the interest of Borrower in any Property or any portion thereof;

(e) Borrower does hereby authorize and empower Lender to collect all rents, issues and profits arising or accruing under the Leases or from any Property as they become due, and does hereby irrevocably authorize and direct, each and every present and future Tenant of the whole or any part of any Property, upon receipt of written notice from Lender, to pay all rents, issues and profits thereafter arising or accruing under the Leases or from any Property to Lender and to continue to do so until otherwise notified by Lender, and Borrower agrees that each and every Tenant shall have the right to rely upon such notice by Lender without any obligation or right to inquire as to whether any Event of Default exists and notwithstanding any notice or claim of Borrower to the contrary, and that Borrower shall have no right or claim against any Tenant for any rents paid by such Tenant to Lender following receipt of such notice.

To the extent Borrower enters into a Lease subsequent to the date hereof, such Lease and Borrower's representations and covenants under Sections 1.01 and 1.02, respectively, shall be deemed to apply thereto.

1.03 Covenants of Lender. Lender hereby covenants and agrees with Borrower as follows:

(a) Although this Assignment constitutes a present, current and absolute assignment of all Leases and all rents, issues and profits from the Property, so long as no Event of Default has occurred and is continuing, Lender shall not demand that such rents, issues and profits be paid directly to Lender, and Borrower shall have the right to collect, but not more than one (1) month prior to accrual but excluding last month's rent and security deposit, all such rents, issues and profits from the Property (including, but not by way of limitation, all rents payable under the Leases), and

(b) Upon the full and final payment of the Obligations, as evidenced by the recording or filing of an instrument of satisfaction or full release of the Mortgage without the recording of another mortgage in favor of Lender affecting any Property, this Assignment shall be terminated and released of record by Lender and shall thereupon be of no further force or effect.

ARTICLE II: DEFAULT

2.01 Event of Default. The term "Event of Default," wherever used in this Assignment, shall mean any one or more of the following conditions or events:

(a) Failure by Borrower to pay as and when due and payable any interest on or principal of or other sum payable under the Note; or

(b) Failure by Borrower to observe, perform or discharge any obligation, covenant, condition or agreement contained in paragraph 1.02(b), (c) or (d) of this Assignment; or

(c) Failure by Borrower to observe, perform or discharge any other obligation, covenant, condition or agreement of this Assignment (other than the occurrence of any of the other Events of Default enumerated hereunder) and the continuance of such failure for a period of thirty (30) days after written notice thereof from Lender; provided, however, that if such other obligation, covenant, condition or agreement cannot be cured within such thirty (30) day period; and provided that Borrower has promptly initiated a cure and diligently prosecutes such cure, the thirty (30) day period specified herein shall be expanded to such period of time as may be reasonably required to effect such cure; or

(d) Any material representation or warranty of Borrower in this Assignment shall prove to have been knowingly false or incorrect in any material respect upon the date when made; or

(e) The occurrence of any "Event of Default" as defined in the Note, the Mortgage or any other Loan Document beyond the expiration of applicable notice and grace periods.

2.02 Remedies. Upon the occurrence of any Event of Default and continuing beyond and following the expiration of any applicable notice and/or grace periods, Lender may at its option, with or without further notice or demand of any kind (except as may be provided herein or in any of the Loan Documents), and without waiving such Event of Default, exercise any or all of the following rights and remedies:

(a) Declare any part or all of the Obligations to be immediately due and payable, whereupon the same shall become immediately due and payable;

(b) Either with or without entry or taking possession of any Property, give or require Borrower to give notice to any or all Tenants under the Leases authorizing and directing such Tenants to pay all rents, issues and profits and any other sums due under their Leases directly to Lender, and collect and receive all rents, issues and profits and other sums due under the Leases with respect to which such notice is given;

(c) Either with or without entry or taking possession of any Property, perform any and all obligations of Borrower under any or all of the Leases or this Assignment and exercise any and all rights of Borrower herein or therein as fully as Borrower itself could do, including, without limiting the generality of the foregoing, enforcing, modifying, extending or terminating any or all of the Leases, collecting, modifying, compromising, waiving or increasing any or all of the rents payable thereunder, and obtaining new Tenants and entering into new Leases on any Property on any terms and conditions deemed desirable by Lender, and, to the extent Lender shall incur any reasonable out-of-pocket costs in connection with the performance of any such obligations of Borrower, including reasonable out-of-pocket costs of litigation, then all such reasonable out-of-pocket costs shall become a part of the Obligations, shall bear interest from the incurring thereof at the default interest rate specified in the Note, and shall be due and payable on written demand;

(d) Either with or without entry or taking possession of any Property, in Borrower's or Lender's name, institute any legal or equitable action which Lender in its sole discretion deems desirable to collect and receive any or all of the rents, issues and profits assigned herein or to evict or remove any Tenants;

(e) Enter upon, take possession of, and use and operate all or any portion of any Property which Lender in its sole and reasonable discretion deems desirable to effectuate any or all of the foregoing remedies, with full power to make alterations, renovations, repairs or replacements thereto.

Lender shall have full right to exercise any or all of the foregoing remedies rights and without regard to the adequacy of security for any or all of the Obligations, and with or without the commencement of any legal or equitable action or the appointment of any receiver or trustee.

2.03 Application of Rents. All rents, issues and profits and any other sums due under the Leases and with respect to any Property which are collected by Lender shall be applied by Lender in such order as Lender in its sole and reasonable discretion may elect against: (i) all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred in connection with the operation of any Property, the performance of Borrower's obligations under the Leases or the collection of the rents thereunder; (ii) all reasonable out-of-pocket costs and expenses, including reasonable out-of-pocket attorneys' fees, incurred in the collection of any or all of the Obligations, including all reasonable out-of-pocket costs, expenses and attorneys' fees incurred in

seeking to realize on or to protect or preserve Lender's interest in any other collateral securing any or all of the Obligations; and (iii) any or all unpaid principal of and interest on the Obligations.

2.04 No Liability of Lender. Lender shall not be obligated to perform or discharge, nor does Lender hereby undertake to perform or discharge, any obligation, duty or liability of Borrower under any of the Leases or under or by reason of this Assignment, except those arising from and after Lender takes possession of a Property after an Event of Default. Prior to Lender's taking possession of any Property after an Event of Default, this Assignment shall not operate to place upon Lender responsibility for the control, care, management or repair of such Property, nor for the carrying out of any of the terms and conditions of any of the Leases, nor shall it operate to make Lender responsible or liable for any waste committed on any Property, for any dangerous or defective condition of any Property, or for any negligence in the management, upkeep, repair or control of any Property resulting in loss or injury or death to any person. Lender shall not be liable for any loss sustained by Borrower resulting from Lender's failure to let a Property after taking possession of such Property after an Event of Default, unless such loss is caused by the willful misconduct, illegal action or gross negligence of Lender.

2.05 Indemnification. Borrower shall and does hereby agree to indemnify and to hold Lender harmless of and from any and all claims, demands, liability, loss or damage (including all reasonable out-of-pocket costs, expenses, and reasonable out-of-pocket attorneys' fees incurred in the defense thereof) asserted against, imposed on or incurred by Lender in connection with or as a result of this Assignment or the exercise of any rights or remedies under this Assignment or under any of the Leases or by reason of any alleged obligations or undertakings of Lender to perform or discharge any of the terms, covenants or agreements contained in any of the Leases; provided, however, that nothing herein shall be construed to obligate Borrower to indemnify and hold Lender harmless from and against any and all claims, demands, liability, loss or damage enacted against, imposed on or incurred by Lender by reason of Lender's willful misconduct, illegal action or gross negligence. Should Lender incur any such liability, loss or damage, or in the defense of any such claims or demands, for which it is to be indemnified by Borrower as aforesaid, the amount thereof shall be added to the Obligations, shall bear interest at the default rate specified in the Note from the date incurred until paid, shall be secured by this Assignment, the Mortgage and the other Loan Documents and shall be payable immediately upon written demand.

ARTICLE III: GENERAL PROVISIONS

3.01 Successors and Assigns. This Assignment shall inure to the benefit of and be binding upon Borrower and Lender and their respective heirs, executors, legal representatives, successors and assigns (but in the case of assigns of Borrower, only if

and to the extent that Lender has consented in writing to Borrower's assignment of its rights or obligations hereunder to such assigns. Whenever a reference is made in this Assignment to "Borrower" or "Lender", such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of Borrower or Lender.

3.02 Lender's Rights of Assignment; Rights of Assignees. Lender may assign to any subsequent holder or holders of the Note or the Mortgage, or to any person acquiring title to any Property, all of Lender's right, title and interest in any of the Leases and rents, issues and profits from such Property. No such assignee shall have any liability for any obligation that accrued under any of the Leases prior to the assignment to such assignee nor shall such assignee have any obligation to account to Borrower for any rental payments that accrued prior to such assignment. After Borrower's right, title and interest in a Property has been foreclosed or otherwise terminated, no assignee of Borrower's interest in the Leases shall be liable to account to Borrower for any rents, issues or profits thereafter accruing.

3.03 Terminology. All personal pronouns used in this Assignment, whether used in the masculine, feminine or neuter gender, shall include all other genders, and the singular shall include the plural, and vice versa. Titles of Articles are for convenience only and neither limit nor amplify the provisions of this Assignment.

3.04 Severability. If any provision of this Assignment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Assignment and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

3.05 Applicable Law. This Assignment shall be interpreted, construed and enforced according to the laws of the Commonwealth of Massachusetts.

3.06 No Third Party Beneficiaries. This Assignment is made solely for the benefit of Lender and its assigns. No Tenant under any of the Leases nor any other person shall have standing to bring any action against Lender as the result of this Assignment, or to assume that Lender will exercise any remedies provided herein, and no person other than Lender shall under any circumstances be deemed to be a beneficiary of any provision of this Assignment.

3.07 No Oral Modifications. Neither this Assignment nor any provisions hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

3.08 Cumulative Remedies. The remedies herein provided shall be in addition to and not in substitution for the rights and remedies vested in Lender in any of the Loan Documents or in law or equity, all of which rights and remedies are specifically reserved

by Lender. The remedies herein provided or otherwise available to Lender shall be cumulative and may be exercised concurrently. The failure to exercise any of the remedies herein provided shall not constitute a waiver thereof, nor shall use of any of the remedies herein provided prevent the subsequent or concurrent resort to any other remedy or remedies. It is intended that this clause shall be broadly construed so that all remedies herein provided or otherwise available to Lender shall continue and be each and all available to Lender until the Obligations shall have been paid in full.

3.09 Cross-Default. An Event of Default by Borrower under this Assignment shall constitute an Event of Default under all the other Loan Documents.

3.10 Counterparts. This Assignment may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument, and any of the parties or signatories hereto may execute this Assignment by signing any such counterpart.

3.11 Further Assurance. At any time and from time to time, upon written request by Lender, Borrower will make, execute and deliver, or cause to be made, executed and delivered, to Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be reasonably deemed desirable by Lender, any and all such other and further assignments, deeds to secure debt, mortgages, deeds of trust, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the reasonable opinion of Lender, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve (a) the obligations of Borrower under this Assignment and (b) the security interest created by this Assignment as a first and prior security interest upon the Leases and the rents, issues and profits from the Property. Upon any failure by Borrower so to do, Lender may make, execute, record, file, re-record and/or refile any and all such assignments, deeds to secure debt, mortgages, deeds of trust, security agreements, instruments, certificates, and documents for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender the agent and attorney-in-fact of Borrower so to do.

3.12 Notices. Any and all notices, elections, demands or requests provided for or permitted to be given pursuant to this Assignment (hereinafter in this paragraph 3.12 referred to as "Notice") must be in writing and shall be deemed to have been properly given or served by personal delivery or sending same by overnight courier or by depositing same in the United States Mail, postpaid and registered or certified, return receipt requested, and addressed to the addresses hereinafter set forth. All Notices shall be effective upon being personally delivered or upon being sent by overnight courier or upon being deposited in the United States Mail as aforesaid. The time period in which a response to such Notice must be given or any action taken with respect thereto (if any), however, shall commence to run from the date of receipt if personally delivered or sent by overnight courier or, if so deposited in the United States Mail, the earlier of three (3) business days following such deposit and the date of receipt as

SCHEDULE A

**DESCRIPTION OF PROPERTY
(25 Dan Road, Canton, MA)**

A certain parcel of land in the Town of Canton, Norfolk County, Commonwealth of Massachusetts shown as Lot 40 on a plan entitled "Subdivision Plan of Land in Canton" by the BSC Group, Inc., Surveyors dated September 21, 1992 and filed with the Norfolk County Registry District of the Land Court as Plan No. 370810.

Together with the appurtenant right, in common with all others entitled thereto, to use Dan Road and John Road for all purposes for which ways are commonly used in the Town of Canton as set forth in deed of Boston Sand & Gravel Company dated June 5, 1980 and filed as Document No. 402842.

Together with the benefit of the rights set forth in deed of J.M.D. Realty, Inc. dated August 15, 1986 and filed as Document No. 498786.

For Mortgagor's title, see deed dated March 2, 2007 and filed with Norfolk County Registry District of the Land Court as Document No. 1123644, and noted on Certificate of Title No. 174316.

INDEMNITY AGREEMENT REGARDING HAZARDOUS MATERIALS

(Property Address: 25 John Road, Canton, MA)

THIS INDEMNITY AGREEMENT (this "Agreement"), is made and entered into as of this 14th day of August, 2017 by Armstrong Pharmaceuticals, Inc. a Delaware corporation with a principal place of business at 25 John Road, Canton, Massachusetts 02021 as the grantee or the assignee (hereinafter referred to as "Borrower" and "Indemnitor"), to Cathay Bank, a California banking corporation having an address at 9650 Flair Drive, El Monte, CA 91731 (the "Lender"), as the grantee or mortgagee.

W I T N E S S E T H :

WHEREAS, Borrower is the owner of the real property consisting of the land and the building located at 25 John Road, Norfolk County, Canton, Norfolk County, Massachusetts and more particularly described in Exhibit A attached hereto (the "Land"), (the Land, together with all improvements now or hereafter located in, on or under the Land, collectively, the "Property");

WHEREAS, Lender has extended to the Borrower a term loan (the "Loan") evidenced by a certain Commercial Real Estate Note, (the "Note") and described in a certain Loan Agreement (the "Loan Agreement") both dated of even date herewith, and

Whereas, The Loan will be secured by, among other things, that certain Mortgage of even date herewith, from Borrower to Lender conveying the Property and to be recorded in the public records of the aforesaid county (together with all amendments, modifications, consolidations, increases, supplements and extensions thereof, the "Mortgage");

WHEREAS, and in consideration of as a condition to granting the Loan, Lender requires Borrower to provide certain indemnities concerning Hazardous Materials (as hereinafter defined) presently upon, in or under the Property, or hereafter placed or otherwise located thereon or therein;

WHEREAS, to induce the Lender to make the Loan to Borrower, Borrower has agreed to provide this Agreement for Lender's benefit.

NOW, THEREFORE, for and in consideration of the Loan and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, by its acceptance of delivery hereof, and Borrower hereby agree as follows:

1. Definitions. The following definitions shall apply for purposes of this Agreement:

(a) "Environmental Law" shall mean any applicable federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any Hazardous Materials, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water run-off, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, and regulations promulgated thereunder, and amendments and successors to such statutes and regulations, as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (codified in scattered sections of 26 U.S.C.; 33 U.S.C.; 42 U.S.C. and 42 U.S.C. §9601 et seq.); (ii) the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.); (iii) the Hazardous Materials Transportation Act (49 U.S.C. §1801 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. §2061 et seq.); (v) the Clean Water Act (33 U.S.C. §1251 et seq.); (vi) the Clean Air Act (42 U.S.C. §7401 et seq.); (vii) the Safe Drinking Water Act (21 U.S.C. §349; 42 U.S.C. §201 and §300f et seq.); (viii) the National Environmental Policy Act of 1969 (42 U.S.C. §4321); (ix) the Superfund Amendment and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendment and Reauthorization Act (40 U.S.C. §1101 et seq.); (xi) the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c.21E; and (xii) the Massachusetts Hazardous Waste Management Act, M.G.L. c.21C.

(b) "Hazardous Materials" shall mean each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law. Without limiting the generality of the foregoing, the term shall mean and include:

(i) "hazardous substances" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Superfund Amendment and Reauthorization Act of 1986, or Title III of the Superfund Amendment and Reauthorization Act, each as amended, and regulations promulgated thereunder;

(ii) "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976, as amended, and regulations promulgated thereunder;

(iii) "hazardous materials" as defined in the Hazardous Materials Transportation Act, as amended, and regulations promulgated thereunder;

(iv) "chemical substance or mixture" as defined in the Toxic Substances Control Act, as amended, and regulations promulgated thereunder;

(v) "hazardous material" and "oil" as defined in the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, as amended, and regulations promulgated thereunder; and

(vi) "hazardous waste" as defined in the Massachusetts Hazardous Waste Management Act, as amended, and regulations promulgated thereunder.

(c) "Indemnified Parties" shall mean Lender and each of its parents, subsidiaries and affiliates, shareholders, directors, officers, and employees, and its successors and assigns; and "Indemnified Party" shall mean any one of the Indemnified Parties. Provided however, Indemnified Parties shall not include any owner or operator of the property that is not, directly or indirectly owned by the holder of the Mortgage or any parent, subsidiaries, affiliate, shareholder, director, officer, employee or agent of such entity or individual.

(d) "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaching, dumping, or discarding, burying, abandoning, or disposing into the environment.

(e) "Threat of Release" shall mean a substantial likelihood of a Release that requires action to prevent or mitigate damage to the environment which may result from such Release.

2. Indemnity Agreement. Borrower covenants and agrees, at its sole cost and expense, to indemnify, defend (at trial and appellate levels and with attorneys, consultants and experts reasonably acceptable to Lender) and hold each Indemnified Party harmless against and from any and all liens, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, reasonable attorneys', consultants' and experts' fees and disbursements incurred in investigating, defending against, settling or prosecuting any claim, litigation or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against such Indemnified Party or the Property and, and arising directly or indirectly from or out of: (A) the Release or Threat of Release of any Hazardous Materials on, in, under or affecting all or any portion of the Property, regardless of whether or not caused by or within the control of Borrower; (B) the violation of any Environmental Laws relating to or affecting the Property or the Borrower, whether or not caused by or within the control of Borrower; (C) the failure of Borrower to comply

fully with the terms and conditions of this Agreement; (D) the violation of any Environmental Laws in connection with other real property of Borrower which gives or may give rise to any rights whatsoever in any party with respect to the Property by virtue of any Environmental Laws; or (E) the enforcement of this Agreement, including, without limitation, (i) the costs of assessment, containment and/or removal of any and all Hazardous Materials from all or any portion of the Property, (ii) the costs of any actions taken in response to a Release or Threat of Release of any Hazardous Materials on, in, under or affecting all or any portion of the Property to prevent or minimize such Release or Threat of Release so that it does not migrate or otherwise cause or threaten danger to present or future public health, safety, welfare or the environment, and (iii) costs incurred to comply with the Environmental Laws in connection with all or any portion of the Property. Lender's and the other Indemnified Parties' rights under this Agreement shall be in addition to all rights of Lender under the Mortgage, the Note, the Loan Agreement and under any other documents or instruments evidencing, securing or relating to the Loans (the Mortgage, the Notes, the Loan Agreement and such other documents or instruments, as amended or modified from time to time, being herein referred to as the "Loan Documents"), and payments by Borrower under this Agreement shall not reduce Borrower's obligations and liabilities under any of the Loan Documents.

3. Survival.

(a) The indemnity set forth above in paragraph 2 shall survive the repayment of the Loans and any exercise by Lender of any remedies under the Mortgage, including without limitation, the power of sale, or any other remedy in the nature of foreclosure, and shall not merge with any deed given by Borrower to Lender in lieu of foreclosure or any deed under a power of sale. Notwithstanding the foregoing, this indemnity shall not apply to any Release of Hazardous Materials first occurring after (i) the taking of possession of the Property by Lender or any agent or receiver of Lender, or (ii) the taking of title to the Property by Lender or any third party following foreclosure, deed in lieu of foreclosure or similar proceeding.

(b) It is agreed and intended by Borrower and Lender that the indemnity set forth above in Paragraph 2 may be assigned or otherwise transferred by Lender to its successors and assigns holding the Note and the Mortgage and shall apply to any claims asserted against Lender or such successors or assigns (but not to subsequent owner or operator of the Property other than Lender or an affiliate of Lender) by any subsequent purchaser of all or any portion of the Property by, through or under Lender, without notice to Borrower and without any further consent of Borrower.

4. No Waiver. The liabilities of Borrower under this Agreement shall in no way be limited or impaired by, and Borrower hereby consents to and agrees to be bound by, any amendment or modification of the provisions of this Agreement, the Note, or any Loan Documents to or with Lender by Borrower or any person who

succeeds Borrower as owner of the Property. In addition, notwithstanding any terms of any of the Loan Documents to the contrary, the liability of Borrower to Lender under this Agreement shall in no way be limited or impaired by: (i) any extensions of time for performance required by any of the Loan Documents; (ii) any sale, assignment or foreclosure of the Note or the Mortgage or any sale or transfer of all or part of the Property; (iii) any exculpatory provision in any of the Loan Documents limiting Lender's recourse to property encumbered by the Mortgage or to any other security, or limiting Lender's rights to a deficiency judgment against Borrower; (iv) the accuracy or inaccuracy of the representations and warranties made by Borrower under any of the Loan Documents; (v) the release of Borrower or any other person from performance or observance of any of the agreements, covenants, terms or conditions contained in the Loan Documents by operation of law, Lender's voluntary act, or otherwise; (vi) the release or substitution, in whole or in part, of any security for the Note; or (vii) Lender's failure to record the Mortgage or file any UCC-1 financing statements (or Lender's improper recording or filing of any thereof) or to otherwise perfect, protect, secure or insure any security interest or lien given as security for the Note, and, in any such case, whether with or without notice to Borrower and with or without consideration.

5. Waiver by Borrower. Borrower waives any right or claim of right to cause a marshalling of Borrower's assets or to cause Lender to proceed against any of the security for the Loans before proceeding under this Agreement against Borrower or to proceed against Borrower in any particular order; Borrower agrees that any payments required to be made hereunder shall become due on demand; Borrower expressly waives and relinquishes all rights and remedies (including any rights of subrogation) accorded by applicable law to indemnitors or guarantors.

6. Delay. No delay on Lender's part in exercising any right, power or privilege under any of the Loan Documents shall operate as a waiver of any privilege, power or right hereunder.

7. Releases. Any one or more of Borrower or any other party liable upon or in respect of this Agreement or the Loans may be released without affecting the liability of any party not so released.

8. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Said counterparts shall constitute but one and the same instrument and shall be binding upon each of the undersigned individually as fully and completely as if all had signed but one instrument so that the liability of each of the undersigned hereunder shall be unaffected by the failure of any of the undersigned to execute any or all of the said counterparts.

9. Notices. Each notice, demand, election or request provided for or permitted to be given pursuant to this Agreement (hereinafter in this paragraph 9 referred to as "Notice") must be in writing and shall be deemed to have been sufficiently given or served by personal delivery or by sending same by overnight courier or by depositing same in the United States Mail, postpaid and registered or

certified, return receipt requested, and addressed as follows: If to Lender, to Cathay Bank, 9650 Flair Drive, El Monte, CA 91731, Att: Ken Chan, Vice President, Business Development Department, and to Siri F. Boreske, Esq., 189 Bay State Road, Boston, Massachusetts 02215. A copy of each Notice to Borrower shall be sent to Armstrong Pharmaceuticals, Inc., c/o Amphastar Pharmaceuticals, Inc, 11570 Sixth Street, Rancho Cucamonga, CA 91730, Att: General Counsel.

Each Notice shall be effective upon being personally delivered or upon being sent by overnight courier or upon being deposited in the United States Mail as aforesaid. The time period in which a response to such Notice must be given or any action taken with respect thereto (if any), however, shall commence to run from the date of receipt if personally delivered or sent by overnight courier or, if so deposited in the United States Mail, the earlier of three (3) business days following such deposit and the date of receipt as disclosed on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address for which no Notice was given shall be deemed to be receipt of the Notice sent. By giving at least thirty (30) days prior Notice thereof, Lender and Borrower shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses and each shall have the right to specify as its address any other address within the United State of America.

10. Amendments. No provision of this Agreement may be changed, waived, discharged or terminated orally, by telephone or by any other means except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

11. Binding Effect. Except as herein provided, this Agreement shall be binding upon Borrower and its heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender, the other Indemnified Parties, and their respective successors and assigns. Notwithstanding the foregoing, Borrower, without the prior written consent of Lender in each instance, may not assign, transfer or set over to another, in whole or in part, all or any part of its benefits, rights, duties and obligations hereunder, including, but not limited to, performance of and compliance with conditions hereof.

12. GOVERNING LAW; CONSENT TO JURISDICTION. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY, AND INTERPRETED AND DETERMINED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS (EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW). BORROWER HEREBY IRREVOCABLY AND UNCONDITIONALLY (A) SUBMITS TO PERSONAL JURISDICTION IN THE COMMONWEALTH OF MASSACHUSETTS OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, AND (B) WAIVES ANY AND ALL PERSONAL RIGHTS UNDER THE LAWS OF ANY STATE (I) TO THE RIGHT, IF ANY, TO TRIAL BY JURY, OR (II) TO OBJECT TO

JURISDICTION WITHIN THE COMMONWEALTH OF MASSACHUSETTS OR VENUE IN ANY PARTICULAR FORUM WITHIN THE COMMONWEALTH OF MASSACHUSETTS. NOTHING CONTAINED HEREIN, HOWEVER, SHALL PREVENT LENDER FROM BRINGING ANY SUIT, ACTION OR PROCEEDING OR EXERCISING ANY RIGHTS AGAINST ANY SECURITY AND AGAINST BORROWER PERSONALLY, AND AGAINST ANY PROPERTY OF BORROWER, WITHIN ANY OTHER STATE. INITIATING SUCH SUIT, ACTION OR PROCEEDING OR TAKING SUCH ACTION IN ANY STATE SHALL IN NO EVENT CONSTITUTE A WAIVER OF THE AGREEMENT CONTAINED HEREIN THAT THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS SHALL GOVERN THE RIGHTS AND OBLIGATIONS OF BORROWER AND LENDER HEREUNDER OR OF THE SUBMISSION HEREIN MADE BY BORROWER TO PERSONAL JURISDICTION WITHIN THE COMMONWEALTH OF MASSACHUSETTS.

IN WITNESS WHEREOF, Borrower has caused this Agreement to be executed under seal as of the day and year first written above.

ARMSTRONG PHARMACEUTICALS, INC.

STATE OF CALIFORNIA

By: _____ /s/ **JACK Y. ZHANG**

Jack Y. Zhang, Chief Executive Officer

County: San Bernardino

August 14, 2017

On this day, before me, the undersigned notary public, personally appeared Jack Y. Zhang and proved to me through satisfactory evidence of identification, which was his driver's license, to be the person whose name is signed on the preceding document and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of Armstrong Pharmaceuticals, Inc. in his capacity as its Chief Executive Officer, and that such action was duly authorized by requisite corporate authority.

/s/ **E.R. MORENO**

Notary Public

E.R. MORENO

Printed Name of Notary Public

My Commission Expires: Apr 24, 2021

SCHEDULE A

DESCRIPTION OF PROPERTY

A certain parcel of land in the Town of Canton, Norfolk County, Commonwealth of Massachusetts shown as Lot 40 on a plan entitled "Subdivision Plan of Land in Canton" by the BSC Group, Inc., Surveyors dated September 21, 1992 and filed with the Norfolk County Registry District of the Land Court as Plan No. 370810.

Together with the appurtenant right, in common with all others entitled thereto, to use Dan Road and John Road for all purposes for which ways are commonly used in the Town of Canton as set forth in deed of Boston Sand & Gravel Company dated June 5, 1980 and filed as Document No. 402842.

Together with the benefit of the rights set forth in deed of J.M.D. Realty, Inc. dated August 15, 1986 and filed as Document No. 498786.

OWNER'S ZONING AND SURVEY CERTIFICATE

Reference is made to a term loan (the "Loan") granted to Armstrong Pharmaceuticals, Inc. a Delaware corporation with a principal place of business at 25 John Road, Canton, Massachusetts 02021 (the "Borrower"), by Cathay Bank (the "Lender") secured by a mortgage on Borrower's real property consisting of the land and the building located at 25 John Road, Canton, Massachusetts (the "Property").

The Borrower acknowledges that this Certificate is required in connection with the issuance of a title policy by Marsh Morality, Ontell & Golder as agent and Stewart Title Guaranty Company as underwriter (collectively, the "Title Insurance Company") in connection with the Loan. The undersigned Borrower recognizes that the matters covered in the endorsement are based, in part, on the certifications set forth in this Certificate and that Title Insurance Company will rely upon the information set forth herein in connection with the issuance of the zoning endorsement.

Accordingly, the undersigned hereby certifies to Title Insurance Company and the Lender that the following information is true and correct as of the date hereof, to the best of the undersigned's knowledge and belief:

1. The Borrower is the current owner of the Property. The Property is used for commercial light industrial manufacturing (the "Current Use).
 2. The Property has been used for the Current Use continuously since the date of the acquisition of the Property by the Borrower and there has been no change or extension, discontinuance, or abandonment of the Current Uses during that period of time.
 3. Borrower does not contemplate making any changes to the footprint of the buildings in connection with any planned renovations to the premises.
 4. There has been no alteration, expansion, reconstruction, renovation, extension, addition or structural change to any improvements on the Property since the date of the acquisition of the Property by the Borrower other than the erection of a monument sign in 2009 for which all necessary approvals were obtain from the Town of Canton.
 5. During the time of ownership of the Property, the Borrower conveyed no portion of the premises and did not suffer or permit any act to be done that has changed or could change the boundaries of the premises.
 6. The Borrower has allowed, and knows of, no encroachments on the Property by any adjoining land owners nor has the Borrower encroached upon any property of adjoining land owners.
 7. The Borrower has allowed, and knows of, no easements, rights of way, continuous driveway usage, drain, sewer, water, gas or oil pipeline or other rights of passage to others over the Property other than those of record or indicated of record, and has no knowledge of such adverse rights affecting the premises. The Borrower has no knowledge of any old highways, abandoned roads, lanes, cemetery or family burial grounds, springs, streams, rivers, ponds or lakes bordering on, running through or affecting the premises.
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PARTIES IN POSSESSION AND MECHANICS LIEN AFFIDAVIT

Property Address: 25 John Road, Canton, Massachusetts (the "Property").

Date: August 14 , 2017

The undersigned, the owner of the Property, does under oath depose and say that:

1. There is no person to whom a debt is due for labor or materials furnished in the erection, alteration, repair or removal of a building or structure upon the Property by virtue of an agreement with, or by the consent of the undersigned in promising or furnishing such labor or materials for work actually performed during the past 200 days, including the date hereof.

2. At the date hereof there are no tenants or other parties who are in possession of the Property except the undersigned

3. Neither the Property nor any use thereof is in violation of restrictive covenants, if any, affecting the Property.

4. All bills for municipal light plant service charges that could become liens on the Property have been paid.

5. No security interest which secures payment or the performance of any obligations has been given by the undersigned or to the knowledge of the undersigned, in any personal property or fixtures placed upon or installed in the Property.

This affidavit is made for the purpose of inducing Marsh Moriarty Ontell and Golder, as agent and Stewart Title Guaranty Company as underwriter to issue a title policy insuring a mortgage to be granted to Cathay Bank by the undersigned with respect to the Property, and the undersigned agrees to indemnify and hold harmless Marsh Moriarty Ontell and Golder and Stewart Title Guaranty Company from any loss resulting from the reliance upon the truth and accuracy of the statements contained herein.

ARMSTRONG PHARMACEUTICALS, INC.

By: _____ */s/ JACK Y. ZHANG*
Jack Y. Zhang, Chief Executive Officer
