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

FORM 10-Q

(Mark One)

☒ **Quarterly report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the quarterly period ended September 30, 2010

OR

☐ **Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For transition period from _____ to _____

Commission File Number: 000-19756

PDL BIOPHARMA, INC.

(Exact name of registrant as specified in its charter)

Delaware	**94-3023969**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification Number)**

932 Southwood Boulevard
Incline Village, Nevada 89451
(Address of principal executive offices and Zip Code)

(775) 832-8500
(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 has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

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

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

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

As of November 5, 2010, there were 139,679,752 shares of the Registrant's Common Stock outstanding.

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

PDL BIOPHARMA, INC.

CONDENSED CONSOLIDATED STATEMENTS OF INCOME
(Unaudited)
(In thousands, except per share amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
Revenues:				
Royalties	$ 86,442	$ 71,446	$268,846	$247,147
License and other	—	—	—	12,785
Total revenues	86,442	71,446	268,846	259,932
General and administrative expenses	11,110	5,255	29,340	15,538
Operating income	75,332	66,191	239,506	244,394
Gain (loss) on retirement or conversion of convertible notes	(2,354)	323	(18,681)	1,518
Interest and other income, net	167	214	337	860
Interest expense	(9,928)	(3,105)	(34,015)	(10,036)
Income before income taxes	63,217	63,623	187,147	236,736
Income tax expense	23,028	17,217	70,813	75,636
Net income	$ 40,189	$ 46,406	$116,334	$161,100
Net income per basic share	$ 0.32	$ 0.39	$ 0.95	$ 1.35
Net income per diluted share	$ 0.24	$ 0.29	$ 0.67	$ 0.97
Cash dividends declared per common share	$ —	$ —	$ 1.00	$ 1.00
Shares used to compute net income per basic and diluted share:				
Shares used to compute net income per basic share	127,479	119,411	122,209	119,366
Shares used to compute net income per diluted share	172,217	168,576	178,448	172,248

See accompanying notes.

PDL BIOPHARMA, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except per share amounts)

	September 30, 2010 (unaudited)	December 31, 2009 (Note 1)
Assets		
Current assets:		
Cash and cash equivalents	$ 200,486	$ 303,227
Short-term investments	26,704	—
Receivables from licensees	250	1,050
Deferred tax assets	—	1,271
Prepaid and other current assets	7,868	10,288
Total current assets	235,308	315,836
Property and equipment, net	94	171
Long-term deferred tax assets	16,922	10,396
Other assets	5,183	12,008
Total assets	$ 257,507	$ 338,411
Liabilities and Stockholders' Deficit		
Current liabilities:		
Accounts payable	$ 1,288	$ 370
Accrued liabilities	21,794	13,310
Deferred revenue	3,213	1,600
Dividend payable	70,199	386
Deferred tax liabilities	298	—
Current portion of convertible notes payable	—	199,998
Current portion of non-recourse notes payable	112,423	77,852
Total current liabilities	209,215	293,516
Convertible notes payable	227,990	228,000
Non-recourse notes payable	112,618	222,148
Other long-term liabilities	12,226	10,700
Total liabilities	562,049	754,364
Commitments and contingencies (Note 12)		
Stockholders' deficit:		
Preferred stock, par value $0.01 per share, 10,000 shares authorized; no shares issued and outstanding	—	—
Common stock, par value $0.01 per share, 250,000 shares authorized; 139,525 and 119,523 shares issued and outstanding at September 30, 2010 and December 31, 2009, respectively	1,395	1,195
Additional paid-in capital	(90,316)	(83,850)
Accumulated other comprehensive income	1,343	—
Accumulated deficit	(216,964)	(333,298)
Total stockholders' deficit	(304,542)	(415,953)
Total liabilities and stockholders' deficit	$ 257,507	$ 338,411

See accompanying notes.

PDL BIOPHARMA, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(In thousands)

	Nine Months Ended September 30,	
	2010	2009
Cash flows from operating activities		
Net income	$ 116,334	$161,100
Adjustments to reconcile net income to net cash provided by operating activities:		
Amortization of convertible notes offering costs	1,210	1,658
Amortization of non-recourse notes offering costs	5,567	—
Other amortization and depreciation expense	185	957
Loss (gain) on retirement or conversion of convertible notes	18,681	(1,518)
Stock-based compensation expense	525	617
Tax benefit from stock-based compensation arrangements	10,012	66,779
Net excess tax benefit from stock-based compensation	(10,302)	(72,967)
Deferred income taxes	(5,679)	888
Changes in assets and liabilities:		
Receivables from licensees	800	13,100
Prepaid and other current assets	5,823	(12,769)
Other assets	142	—
Accounts payable	918	(1,496)
Accrued liabilities	8,484	(23,445)
Deferred revenue	1,613	(100)
Net cash provided by operating activities	154,313	132,804
Cash flows from investing activities		
Purchases of investments	(28,810)	—
Maturities of investments	2,000	15,000
Purchase of property and equipment	—	(39)
Release of restricted cash	—	3,469
Net cash provided by (used in) investing activities	(26,810)	18,430
Cash flows from financing activities		
Proceeds from issuance of common stock, net of cancellations	—	1,237
Payments for debt issuance costs	—	(2,446)
Repayment of non-recourse notes	(74,959)	—
Retirement of convertible notes	(105,723)	(69,953)
Cash dividend paid	(59,864)	(59,679)
Net excess tax benefit from stock-based compensation	10,302	72,967
Net cash used in financing activities	(230,244)	(57,874)
Net increase (decrease) in cash and cash equivalents	(102,741)	93,360
Cash and cash equivalents at beginning of the period	303,227	129,058
Cash and cash equivalents at end of the period	$ 200,486	$222,418

See accompanying notes.

PDL BIOPHARMA, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
September 30, 2010
(Unaudited)

1. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying unaudited Condensed Consolidated Financial Statements have been prepared in accordance with U.S. generally accepted accounting principles for interim financial information. The financial statements include all adjustments consisting only of normal recurring adjustments that the management of PDL BioPharma, Inc. (the Company, PDL, we or our) believes are necessary for a fair presentation of the periods presented. These interim financial results are not necessarily indicative of results expected for the full fiscal year or for any subsequent interim period.

The accompanying Condensed Consolidated Financial Statements and related financial information should be read in conjunction with the audited Consolidated Financial Statements and the related notes thereto for the year ended December 31, 2009, included in our Annual Report on Form 10-K filed with the U.S. Securities and Exchange Commission. The Condensed Consolidated Balance Sheet at December 31, 2009 has been derived from the audited Consolidated Financial Statements at that date.

Principles of Consolidation

Since November 2009, the Consolidated Financial Statements include the accounts of PDL and its wholly-owned subsidiary, QHP Royalty Sub LLC (QHP). For the period from January to November 2009, we had no wholly owned subsidiaries. All intercompany transactions are eliminated in consolidation.

Customer Concentration

The following table summarizes revenues from our licensees' products which individually accounted for 10% or more of our total revenues for the three and nine months ended September 30, 2010 and 2009:

		Three Months Ended September 30,		Nine Months Ended September 30,	
Licensees	Product Name	2010	2009	2010	2009
Genentech, Inc. (Genentech)	Avastin®	35%	29%	34%	27%
	Herceptin®	32%	38%	33%	29%
	Lucentis®	13%	11%	14%	10%
MedImmune, LLC. (MedImmune)[1]	Synagis®	—	2%	—	14%
Elan Corporation, Plc (Elan)	Tysabri®	10%	11%	10%	8%

(1) In December 2009, we sent a letter to MedImmune, LLC. (MedImmune) stating that it is in breach of its obligations under the license agreement, canceling the license agreement and revoking any licenses and rights granted therein. In February 2010, MedImmune made a royalty payment to an escrow account created *pendente lite* (while the litigation is pending). We do not expect to receive additional payments from MedImmune unless and until the lawsuit is resolved in our favor.

PDL BIOPHARMA, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
September 30, 2010
(Unaudited)

Foreign Currency Hedging

We hedge certain foreign currency exposures related to our licensees' product sales with foreign currency exchange forward contracts and foreign currency exchange option contracts (collectively, foreign currency exchange contracts). In general, these contracts are intended to offset the underlying foreign currency market risk in our royalty revenues. Our exposure to credit risk from these contracts is a function of foreign currency exchange rates and, therefore, varies over time. We limit the credit risk that our counterparty to these contracts may be unable to perform by transacting with a major bank and monitoring the exposure in the context of current market conditions. We mitigate the risk of loss by entering into a netting agreement with our counterparty that provides for aggregate net settlement of all of the foreign currency exchange contracts should our counterparty default on the contracts prior to contract settlement. Therefore, our overall risk of loss in the event of counterparty default is limited to the amount of any unrecognized gains on outstanding contracts net of any unrecognized losses on outstanding contracts at the date of default. We do not enter into speculative foreign currency transactions. We have designated the foreign currency exchange contracts as cash flow hedges. At the inception of the hedging relationship and on a quarterly basis, we assess hedge effectiveness. The aggregate unrealized gain or loss on the effective component of our foreign currency exchange contracts net of estimated taxes is recorded in stockholders' deficit as accumulated other comprehensive income. Gains or losses on cash flow hedges are recognized as royalty revenue in the same period that the hedged transaction, royalty revenue, impacts earnings.

2. Stock-Based Compensation

Stock-based compensation expense for employees and directors for the three and nine months ended September 30, 2010 and 2009 was as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
(In thousands)	2010	2009	2010	2009
General and administrative expenses	$ 166	$ 205	$ 525	$ 589
Income tax effect	(58)	(72)	(184)	(206)
Stock-based compensation expense included in net income	$ 108	$ 133	$ 341	$ 383

During the nine months ended September 30, 2010, approximately 1.3 million of fully vested stock options with an average exercise price of $20.36 per share were forfeited and expired unexercised.

3. Net Income per Share

We compute basic net income per share using the weighted-average number of shares of common stock outstanding during the periods presented less the weighted-average number of shares of restricted stock that are subject to repurchase. We compute diluted net income per share using the sum of the weighted-average number of common and common equivalent shares outstanding. Common equivalent shares used in the computation of diluted net income per share result from the assumed exercise of stock options, the issuance of restricted stock, and the assumed conversion of our 2.00% Convertible Senior Notes due February 15, 2012 (the 2012 Notes) and our 2.75% Convertible Subordinated Notes due August 16, 2023 (the 2023 Notes) on a weighted average basis for the period that the notes were outstanding, including both the effect of adding back interest expense and the inclusion of the underlying shares using the if-converted method. As of September 30, 2010, the conversion rate for the 2012 Notes was 140.571 shares per $1,000 principal amount of 2012 Notes, or a conversion price of approximately $7.11 per share. The conversion rate for the 2023 Notes was 177.1594 shares per $1,000 principal amount of 2023 Notes, or a conversion price of approximately $5.64 per share. As of September 30, 2010, the 2023 Notes were fully retired or converted.

PDL BIOPHARMA, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
September 30, 2010
(Unaudited)

Following is a reconciliation of the numerators and denominators of the basic and diluted net income per share computations for the three and nine months ended September 30, 2010 and 2009:

(In thousands)	Three Months Ended September 30, 2010	Three Months Ended September 30, 2009	Nine Months Ended September 30, 2010	Nine Months Ended September 30, 2009
Numerator				
Net income	$ 40,189	$ 46,406	$116,334	$161,100
Add back interest expense for convertible notes, net of estimated tax of $0.5 million and $0.9 million for the three months ended September 30, 2010 and 2009, respectively, and $2.1 million and $2.9 million for the nine months ended September 30, 2010 and 2009, respectively (see Note 10)	987	1,681	3,982	5,444
Income used to compute net income per diluted share	$ 41,176	$ 48,087	$120,316	$166,544
Denominator				
Total weighted-average shares used to compute basic income per share	127,479	119,411	122,209	119,366
Effect of dilutive stock options	10	34	9	19
Restricted stock outstanding	106	57	99	31
Assumed conversion of 2012 Notes	32,050	22,867	32,050	23,238
Assumed conversion of 2023 Notes	12,572	26,207	24,081	29,594
Shares used to compute net income per diluted share	172,217	168,576	178,448	172,248
Net income per basic share	$ 0.32	$ 0.39	$ 0.95	$ 1.35
Net income per diluted share	$ 0.24	$ 0.29	$ 0.67	$ 0.97

We have excluded 0.2 million and 1.6 million of outstanding stock options from our diluted earnings per share calculations for the three months ended September 30, 2010 and 2009, respectively, and we have excluded 0.4 million and 2.8 million of outstanding stock options from our diluted earnings per share calculations for the nine months ended September 30, 2010 and 2009, respectively, because the option exercise prices were greater than the average market prices of our common stock during these periods; therefore, their effect was anti-dilutive.

4. Fair Value Measurements

The fair value of our financial instruments are estimates of the amounts that would be received if we were to sell an asset or we paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price). We apply a three-level valuation hierarchy for fair value measurements. The categorization of assets and liabilities within the valuation hierarchy is based upon the lowest level of input that is significant to the measurement of fair value. Level 1 inputs to the valuation method use unadjusted quoted market prices in active markets for identical assets and liabilities. Level 2 inputs to the valuation method are other observable inputs, including quoted market prices for similar assets and liabilities, quoted prices for identical and similar assets and liabilities in the markets that are not active, or other inputs that are observable or can be corroborated by observable market data. Level 3 inputs to the valuation method, if any, are unobservable inputs based upon management’s best estimate of the inputs that market participants would use in pricing the asset or liability at the measurement date, including assumptions about risk. As of September 30, 2010 and December 31, 2009, we had no Level 3 assets or liabilities. We do not estimate the fair value of our royalty assets for financial statement reporting purposes.

PDL BIOPHARMA, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
September 30, 2010
(Unaudited)

The following table summarizes, for assets or liabilities recorded at fair value, the respective fair value and classification by level of input within the fair value hierarchy defined above:

	September 30, 2010			December 31, 2009	
(In thousands)	Level 1	Level 2	Total	Level 1	Total
Assets:					
Money market funds	$125,346	$ —	$125,346	$296,969	$296,969
Corporate debt securities	16,210	—	16,210	—	—
Commercial paper	—	10,493	10,493	—	—
U.S. government sponsored agency bonds	2,000	—	2,000	—	—
Foreign currency hedge contracts	—	17,121	17,121	—	—
Total	$143,556	$27,614	$171,170	$296,969	$296,969
Liabilities:					
Foreign currency hedge contracts	$ —	$15,059	$ 15,059	$ —	$ —

The fair value of the foreign currency hedging contracts is estimated based on pricing models using readily observable inputs from actively quoted markets and disclosed on a gross basis in the table above. The fair value of commercial paper is estimated based on its carrying value adjusted for observable inputs of the same security.

5. Cash Equivalents and Short-term Investments

As of September 30, 2010, we had invested in money market funds, corporate debt securities, commercial paper and U.S. government sponsored agency bonds. As of December 31, 2009, we had invested in money market funds. Our securities are classified as available-for-sale and are carried at estimated fair value, with unrealized gains and losses, if any, reported in stockholders' deficit as accumulated other comprehensive income. The estimated fair value is based upon quoted market prices. The cost of securities sold is based on the specific identification method. To date, we have not experienced credit losses on investments in these instruments and we do not require collateral for our investment activities.

A summary of our available-for-sale securities at September 30, 2010 and December 31, 2009 is presented below:

(In thousands)	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
September 30, 2010:				
Money market funds	$125,346	$ —	$ —	$125,346
Corporate debt securities	16,207	9	(6)	16,210
Commerical paper	10,493	—	—	10,493
U.S. government sponsored agency bonds	2,000	—	—	2,000
Total	$154,046	$ 9	$ (6)	$154,049
Classification on Condensed Consolidated Balance Sheets:				
Cash equivalents				$127,345
Short-term investments				26,704
Total				$154,049
December 31, 2009:				
Money market funds	$296,969	$ —	$ —	$296,969
Classification on Condensed Consolidated Balance Sheets:				
Cash equivalents				$296,969

PDL BIOPHARMA, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
September 30, 2010
(Unaudited)

During the nine months ended September 30, 2010 and the year ended December 31, 2009, we did not recognize any gains or losses on sales of available-for-sale securities. All investments mature within one year. As of September 30, 2010, the unrealized gain on short-term investments included in other comprehensive income, net of taxes, was approximately $2,000. No significant facts or circumstances have arisen to indicate that there has been any deterioration in the creditworthiness of the issuers of these securities. Based on our review of these securities, we believe we had no other-than-temporary impairments on these securities as of September 30, 2010 because we do not intend to sell these securities and it is not more likely than not that we will be required to sell these securities before the recovery of their amortized cost basis.

6. Foreign Currency Hedging

Our licensees operate in foreign countries which exposes us to market risk associated with foreign currency exchange rate fluctuations between the U.S. dollar and other currencies, primarily the Eurodollar. In order to manage the risk related to changes in foreign currency exchange rates, in January and May 2010 we entered into a series of foreign currency exchange contracts covering the quarters in which our licensees' sales occur through December 2012. Our foreign currency exchange contracts used to hedge royalty revenues based on underlying Eurodollar sales are designated as cash flow hedges.

The following table summarizes the notional amounts, foreign currency exchange rates and fair values of our open foreign currency exchange contracts designated as cash flow hedges at September 30, 2010:

Foreign Currency Exchange Forward Contracts

Currency	Notional Amount (In thousands)	Settlement Price ($ per Eurodollar)	Fair Value (In thousands)	Type
Eurodollar	$ 157,981	1.400	$ 4,504	Sell Eurodollar
Eurodollar	117,941	1.200	(15,059)	Sell Eurodollar
Total	$ 275,922		$ (10,555)	

Foreign Currency Exchange Option Contracts

Currency	Notional Amount (In thousands)	Strike Price ($ per Eurodollar)	Fair Value (In thousands)	Type
Eurodollar	$ 170,394	1.510	$ 1,421	Purchased call option
Eurodollar	129,244	1.315	11,196	Purchased call option
Total	$ 299,638		$ 12,617	

The following table summarizes information about the fair value of our foreign currency exchange contracts on our Condensed Consolidated Balance Sheet as of September 30, 2010:

Cash Flow Hedge	Location	Fair Value (In thousands)
Foreign currency exchange contracts (net)	Prepaid and other current assets	$ 3,588
Foreign currency exchange contracts (net)	Other long-term liabilities	(1,526)
		$ 2,062

PDL BIOPHARMA, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
September 30, 2010
(Unaudited)

The foreign currency exchange contracts are presented on a net basis on our Condensed Consolidated Balance Sheets as we have entered into a netting arrangement with the counterparty. As of September 30, 2010, the unrealized gain on the effective component of our foreign currency exchange contracts included in other comprehensive income, net of estimated taxes, was $1.3 million. There was no ineffective component of our foreign currency exchange contracts during the nine months ended September 30, 2010. During the three and nine months ended September 30, 2010, we recognized $2.9 million and $4.5 million in royalty revenue from foreign currency exchange contracts which settled during the period, respectively. Approximately $2.3 million is expected to be reclassified from other comprehensive income to earnings in the next 12 months. We did not have foreign currency exchange contracts prior to January 2010.

7. Prepaid and Other Current Assets

Prepaid and other current assets consisted of the following:

(In thousands)	September 30, 2010	December 31, 2009
Non-recourse Notes issuance costs	$ 3,712	$ 3,373
Foreign currency hedge	3,588	—
2023 Notes issuance costs	—	524
Prepaid taxes	—	5,847
Other	568	544
Total prepaid and other current assets	$ 7,868	$ 10,288

8. Other Assets

Other assets consisted of the following:

(In thousands)	September 30, 2010	December 31, 2009
Non-recourse Notes issuance costs	$ 3,718	$ 9,624
2012 Notes issuance costs	1,425	2,202
Other	40	182
Total other assets	$ 5,183	$ 12,008

9. Accrued Liabilities

Accrued liabilities consisted of the following:

(In thousands)	September 30, 2010	December 31, 2009
Income taxes	$ 13,116	$ 81
Consulting and services	4,149	2,154
Compensation	2,757	2,206
Interest	1,595	8,812
Other	177	57
Total accrued liabilities	$ 21,794	$ 13,310

PDL BIOPHARMA, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
September 30, 2010
(Unaudited)

10. Convertible and Non-Recourse Notes

The following table summarizes our convertible and non-recourse notes activity for the nine months ended September 30, 2010, as well as the balances and fair values at September 30, 2010:

(In thousands)	2012 Notes	2023 Notes	Non-recourse Notes	Total
Balance at December 31, 2009	$228,000	$199,998	$ 300,000	$727,998
Payment	—	—	(74,959)	(74,959)
Repurchase[1]	—	(84,150)	—	(84,150)
Conversion to common stock[2]	(10)	(61,579)	—	(61,589)
2023 Note retirement or conversion[3]	—	(54,269)	—	(54,269)
Balance at September 30, 2010	$227,990	$ —	$ 225,041	$453,031
Fair value[4]	$221,150	$ —	$ 225,041	$446,191

(1) During the second quarter of 2010, we repurchased an aggregate of $84.2 million face value of our 2023 Notes, at a premium of 19% to face value in privately negotiated transactions with institutional holders, for aggregate consideration of $100.4 million in cash, plus accrued but unpaid interest.

(2) During the third quarter of 2010, certain holders of the 2023 Notes converted an aggregate of $61.6 million face value of our 2023 Notes into 11.1 million shares of common stock under incentives to induce conversion. We recorded a loss on the induced conversion totaling $2.4 million which comprised $1.2 million for the fair value of 0.2 million of additional shares issued (or 3 shares per $1,000 principal amount of 2023 Notes) to those note holders and $1.2 million of transaction costs.

(3) In August 2010, we announced our intent to redeem the balance of the 2023 Notes of $54.3 million in September 2010. Based on such notification to the holders of the 2023 Notes, an aggregate of $50.1 million face value of our 2023 Notes was converted to 8.9 million shares of common stock, plus accrued but unpaid interest, and the remaining $4.2 million face value of our 2023 Notes was redeemed for cash, plus accrued but unpaid interest.

(4) As of September 30, 2010, the fair value of the remaining payments under our 2012 Notes was estimated based on the trading value of the 2012 Notes or $97 per $100 of the 2012 Notes then outstanding. As of September 30, 2010, the fair value of our Non-recourse Notes was estimated to be the carrying value of the notes because management believes that the Non-recourse Notes terms and conditions approximate current market rates.

11. Comprehensive Income

The components of comprehensive income were as follows:

(In thousands)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
Net income	$ 40,189	$46,406	$116,334	$161,100
Other comprehensive income:				
Unrealized gain (loss) on foreign currency exchange contracts, net of taxes	(15,747)	—	1,341	—
Unrealized gain on short-term investments, net of taxes	10	—	2	—
Total comprehensive income	$ 24,452	$46,406	$117,677	$161,100

PDL BIOPHARMA, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
September 30, 2010
(Unaudited)

12. Commitments and Contingencies

Genentech Matter

Communications with Genentech regarding European SPCs

In August 2010, we received a letter from Genentech asserting that Avastin®, Herceptin®, Lucentis® and Xolair® (the Genentech Products) do not infringe the supplementary protection certificates (SPCs) granted to PDL by various countries in Europe for each of the Genentech Products and seeking a response from PDL to these assertions. Genentech did not state what actions, if any, it intends to take with respect to its assertions. PDL's SPCs were granted by the relevant national patent offices in Europe and specifically cover the Genentech Products. The SPCs covering the Genentech Products effectively extend our European patent protection for our European Patent 0 451 216B (the '216 Patent) generally until December 2014, except that the SPCs for Herceptin will generally expire in July 2014.

Genentech's letter does not suggest that the Genentech Products do not infringe PDL's U.S. patents to the extent that such Genentech Products are made, used or sold in the United States (U.S.-based Sales). Genentech's quarterly royalty payment received after our receipt of the letter included royalties generated on worldwide sales of the Genentech Products.

If Genentech's assertions were true, then under the terms of our license agreements with Genentech, it would not owe us royalties on sales of the Genentech Products that are both manufactured and sold outside of the United States (ex-U.S.-based Manufacturing and Sales). Royalties on ex-U.S.-based Manufacturing and Sales of the Genentech Products accounted for approximately 33% of our royalty revenue for the first nine months of 2010. Based on announcements by F. Hoffmann-La Roche, Ltd. (Roche) regarding moving more manufacturing outside of the United States, this percentage may increase in the future.

We believe that the SPCs are enforceable against the Genentech Products, that Genentech's letter violates the terms of the 2003 settlement agreement and that Genentech owes us royalties on sales of the Genentech Products on a worldwide basis. We intend to vigorously assert our SPC-based patent rights.

In August 2010, we responded to Genentech, stating that we believe its assertions are without merit and that we disagreed fundamentally with its assertions of non-infringement with respect to the Genentech Products. Representatives of the Company have participated in discussions with officials of Genentech and Roche towards resolving this dispute. If a mutually acceptable resolution is not achieved, PDL will vigorously enforce its rights, including those under its agreements with Genentech and against Roche and Novartis AG (Novartis).

Nevada Litigation with Genentech, Roche and Novartis in Nevada State Court

In August 2010, we filed a complaint in the Second Judicial District of Nevada, Washoe County, naming Genentech, Roche and Novartis as defendants. We seek to enforce our rights under our 2003 settlement agreement with Genentech and are seeking an order from the court declaring that Genentech is obligated to pay royalties to us on ex-U.S.-based Manufacturing and Sales of the Genentech Products. The complaint alleges that the communication received from Genentech, which states that it was sent at the behest of Roche and Novartis, damaged the Company and constitutes a breach of Genentech's obligations under its 2003 settlement agreement with PDL. Specifically the complaint: (i) seeks a declaratory judgment from the court that Genentech is obligated to pay royalties to PDL on international sales of the Genentech Products; (ii) alleges that Genentech, by challenging at the behest of Roche and Novartis whether our SPCs cover the Genentech Products in its August 2010 letter, has breached its contractual obligations to PDL under the 2003 settlement agreement; (iii) alleges that Genentech breached the implied covenant of good faith and fair dealing with respect to the 2003 settlement agreement; (iv) alleges that Genentech committed a bad faith tortious breach of the implied covenant of good faith and fair dealing in the 2003 settlement agreement; and (v) alleges that Roche and Novartis intentionally and knowingly interfered with PDL's contractual relationship with Genentech in conscious disregard of PDL's rights. The complaint seeks compensatory damages, including liquidated damages and other monetary remedies set forth in the 2003 settlement agreement, punitive damages and attorney's fees.

In November 2010, Genentech and Roche filed a motion to dismiss our complaint under Nevada Rule of Civil Procedure 12(b)(5), in which they contend that all of our claims for relief relating to the 2003 settlement agreement should be dismissed because the 2003 settlement agreement applies only to PDL's U.S. patents. To prevail on their motion to dismiss, Genentech and Roche must establish that PDL can prove no set of facts which, if accepted by the court, would entitle PDL to the relief requested in our complaint. In addition, Roche filed a separate motion to dismiss our complaint under Nevada Rule of Civil Procedure 12(b)(2) on the ground that the Nevada court lacks personal jurisdiction over Roche. To prevail on its motion to dismiss for lack of jurisdiction, Roche must establish that its conduct does not permit a Nevada court from adjudicating the claims asserted in the complaint without violating due process. PDL disagrees with the arguments presented in these motions and intends to oppose them. Novartis is expected to provide its response to our complaint in December 2010. The Nevada court has not yet fixed a date on which it would hear and decide Genentech and Roche's motions.

The 2003 settlement agreement was entered into as part of a definitive agreement resolving intellectual property disputes between the two companies at that time. The agreement limits Genentech's ability to challenge infringement of our patent rights and waives Genentech's right to challenge the validity of our patent rights. Certain breaches of the 2003 settlement agreement as alleged by our complaint require Genentech to pay us liquidated and other damages of up to $1.0 billion. This amount includes a retroactive royalty rate of 3.75% on past U.S.-based Sales of the Genentech Products and interest, among other items. We may also be entitled to either terminate our license agreements with Genentech or be paid a flat royalty of 3.75% on future U.S.-based Sales of the Genentech Products. The outcome of this litigation is uncertain, and we may not be successful in our allegations.

PDL BIOPHARMA, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
September 30, 2010
(Unaudited)

Lease Guarantee

In connection with the divestiture of our former biotechnology subsidiary, Facet Biotech Corporation (Facet), we entered into amendments to the leases for our former facilities in Redwood City, California, under which Facet was added as a co-tenant, and a Co-Tenancy Agreement, under which Facet agreed to indemnify us for all matters related to the leases attributable to the period after the divestiture. Should Facet default under the lease obligations, we would be held liable by the landlord as a co-tenant and, thus, we have in substance guaranteed the payments under the lease agreements for the Redwood City facilities. As of September 30, 2010, the total lease payments for the duration of the guarantee, which runs through December 2021, were approximately $123.5 million. We would also be responsible for lease related costs including utilities, property taxes and common area maintenance which may be as much as the actual lease payments if Facet was to default. In April 2010, Abbott Laboratories acquired Facet. We recorded a liability of $10.7 million on our Condensed Consolidated Balance Sheets as of September 30, 2010 and December 31, 2009 related to this guarantee.

13. Income Taxes

Income tax expense for the three and nine months ended September 30, 2010 was $23.0 million and $70.8 million, respectively, and was primarily determined by applying the federal statutory income tax rate of 35% to income from operations and adjusting for a portion of the loss on the retirement or conversion of the 2023 Notes which is not tax deductible. Income tax expense for the three and nine months ended September 30, 2009 was $17.2 million and $75.6 million, respectively, and was primarily determined by applying the federal statutory income tax rate of 35% to income from operations.

14. Cash Dividends

On January 27, 2010, our board of directors declared two special cash dividends of $0.50 per share payable on April 1, 2010 and October 1, 2010. We paid $59.9 million to our stockholders on April 1, 2010. The record date for the October 1, 2010 dividend was September 15, 2010. As of September 30, 2010, we accrued $70.2 million in dividends payable for the October 2010 dividend payment and for dividends payable on restricted shares of our common stock. On October 1, 2010, we paid $69.8 million in dividends using cash on hand.

Effective September 16, 2010, in connection with the payment of the dividend in October 2010, the conversion ratio for our outstanding 2012 Notes was adjusted to 140.571 shares per $1,000 principal amount of 2012 Notes or a conversion price of approximately $7.11 per share.

PDL BIOPHARMA, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
September 30, 2010
(Unaudited)

15. Subsequent Event

On November 4, 2010, the Company completed an exchange of $92.0 million in aggregate principal of the 2012 Notes in separate, privately negotiated transactions with the note holders. Pursuant to the exchange transactions, the note holders received $92.0 million in aggregate principal of new 2.875% Convertible Senior Notes due February 15, 2015 (the 2015 Notes). As part of the transaction, the Company also placed an additional $88.0 million in aggregate principal of the 2015 Notes. The conversion rate for the 2015 Notes is 140.571 shares of common stock per $1,000 principal amount of the 2015 Notes or $7.11 per share of common stock. Following the exchange transactions, $136.0 million of the 2012 Notes remain outstanding.

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

This Quarterly Report contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical facts are "forward-looking statements" for purposes of these provisions, including any projections of earnings, revenues or other financial items, any statements of the plans and objectives of management for future operations, including any statements concerning new licensing, any statements regarding future economic conditions or performance, and any statement of assumptions underlying any of the foregoing. In some cases, forward-looking statements can be identified by the use of terminology such as "may," "will," "intends," "plans," "believes," "anticipates," "expects," "estimates," "predicts," "potential," "continue" or "opportunity," or the negative thereof or other comparable terminology. Although we believe that the expectations presented in the forward-looking statements contained herein are reasonable, there can be no assurance that such expectations or any of the forward-looking statements will prove to be correct, and actual results could differ materially from those projected or assumed in the forward-looking statements. Our future financial condition and results of operations, as well as any forward-looking statements, are subject to inherent risks and uncertainties, including but not limited to the risk factors set forth below, and for the reasons described elsewhere in this Quarterly Report. All forward-looking statements and reasons why results may differ included in this Quarterly Report are made as of the date hereof, and we assume no obligation to update these forward-looking statements or reasons why actual results might differ.

OVERVIEW

Our business is the management of antibody humanization patents and royalty assets which consist of our Queen et al. patents and our license agreements with numerous biotechnology and pharmaceutical companies pursuant to which we have licensed certain rights under our Queen et al. patents. We receive royalties based on sales of humanized antibody products marketed today and may also receive royalty payments on additional humanized antibody products launched before final patent expiry in December 2014. Under most of our licensing agreements, we are entitled to receive a flat-rate or tiered royalty based upon our licensees' net sales of covered antibodies.

We continuously evaluate alternatives to increase return for our stockholders, for example, purchasing royalty generating assets, buying back or redeeming our convertible notes, repurchasing our common stock, selling the company or paying dividends. On January 27, 2010, our board of directors declared two special cash dividends of $0.50 per share payable on April 1, 2010 and October 1, 2010. Using proceeds from our first quarter 2010 earnings and cash on hand and, based on the total shares outstanding as of the March 15, 2010 record date, we paid $59.9 million to our stockholders on April 1, 2010. As of September 30, 2010, we had accrued $70.2 million in dividends payable for the October dividend payment and for dividends payable on restricted shares of our common stock. The record date for the October 1, 2010 dividend was September 15, 2010.

Recent Developments

Genentech Matter

Communications with Genentech regarding European SPCs

In August 2010, we received a letter from Genentech, Inc. (Genentech) asserting that Avastin®, Herceptin®, Lucentis® and Xolair® (the Genentech Products) do not infringe the supplementary protection certificates (SPCs) granted to PDL by various countries in Europe for each of the Genentech Products and seeking a response from PDL to these assertions. Genentech did not state what actions, if any, it intends to take with respect to its assertions. PDL's SPCs were granted by the relevant national patent offices in Europe and specifically cover the Genentech Products. The SPCs covering the Genentech Products effectively extend our European patent protection for our European Patent 0 451 216B (the '216 Patent) generally until December 2014, except that the SPCs for Herceptin will generally expire in July 2014.

Genentech's letter does not suggest that the Genentech Products do not infringe PDL's U.S. patents to the extent that such Genentech Products are made, used or sold in the United States (U.S.-based Sales). Genentech's quarterly royalty payment received after our receipt of the letter included royalties generated on worldwide sales of the Genentech Products.

If Genentech's assertions were true, then under the terms of our license agreements with Genentech, it would not owe us royalties on sales of the Genentech Products that are both manufactured and sold outside of the United States (ex-U.S.-based Manufacturing and Sales). Royalties on ex-U.S.-based Manufacturing and Sales of the Genentech Products accounted for approximately 33% of our royalty revenue for the first nine months of 2010. Based on announcements by F. Hoffmann-La Roche, Ltd. (Roche) regarding moving more manufacturing outside of the United States, this percentage may increase in the future.

We believe that the SPCs are enforceable against the Genentech Products, that Genentech's letter violates the terms of the 2003 settlement agreement and that Genentech owes us royalties on sales of the Genentech Products on a worldwide basis. We intend to vigorously assert our SPC-based patent rights.

In August 2010, we responded to Genentech, stating that we believe its assertions are without merit and that we disagreed fundamentally with its assertions of non-infringement with respect to the Genentech Products. Representatives of the Company have participated in discussions with officials of Genentech and Roche towards resolving this dispute. If a mutually acceptable resolution is not achieved, PDL will vigorously enforce its rights, including those under its agreements with Genentech and against Roche and Novartis AG (Novartis).

Nevada Litigation with Genentech, Roche and Novartis in Nevada State Court

In August 2010, we filed a complaint in the Second Judicial District of Nevada, Washoe County, naming Genentech, Roche and Novartis as defendants. We seek to enforce our rights under our 2003 settlement agreement with Genentech and are seeking an order from the court declaring that Genentech is obligated to pay royalties to us on ex-U.S.-based Manufacturing and Sales of the Genentech Products. The complaint alleges that the communication received from Genentech, which states that it was sent at the behest of Roche and Novartis, damaged the Company and constitutes a breach of Genentech's obligations under its 2003 settlement agreement with PDL. Specifically the complaint: (i) seeks a declaratory judgment from the court that Genentech is obligated to pay royalties to PDL on international sales of the Genentech Products; (ii) alleges that Genentech, by challenging at the behest of Roche and Novartis whether our SPCs cover the Genentech Products in its August 2010 letter, has breached its contractual obligations to PDL under the 2003 settlement agreement; (iii) alleges that Genentech breached the implied covenant of good faith and fair dealing with respect to the 2003 settlement agreement; (iv) alleges that Genentech committed a bad faith tortious breach of the implied covenant of good faith and fair dealing in the 2003 settlement agreement; and (v) alleges that Roche and Novartis intentionally and knowingly interfered with PDL's contractual relationship with Genentech in conscious disregard of PDL's rights. The complaint seeks compensatory damages, including liquidated damages and other monetary remedies set forth in the 2003 settlement agreement, punitive damages and attorney's fees.

In November 2010, Genentech and Roche filed a motion to dismiss our complaint under Nevada Rule of Civil Procedure 12(b)(5), in which they contend that all of our claims for relief relating to the 2003 settlement agreement should be dismissed because the 2003 settlement agreement applies only to PDL's U.S. patents. To prevail on their motion to dismiss, Genentech and Roche must establish that PDL can prove no set of facts which, if accepted by the court, would entitle PDL to the relief requested in our complaint. In addition, Roche filed a separate motion to dismiss our complaint under Nevada Rule of Civil Procedure 12(b)(2) on the ground that the Nevada court lacks personal jurisdiction over Roche. To prevail on its motion to dismiss for lack of jurisdiction, Roche must establish that its conduct does not permit a Nevada court from adjudicating the claims asserted in the complaint without violating due process. PDL disagrees with the arguments presented in these motions and intends to oppose them. Novartis is expected to provide its response to our complaint in December 2010. The Nevada court has not yet fixed a date on which it would hear and decide Genentech and Roche's motions.

The 2003 settlement agreement was entered into as part of a definitive agreement resolving intellectual property disputes between the two companies at that time. The agreement limits Genentech's ability to challenge infringement of our patent rights and waives Genentech's right to challenge the validity of our patent rights. Certain breaches of the 2003 settlement agreement as alleged by our complaint require Genentech to pay us liquidated and other damages of up to $1.0 billion. This amount includes a retroactive royalty rate of 3.75% on past U.S.-based Sales of the Genentech Products and interest, among other items. We may also be entitled to either terminate our license agreements with Genentech or be paid a flat royalty of 3.75% on future U.S.-based Sales of the Genentech Products. The outcome of this litigation is uncertain, and we may not be successful in our allegations.

2023 Note Retirement

In August 2010, we exchanged an aggregate of $61.6 million face value of our 2.75% Convertible Subordinate Notes due August 16, 2023 (2023 Notes) in privately negotiated transactions with institutional holders for consideration consisting of the issuance of the number of shares of common stock convertible per the terms of the 2023 Notes plus three additional shares per $1,000 in principal for a total of 11.1 million shares. Subsequent to the exchange transaction, we issued a redemption notice for the remaining principal outstanding after the exchange transaction of $54.3 million. Pursuant to the redemption notice, $50.1 million of the outstanding principal was converted to 8.9 million shares of common stock and $4.2 million was redeemed for cash. As of September 30, 2010, the 2023 Notes were fully retired or converted.

2012 Note Conversion Ratio Adjustment

Effective September 16, 2010, in connection with the payment of the dividend in October 2010, the conversion ratio of our outstanding 2.00% Convertible Senior Notes due February 15, 2012 (the 2012 Notes) was adjusted to 140.571 shares of common stock per $1,000 principal amount of 2012 Notes or $7.11 per share of common stock. The adjustment was based on the amount of the dividend and the trading price of our stock pursuant to the terms of the indenture.

Subsequent Event

On November 4, 2010, the Company completed an exchange of $92.0 million in aggregate principal of the 2012 Notes in separate, privately negotiated transactions with the note holders. Pursuant to the exchange transactions, the note holders received $92.0 million in aggregate principal of new 2.875% Convertible Senior Notes due February 15, 2015 (the 2015 Notes). As part of the transaction, the Company also placed an additional $88.0 million in aggregate principal of the 2015 Notes. Following the exchange transactions, $136.0 million of the 2012 Notes remain outstanding.

Patents and Technology Outlicense Agreements

Patents

We have been issued patents in the United States and elsewhere, covering the humanization of antibodies, which we refer to as our Queen et al. patents. Our Queen et al. patents, for which final patent expiry is in December 2014, cover, among other things, humanized antibodies, methods for humanizing antibodies, polynucleotide encoding in humanized antibodies and methods of producing humanized antibodies.

The following is a list of our U.S. patents within our Queen et al. patent portfolio:

Application Number	Filing Date	Patent Number	Issue Date
08/477,728	06/07/95	5,585,089	12/17/96
08/474,040	06/07/95	5,693,761	12/02/97
08/487,200	06/07/95	5,693,762	12/02/97
08/484,537	06/07/95	6,180,370	01/30/01

Our European Patent No. 0 451 216B (the ‘216 Patent) expired in December 2009. We have been granted SPCs for the Avastin, Herceptin, Lucentis, Xolair, Synagis® and Tysabri® products in many of the jurisdictions in the European Union in connection with the ‘216 Patent. We have also filed SPC applications for Cimzia® in countries in the European Union based on the ‘216 Patent. These SPCs effectively extend our patent protection with respect to these products generally until December 2014 except that the SPCs for Herceptin and Synagis will generally expire in July 2014 and August 2014, respectively. Because SPCs are granted on a jurisdiction-by-jurisdiction basis, the duration of the extension varies slightly in certain jurisdictions. We are not able to file applications for any SPCs after December 2009 when the ‘216 Patent expired. Therefore, if a product is first approved for marketing after December 2009 in a jurisdiction that issues SPCs, we will not have patent protection or SPC protection in this jurisdiction with respect to this product. We may still be eligible for royalties notwithstanding the unavailability of SPC protection if the relevant royalty-bearing humanized antibody product is also made, used, sold or offered for sale in or imported from a jurisdiction in which we have an unexpired Queen et al. patent such as the United States. We are currently in an opposition proceeding with respect to the ‘216 Patent at the European Patent Office (EPO). An adverse decision in the opposition proceeding would adversely impact our ability to enforce our SPCs.

MedImmune, LLC. (MedImmune) filed a declaratory judgment against us related to the Queen et al. patents in December 2008. In February 2009, the U.S. Patent and Trademark Office (PTO) declared an interference proceeding between our U.S. Patent No. 5,585,089 (the ‘089 Patent) and a patent application pending to Adair et al. and, on November 23, 2009, the PTO declared a second interference proceeding between certain claims of the U.S. Patent No. 6,180,370 (the ‘370 Patent) and certain pending claims of Adair et al. UCB Pharma S.A. is the assignee of the Adair et al. applications. For further information, see “Part II. Other Information, Item 1, Legal Proceedings.”

Licensing Agreements

We have entered into licensing agreements with numerous entities that are independently developing or have developed humanized antibodies pursuant to which we have licensed certain rights under our Queen et al. patents to make, use, sell, offer for sale and import humanized antibodies. We receive royalties on net sales of products that are made, used or sold prior to patent expiry. In general, these agreements cover antibodies targeting antigens specified in the license agreements. Under most of our licensing agreements, we are entitled to receive a flat-rate or tiered royalty based upon our licensees' net sales of covered antibodies. Our licensing agreements generally entitle us to royalties following the expiration of our patents with respect to products manufactured prior to patent expiry. We also expect to receive minimal annual maintenance fees from licensees of our Queen et al. patents.

Licensing Agreements for Marketed Products

In the nine months ended September 30, 2010, we received royalties on sales of the seven humanized antibody products listed below, all of which are currently approved for use by the U.S. Food and Drug Administration (FDA) and other regulatory agencies outside the United States. In June 2010, after results from a recent clinical trial raised concerns about the efficacy and safety of Mylotarg®, Pfizer Inc. (Pfizer), the parent company of Wyeth Pharmaceuticals, Inc. (Wyeth), announced that it will be discontinuing commercial availability of Mylotarg. In December 2009, we declared MedImmune in breach of its license agreement with us and canceled their license agreement pursuant to which they had distributed Synagis and have not received royalties for Synagis sales in the three and nine months ended September 30, 2010. For the three months ended September 30, 2009, we received $0.8 million and $1.6 million in royalties for sales of Mylotarg and Synagis, respectively. For the nine months ended September 30, 2009, we received $1.5 million and $37.6 million in royalties for sales of Mylotarg and Synagis, respectively. For more information about MedImmune, see "Part II. Other Information, Item 1, Legal Proceedings."

In the three months ended September 30, 2010 and 2009, we received approximately $86.4 million and $71.4 million, respectively, of royalty revenues. In the nine months ended September 30, 2010 and 2009, we received approximately $268.8 million and $247.1 million, respectively, of royalty revenues. The licensees with commercial products as of September 30, 2010 are identified below:

Licensees	Product Names
Genentech, Inc. (Genentech)	Avastin® Herceptin® Xolair® Lucentis®
Elan Corporation, Plc (Elan)	Tysabri®
Wyeth Pharmaceuticals, Inc. (Wyeth)	Mylotarg®
Chugai Pharmaceutical Co., Ltd. (Chugai)	Actemra®/RoActemra®

Genentech

We entered into a master patent license agreement, effective September 25, 1998, pursuant to which we granted Genentech a license under our Queen et al. patents to make, use and sell certain antibody products. Our master patent license agreement with Genentech provides for a tiered royalty structure under which the royalty rate Genentech must pay on U.S.-based Sales in a given calendar year decreases on incremental U.S.-based Sales above certain net sales thresholds. The net sales thresholds and the applicable royalty rates are outlined below:

Aggregate Net Sales	Royalty Rate
Net sales up to $1.5 billion	3.0%
Net sales between $1.5 billion and $2.5 billion	2.5%
Net sales between $2.5 billion and $4.0 billion	2.0%
Net sales exceeding $4.0 billion	1.0%

As a result of the tiered royalty structure, Genentech's average annual royalty rate for a given year will decline as Genentech's U.S.-based Sales increase during that year. Because we receive royalties one quarter in arrears, the average royalty rates for the payments we receive from Genentech for U.S.-based Sales in the second calendar quarter for Genentech's sales from the first calendar quarter have been and are expected to continue to be higher than the average royalty rates for following quarters. The average royalty rates for payments we receive from Genentech are generally lowest in the fourth and first calendar quarters for Genentech's sales from the third and fourth calendar quarters when more of Genentech's U.S.-based Sales bear royalties at the 1% royalty rate.

With respect to ex-U.S.-based Manufacturing and Sales, the royalty rate that we receive from Genentech is a fixed rate of 3% based on 95% of the underlying gross ex-U.S.-based Manufacturing and Sales. The mix of U.S.-based Sales and ex-U.S.-based Manufacturing and Sales has fluctuated in the past and may continue to fluctuate in future periods, particularly in light of the 2009 acquisition of Genentech by Roche.

The mix of total ex-U.S.-based Sales and ex-U.S.-based Manufacturing and Sales is outlined in the following table:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
Avastin				
% Ex-U.S. based Sales	49%	46%	49%	46%
% Ex-U.S. based Manufacturing and Sales	27%	0%	20%	0%
Herceptin				
% Ex-U.S. based Sales	68%	68%	70%	70%
% Ex-U.S. based Manufacturing and Sales	45%	47%	45%	31%
Lucentis				
% Ex-U.S. based Sales	56%	55%	57%	52%
% Ex-U.S. based Manufacturing and Sales	0%	0%	0%	0%
Xolair				
% Ex-U.S. based Sales	34%	31%	35%	28%
% Ex-U.S. based Manufacturing and Sales	34%	31%	35%	28%

The information in the table above is based on information provided to us by Genentech in their quarterly reports to us.

In the first nine months of 2010, PDL received royalties generated from three of Genentech's licensed products; Herceptin, Avastin and Xolair, which were ex-U.S. manufactured and sold. Prior to the first quarter of 2010, only Herceptin and Xolair generated royalties from ex-U.S.-based Manufacturing and Sales. Roche has announced that there are new plants in Singapore for the production of Avastin and Lucentis. The agreement continues until the expiration of the last to expire of our Queen et al. patents but may be terminated (i) by Genentech prior to such expiration upon sixty days written notice, (ii) by either party upon a material breach by the other party or (iii) upon the occurrence of certain bankruptcy-related events.

Elan

We entered into a patent license agreement, effective April 24, 1998, pursuant to which we granted to Elan a license under our Queen et al. patents to make, use and sell antibodies that bind to the cellular adhesion molecule a4 in patients with multiple sclerosis. Pursuant to the agreement, we are entitled to receive a flat royalty rate in the low single digits based on Elan's net sales of the Tysabri product. The agreement continues until the expiration of the last to expire of our Queen et al. patents but may be terminated (i) by Elan prior to such expiration upon sixty days written notice, (ii) by either party upon a material breach by the other party or (iii) upon the occurrence of certain bankruptcy-related events.

Wyeth

We entered into a patent license agreement, effective September 1, 1999, pursuant to which we granted to Wyeth a license under our Queen et al. patents to make, use and sell antibodies that bind to CD33, an antigen that is found in about 80% of patients with acute myeloid leukemia, and conjugated to a cytotoxic agent. Pursuant to the agreement, we are entitled to receive a flat royalty rate in the low single digits based on Wyeth's net sales of the Mylotarg product. The agreement continues until the expiration of the last to expire of our Queen et al. patents but may be terminated (i) by Wyeth prior to such expiration upon sixty days written notice, (ii) by either party upon a material breach by the other party or (iii) upon the occurrence of certain bankruptcy-related events. In June 2010, after results from a recent clinical trial raised concerns about the efficacy and safety of Mylotarg, Pfizer, the parent company of Wyeth, announced that it will be discontinuing commercial availability of Mylotarg.

Chugai

We entered into a patent license agreement, effective May 18, 2000, with Chugai, a majority owned subsidiary of Roche, pursuant to which we granted to Chugai a license under our Queen et al. patents to make, use and sell antibodies that bind to interleukin-6 receptor to prevent inflammatory cascades involving multiple cell types for the treatment of rheumatoid arthritis. Pursuant to the agreement, we are entitled to receive a flat royalty rate in the low single digits based on net sales of the Actemra product (RoActemra in Europe). The agreement continues until the expiration of the last to expire of our Queen et al. patents but may be terminated (i) by Chugai prior to such expiration upon sixty days written notice, (ii) by either party upon a material breach by the other party or (iii) upon the occurrence of certain bankruptcy-related events.

Licensing Agreements for Non-Marketed Products

We have also entered into licensing agreements pursuant to which we have licensed certain rights under our Queen et al. patents to make, use and sell certain products in development that have not yet reached commercialization. Certain of these development-stage products are currently in Phase 3 clinical trials. With respect to these agreements, we may receive milestone payments based on certain development milestones. We may also receive royalty payments if the licensed products receive marketing approval and are manufactured or generate sales before the expiration of our Queen et al. patents. For example, both Eli Lilly and Company (Lilly) and Wyeth have licensed antibodies for the treatment of Alzheimer's disease that are currently in Phase 3 clinical trials. Another example is teplizumab which is being studied for the treatment of newly-diagnosed type 1 diabetes mellitus and which is the subject of a new license agreement with Lilly that we announced in December 2009.

Economic and Industry-wide Factors

Various economic and industry-wide factors are relevant to us and could affect our business, including the factors set forth below.

- Our business success is dependent in significant part on our success in maintaining and protecting our intellectual property rights. If we are unable to protect or defend our intellectual property, our royalty revenues and operating results would be adversely affected. Assertion and defense of our intellectual property rights can be expensive and could result in a significant reduction in the scope or invalidation of our intellectual property rights, which could adversely affect our results of operations.
- The manufacture of drugs and antibodies for use as therapeutics in compliance with regulatory requirements is complex, time-consuming and expensive. If our licensees are unable to manufacture product or product candidates in accordance with FDA and European good manufacturing practices, they may not be able to obtain or retain regulatory approval for products licensed under our patents.
- Our licensees are subject to stringent regulation with respect to product safety and efficacy by various international, federal, state and local authorities and may be unable to maintain regulatory approvals for currently licensed products or obtain regulatory approvals for new products. Safety issues could also result in the failure to maintain regulatory approvals or decrease revenues. For example, in June 2010, after results from a recent clinical trial raised concerns about the efficacy and safety of Mylotarg, Pfizer, the parent company of Wyeth, announced that it will be discontinuing commercial availability of Mylotarg.
- In March 2010, the Patient Protection and Affordable Care Act was signed into law along with the related Health Care and Education Reconciliation Act of 2010 (collectively, the Act). The Act represents a major overhaul of the healthcare system in the United States and also includes a number of provisions that may affect our licensees and our royalty revenues.
- Approximately 50% of our licensees' product sales are in currencies other than the U.S. dollar; as such, our revenue may fluctuate due to changes in foreign currency exchange rates and is subject to foreign currency exchange risk. Therefore, shifts in currencies can impact our short-term results as well as our long-term revenue and net income projections.
- To be successful, we must attract, retain and integrate qualified personnel. Our business is managing our antibody humanization patents and royalties assets, which requires a small number of employees. If we cannot recruit and retain qualified personnel, results from our operations could be adversely impacted.
- Our business success is also dependent on overall economic conditions. The global financial downturn could adversely affect product sales by our licensees.

See also the "Risk Factors" section of this quarterly report for additional information on these economic and industry-wide and other factors and the impact they could have on our business and results of operations.

CRITICAL ACCOUNTING POLICIES AND THE USE OF ESTIMATES

Reference is made to “Critical Accounting Policies and Uses of Estimates” included in Part II, Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2009.

Royalty Revenues

Under most of our patent license agreements, we receive royalty payments based upon our licensees’ sales of covered products. Generally, under these agreements we receive royalty reports and payments from our licensees approximately one quarter in arrears, that is, generally in the second month of the quarter after the licensee has sold the royalty bearing product or products. We recognize royalty revenues when we can reliably estimate such amounts and collectability is reasonably assured. As such, we generally recognize royalty revenues in the quarter reported to us by our licensees, that is, royalty revenues are generally recognized one quarter following the quarter in which sales by our licensees occurred. Under this accounting policy, the royalty revenues we report are not based upon our estimates and are typically reported in the same period in which we receive payment from our licensees.

We may also receive annual license maintenance fees, payable at the election of the licensee, to maintain the license then in effect. We have no performance obligations with respect to such fees. Maintenance fees are recognized as they are due and when payment is reasonably assured.

Foreign Currency Hedging

We hedge certain foreign currency exposures related to our licensees’ product sales with foreign currency exchange forward contracts and foreign currency exchange option contracts (collectively, foreign currency exchange contracts). In general, these contracts are intended to offset the underlying foreign currency market risks in our royalty revenues. Our exposure to credit risk from these contracts is a function of foreign currency exchange rates and, therefore, varies over time. We limit the credit risk that our counterparty to these contracts may be unable to perform by transacting with a major bank and monitoring the exposure in the context of current market conditions. We mitigate the risk of loss by entering into a netting agreement with our counterparty that provides for aggregate net settlement of the foreign currency exchange should our counterparty default on the foreign currency exchange contracts prior to contract settlement. Therefore, our overall risk of loss in the event of counterparty default is limited to the amount of any unrecognized gains on outstanding contracts net of any unrecognized losses on outstanding contracts at the date of default. We do not enter into speculative foreign currency transactions. We have designated the foreign currency exchange contracts as cash flow hedges. At the inception of the hedging relationship and on a quarterly basis, we assess hedge effectiveness. The fair value of the foreign currency exchange contracts is estimated using pricing models using readily observable inputs from actively quoted markets. The aggregate unrealized gain or loss on our foreign currency exchange contracts net of estimated taxes on the effective portion of the hedge is recorded in stockholders’ deficit as accumulated other comprehensive income. Gains or losses on cash flow hedges are recognized as royalty revenue in the same period that the hedged transaction, royalty revenue, impacts earnings. The hedge effectiveness is dependent upon the amounts of future royalties and, if future royalties, based on Eurodollar, are lower than forecasted, the amount of ineffectiveness would be reported in our Condensed Consolidated Statements of Income.

Income Taxes

Our income tax provision is based on income before taxes and is computed using the liability method. Deferred tax assets and liabilities are determined based on the difference between the financial statement and tax basis of assets and liabilities using tax rates projected to be in effect for the year in which the differences are expected to reverse. We record a valuation allowance to reduce our deferred tax assets to the amounts that are more likely than not to be realized. Significant estimates are required in determining our provision for income taxes. Some of these estimates are based on interpretations of existing tax laws or regulations, or the expected results from any future tax examinations. Various internal and external factors may have favorable or unfavorable effects on our future provision for income taxes. These factors include, but are not limited to, changes in tax laws, regulations and/or rates, the results of any future tax examinations, changing interpretations of existing tax laws or regulations, changes in estimates of prior years’ items, past levels of research and development spending, acquisitions, changes in our corporate structure and state of domicile and changes in overall levels of income before taxes all of which may result in periodic revisions to our provision for income taxes. We accrue tax related interest and penalties associated with uncertain tax positions and include these in income tax expense in the Condensed Consolidated Statements of Income.

RESULTS OF OPERATIONS

Three and Nine Months Ended September 30, 2010 and 2009

Revenues

Revenues consist of royalty revenues as well as license and other revenues. During the three and nine months ended September 30, 2010 and 2009, our royalty revenues consisted almost entirely of royalties and maintenance fees earned on sales of products under license agreements for our Queen et al. patents.

(Dollars in thousands)	Three Months Ended September 30, 2010	Three Months Ended September 30, 2009	Change from Prior Year	Nine Months Ended September 30, 2010	Nine Months Ended September 30, 2009	Change from Prior Year
Revenues						
Royalties	$86,442	$71,446	21%	$268,846	$247,147	9%
License and other	—	—	N/A	—	12,785	-100%
Total revenues	$86,442	$71,446	21%	$268,846	$259,932	3%

Total revenue for the three months ended September 30, 2010 was $86.4 million as compared with $71.4 million for the same period in 2009. Total revenue for the nine months ended September 30, 2010 was $268.8 million as compared with $259.9 million for the same period in 2009. Included in results for the nine months ended September 30, 2009 and not included in the same period in 2010 is the second of two $12.5 million installment payments from Alexion Pharmaceuticals. In addition, as a result of ongoing legal disputes with MedImmune and cancellation of their license agreement by us in December 2009, we did not receive royalties on sales of Synagis in the three and nine months ended September 30, 2010. In the three and nine months ended September 30, 2009, we received royalties of $1.6 million and $37.6 million for sales of Synagis, respectively. We do not expect to receive additional payments from MedImmune unless and until the legal disputes are resolved in our favor.

Excluding royalties for Synagis, royalty revenue increased 24% for the three months ended September 30, 2010 when compared to royalty revenue for the same period in 2009. The growth is primarily driven by increased second quarter 2010 sales of Avastin, Herceptin, Lucentis and Tysabri by our licensees for which we received royalties in the third quarter of 2010. Sales of Avastin, Herceptin, and Lucentis are subject to a tiered royalty rate for product that is manufactured or sold in the United States and a flat royalty rate of 3% for product that is manufactured and sold outside of the United States.

- Reported sales of Avastin and Herceptin increased 11% and 6%, respectively, when compared to the same period for the prior year. Also contributing to increased Avastin and Herceptin royalties are product sales that are manufactured and sold outside the United States. Roche recently reported that global sales of Avastin for advanced colorectal, breast, lung and kidney cancer and for relapsed glioblastoma, rose 14% in the first half of 2010 driven by uptake in colorectal, breast and/or lung cancer. Roche also reported that global sales of Herceptin for HER2-postive breast cancer and advanced stomach cancer increased 8% in the first half of 2010 driven by further penetration in the early and metastatic breast cancer settings, particularly in emerging markets. Additionally, first signs of uptake in Europe of Herceptin in HER2-postive advanced stomach cancer were seen following approval of this new indication in January of this year. Ex-U.S. manufactured and sold Avastin sales represented 27% of total Avastin sales; there were no sales of ex-U.S. manufactured Avastin prior to the fourth quarter of 2009.
- Reported sales of Lucentis increased 34% when compared to the same period for the prior year. Lucentis is approved for the treatment of age related macular degeneration in the United States and in Europe and received approval for the treatment of macular edema following retinal vein occlusion in June 2010 in the United States. Second quarter 2010 sales increased by 30% in the United States and by 38% internationally.
- Reported sales of Tysabri increased 14% when compared to the same period for the prior year. Elan recently announced that at the end of June 2010, approximately 52,700 patients were on therapy worldwide representing an increase of 22% over the approximately 43,300 patients who were on the therapy at the end of June 2009. Tysabri royalties are determined at a flat rate as a percent of sales regardless of location of manufacture or sale.

Excluding royalties for Synagis, royalty revenue for the nine months ended September 30, 2010 increased 28% when compared to the same period of 2009. The growth was primarily driven by sales of Avastin, Herceptin, Lucentis and Tysabri by our licensees for which we received royalties during the nine months ended September 30, 2010.

- Reported sales of Avastin and Herceptin increased 17% and 12%, respectively, when compared to the same period for the prior year. Also contributing to increased Avastin and Herceptin royalties are product sales that are ex-U.S. manufactured and sold. As a percent of total Herceptin sales, ex-U.S. manufactured and sold Herceptin increased to 45% from 31% for the same period in the prior year. Ex-U.S. manufactured and sold Avastin sales represented 20% of total Avastin sales in 2010.

- Reported sales of Lucentis increased 48% when compared to the same period for the prior year. Ex-U.S. sales of Lucentis increased 62% when compared to the same period for the prior year and represented 57% of total global sales.
- Reported sales of Tysabri increased 23% when compared to the same period for the prior year. Ex-U.S. sales of Tysabri increased 29% when compared to the same period for the prior year, and represented 52% of total global sales.

The following table summarizes revenues from our licensees' products which individually accounted for 10% or more of our total revenues for the three and nine months ended September 30, 2010 and 2009:

		Three Months Ended September 30,		Nine Months Ended September 30,	
Licensees	Product Name	2010	2009	2010	2009
Genentech	Avastin	35%	29%	34%	27%
	Herceptin	32%	38%	33%	29%
	Lucentis	13%	11%	14%	10%
MedImmune[1]	Synagis	—	2%	—	14%
Elan	Tysabri	10%	11%	10%	8%

(1) In December 2009, we sent a letter to MedImmune stating that they were in breach of their obligations under the license agreement, canceling the license agreement and revoking any licenses and rights granted therein. In February 2010, MedImmune made a royalty payment to an escrow account created *pendente lite* (while the litigation pending). We do not expect to receive additional payments from MedImmune unless and until the lawsuit is resolved in our favor. For further information, see "Part II. Other Information, Item 1, Legal Proceedings."

Under most of the agreements for the license of rights under our humanization patents, we receive a flat-rate royalty based upon our licensees' net sales of covered products. Royalty payments are generally due one quarter in arrears, that is, generally in the second month of the quarter after the licensee has sold the royalty-bearing product. Our agreement with Genentech provides for a tiered royalty structure under which the royalty rates Genentech must pay on the U.S.-based Sales in a given calendar year decreases on incremental U.S.-based Sales above several net sales thresholds. As a result of the tiered royalty structure, Genentech's average annual royalty rate for a given year will decline as Genentech's U.S.-based Sales increase during that year. Because we receive royalties in arrears, the average royalty rate for the payments we receive from Genentech in the second calendar quarter for Genentech's sales from the first calendar quarter has been and is expected to continue to be higher than the average royalty rate for following quarters. The average royalty rate for payments we receive from Genentech are generally lowest in the fourth and first calendar quarters for Genentech's sales from the third and fourth calendar quarters when more of Genentech's U.S.-based Sales bear royalties at the 1% royalty rate. With respect to the ex-U.S.-based Manufacturing and Sales, the royalty rate that we receive from Genentech is a fixed rate of 3% based on a percentage of the underlying ex-U.S.-based Manufacturing and Sales. The mix of U.S.-based Sales and ex-U.S.-based Manufacturing and Sales has fluctuated in the past and may continue to fluctuate in future periods, particularly in light of the 2009 acquisition of Genentech by Roche and Roche's plans to move certain Avastin, Herceptin and Lucentis manufacturing to Europe and Singapore.

General and Administrative Expenses

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2010	2009	Change from Prior Year	2010	2009	Change from Prior Year
General and administrative expenses	$11,110	$5,255	111%	$29,340	$15,538	89%

General and administrative expenses for the three months ended September 30, 2010 were $11.1 million as compared with $5.3 million for the same period in 2009. The increases in general and administrative expenses were primarily driven by increases in legal expense which is a result of the continuing legal dispute with MedImmune and the Genentech matter. For further information, see "Part II. Other Information, Item 1, Legal Proceedings."

General and administrative expenses for the nine months ended September 30, 2010 were $29.3 million as compared with $15.5 million for the same period in 2009. The increases in general and administrative expenses were primarily driven by increases in legal expense, professional services expense and compensation expense. The increase in legal expense is a result of the continuing legal dispute with MedImmune, the Genentech matter and the initiation of two interference proceedings with the U.S. Patent and Trademark Office in 2009. For further information, see "Part II. Other Information, Item 1, Legal Proceedings." The increase in professional services expense is due to costs associated with the implementation of a global royalty audit program, tax consultation and the preparation of a long term sales and royalty forecast by outside consultants. Compensation expense increased primarily as a result of filling staff positions which were vacant in the first half of 2009. We currently have fewer than ten employees managing our intellectual property, our licensing operations and other corporate activities, as well as providing for certain essential reporting and management functions of a public company.

Individual components of general and administrative expenses for the three and nine months ended September 30, 2010 and 2009 comprise:

(Dollars in thousands)	Three Months Ended September 30, 2010	Three Months Ended September 30, 2009	Change from Prior Year	Nine Months Ended September 30, 2010	Nine Months Ended September 30, 2009	Change from Prior Year
Compensation and benefits	$ 965	$ 821	18%	$ 2,962	$ 2,389	24%
Legal expense	8,660	3,063	183%	20,821	7,436	180%
Other professional services	535	567	-6%	2,618	2,133	23%
Insurance	185	238	-22%	608	754	-19%
Depreciation	14	35	-60%	76	957	-92%
Stock-based compensation	166	215	-23%	525	617	-15%
Other	585	316	85%	1,730	1,252	38%
Total general and administrative expenses	$11,110	$5,255	111%	$29,340	$15,538	89%

Non-operating Income and Expense, Net

(Dollars in thousands)	Three Months Ended September 30, 2010	Three Months Ended September 30, 2009	Nine Months Ended September 30, 2010	Nine Months Ended September 30, 2009
Gain (loss) on retirement or conversion of convertible notes	$ (2,354)	$ 323	$(18,681)	$ 1,518
Interest and other income, net	167	214	337	860
Interest expense	(9,928)	(3,105)	(34,015)	(10,036)
Total non-operating income and expense, net	$(12,115)	$(2,568)	$(52,359)	$ (7,658)

Non-operating income and expense, net for the three months ended September 30, 2010 was $12.1 million as compared with $2.6 million for the same period in 2009. Non-operating income and expense, net for the nine months ended September 30, 2010 was $52.4 million as compared with $7.7 million for the same period in 2009. In the three months ended September 30, 2010, we exchanged an aggregate of $61.6 million face value of the 2023 Notes in privately negotiated transactions with institutional holders for consideration consisting of the issuance of the number of shares of common stock convertible in accordance with the terms of the 2023 Notes plus three additional shares per $1,000 in principal for a total of 11.1 million shares. This exchange resulted in a charge of $1.2 million plus transaction fees of $1.2 million for an aggregate charge of $2.4 million. In the nine months ended September 30, 2010, we also repurchased $84.2 million of the 2023 Notes at a 19% premium which resulted in a loss on the repurchase of $16.3 million as compared with an aggregate gain of $1.5 million on the repurchase of $50.0 million of the 2023 Notes and $22.0 million of the 2012 Notes for the same period in 2009. Interest expense increased as a result of the issuance of $300.0 million Non-recourse Notes in November 2009 which bear interest at 10.25% per annum.

Income Taxes

Income tax expense for the three and nine months ended September 30, 2010 was $23.0 million and $70.8 million, respectively, and was primarily determined by applying the federal statutory income tax rate of 35% to income from operations and adjusting for a portion of the loss on the retirement or conversion of the 2023 Notes which is not tax deductible. Income tax expense for the three and nine months ended September 30, 2009 was $17.2 million and $75.6 million, respectively, and was primarily determined by applying the federal statutory income tax rate of 35% to income from operations.

Earnings per Share

Earnings per share for the three and nine months ended September 30, 2010 and 2009 was:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
Net income per basic share	$ 0.32	$ 0.39	$ 0.95	$ 1.35
Net income per diluted share	$ 0.24	$ 0.29	$ 0.67	$ 0.97

Non-GAAP Earnings per Share

To limit the further dilution from our 2023 Notes, during the three months ended September 30, 2010 we exchanged an aggregate of $61.6 million face value of the 2023 Notes in privately negotiated transactions with institutional holders for consideration consisting of the issuance of the number of shares of common stock convertible per the terms of the 2023 Notes plus three additional shares per $1,000 in principal for a total of 11.1 million shares. This exchange resulted in a charge to non-operating expense of $1.2 million plus transaction fees of $1.2 million for an aggregate charge of $2.4 million which is not deductible for income tax purposes. To reduce the dilution from the 2023 Notes, during the nine months ended September 30, 2010, we also repurchased at market prices an aggregate $84.2 million face value of the 2023 Notes at an average premium of 19% to face value for total consideration of $100.4 million in cash, plus accrued interest. In the aggregate, these transactions resulted in a charge to non-operating expense of $18.7 million or $17.1 million net of tax. The effect of these transactions was to reduce net income per diluted share from $0.25 to $0.24 for the three months ended September 30, 2010 and $0.77 to $0.67 for the nine months ended September 30, 2010.

During the three months ended September 30, 2009, we repurchased at market prices $17.0 million face value of the 2012 Notes at a 3% discount to face value for total consideration of $16.5 million in cash plus accrued but unpaid interest. This transaction resulted in a gain of $0.3 million or $0.2 million net of tax. During the nine months ended September 30, 2009, we also repurchased at market prices $50.0 million face value of the 2023 Notes at approximately a 2% discount to face value for total consideration of $49.0 million in cash, plus accrued but unpaid interest, and $5.0 million face value of the 2012 Notes at a 10.75% discount to face value for total consideration of $4.5 million in cash, plus accrued but unpaid interest. In the aggregate, these transactions resulted in a gain of $1.5 million or $0.9 million net of tax. The effect of these transactions was to increase net income per diluted share from $0.28 to $0.29 for the three months ended September 30, 2009 and $0.96 to $0.97 for the nine months ended September 30, 2009. The result of the repurchase transactions was to reduce shares used to compute net income per diluted share on an as-converted basis by 15.6 million shares and 8.1 million shares in 2010 and 2009, respectively.

Excluding these transactions, non-GAAP earnings per share was:

(In thousands)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
Numerator				
Net income	$ 40,189	$ 46,406	$116,334	$161,100
Add back loss (gain) on retirement or conversion of convertible notes	2,354	(323)	18,681	(1,518)
Deduct income tax expense (benefits) on retirement or conversion of convertible notes	—	113	(1,590)	531
Non-GAAP net income	42,543	46,196	133,425	160,113
Add back interest expense for convertible notes, net of estimated tax	987	1,681	3,982	5,444
Non-GAAP income used to compute non-GAAP net income per diluted share	$ 43,530	$ 47,877	$137,407	$165,557
Denominator				
Shares used to compute net income per diluted share	172,217	168,576	178,448	172,248
Delete shares issued to induce note conversion to common stock (1)	(104)	—	(35)	—
Shares used to compute non-GAAP net income per diluted share	172,113	168,576	178,413	172,248
Non-GAAP net income per diluted share	$ 0.25	$ 0.28	$ 0.77	$ 0.96

(1) The shares used to compute Non-GAAP net income per diluted share amounts are the same as the shares used to compute GAAP net income per diluted share amounts, except the shares for the three and nine months ended September 30, 2010 exclude the weighted average effect of shares issued as an incentive to induce conversion of the 2023 Notes in August 2010.

We are presenting certain financial information in conformance with generally accepted accounting principles in the U.S. (GAAP) and also on a non-GAAP basis for the three and nine months ended September 30, 2010 and 2009 because we believe that this non-GAAP information is useful for investors taken in conjunction with the Company's GAAP financial statements. Non-GAAP financial information is not prepared under a comprehensive set of accounting rules and should only be used to supplement an understanding of the Company's net income as reported under GAAP.

LIQUIDITY AND CAPITAL RESOURCES

To date, we have financed our operations primarily through public and private placements of equity and debt securities, royalty revenues, license revenues, product sales revenues, collaboration and other revenues under agreements with third parties and interest income on invested capital. We currently have fewer than ten employees managing our intellectual property and our licensing operations, as well as providing for certain essential reporting and management functions of a public company.

We had cash, cash equivalents and short-term investments in the aggregate of $227.2 million and $303.2 million at September 30, 2010 and December 31, 2009, respectively. The $76.0 million decrease was primarily attributable to the payment of $105.7 million to retire a portion of the 2023 Notes, our dividend payment on April 1, 2010 of $59.9 million, and our payments of $75.0 million in principal on the Non-recourse Notes offset by net cash provided by operating activities of $154.3 million. We believe that cash on hand and cash from future revenues, net of operating expenses, debt service and income taxes, will be sufficient to fund our operations over the next several years.

We continuously evaluate alternatives to increase return for our stockholders, for example, purchasing royalty generating assets, buying back our convertible notes, repurchasing our common stock, selling the Company or paying dividends. On January 27, 2010, our board of directors declared two special cash dividends of $0.50 per share payable on April 1, 2010 and October 1, 2010. Using proceeds from our first quarter 2010 earnings and cash on hand and, based on the total shares outstanding as of the March 15, 2010 record date, we paid $59.9 million to our stockholders on April 1, 2010. As of September 30, 2010, we had accrued $70.2 million in dividends payable for the October dividend payment and for dividends payable on restricted shares of our common stock. The record date for the October 1, 2010 dividend was September 15, 2010.

As of September 30, 2010, our material contractual obligations under lease and debt agreements for the next five years and thereafter were as follows:

	Payments Due by Period				
(In thousands)	Less Than 1 Year	1-3 Years	4-5 Years	More than 5 Years	Total
Operating leases	$ 136	$ 11	$ 1	$ —	$ 148
2012 Notes (including interest payments) (1)	4,560	230,270	—	—	234,830
Non-recourse Notes (including interest payments) (2)	131,873	119,509	—	—	251,382
Total contractual obligations	$136,569	$349,790	$ 1	$ —	$486,360

(1) On November 4, 2010, the Company completed an exchange of $92.0 million in aggregate principal of the 2012 Notes in separate, privately negotiated transactions with the note holders. Following the exchange transactions, $136.0 million of the 2012 Notes remain outstanding. For further information, see “Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations, Overview, Recent Developments, Subsequent Event”.

(2) Repayment of the Non-recourse Notes and interest are based on anticipated future royalties to be received from Genentech and the expected final payment date is September 2012.

2012 Notes

In February 2005, we issued the 2.00% Convertible Senior Notes due February 15, 2012 (the 2012 Notes). The 2012 Notes are convertible at any time, at the holders’ option, into our common stock at a conversion rate of 140.571 shares of common stock per $1,000 principal amount of the 2012 Notes or $7.11 per share of common stock, as adjusted for the cash dividend paid on October 1, 2010 and subject to further adjustment in certain events including dividend payments. Interest on the 2012 Notes is payable semiannually in arrears on February 15 and August 15 of each year. The 2012 Notes are senior unsecured debt and have been redeemable by us in whole or in part since February 19, 2010 at 100.57% of principal amount if redeemed between February 19, 2010 and February 14, 2011 and at 100.29% of principal amount if redeemed between February 15, 2011 and the maturity date. The 2012 Notes are not puttable by the note holders other than in the context of a fundamental change resulting in the reclassification, conversion, exchange or cancellation of our common stock. Such repurchase event or fundamental change is generally defined to include a merger involving PDL, an acquisition of a majority of PDL’s outstanding common stock and a change of a majority of PDL’s board of directors without the approval of the board of directors.

2015 Notes

On November 4, 2010 the Company completed an exchange of $92.0 million in aggregate principal of the 2012 Notes in separate, privately negotiated transactions with the note holders. Pursuant to the exchange transactions, the note holders received $92.0 million in aggregate principal of the 2015 Notes. As part of the transaction, the Company also placed an additional $88.0 million in aggregate principal of the 2.875% Convertible Senior Notes due February 15, 2015 (the 2015 Notes). Following the exchange transactions, $180.0 million in aggregate principal of the 2015 Notes was outstanding.

The 2015 Notes are convertible at any time, at the holders’ option, into our common stock at a conversion rate of 140.571 shares of common stock per $1,000 principal amount of the 2015 Notes or $7.11 per share of common stock and subject to adjustment in certain events including dividend payments. Interest on the 2015 Notes is payable semiannually in arrears on February 15 and August 15 of each year. The 2015 Notes are senior unsecured debt and are redeemable by us in whole or in part on or after August 15, 2014 at 100% of principal amount. The 2015 Notes are not puttable by the note holders other than in the context of a fundamental change resulting in the reclassification, conversion, exchange or cancellation of our common stock. Such repurchase event or fundamental change is generally defined to include a merger involving PDL, an acquisition of a majority of PDL’s outstanding common stock and a change of a majority of PDL’s board of directors without the approval of the board of directors.

Non-Recourse Notes

In November 2009, we completed a $300 million securitization transaction in which we monetized 60% of the net present value of the estimated five year royalties from sales of Genentech products (the Genentech Royalties) including Avastin, Herceptin, Lucentis, Xolair and future products, if any, under which Genentech may take a license under our related agreements with them. The Non-recourse Notes bear interest at 10.25% per annum and were issued in a non-registered offering by QHP Royalty Sub LLC (QHP), a Delaware limited liability company, and a newly formed, wholly-owned subsidiary of PDL. The Genentech Royalties and other payments, if any, that QHP will be entitled to receive under the agreements with Genentech, together with any funds made available from certain accounts of QHP, will be the sole source of payment of principal and interest on the Non-recourse Notes, which will be secured by a continuing security interest granted by QHP in its rights to receive payments under such agreements and all of its other assets and a pledge by the equity holder (initially PDL) of its equity ownership interest in QHP. The Non-recourse Notes may be redeemed at any time prior to maturity, in whole or in part, at the option of QHP at a make-whole redemption price. As of September 30, 2010, we had repaid $75.0 million in principal and anticipate that the notes will be fully repaid in September 2012.

Operating Lease

In February 2010, we entered into a lease amendment to extend our building lease term to May 2011 and obtained an option to further extend the lease until May 2012 for our office in Incline Village, Nevada.

Contractual Obligations

At September 30, 2010, our principal obligations were our 2012 Notes and our Non-recourse Notes, which in the aggregate totaled $453.0 million in principal. On November 4, 2010, the Company completed an exchange of $92.0 million in aggregate principal of the 2012 Notes in separate, privately negotiated transactions with the note holders. Pursuant to the exchange transactions, the note holders received $92.0 million in aggregate principal of the 2015 Notes. As part of the transaction, the Company also placed an additional $88.0 million in aggregate principal of the 2015 Notes. Following the exchange transactions, $136.0 million of the 2012 Notes remain outstanding.

The 2012 Notes and the 2015 Notes are not puttable by the note holders other than in the context of a fundamental change. We expect that our debt service obligations over the next few years will consist of interest payments and repayment of the 2012 Notes, the 2015 Notes and the Non-recourse-Notes. We may further seek to exchange, repurchase or otherwise acquire the convertible notes in the open market in the future which could adversely affect the amount or timing of any distributions to our stockholders. We would make such exchanges or repurchases only if we deemed it to be in our stockholders' best interest. We may finance such repurchases with cash on hand and/or with public or private equity or debt financings if we deem such financings are available on favorable terms.

Lease Guarantee

In connection with the divestiture of Facet Biotech Corporation (Facet) we entered into amendments to the leases for our former facilities in Redwood City, California, under which Facet was added as a co-tenant, and a Co-Tenancy Agreement, under which Facet agreed to indemnify us for all matters related to the leases attributable to the period after the divestiture date. Should Facet default under its lease obligations, we could be held liable by the landlord as a co-tenant, and thus, we have in substance guaranteed the payments under the lease agreements for the Redwood City facilities. As of September 30, 2010, the total lease payments for the duration of the guarantee, which runs through December 2021, are approximately $123.5 million. If Facet were to default, we could also be responsible for lease related costs including utilities, property taxes and common area maintenance which may be as much as the actual lease payments. In April 2010, Abbott Laboratories acquired Facet. We have recorded a liability of $10.7 million on our Condensed Consolidated Balance Sheets as of September 30, 2010 and December 31, 2009 related to this guarantee.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Foreign Currency Exchange Risk

The underlying sales of our licensees' products are conducted in multiple countries and in multiple currencies throughout the world. While foreign currency conversion terms vary by license agreement, generally most agreements require that royalties first be calculated in the currency of sale and then converted into U.S. dollars using the average daily exchange rates for that currency for a specified period at the end of the calendar quarter. Accordingly, when the U.S. dollar weakens in relation to other currencies, the converted amount is greater than it would have been had the U.S. dollar not weakened. More than 50% of our licensees' product sales are in currencies other than U.S. dollars; as such, our revenue may fluctuate due to changes in foreign currency exchange rates and is subject to foreign currency exchange risk. For example, in a quarter in which we generate $70 million in revenue, approximately $35 million is based on sales in currencies other than the U.S. dollar. If the U.S. dollar strengthens across all currencies by 10% during the conversion period for that quarter, when compared to the same amount of local currency royalties for the prior year, U.S. dollar converted royalties will be approximately $3.5 million less in the current quarter than in the prior year.

We hedge certain foreign currency exchange risk exposures related to our licensees' product sales with foreign currency exchange contracts. In general, these contracts are intended to offset the underlying foreign currency market risk in our royalty revenues. Our exposure to credit risk from these contracts is a function of foreign currency exchange rates and, therefore, varies over time. We limit the credit risk that our counterparty to these contracts may be unable to perform by transacting with a major bank and monitoring the exposure in the context of current market conditions. We mitigate the risk of loss by entering into a netting agreement with our counterparty that provides for aggregated net settlement should our counterparty default on the foreign currency exchange contracts prior to contract settlement. Therefore, our overall risk of loss in the event of counterparty default is limited to the amount of any unrecognized gains on outstanding contracts net of any unrecognized losses on outstanding contracts at the date of default.

In January and May 2010, we entered into a series of foreign currency exchange contracts covering the quarters in which our licensees' sales occur through December 2012. We did not have foreign currency exchange contracts prior to January 2010. We have designated the foreign currency exchange contracts as cash flow hedges. At the inception of the hedging relationship and on a quarterly basis, we assess hedge effectiveness. The aggregate unrealized gain or loss on the effective component of our foreign currency exchange contracts, net of estimated taxes, is recorded in stockholders' deficit as accumulated other comprehensive income. Gains or losses on cash flow hedges are recognized as royalty revenue in the same period that the hedged transaction, royalty revenue, impacts earnings.

The following table summarizes the notional amounts, foreign currency exchange rates and fair values of our outstanding foreign currency exchange contracts designated as hedges at September 30, 2010:

Foreign Currency Exchange Forward Contracts

Currency	Notional Amount (In thousands)	Settlement Price ($ per Eurodollar)	Fair Value (In thousands)	Type
Eurodollar	$ 157,981	1.400	$ 4,504	Sell Eurodollar
Eurodollar	117,941	1.200	(15,059)	Sell Eurodollar
Total	$ 275,922		$ (10,555)	

Foreign Currency Exchange Option Contracts

Currency	Notional Amount (In thousands)	Strike Price ($ per Eurodollar)	Fair Value (In thousands)	Type
Eurodollar	$ 170,394	1.510	$ 1,421	Purchased call option
Eurodollar	129,244	1.315	11,196	Purchased call option
Total	$ 299,638		$ 12,617	

Interest Rate Risk

The following table presents information about our material debt obligations that are sensitive to changes in interest rates. The table presents principal amounts and the related weighted-average interest rates by year of expected maturity or anticipated repayment for our debt obligations as of September 30, 2010.

(Dollars in thousands)	2010	2011	2012	Total	Fair Value
2012 Notes					
Fixed Rate	$ —	$ —	$227,990	$227,990	$221,150(1)
Average Interest Rate	2.00%	2.00%	2.00%		
Non-recourse Notes					
Fixed Rate(3)	$19,673	$119,098	$ 86,270	$225,041	$225,041(2)
Average Interest Rate	10.25%	10.25%	10.25%		

(1) The fair value of the 2012 Notes was estimated based on the trading value of these notes at September 30, 2010.
(2) The fair value of the Non-recourse Notes at September 30, 2010 was estimated to be the carrying value of the notes because management believes that the note terms and conditions approximate current market rates.
(3) Repayment of the Non-recourse Notes is based on anticipated future royalties to be received from Genentech and the anticipated final payment date is September 2012.

On November 4, 2010 the Company completed an exchange of $92.0 million in aggregate principal of the 2012 Notes in separate, privately negotiated transactions with the note holders. Pursuant to the exchange transactions, the note holders received $92.0 million in aggregate principal of the 2015 Notes. As part of the transaction, the Company also placed an additional $88.0 million in aggregate principal of the 2015 Notes. Following the exchange transactions, $136.0 million of the 2012 Notes remain outstanding.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, we evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this report. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, as of September 30, 2010, our disclosure controls and procedures were effective to ensure the information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the U.S. Securities and Exchange Commission's rules and forms.

Changes in Internal Controls

There were no changes in our internal controls over financial reporting during the quarter ended September 30, 2010 that have materially affected, or are reasonably likely to materially affect, internal control over financial reporting.

Limitations on the Effectiveness of Controls

A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within an organization have been detected. We continue to improve and refine our internal controls and our compliance with existing controls is an ongoing process.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Genentech Matter

Communications with Genentech regarding European SPCs

In August 2010, we received a letter from Genentech, Inc. (Genentech) asserting that Avastin®, Herceptin®, Lucentis® and Xolair® (the Genentech Products) do not infringe the supplementary protection certificates (SPCs) granted to PDL by various countries in Europe for each of the Genentech Products and seeking a response from PDL to these assertions. Genentech did not state what actions, if any, it intends to take with respect to its assertions. PDL's SPCs were granted by the relevant national patent offices in Europe and specifically cover the Genentech Products. The SPCs covering the Genentech Products effectively extend our European patent protection for our European Patent 0 451 216B (the '216 Patent) generally until December 2014, except that the SPCs for Herceptin will generally expire in July 2014.

Genentech's letter does not suggest that the Genentech Products do not infringe PDL's U.S. patents to the extent that such Genentech Products are made, used or sold in the United States (U.S.-based Sales). Genentech's quarterly royalty payment received after our receipt of the letter included royalties generated on worldwide sales of the Genentech Products.

If Genentech's assertions were true, then under the terms of our license agreements with Genentech, it would not owe us royalties on sales of the Genentech Products that are both manufactured and sold outside of the United States (ex-U.S.-based Manufacturing and Sales). Royalties on ex-U.S.-based Manufacturing and Sales of the Genentech Products accounted for approximately 33% of our royalty revenue for the first nine months of 2010. Based on announcements by F. Hoffmann-La Roche, Ltd. (Roche) regarding moving more manufacturing outside of the United States, this percentage may increase in the future.

We believe that the SPCs are enforceable against the Genentech Products, that Genentech's letter violates the terms of the 2003 settlement agreement and that Genentech owes us royalties on sales of the Genentech Products on a worldwide basis. We intend to vigorously assert our SPC-based patent rights.

In August 2010, we responded to Genentech, stating that we believe its assertions are without merit and that we disagreed fundamentally with its assertions of non-infringement with respect to the Genentech Products. Representatives of the Company have participated in discussions with officials of Genentech and Roche towards resolving this dispute. If a mutually acceptable resolution is not achieved, PDL will vigorously enforce its rights, including those under its agreements with Genentech and against Roche and Novartis AG (Novartis).

Nevada Litigation with Genentech, Roche and Novartis in Nevada State Court

In August 2010, we filed a complaint in the Second Judicial District of Nevada, Washoe County, naming Genentech, Roche and Novartis as defendants. We seek to enforce our rights under our 2003 settlement agreement with Genentech and are seeking an order from the court declaring that Genentech is obligated to pay royalties to us on ex-U.S.-based Manufacturing and Sales of the Genentech Products. The complaint alleges that the communication received from Genentech, which states that it was sent at the behest of Roche and Novartis, damaged the Company and constitutes a breach of Genentech's obligations under its 2003 settlement agreement with PDL. Specifically the complaint: (i) seeks a declaratory judgment from the court that Genentech is obligated to pay royalties to PDL on international sales of the Genentech Products; (ii) alleges that Genentech, by challenging at the behest of Roche and Novartis whether our SPCs cover the Genentech Products in its August 2010 letter, has breached its contractual obligations to PDL under the 2003 settlement agreement; (iii) alleges that Genentech breached the implied covenant of good faith and fair dealing with respect to the 2003 settlement agreement; (iv) alleges that Genentech committed a bad faith tortious breach of the implied covenant of good faith and fair dealing in the 2003 settlement agreement; and (v) alleges that Roche and Novartis intentionally and knowingly interfered with PDL's contractual relationship with Genentech in conscious disregard of PDL's rights. The complaint seeks compensatory damages, including liquidated damages and other monetary remedies set forth in the 2003 settlement agreement, punitive damages and attorney's fees.

In November 2010, Genentech and Roche filed a motion to dismiss our complaint under Nevada Rule of Civil Procedure 12(b)(5), in which they contend that all of our claims for relief relating to the 2003 settlement agreement should be dismissed because the 2003 settlement agreement applies only to PDL's U.S. patents. To prevail on their motion to dismiss, Genentech and Roche must establish that PDL can prove no set of facts which, if accepted by the court, would entitle PDL to the relief requested in our complaint. In addition, Roche filed a separate motion to dismiss our complaint under Nevada Rule of Civil Procedure 12(b)(2) on the ground that the Nevada court lacks personal jurisdiction over Roche. To prevail on its motion to dismiss for lack of jurisdiction, Roche must establish that its conduct does not permit a Nevada court from adjudicating the claims asserted in the complaint without violating due process. PDL disagrees with the arguments presented in these motions and intends to oppose them. Novartis is expected to provide its response to our complaint in December 2010. The Nevada court has not yet fixed a date on which it would hear and decide Genentech and Roche's motions.

The 2003 settlement agreement was entered into as part of a definitive agreement resolving intellectual property disputes between the two companies at that time. The agreement limits Genentech's ability to challenge infringement of our patent rights and waives Genentech's right to challenge the validity of our patent rights. Certain breaches of the 2003 settlement agreement as alleged by our complaint require Genentech to pay us liquidated and other damages of up to $1.0 billion. This amount includes a retroactive royalty rate of 3.75% on past U.S.-based Sales of the Genentech Products and interest, among other items. We may also be entitled to either terminate our license agreements with Genentech or be paid a flat royalty of 3.75% on future U.S.-based Sales of the Genentech Products. The outcome of this litigation is uncertain, and we may not be successful in our allegations.

European Opposition to '216 Patent

In November 2003, in an appeal proceeding of a prior action of the Opposition Division of the European Patent Office (the EPO), the Technical Board of Appeal of the EPO ordered that certain claims in our '216 Patent be remitted to the Opposition Division for further prosecution and consideration of issues of patentability, that is, entitlement to priority, novelty, enablement and inventive step. These claims cover the production of humanized antibody light chains that contain amino acid substitutions made under our antibody humanization technology. In April 2007, at an oral proceeding, the Opposition Division upheld claims that are virtually identical to the claims remitted by the Technical Board of Appeal to the Opposition Division. The deadline for filing a notice of appeal has expired. Five opponents filed such notices in a timely manner and, of those, three have filed Grounds of Appeal. The '216 Patent remains enforceable during the appeal process. The Technical Board of Appeal has scheduled a hearing for the appeal with respect to the '216 Patent to begin on February 28, 2011. We intend to vigorously defend the '216 Patent in this proceeding.

Action for Declaratory Judgment by MedImmune

In December 2008, MedImmune, LLC. (MedImmune) filed a lawsuit against us in the United States District Court for the Northern District of California. MedImmune's complaint seeks a declaratory judgment that the U.S. Queen et al. patents are invalid and/or not infringed by its Synagis® and motavizumab products and, that therefore, MedImmune owes no royalties under its license agreement with us. MedImmune's complaint further alleges (i) that if our patents are valid and infringed by Synagis and/or motavizumab, MedImmune is now or was retroactively entitled to a lower royalty rate on its sales of infringing products under the most favored licensee clause in our agreement, (ii) breach of contract, (iii) breach of the covenant of good faith and fair dealing, and (iv) fraud. We have answered MedImmune's complaint and have alleged in our pleadings certain counterclaims, including that MedImmune breached the license agreement by (i) failing to pay all royalties due to us from the sale of Synagis, including sales by and through Abbott Laboratories (Abbott), whom we believe is MedImmune's sublicensee with respect to its Synagis franchise outside the United States, and (ii) by demanding that we consent to conditions that are commercially unreasonable and contractually insupportable in order to permit an audit of sales and revenue associated with Synagis by an independent accountant, as required under the license agreement. Our pleadings further allege that, as a result of MedImmune's breach of the license agreement and the Company's related cancelation thereof, MedImmune is infringing the Company's U.S. Patent No. 6,180,370 (the '370 Patent) by making, using, selling, offering for sale and/or importing Synagis into the United States and by having Synagis made, used, sold, offered for sale and/or imported in the United States, and certain affirmative defenses against each of MedImmune's claims.

MedImmune has requested that the court award compensatory and punitive damages for breach of contract and fraud, attorney's fees and an order reinstating the license agreement. We are seeking an award of damages for breach of contract and patent infringement, treble damages for willful infringement, attorney's fees and a permanent injunction against continued infringement.

A *Markman* claim construction hearing took place on November 5, 2009. A decision was issued from the court on February 22, 2010. The court generally construed the claim language at issue as proposed by PDL. In March of 2010, the court issued orders denying MedImmune's requests for a preliminary injunction against our cancellation of the license agreement, to strike our breach of contract counter claims, and for summary judgment that MedImmune is entitled under the most favored licensee clause in our agreement to a fully paid-up license as of December 2008 as a result of our agreement with Alexion and, retroactively to 1998, to a reduced royalty rate on sales of Synagis.

A jury trial is scheduled to begin on January 25, 2011. In the event that MedImmune prevails on the claims in its complaint, we expect that MedImmune will request the court to order a recoupment of some or all of the payments made to us under its license to the Queen et al. patents. MedImmune has paid us more than $280 million in royalties under the MedImmune agreement with respect to sales of Synagis since the fourth quarter of 1998 through the fourth quarter of 2009.

Interference Proceedings in the U.S. Patent and Trademark Office

On February 25, 2009, the U.S. Patent and Trade Office (the PTO) declared an interference proceeding between certain claims of our U.S. Patent No. 5,585,089 (the '089 Patent) and certain pending claims of Adair et al., U.S. Application No. 08/846,658 (the '658 Application) under 35 U.S.C. 135(a). UCB Pharma S.A. is the assignee of the '658 Application. A hearing was held on January 29, 2010 regarding the first phase of the interference, which relates to substantive motions except those for priority of invention. A decision has not yet been issued. The PTO has scheduled proceedings for the determination of priority of invention, if necessary.

On November 23, 2009, the PTO declared an interference proceeding between certain claims of the '370 Patent and certain pending claims of Adair et al., U.S. Application 10/938,117 (the '117 Application) under 35 U.S.C. 135(a). UCB Pharma S.A. is the assignee of the '117 Application.

Other Legal Proceedings

In addition, from time to time, we are subject to various other legal proceedings and claims that arise in the ordinary course of business, and which we do not expect to materially impact our financial statements.

ITEM 1A. RISK FACTORS

You should carefully consider and evaluate all of the information included and incorporated by reference in this Quarterly Report, including the risk factors listed below. Any of these risks, as well as other risks and uncertainties, could materially and adversely affect our business, results of operations and financial condition, which in turn could materially and adversely affect the trading price of shares of our common stock. Additional risks not currently known or currently material to us may also harm our business.

Keep these risk factors in mind when you read forward-looking statements contained in this Quarterly Report and the documents incorporated by reference in this Quarterly Report. These statements relate to our expectations about future events and time periods. In some cases, you can identify forward-looking statements by terminology such as “may,” “will,” “intends,” “plans,” “believes,” “anticipates,” “expects,” “estimates,” “predicts,” “potential,” “continue” or “opportunity,” the negative of these words or words of similar import. Similarly, statements that describe our reserves and our future plans, strategies, intentions, expectations, objectives, goals or prospects are also forward-looking statements. Forward-looking statements involve risks and uncertainties, and future events and circumstances could differ significantly from those anticipated in the forward-looking statements.

We must protect our patent and other intellectual property rights to succeed.

Our success is dependent in significant part on our ability to protect the scope, validity and enforceability of our intellectual property, including our patents, SPCs and license agreements. The scope, validity, enforceability and effective term of patents and SPCs can be highly uncertain and often involve complex legal and factual questions and proceedings. A finding in such a proceeding narrowing the scope of some or all of our patent rights could have a material impact on our ability to continue to collect royalty payments from our licensees or execute new license agreements.

Any of these proceedings could further result in either loss of a patent or loss or reduction in the scope of one or more of the claims of the patent or claims underlying an SPC. These proceedings could be expensive, last several years and result in a significant reduction in the scope or invalidation of our patents. Any limitation in claim scope could reduce our ability to collect royalties or commence enforcement proceedings based on these patents. Moreover, the scope of a patent in one country does not assure similar scope of a patent with similar claims in another country. Also, claim interpretation and infringement laws vary among countries. Additionally, we depend on our license agreements to enforce royalty obligations against our licensees. Any limitations in our ability to enforce the scope and/or interpretation of the various licensee obligations in our licenses and related agreements could reduce our ability to collect royalties based on our license agreements. As a result of these factors, we are unable to predict the extent of our intellectual property protection in any country. See “Part II. Other Information, Item 1, Legal Proceedings.”

Our revenues in Europe depend on the validity and enforceability of our European patent rights which are currently involved in an opposition proceeding before the EPO and an adverse judgment would severely reduce our future revenues.

Our ‘216 Patent in Europe was granted in 1996 by the EPO. This patent is currently involved in opposition proceedings before the EPO and a hearing has been scheduled to begin on February 28, 2011. We cannot predict the outcome of the opposition proceeding. See “Part II. Other Information, Item 1, Legal Proceedings.”

The ‘216 patent expired on December 28, 2009. To extend the period of enforceability of the ‘216 patent against specific products which received marketing approval in Europe as of the expiration date of the ‘216 Patent, we applied for SPCs in various European national patent offices to cover Avastin, Herceptin, Xolair, Lucentis, Synagis, Tysabri® and Cimzia® (the SPC Products). These SPCs generally expire in 2014. An adverse decision in the pending European opposition to our ‘216 Patent will have a material negative impact on our ability to collect royalties on European sales of the SPC products which are manufactured outside the United States. Further, while our SPCs extend the period of enforceability of our ‘216 Patent against the SPC Products, their enforcement will be subject to varying, complex and evolving national requirements and standards relevant to enforcement of patent claims pursuant to SPCs. As a result of these factors, we are unable to predict the extent of protection afforded by our SPCs.

Based on information available to us in the quarterly reports from our licensees, the royalties we collect on sales of the SPC Products approximated 33% of our royalty revenue for the first nine months of 2010. Based on announcements by Roche regarding moving manufacturing outside of the United States, we expect this amount to increase in the future. Our inability to collect those royalties would have a material negative impact on our cash flow, our ability to pay dividends in the future and our ability to service our debt obligations. An adverse decision could also encourage challenges to our related Queen et al. patents in other jurisdictions including the United States.

We derive a significant portion of our royalty revenues from Genentech and our future success depends on continued market acceptance of their products and approval of their licensed products that are in development, as well as continued performance by Genentech of its obligations under its agreements with us.

Our revenues consist almost entirely of royalties from licensees of our Queen et al. patents and, in future periods, we may receive milestone payments if the licensed products in development achieve certain development milestones and royalty payments if the licensed products receive marketing approval before the expiration of our Queen et al. patents. Genentech accounted for 87%, 71%, 73% and 79% of our revenues for the nine months ended September 30, 2010 and the years ended December 31, 2009, 2008 and 2007, respectively. Our future success depends primarily upon the continued market acceptance of Genentech and other licensees' commercialized products and upon the ability of Genentech and our other licensees to develop, introduce and deliver products that achieve and sustain market acceptance. For example, 60% of the royalties we currently receive from Genentech are dedicated to service the debt related to the Non-recourse Notes that we, through our wholly-owned subsidiary, QHP Royalty Sub LLC, issued in November 2009. We have no control over the sales efforts of Genentech and our other licensees, and our licensees might not be successful. Reductions in the sales volume or average selling price of licensed products could have a material adverse effect on our business.

In addition, our business and results of operations also depend on Genentech continuing to perform its obligations under its license agreements with us. In August 2010, we received a letter from Genentech asserting that the Genentech Products do not infringe our SPCs for each of the Genentech Products. If these assertions were true, then under the terms of our license agreements with Genentech, it would not owe us royalties on ex-U.S.-based Manufacturing and Sales of the Genentech Products. These royalties, which are essentially the same as the royalties at stake in our EPO dispute, accounted for approximately 33% of our royalty revenue for the first nine months of 2010. Based on announcements by Roche regarding moving more manufacturing outside of the United States, this percentage may increase in the future.

We believe that these SPCs are enforceable against the Genentech Products and intend to vigorously assert our SPC-based patent rights. If we are unable to resolve the dispute with Genentech, we may incur significant additional costs and senior management time in asserting our rights under our various agreements with Genentech, whether through courts, arbitration or otherwise. To the extent Genentech stops or reduces payment of royalties on ex-U.S.-based Manufacturing and Sales of the Genentech Products, this would have a material negative impact on our cash flow and our ability to pay dividends in the future and would also cause us to extend the anticipated repayment of our Non-recourse Notes due in March 2015 for which we currently anticipate full repayment in September 2012. See "Part II. Other Information, Item 1, Legal Proceedings."

Certain of our United States patent rights are currently involved in interference proceedings before the United States Patent and Trademark Office and an adverse decision in that proceeding could impact our future revenues.

The PTO has declared interference proceedings between certain claims of our patents and certain pending claims of Adair et al under 35 U.S.C. Section 135(a). On February 25, 2009, Interference No. 105,688 was declared between certain claims of the '089 Patent and certain pending claims of the '658 Application, and on November 23, 2009, Interference No. 105,705 was declared between certain claims of the '370 Patent and certain pending claims of the '117 Application. We cannot predict the outcome of these proceedings.

Any final decision in an interference proceeding, if adverse to the claim of an applicant or patentee, is a final refusal by the PTO of the claims involved. A final judgment adverse to us from which no appeal or other review has been or can be taken or had constitutes cancellation of the claims involved in the patent and could have a material negative impact on our ability to collect royalties on the sale or manufacture of licensees products in the United States. See "Part II. Other Information, Item 1, Legal Proceedings."

We do not anticipate receiving royalties on MedImmune's sales of Synagis until resolution of our lawsuit with them and, depending on the outcome of that lawsuit, may have to repay previously received royalties.

In December 2008, MedImmune, a subsidiary of AstraZeneca plc, filed a lawsuit against us in the United States District Court for the Northern District of California. MedImmune's complaint seeks a declaratory judgment that the U.S. Queen et al. patents are invalid and/or not infringed by its Synagis and motavizumab products and, that therefore, MedImmune owes no royalties under its license agreement with us. MedImmune's complaint further alleges (i) that if our patents are valid and infringed by Synagis and/or motavizumab, MedImmune is now or was retroactively entitled to a lower royalty rate on its sales of infringing products under the most favored licensee clause in our agreement, (ii) breach of contract, (iii) breach of the covenant of good faith and fair dealing, and (iv) fraud. We answered MedImmune's complaint alleging certain counterclaims, including alleging that MedImmune has breached the license agreement, and certain affirmative defenses against each of MedImmune's claims. As a result of MedImmune's breach of the license agreement, we have terminated the agreement and, as a result, have further alleged in our answer that MedImmune's commercial activities involving Synagis and motavizumab in the United States infringe the '370 patent. MedImmune has requested that the court award compensatory and punitive damages for breach of contract and fraud, attorney's fees and an order reinstating the license agreement. We are seeking an award of damages for breach of contract and patent infringement, treble damages for willful infringement, attorney's fees and a permanent injunction against continued infringement.

In February 2010, MedImmune made a royalty payment to an escrow account created *pendente lite*. We do not expect to receive additional payments from MedImmune unless and until the lawsuit is resolved in our favor. In the event that MedImmune prevails on the claims in its complaint, we expect that MedImmune will request the court to order a recoupment of some or all of the payments made to us which represent obligations under its license to the Queen et al. patents. In the event that we prevail on our claims of patent infringement and breach of the license agreement, we expect to request that MedImmune pay damages for breach of the license, pay treble damages for willful infringement and either desist further infringement or pay royalties at a rate to be determined. See "Part II. Other Information, Item 1, Legal Proceedings."

Our licensees may be unable to maintain regulatory approvals for currently licensed products or obtain regulatory approvals for new products. Safety issues could also result in the failure to maintain regulatory approvals or decrease revenues.

Our licensees are subject to stringent regulation with respect to product safety and efficacy by various international, federal, state and local authorities. Of particular significance are the U.S. Food and Drug Administration (FDA) requirements covering research and development, testing, manufacturing, quality control, labeling and promotion of drugs for human use in the United States. As a result of these requirements, the length of time, the level of expenditures and the laboratory and clinical information required for approval of a biologic license application or new drug application are substantial and can require a number of years. In addition, even if our licensees' products receive regulatory approval, they remain subject to ongoing FDA and other international regulations including, but not limited to, obligations to conduct additional clinical trials or other testing, changes to the product label, new or revised regulatory requirements for manufacturing practices, written advisements to physicians and/or a product recall or withdrawal. Our licensees may not maintain necessary regulatory approvals for their existing licensed products or our licensees may not obtain necessary regulatory approvals on a timely basis, if at all, for any of the licensed products our licensees are developing or manufacturing. The occurrence of adverse events reported by any licensee may result in the revocation of regulatory approvals or decreased sales of the applicable product due to a change in physicians' willingness to prescribe, or patients' willingness to use the applicable product. In either case, our revenues could be materially and adversely affected.

For example, in February 2005, Elan Corporation, Plc (Elan) and Biogen Idec Inc. (Biogen Idec) announced that they had voluntarily suspended the marketing and commercial distribution of Tysabri, a drug approved for the treatment of multiple sclerosis that is licensed under Queen et al. patents, because of the occurrence of progressive multifocal leukoencephalopathy (PML), a rare and frequently fatal, demyelinating disease of the central nervous system, in certain patients treated with Tysabri. In July 2006, Elan and Biogen Idec reintroduced Tysabri; however, Tysabri's label now includes prominent warnings regarding Tysabri's risks and Elan and Biogen Idec have implemented a risk management program to inform physicians and patients of the benefits and risks of Tysabri and to minimize the risk of PML potentially associated with Tysabri. Regulatory authorities worldwide continue to monitor the safety and efficacy of Tysabri. If physicians prescribe Tysabri less frequently due to the PML risk, or if Elan and Biogen Idec or various regulatory authorities suspend the marketing of Tysabri, the amount of royalties we receive will be adversely affected.

Another example is Mylotarg which was marketed by Wyeth Pharmaceuticals, Inc. (Wyeth) and was used for the treatment of acute myeloid leukemia. The drug was initially approved for treatment in 2000 under the FDA's accelerated approval program which allows for the approval of drugs to treat serious disease with unmet medical need based on surrogate endpoint. This process requires the company to conduct additional clinical trials after approval to confirm the drug's benefit. In June 2010, the FDA requested the withdrawal of Mylotarg after results from a recent clinical trial raised concern about the drug's safety and did not demonstrate a clinical benefit to patients. As a result, Pfizer Inc., the parent company of Wyeth, announced that it will be discontinuing commercial availability of Mylotarg and it will not be commercially available to new patients.

In addition, the current regulatory framework could change or additional regulations could arise at any stage during our licensees' product development or marketing which may affect our licensees' ability to obtain or maintain approval of their licensed products. Delays in our licensees receiving regulatory approval for licensed products or their failure to maintain existing regulatory approvals could have a material adverse effect on our business.

Our licensees face competition.

Our licensees face competition from other pharmaceutical and biotechnology companies. The introduction of new competitive products or follow-on biologics may result in lost market share for our licensees, reduced utilization of licensed products, lower prices and/or reduced licensed product sales, any of which could reduce our royalty revenue and have a material adverse effect on our results of operations.

We intend to reserve from time to time a certain amount of cash in order to satisfy the obligations relating to our convertible notes, which could adversely affect the amount or timing of distributions to our stockholders.

As of November 4, 2010, $136.0 million in principal remained outstanding under our 2.00% Convertible Senior Notes due February 15, 2012 (the 2012 Notes) and $180.0 million in principal that remained outstanding under our 2.875% Convertible Senior Notes due February 15, 2015 (the 2015 Notes). The 2012 Notes are senior unsecured debt and have been redeemable by us in whole or in part since February 19, 2010 at 100.57% of principal amount if redeemed between February 19, 2010 and February 14, 2011 and at 100.29% of principal amount if redeemed between February 15, 2011 and the maturity date. The 2015 Notes are senior unsecured debt that will be redeemable by us in whole or in part at any time on or after August 15, 2014 at a redemption price equal to 100% of principal amount to be redeemed together with accrued but unpaid interest thereon. Holders of the 2012 Notes and the 2015 Notes may require us to purchase all or any portion of their 2012 Notes or the 2015 Notes at 100% of their principal amount, plus any unpaid interest, upon a fundamental change resulting in the reclassification, conversion, exchange or cancellation of common stock. Such repurchase event or fundamental change is generally defined to include a merger involving PDL, an acquisition of a majority of PDL's outstanding common stock and the change of a majority of PDL's board of directors without the approval of the board of directors.

We intend to reserve from time to time a certain amount of cash in order to satisfy these repurchase or other obligations relating to the convertible notes which could adversely affect the amount or timing of any distribution to our stockholders. We may continue to redeem, repurchase or otherwise acquire the convertible notes in the open market in the future, any of which could adversely affect the amount or timing of any cash distribution to our stockholders.

If any or all of the convertible notes are not converted into shares of our common stock before their respective maturity dates, we will have to pay the holders of such notes the full aggregate principal amount of the convertible notes, then outstanding. Any of the above payments could have a material adverse effect on our cash position. If we fail to satisfy these repurchase or other obligations, it may result in a default under the indenture which could result in a default under certain of our other debt instruments, if any.

The conversion of any of the 2012 Notes or the 2015 Notes into shares of our common stock would have a dilutive effect which could cause our stock price to go down.

The 2012 Notes and the 2015 Notes are currently convertible at any time, at the option of the holder, into shares of our common stock. We have reserved shares of our authorized common stock for issuance upon conversion of the 2012 Notes and the 2015 Notes. If any or all of the 2012 Notes or the 2015 Notes are converted into shares of our common stock, our existing stockholders will experience immediate dilution of voting rights and our common stock price may decline.

The conversion rate as of November 4, 2010, for both the 2012 Notes and the 2015 Notes is 140.571 shares of common stock per $1,000 principal amount or $7.11 per share of common stock. In connection with the cash dividend paid on October 1, 2010 to stockholders of record on September 15, 2010, the conversion rate of the 2012 Notes was adjusted upward. The conversion rate for the 2012 Notes was previously 128.318 shares of common stock per $1,000 principal amount of the 2012 Notes or $7.79 per share of common stock. Because the conversion rates of the 2012 Notes and the 2015 Notes adjust upward upon the occurrence of certain events, such as a dividend payment, our existing stockholders will experience more dilution if any or all of the 2012 Notes or the 2015 Notes are converted into shares of our common stock after the adjusted conversion rates became effective.

Changes in the third-party reimbursement environment may affect product sales from which we generate royalty revenues.

Sales of products from which we generate royalties will depend significantly on the extent to which reimbursement for the cost of such products and related treatments will be available to physicians and patients from various levels of U.S. and international government health administration authorities, private health insurers and other organizations. Third-party payers and government health administration authorities increasingly attempt to limit and/or regulate the reimbursement of medical products and services, including branded prescription drugs. Changes in government legislation or regulation, such as the Health Care and Education Reconciliation Act of 2010; the Medicare Improvements for Patients and Providers Act of 2009; the Medicare, Medicaid and State Children's Health Insurance Program Extension Act of 2007; the Deficit Reduction Act of 2005; the Medicare Prescription Drug Improvement and Modernization Act of 2003; changes in formulary or compendia listing; or changes in private third-party payers' policies toward reimbursement for such products may reduce reimbursement of the cost of such products to physicians, pharmacies and distributors. Decreases in third-party reimbursement could reduce usage of such products, sales to collaborators and may have a material adverse effect on our royalties which depend on such product sales. In addition, macroeconomic factors may affect the ability of patients to pay or co-pay for costs or otherwise pay for products from which we generate royalties by, for example, decreasing the number of patients covered by insurance policies or increasing costs associated with such policies.

Our common stock may lose value due to several factors, including the expiration of our Queen et al. patents, the payment of dividends or distributions to our stockholders and failure to meet analyst expectations, and our common stock could be delisted from NASDAQ.

Our revenues consist almost entirely of royalties from licensees of our Queen et al. patents, which finally expire in December of 2014. Unless we develop other sources of revenue, we will no longer receive patent-related royalties once our licensees have sold all their inventory of licensed product that was manufactured before the expiration of the Queen et al. patents. As a result, our common stock will likely lose value.

If we fail to meet the expectations of securities analysts or investors, or if adverse conditions prevail or are perceived to prevail with respect to our business, the price of the common stock would likely drop significantly.

In addition to all of the risk factors listed herein, the payment of dividends or distributions to our stockholders may reduce the price of our common stock. If the price of our common stock were to fall below NASDAQ listing standards as we approach the date of patent expiration, our common stock may be delisted. If our common stock were delisted, market liquidity for our common stock could be severely affected, and our stockholders' ability to sell securities in the secondary market could be limited. Delisting from NASDAQ would negatively affect the value of our common stock. Delisting could also have other negative results, including, but not limited to, the potential loss of confidence by employees, the loss of institutional investor interest and fewer business development opportunities.

Our revenues and operating results will likely fluctuate in future periods.

Our royalty revenues may be unpredictable and fluctuate because they depend upon, among other things, the seasonality and rate of growth of sales of licensed products as well as the mix of U.S.-based Sales and ex-U.S.-based Manufacturing and Sales in connection with our master patent license agreement with Genentech.

The Genentech agreement provides for a tiered royalty structure under which the royalty rate Genentech must pay on the U.S.-based Sales in a given calendar year decreases on incremental U.S.-based Sales above certain net sales thresholds. As a result of the tiered royalty structure, Genentech's average annual royalty rate for a given year declines as Genentech's U.S.-based Sales increase during that year. Because we receive royalties one quarter in arrears, the average royalty rate for the payments we receive from Genentech in the second calendar quarter—which would be for Genentech's sales from the first calendar quarter—has been and is expected to continue to be higher than the average royalty rate for following quarters. The average royalty rate for payments we receive from Genentech is generally lowest in the fourth quarter and first calendar quarter of the following year, which would be for Genentech's sales from the third and fourth calendar quarter, when Genentech's U.S.-based Sales bear royalties at the 1% royalty rate. With respect to the ex-U.S.-based Manufacturing and Sales, the royalty rate that we receive from Genentech is a fixed rate of 3% based on a percentage of the underlying ex-U.S.-based Manufacturing and Sales. The mix of U.S.-based Sales and ex-U.S.-based Manufacturing and Sales has fluctuated in the past and may continue to fluctuate in future periods, particularly in light of the 2009 acquisition of Genentech by Roche. For example, Roche has announced plans to move certain Avastin, Herceptin and Lucentis manufacturing to Europe and Singapore.

In addition, to the extent the royalties we collect on ex-U.S.-based Manufacturing and Sales of the Genentech Products are reduced or eliminated as a result of our current dispute with Genentech, this would have a material negative impact on our cash flow and our ability to pay dividends in the future and would also cause us to extend the anticipated repayment of our Non-recourse Notes due in March 2015 for which we currently anticipate full repayment in September 2012. See "Part II. Other Information, Item 1, Legal Proceedings."

Approximately 13% of our royalty revenues for the year ended December 31, 2009 were from sales of Synagis, which is marketed by MedImmune. This product has significantly higher sales in the fall and winter, which to date have resulted in much higher royalties paid to us in our first and second quarters than in other quarters. Due to our ongoing litigation with MedImmune, we do not expect to receive royalty payments from MedImmune unless and until our lawsuit with MedImmune is resolved in our favor. If we receive additional royalty payments from MedImmune, the seasonality of Synagis sales may continue to contribute to fluctuation in our revenues from quarter to quarter. See "Part II. Other Information, Item 1, Legal Proceedings."

We may experience increases and decreases in our royalty revenues due to fluctuations in foreign currency exchange rates.

A material portion of our royalties are calculated based on sales in currencies other than the U.S. dollar. Fluctuations in foreign currency rates, particularly the Eurodollar, relative to the U.S. dollar can significantly affect revenues and our operating results. While foreign currency conversion terms vary by license agreement, generally most agreements require that royalties first be calculated in the currency of sale and then converted into U.S. dollars using the average daily exchange rates for that currency for a specified period at the end of the calendar quarter. For example, when the U.S. dollar weakens in relation to other currencies, the converted amount is greater than it would have been had the U.S. dollar exchange rates remained unchanged. Approximately 50% of our licensees' product sales are in currencies other than U.S. dollars; as such, our revenue may fluctuate due to changes in foreign currency exchange rates and is subject to foreign currency exchange risk. For example, in a quarter in which we generate $70 million in revenue, approximately $35 million is based on sales in currencies other than the U.S. dollar. If the U.S. dollar strengthens across all currencies by 10% during the conversion period for that quarter, when compared to the same amount of local currency royalties for the prior year, U.S. dollar converted royalties will be approximately $3.5 million less in the current quarter than in the prior year.

To compensate for currency fluctuations, we hedge certain foreign currency exposures with foreign currency exchange contracts to offset the risks associated with these foreign currency exposures. We may suspend the use of these contracts from time to time. When our hedging is active, we enter into foreign currency exchange contracts so that increases or decreases in our foreign currency related exposures are offset by gains or losses on the foreign currency exchange contracts in order to mitigate the risks and volatility in our royalty revenues for which the underlying sales are in currencies other than the U.S. dollar. As a material portion of our royalty revenues are based on international sales by our licensees, we could experience additional foreign currency related volatility in the future, the amounts and timing of which are variable. We will continue to experience foreign currency related fluctuations in our royalty revenues in certain instances when we do not enter into foreign currency exchange contracts or where it is not possible or cost effective to hedge our foreign currency related exposures. Currency related fluctuations in our royalty revenues will vary based on the currency exchange rates associated with these exposures and changes in those rates, whether we have entered into foreign currency exchange contracts to offset these exposures and other factors. All of these factors could materially impact our results of operations, financial position and cash flows, the timing of which is variable and generally outside of our control.

We must attract, retain and integrate key employees in order to succeed. It may be difficult to recruit, retain and integrate key employees.

To be successful, we must attract, retain and integrate qualified personnel. Our business is managing our antibody humanization patents and royalties assets which requires only a small number of employees. Due to the unique nature and location of our company, it may be difficult for us to recruit and retain qualified personnel. If we are unsuccessful in attracting, retaining and integrating qualified personnel, our business could be impaired.

Our agreements with Facet may not reflect terms that would have resulted from arm's-length negotiations between unaffiliated third parties.

The agreements associated with the divestiture of Facet Biotech Corporation (Facet) in December 2008, including the Separation and Distribution Agreement, Tax Sharing and Indemnification Agreement, and Cross License Agreement, were negotiated in the context of the divestiture while Facet was still part of PDL and, accordingly, may not reflect more favorable terms that may have resulted from arm's-length negotiations between unaffiliated third parties.

We may have obligations for which we may not be able to collect under our indemnification rights from Facet.

Under the terms of the separation and distribution agreement with Facet, we and Facet agreed to indemnify the other from and after the divestiture with respect to certain indebtedness, liabilities and obligations that were retained by our respective companies. These indemnification obligations could be significant. The ability to satisfy these indemnities, if called upon to do so, will depend upon the future financial strength of each of our companies. We cannot assure you that, if Facet has to indemnify us for any substantial obligations, Facet will have the ability to satisfy those obligations. If Facet does not have the ability to satisfy those obligations, we may be required to satisfy those obligations instead. For example, in connection with the divestiture, we entered into amendments to the leases for the facilities in Redwood City, California, which formerly served as our corporate headquarters and which are now occupied by Facet under which Facet was added as a co-tenant under the leases and a Co-Tenancy Agreement under which Facet agreed to indemnify us for all matters related to the leases attributable to the period after the divestiture date. Should Facet default under its lease obligations, we would be held liable by the landlord as a co-tenant and, thus, we have in substance guaranteed the payments under the lease agreements for the Redwood City facilities, the disposition of which could have a material adverse effect on the amount or timing of any distribution to our stockholders. As of September 30, 2010, the total lease payments for the duration of the guarantee, which runs through December 2021, are approximately $123.5 million. We would also be responsible for lease related payments including utilities, property taxes and common area maintenance which may be as much as the actual lease payments. Earlier this year, Abbott acquired Facet. While our indemnification rights remain intact with the acquisition of Facet, at this time we do not know how Abbott intends to operate Facet or, for example, whether Facet will continue to occupy the Redwood City facilities. As a result, we are unable to determine how Abbott’s acquisition of Facet will impact our ability to collect under our indemnification rights or whether Facet’s ability to satisfy its obligations will change.

We may enter into acquisitions or other material royalty transactions now and in the future and such acquisitions may not produce anticipated royalty revenues.

We are engaged in a continual review of opportunities to acquire existing royalties or to acquire companies that hold royalties. We currently, and generally at any time, have acquisition opportunities in various stages of active review, including, for example, our engagement of consultants and advisors to analyze particular opportunities, technical, financial and other confidential information, submission of indications of interest and involvement as a bidder in competitive auctions. Many potential acquisition targets do not meet our criteria, and for those that do, we may face significant competition for these acquisitions from other royalty buyers and enterprises. Competition for future acquisition opportunities in our markets could increase the price we pay for businesses we acquire and could reduce the number of potential acquisition targets. The success of our royalty acquisitions is based on our ability to make accurate assumptions regarding the valuation, timing and amount of royalty payments. The failure of any of these acquisitions to produce anticipated royalty revenues may materially and adversely affect our financial condition and results of operations.

We depend on our licensees for the determination of royalty payments. We may not be able to detect errors and payment calculations may call for retroactive adjustments.

The royalty payments we receive are determined by our licensees based on their reported sales. Each licensee’s calculation of the royalty payments is subject to and dependent upon the adequacy and accuracy of its sales and accounting functions, and errors may occur from time to time in the calculations made by a licensee. Our license agreements provide us the right to audit the calculations and sales data for the associated royalty payments; however, such audits may occur many months following our recognition of the royalty revenue, may require us to adjust our royalty revenue in later periods and may require expense on the part of the Company.

ITEM 6. EXHIBITS

4.1*	Indenture between the Company and The Bank of New York Mellon, N.A., dated November 1, 2010
10.1*	Settlement Agreement between the Company and Genentech, Inc., dated December 18, 2003†
10.2*	Amended and Restated Patent Licensing Master Agreement between the Company and Genentech, Inc., dated July 27, 2009†
10.3*	Amendments to Product Licenses and Settlement Agreement between the Company and Genentech, Inc. dated July 27, 2009
10.4	Form of Exchange Agreement between the Company and certain holders of the Company's 2.75% Convertible Subordinated Notes due 2023 (incorporated by reference to Exhibit 10.1 to Current Report on Form 8-K filed August 5, 2010)
10.5	Form of Exchange Agreement between the Company and certain holders of the Company's 2.00% Convertible Senior Notes due 2012 (incorporated by reference to Exhibit 10.1 to Current Report on Form 8-K filed October 27, 2010)
10.6	Form of Purchase Agreement between the Company and certain holders of the Company's 2.00% Convertible Senior Notes due 2012 (incorporated by reference to Exhibit 10.2 to Current Report on Form 8-K filed October 27, 2010)
10.7	Form of Exchange and Purchase Agreement between the Company and certain holders of the Company's 2.00% Convertible Senior Notes due 2012 (incorporated by reference to Exhibit 10.3 to Current Report on Form 8-K filed October 27, 2010)
31.1*	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended
31.2*	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended
32.1**	Certification by the Principal Executive Officer and the Principal Financial Officer, as required by Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934, as amended, and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350)
101***	The following materials from Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2010, formatted in Extensible Business Reporting Language (XBRL) includes: (i) Condensed Consolidated Balance Sheets at September 30, 2010 and December 31, 2009, (ii) Condensed Consolidated Statements of Income for the Three and Nine Months Ended September 30, 2010 and 2009, (iii) Condensed Consolidated Statements of Cash Flows for the Nine Months Ended September 30, 2010 and 2009, and (iv) Notes to Condensed Consolidated Financial Statements, tagged as blocks of text.

* Filed herewith.

** This certification accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Registrant under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-Q), irrespective of any general incorporation language contained in such filing.

*** XBRL information is furnished and not filed or a part of a registration statement or prospectus for purposes of sections 11 or 12 of the Securities Exchange Act of 1933, as amended, is deemed not filed for purposes of section 18 of the Securities Exchange Act of 1934, as amended, and otherwise is not subject to liability under these sections.

† Certain information in this exhibit has been omitted and filed separately with the Securities and Exchange Commission pursuant to a confidential treatment request under 17 C.F.R. Sections 200.80(b)(4) and 24b-2.

SIGNATURES

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.

Dated: November 9, 2010

PDL BIOPHARMA, INC.
(Registrant)

/S/ JOHN P. MCLAUGHLIN

John P. McLaughlin
President and Chief Executive Officer
(Principal Executive Officer)

/S/ CHRISTINE R. LARSON

Christine R. Larson
Vice President and Chief Financial Officer
(Principal Financial Officer)

/S/ KAREN J. WILSON

Karen J. Wilson
Vice President Finance
(Principal Accounting Officer)

Exhibit 4.1

PDL BIOPHARMA, INC.

2.875% CONVERTIBLE SENIOR NOTES DUE FEBRUARY 15, 2015

INDENTURE
DATED AS OF NOVEMBER 1, 2010

THE BANK OF NEW YORK MELLON TRUST COMPANY, N. A.
AS TRUSTEE

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THIS INDENTURE dated as of November 1, 2010 is between PDL BioPharma, Inc., a corporation duly organized under the laws of the State of Delaware (the "Company"), and The Bank of New York Mellon Trust Company, N.A., a national banking association organized and existing under the laws of the United States, as Trustee (the "Trustee").

In consideration of the premises and the purchase of the Securities by the Holders thereof, both parties agree as follows for the benefit of the other and for the equal and ratable benefit of the registered Holders of the Company's 2.875% Convertible Senior Notes due February 15, 2015.

ARTICLE 1.
DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.1 DEFINITIONS.

"Additional Shares Table" means the table set forth in Schedule I hereto.

"Affiliate" means, with respect to any specified person, any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition, "control", when used with respect to any person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Agent" means any Registrar, Paying Agent or Conversion Agent.

"Applicable Conversion Rate" means, at the time any determination thereof is to be made, the Initial Conversion Rate as adjusted pursuant to Sections 3.10 and 4.6.

"Applicable Procedures" means, with respect to any transfer or exchange of beneficial ownership interests in a Global Security, the rules and procedures of the Depositary, in each case to the extent applicable to such transfer or exchange.

"Board of Directors" means either the board of directors of the Company or any committee of the Board of Directors authorized to act for it with respect to this Indenture.

"Business Day" means each day that is not a Legal Holiday.

"Capital Stock" means (a) in the case of a corporation, corporate stock, (b) in the case of an association or business entity, shares, interests, participations, rights or other equivalents (however designated) of corporate stock, (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited) and (d) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distribution of the assets of, the issuing person.

"Cash" or "cash" means such coin or currency of the United States as at any time of payment is legal tender for the payment of public and private debts.

"Certificated Security" means a Security that is in substantially the form attached hereto as Exhibit A and that does not include the information or the schedule called for by footnotes 1 and 3 thereof.

"Closing Date" means November 1, 2010.

"Closing Price" of the Common Stock on any date means the last reported sales price or, in case no such reported sale takes place on such date, the average of the reported closing bid and ask prices in either case on the Nasdaq National Market or, if the Common Stock is not listed or admitted to trading or, if not listed or admitted to trading on the Nasdaq National Market or any national securities exchange, the last reported sales price of the Common Stock as quoted on NASDAQ or, in case no reported sales take place, the average of the closing bid and ask prices as quoted on NASDAQ or any comparable system, the closing sales price or, in case no reported sale takes place, the average of the closing bid and ask prices, as furnished by any two members of the National Association of Securities Dealers, Inc. selected from time to time by the Company for that purpose. If no such prices are available, the current market price per share shall be the fair value of a share of Common Stock as determined in good faith by the Board of Directors.

"Common Stock" means the common stock of the Company, $0.01 par value, as it exists on the date of this Indenture, and any shares of any class or classes of capital stock of the Company resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Company and which are not subject to redemption by the Company; provided, however, that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable on conversion of Securities shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

"Company" means the party named as such in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture, and thereafter "Company" shall mean such successor Company.

"Corporate Trust Office" means the office of the Trustee at which at any particular time the trust created by this Indenture shall be administered which office at the date of the execution of this Indenture is located at 700 South Flower Street, Suite 500, Los Angeles, California 90017, Attention: Corporate Trust Administration or at any other time at such other address as the Trustee may designate from time to time by notice to the Company.

"Default" or "default" means, when used with respect to the Securities, any event which is or, after notice or passage of time or both, would be an Event of Default.

"Exchange Act" means the Securities and Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, as in effect from time to time.

"Final Maturity Date" means February 15, 2015.

"Fundamental Change" means the occurrence of any of the following at a time after the Securities are originally issued:

(a) the Common Stock (or other common stock into which the Securities are convertible or American Depository Shares representing such common stock) is neither traded on the New York Stock Exchange or another United States national securities exchange nor quoted on The Nasdaq Stock Market or another established automated over-the-counter trading market in the United States; or

(b) any Person acquires beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions, of shares of the Company's Capital Stock entitling the Person to exercise 50% or more of the total voting power of all shares of the Company's Capital Stock entitled to vote generally in elections of directors, other than an acquisition by the Company, any of its Subsidiaries or any of its employee benefit plans; or

(c) the Company merges or consolidates with or into any other Person (other than a Subsidiary of the Company), another Person merges with or into the Company, or the Company conveys, sells, transfers or leases all or substantially all of its assets to another Person, other than any transaction:

(i) that does not result in a reclassification, conversion, exchange or cancellation of any outstanding Common Stock;

(ii) pursuant to which the holders of Common Stock immediately prior to the transaction have the entitlement to exercise, directly or indirectly, 50% or more of the total voting power of all shares of the Capital Stock entitled to vote generally in the election of directors of the continuing or surviving corporation immediately after the transaction; or

(iii) that is effected solely to change the Company's jurisdiction of incorporation and results in a reclassification, conversion or exchange of outstanding shares of Common Stock solely into shares of common stock of the surviving entity.

For purposes of this definition, whether a Person is a "beneficial owner" will be determined in accordance with Rule 13d-3 under the Exchange Act and "Person" includes any syndicate or group that would be deemed to be a "person" under Section 13(d)(3) of the Exchange Act.

"Fundamental Change Repurchase Date" means the date specified as such in the notice delivered to Holders pursuant to Section 3.9(c) hereof.

"GAAP" means generally accepted accounting principles in the United States of America as in effect as of the date of this Indenture, including those set forth in (1) the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants, (2) the statements and pronouncements of the Financial Accounting Standards Board, (3) such other statements by such other entity as approved by a significant segment of the

accounting profession and (4) the rules and regulations of the SEC governing the inclusion of financial statements (including pro forma financial statements) in registration statements filed under the Securities Act and periodic reports required to be filed pursuant to Section 13 of the Exchange Act, including opinions and pronouncements in staff accounting bulletins and similar written statements from the accounting staff of the SEC.

"Global Security" means a permanent Security that is in substantially the form attached hereto as Exhibit A and that includes the information and schedule called for by footnotes 1 and 3 thereof and which is deposited with the Depositary or its custodian and registered in the name of the Depositary or its nominee.

"Holder" or "Securityholder" means the person in whose name a Security is registered on the Primary Registrar's books.

"Indenture" means this Indenture as amended or supplemented from time to time pursuant to the terms of this Indenture.

"Indirect Participant" means an entity that, with respect to any Depositary, clears through or maintains a direct or indirect, custodial relationship with a Participant.

"Initial Conversion Rate" means 140.571 shares of Common Stock per $1,000 principal amount of Securities.

"Issuance Date" means the date on which the Securities are first authenticated and issued.

"Officer" means the Chairman or any Co-Chairman of the Board, any Vice Chairman of the Board, the Chief Executive Officer, the President, any Vice President, the Chief Financial Officer, the Controller, the Secretary or any Assistant Controller or Assistant Secretary of the Company.

"Officers' Certificate" means a certificate signed by two Officers; provided, however, that for purposes of Sections 4.7 and 5.3, "Officers' Certificate" means a certificate signed by the principal executive officer, principal financial officer or principal accounting officer of the Company and by one other Officer.

"Opinion of Counsel" means a written opinion from legal counsel. The counsel may be an employee of or counsel to the Company.

"Participant" means a Person who has an account with the Depositary.

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

"Principal" or "principal" of a debt security, including the Securities, means the principal of the security plus, when appropriate, the premium, if any, on the security.

"Public Acquirer Change of Control" means any event constituting a Fundamental Change that would otherwise give Holders the right to cause the Company to repurchase the Securities under Section 3.9 where either (a) the acquirer or (b) if not the acquirer, a direct or indirect majority-owned Subsidiary of the acquirer or (c) if not the acquirer or any direct or indirect majority-owned Subsidiary of the acquirer, a corporation by which the acquirer is majority-owned has a class of common stock (or American Depository Shares representing such common stock) traded on a U.S. national securities exchange or quoted on the Nasdaq Stock Market or which will be so traded or quoted when issued or exchanged in connection with such Fundamental Change. "Majority-owned" for the purposes of this definition means having "beneficial ownership" (as defined in Rule 13d-3 under the Exchange Act) of more than 50% of the total voting power of the respective Person's Voting Stock.

"Public Acquirer Common Stock" means the class of common stock (or American Depository Shares representing such common stock) of an entity referred to in sections (a), (b) or (c) of the first sentence of the definition of "Public Acquirer Change of Control."

"Redemption Date" when used with respect to any Security to be redeemed, means the date fixed for such redemption pursuant to this Indenture.

"Redemption Price" when used with respect to any Security to be redeemed, means the price fixed for such redemption pursuant to this Indenture, as set forth in the form of Security annexed as Exhibit A hereto.

"Rule 144" means Rule 144 under the Securities Act or any successor to such Rule.

"Rule 144A" means Rule 144A under the Securities Act or any successor to such Rule.

"SEC" means the Securities and Exchange Commission.

"Securities" means the 2.875% Convertible Senior Notes due February 15, 2015 or any of them (each, a "Security"), as amended or supplemented from time to time, that are issued under this Indenture, including any Exchange Agreement Securities, any Purchase Agreement Securities and any Additional Securities.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, as in effect from time to time.

"Securities Custodian" means the Trustee, as custodian with respect to the Securities in global form, or any successor thereto.

"Significant Subsidiary" means, in respect of any Person, a Subsidiary of such Person that would constitute a "significant subsidiary", as such term is defined under Rule 1-02 of Regulation S-X under the Securities Act and the Exchange Act.

"Subsidiary" means, in respect of any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

"TIA" means the Trust Indenture Act of 1939, as amended, and the rules and regulations thereunder as in effect on the date of this Indenture, except as provided in Section 10.3, and except to the extent any amendment to the Trust Indenture Act expressly provides for application of the Trust Indenture Act as in effect on another date.

"Trading Day" means, with respect to any security, each Monday, Tuesday, Wednesday, Thursday and Friday, other than any day on which securities are not generally traded on the principal exchange or market in which such security is traded.

"Transfer Restricted Global Security" means a Global Security that is a Transfer Restricted Security.

"Transfer Restricted Security" means a Security that is subject to resale restrictions pursuant to the Securities Act of 1933, as amended, and the rules and regulations thereunder.

"Trustee" means the party named as such in the first paragraph of this Indenture until a successor replaces it in accordance with the provisions of this Indenture, and thereafter means the successor.

"Trust Officer" when used with respect to the Trustee, means any vice president, any assistant vice president, any senior trust officer or assistant trust officer, any trust officer, or any other officer associated with the corporate trust department of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of such person's knowledge of and familiarity with the particular subject.

"Unrestricted Certificated Security" means a Certificated Security that is not a Transfer Restricted Security.

"Unrestricted Global Security" means a Global Security that is not a Transfer Restricted Security.

"Unrestricted Security" means a Security that is not a Transfer Restricted Security.

"Vice President" when used with respect to the Company or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title "vice president."

"Voting Stock" of a Person means all classes of Capital Stock or other interests (including partnership interests) of such Person then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof.

SECTION 1.2 OTHER DEFINITIONS.

Term	Defined in Section
“Additional Securities”	2.14
“Additional Shares”	3.10
“Agent Members”	2.1(b)
“Bankruptcy Law”	7.1
“Company Order”	2.2
“Conversion Agent”	2.3
“Conversion Date”	4.2
“Custodian”	7.1
“DTC”	2.1
“Depositary”	2.1
“Event of Default”	7.1
“Exchange Agreement Securities”	2.1
“Fundamental Change Repurchase Price”	3.9(a)
“Legal Holiday”	11.7
“Legend”	2.12
“Paying Agent”	2.3
“Primary Registrar”	2.3
“Public Acquisition Notice”	3.11
“Purchase Agreement Securities”	2.1
“QIB”	2.1
“Registrar”	2.3
“Restricted Shares”	5.6
“Stock Price”	3.10(b)

SECTION 1.3 RESERVED.

SECTION 1.4 RULES OF CONSTRUCTION.

Unless the context otherwise requires:

(A) a term has the meaning assigned to it;

(B) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(C) words in the singular include the plural, and words in the plural include the singular;

(D) provisions apply to successive events and transactions;

(E) the term “merger” includes a statutory share exchange and the term “merged” has a correlative meaning;

(F) the masculine gender includes the feminine and the neuter;

(G) references to agreements and other instruments include subsequent amendments thereto; and

(H) “herein”, “hereof” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

ARTICLE 2.
THE SECURITIES

SECTION 2.1 FORM AND DATING.

The Securities and the Trustee’s certificate of authentication shall be substantially in the respective forms set forth in Exhibit A, which Exhibit is incorporated in and made part of this Indenture. The Securities may have notations, legends or endorsements required by law, stock exchange rule or usage. The Company shall provide any such notations, legends or endorsements to the Trustee in writing. Each Security shall be dated the date of its authentication. The Securities are being offered and sold by the Company pursuant to either (i) one or more agreements between the Company and certain purchasers who are acquiring the Securities (A) solely in a cash purchase or (B) in a combined cash purchase and exchange for other securities of the Company (such Securities, “Purchase Agreement Securities”), or (ii) one or more agreements entered into between the Company and certain initial acquirors who are acquiring the Securities solely in exchange for other securities of the Company (such Securities, “Exchange Agreement Securities”).

(a) Purchase Agreement Global Securities and Exchange Agreement Global Securities. All of the Purchase Agreement Securities issued on the Closing Date are initially being offered and sold to qualified institutional buyers as defined in Rule 144A (collectively, “QIBs” or individually, each a “QIB”) in reliance on Section 4(2) of the Securities Act, shall be issued initially in the form of one or more Transfer Restricted Global Securities, which shall be deposited on behalf of the acquirors of the Purchase Agreement Securities represented thereby with the Trustee, at its Corporate Trust Office, as custodian for the depositary, The Depository Trust Company (“DTC”) (such depositary, or any successor thereto, being hereinafter referred to as the “Depositary”), and registered in the name of its nominee, Cede & Co., duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of these Transfer Restricted Global Securities may from time to time be increased or decreased by adjustments made on the records of the Securities Custodian as hereinafter provided, subject in each case to compliance with the Applicable Procedures.

All of the Exchange Agreement Securities issued on the Closing Date are being offered and sold in reliance on Section 4(2) of the Securities Act, shall be issued in the form of one or more Unrestricted Global Securities which shall be deposited on behalf of the holders of the Exchange Agreement Securities represented thereby with the Trustee, at its Corporate Trust Office, as custodian for the Depositary, and registered in the name of its nominee, Cede & Co., duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of these Unrestricted Global Securities may from time to time be increased or decreased by adjustments made on the records of the Securities Custodian as hereinafter provided, subject in each case to compliance with the Applicable Procedures.

(b) Global Securities In General. Each Global Security shall represent such of the outstanding Securities as shall be specified therein and each shall provide that it shall represent the aggregate amount of outstanding Securities from time to time endorsed thereon and that the aggregate amount of outstanding Securities represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, redemptions, purchases or conversions of such Securities. Any adjustment of the aggregate principal amount of a Global Security to reflect the amount of any increase or decrease in the amount of outstanding Securities represented thereby shall be made by the Trustee in accordance with instructions given by the Holder thereof as required by Section 2.12 hereof and shall be made on the records of the Trustee and the Depositary.

Members of, or participants in, the Depositary ("Agent Members") shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depositary or under the Global Security, and the Depositary (including, for this purpose, its nominee) may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner and Holder of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall (A) prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or (B) impair, as between the Depositary and its Agent Members, the operation of customary practices governing the exercise of the rights of a Holder of any Security.

(c) Book Entry Provisions. The Company shall execute and the Trustee shall, in accordance with this Section 2.1(c), authenticate and deliver initially one or more Global Securities that (i) shall be registered in the name of the Depositary, (ii) shall be delivered by the Trustee to the Depositary or pursuant to the Depositary's instructions and (iii) shall bear legends substantially to the following effect:

"UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE AND, UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY."

SECTION 2.2 EXECUTION AND AUTHENTICATION.

An Officer shall sign the Securities for the Company by manual or facsimile signature attested by the manual or facsimile signature of the Secretary or an Assistant Secretary of the Company. Typographic and other minor errors or defects in any such facsimile signature shall not affect the validity or enforceability of any Security which has been authenticated and delivered by the Trustee.

If an Officer whose signature is on a Security no longer holds that office at the time the Trustee authenticates the Security, the Security shall be valid nevertheless.

A Security shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Security. The signature shall be conclusive evidence that the Security has been authenticated under this Indenture.

On the Closing Date, the Company shall issue, and the Trustee shall authenticate and make available for delivery, Exchange Agreement Securities in the aggregate principal amount of $92,026,000 and Purchase Agreement Securities in the aggregate principal amount of $87,974,000. After the Closing Date, the Company may issue, and the Trustee shall authenticate and make available for delivery, Additional Securities issued pursuant to Section 2.14. The Trustee shall so authenticate and make available for delivery Securities upon receipt of a written order or orders of the Company signed by two Officers of the Company (a "Company Order"). The Company Order shall specify the amount of Securities to be authenticated, shall specify whether such Securities will be represented by a Transfer Restricted Global Security or an Unrestricted Global Security and the date on which each original issue of Securities is to be authenticated.

The Company at any time or from time to time may, without the consent of any Holder, issue Additional Securities pursuant to Section 2.14, which Additional Securities shall be entitled to all of the benefits of this Indenture. Such Additional Securities will be deemed Securities for all purposes hereunder, including without limitation in determining the necessary Holders who may take the actions or consent to the taking of actions as specified in this Indenture.

The Trustee shall act as the initial authenticating agent. Thereafter, the Trustee may appoint an authenticating agent acceptable to the Company to authenticate Securities. An authenticating agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent shall have the same rights as an Agent to deal with the Company or an Affiliate of the Company.

The Securities shall be issuable only in registered form without coupons and only in denominations of $1,000 principal amount and any integral multiple thereof.

SECTION 2.3 REGISTRAR, PAYING AGENT AND CONVERSION AGENT.

The Company shall maintain one or more offices or agencies where Securities may be presented for registration of transfer or for exchange (each, a "Registrar"), one or more offices or agencies where Securities may be presented for payment (each, a "Paying Agent"), one or more offices or agencies where Securities may be presented for conversion (each, a "Conversion Agent") and one or more offices or agencies where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Company will at all times maintain a Paying Agent, Conversion Agent, Registrar and an office or agency where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served in the Borough of Manhattan, The City of New York. One of the Registrars (the "Primary Registrar") shall keep a register of the Securities and of their transfer and exchange.

The Company shall enter into an appropriate agency agreement with any Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such Agent. The Company shall notify the Trustee of the name and address of any Agent not a party to this Indenture. If the Company fails to maintain a Registrar, Paying Agent, Conversion Agent or agent for service of notices and demands in any place required by this Indenture, or fails to give the foregoing notice, the Trustee shall act as such. The Company or any Affiliate of the Company may act as Paying Agent (except for the purposes of Section 5.1 and Article 9).

The Company hereby initially designates the Trustee as Paying Agent, Registrar, Custodian and Conversion Agent, and each of the Corporate Trust Office of the Trustee and the office or agency of the Trustee in the Borough of Manhattan, The City of New York (which shall initially be The Bank of New York Mellon, an Affiliate of the Trustee, as agent of the Trustee located at 101 Barclay Street, Floor 4, New York, New York 10286, Attention: Corporate Trust Administration, one such office or agency of the Company for each of the aforesaid purposes.

SECTION 2.4 PAYING AGENT TO HOLD MONEY IN TRUST.

Prior to 11:00 a.m., New York City time, on each due date of the principal of or interest, if any, on any Securities, the Company shall deposit with a Paying Agent a sum sufficient to pay such principal or interest, if any, so becoming due. A Paying Agent shall hold in trust for the benefit of Securityholders or the Trustee all money held by the Paying Agent for the payment of principal of or interest, if any, on the Securities, and shall notify the Trustee of any default by the Company (or any other obligor on the Securities) in making any such payment. If the Company or an Affiliate of the Company acts as Paying Agent, it shall, before 11:00 a.m., New York City time, on each due date of the principal of or interest on any Securities, segregate the money and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee, and the Trustee may at any time during the continuance of any default, upon written request to a Paying Agent, require such Paying Agent to pay forthwith to the Trustee all sums so held in trust by such Paying Agent. Upon doing so, the Paying Agent (other than the Company) shall have no further liability for the money.

SECTION 2.5 SECURITYHOLDER LISTS.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Securityholders. If the Trustee is not the Primary Registrar, the Company shall furnish to the Trustee on or before each semiannual interest payment date, and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Securityholders.

SECTION 2.6 TRANSFER AND EXCHANGE.

(a) Subject to compliance with any applicable additional requirements contained in Section 2.12, when a Security is presented to a Registrar with a request to register a transfer thereof or to exchange such Security for an equal principal amount of Securities of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested; provided, however, that every Security presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by an assignment form and, if applicable, a transfer certificate each in the form included in Exhibit A, and in form satisfactory to the Registrar duly executed by the Holder thereof or its attorney duly authorized in writing. To permit registration of transfers and exchanges, upon surrender of any Security for registration of transfer or exchange at an office or agency maintained pursuant to Section 2.3, the Company shall execute and the Trustee shall authenticate Securities of a like aggregate principal amount at the Registrar's request. Any exchange or transfer shall be without charge, except that the Company or the Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto, and provided, that this sentence shall not apply to any exchange pursuant to Section 2.10, 2.12(a), 3.6, 3.11, 4.2 (last paragraph) or 11.5.

Neither the Company, any Registrar nor the Trustee shall be required to exchange or register a transfer of (i) any Securities for a period of 15 days next preceding any mailing of a notice of Securities to be redeemed, (ii) any Securities or portions thereof selected or called for redemption (except, in the case of redemption of a Security in part, the portion thereof not to be redeemed) or (iii) any Securities or portions thereof in respect of which a notice pursuant to Section 3.9(d) hereof has been delivered and not withdrawn by the Holder thereof (except, in the case of the purchase of a Security in part, the portion thereof not to be purchased).

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

(b) Any Registrar appointed pursuant to Section 2.3 hereof shall provide to the Trustee such information as the Trustee may reasonably require in connection with the delivery by such Registrar of Securities upon transfer or exchange of Securities.

(c) Each Holder agrees to indemnify the Company and the Trustee against any liability that may result from the transfer, exchange or assignment of such Holder's Security in violation of any provision of this Indenture and/or applicable United States federal or state securities law.

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Security (including any transfers between or among Agent Members or other beneficial owners of interests in any Global Security) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

SECTION 2.7 REPLACEMENT SECURITIES.

If any mutilated Security is surrendered to the Company, a Registrar or the Trustee, or the Company, a Registrar and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Security, and there is delivered to the Company, the applicable Registrar and the Trustee such security or indemnity as will be required by them to save each of them harmless, then, in the absence of notice to the Company, such Registrar or the Trustee that such Security has been acquired by a bona fide purchaser, the Company shall execute, and upon its written request the Trustee shall authenticate and deliver, in exchange for any such mutilated Security or in lieu of any such destroyed, lost or stolen Security, a new Security of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, or is about to be redeemed or purchased by the Company pursuant to Article 3, the Company in its discretion may, instead of issuing a new Security, pay, redeem or purchase such Security, as the case may be.

Upon the issuance of any new Securities under this Section 2.7, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other reasonable expenses (including the reasonable fees and expenses of the Trustee or the Registrar) in connection therewith.

Every new Security issued pursuant to this Section 2.7 in lieu of any mutilated, destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Securities duly issued hereunder.

The provisions of this Section 2.7 are (to the extent lawful) exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 2.8 OUTSTANDING SECURITIES.

Securities outstanding at any time are all Securities authenticated by the Trustee, except for those canceled by it, those converted pursuant to Article 4, those delivered to it for cancellation or surrendered for transfer or exchange and those described in this Section 2.8 as not outstanding.

If a Security is replaced pursuant to Section 2.7, it ceases to be outstanding unless the Company receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser.

If a Paying Agent (other than the Company or an Affiliate of the Company) holds on a Redemption Date, a Fundamental Change Repurchase Date or the Final Maturity Date money sufficient to pay the principal of (including premium, if any) and accrued interest on Securities (or portions thereof) payable on that date, then on and after such Redemption Date, Fundamental Change Repurchase Date or the Final Maturity Date, as the case may be, such Securities (or portions thereof, as the case may be) shall cease to be outstanding and interest on them shall cease to accrue; provided, that if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefore satisfactory to the Trustee has been made.

Subject to the restrictions contained in Section 2.9, a Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

SECTION 2.9 TREASURY SECURITIES.

In determining whether the Holders of the required principal amount of Securities have concurred in any notice, direction, waiver or consent, Securities owned by the Company or any other obligor on the Securities or by any Affiliate of the Company or of such other obligor shall be disregarded, except that, for purposes of determining whether the Trustee shall be protected in relying on any such notice, direction, waiver or consent, only Securities which a Trust Officer of the Trustee actually knows are so owned shall be so disregarded. Securities so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to the Securities and that the pledgee is not the Company or any other obligor on the Securities or any Affiliate of the Company or of such other obligor.

SECTION 2.10 TEMPORARY SECURITIES.

Until definitive Securities are ready for delivery, the Company may prepare and execute, and, upon receipt of a Company Order, the Trustee shall authenticate and deliver, temporary Securities. Temporary Securities shall be substantially in the form of definitive Securities but may have variations that the Company with the consent of the Trustee considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate and deliver definitive Securities in exchange for temporary Securities.

SECTION 2.11 CANCELLATION.

The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar, the Paying Agent and the Conversion Agent shall forward to the Trustee or its agent any Securities surrendered to them for transfer, exchange, redemption, payment or conversion. The Trustee and no one else shall cancel, in accordance with its standard procedures, all

Securities surrendered for transfer, exchange, redemption, payment, conversion or cancellation and shall deliver the canceled Securities to the Company. The Company may not issue any new Securities to replace any Securities that any Holder has converted pursuant to Article 4. Without limitation to the foregoing, any Securities acquired by any investment bankers or other purchasers pursuant to Section 3.8 shall be surrendered for conversion and thereafter cancelled, and may not be reoffered, sold or otherwise transferred.

SECTION 2.12 LEGEND; ADDITIONAL TRANSFER AND EXCHANGE REQUIREMENTS.

(a) If Securities are issued upon the transfer, exchange or replacement of Securities subject to restrictions on transfer and bearing the legends for Transfer Restricted Securities set forth on the forms of Securities attached hereto as Exhibit A (collectively, the "Legend"), or if a request is made to remove the Legend on a Security, the Securities so issued shall bear the Legend, or the Legend shall not be removed, as the case may be, unless there is delivered to the Company and the Registrar such satisfactory evidence, which shall include an Opinion of Counsel if requested by the Company or such Registrar, as may be reasonably required by the Company or the Registrar, that neither the Legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of Rule 144A or Rule 144 or that such Securities are not "restricted" within the meaning of Rule 144; provided that no such evidence need be supplied in connection with the sale of such Security pursuant to a registration statement that is effective at the time of such sale. Upon (i) provision of such satisfactory evidence if requested, or (ii) notification by the Company to the Trustee and Registrar of the sale of such Security pursuant to a registration statement that is effective at the time of such sale, the Trustee, at the written direction of the Company, shall authenticate and deliver a Security that does not bear the Legend. If the Legend is removed from the face of a Security and the Security is subsequently held by an Affiliate of the Company, the Legend shall be reinstated.

(b) No transfer of a Security to any Person shall be effective under this Indenture or the Securities unless and until such Security has been registered in the name of such Person. Notwithstanding any other provisions of this Indenture or the Securities, transfers of a Global Security, in whole or in part, shall be made only in accordance with this Section 2.12.

(c) The transfer and exchange of beneficial interests in the Global Securities shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures.

(i) Beneficial interests in any Transfer Restricted Global Security may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Transfer Restricted Global Security in accordance with the transfer restrictions set forth in the Legend. Beneficial interests in any Unrestricted Global Security may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same or any other Unrestricted Global Security. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.12(c)(i).

(ii) In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.12(c)(i), the transferor of such beneficial interest must deliver to the Registrar an order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Security in an amount equal to the beneficial interest to be transferred or exchanged and instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase.

(iii) A beneficial interest in any Transfer Restricted Global Security may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Transfer Restricted Global Security if the transfer complies with the requirements of Section 2.12(c)(ii) and the Registrar receives a duly executed certificate substantially in the form of Exhibit B hereto.

(iv) A beneficial interest in any Transfer Restricted Global Security may be exchanged for a beneficial interest in an Unrestricted Global Security or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Security if (1) the exchange or transfer complies with the requirements of Section 2.12(c)(ii) and (2) if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Legend are no longer required in order to maintain compliance with the Securities Act.

(d) The restrictions imposed by the Legend upon the transferability of any Security shall cease and terminate when such Security has been sold pursuant to an effective registration statement under the Securities Act or transferred in compliance with Rule 144 (or any successor provision thereto) or, if earlier, upon the expiration of the holding period applicable to sales thereof under Rule 144(d) under the Securities Act (or any successor provision). Any Security as to which such restrictions on transfer shall have expired in accordance with their terms or shall have terminated may, upon a surrender of such Security for exchange to the Registrar in accordance with the provisions of this Section 2.12 (accompanied, in the event that such restrictions on transfer have terminated by reason of a transfer in compliance with Rule 144 (or any successor provision), by, if requested, an Opinion of Counsel reasonably acceptable to the Company and to the Trustee, addressed to the Company and to the Trustee and in form acceptable to the Company and to the Trustee, to the effect that the transfer of such Security has been made in compliance with Rule 144 (or such successor provision), be exchanged for a new Security, of like tenor and aggregate principal amount, which shall not bear the restrictive Legend. The Company shall inform the Trustee of the effective date of any registration statement registering the Securities under the Securities Act. The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the aforementioned Opinion of Counsel or registration statement.

(e) As used in Section 2.12(c) and (d), the term “transfer” encompasses any sale, pledge, transfer, hypothecation or other disposition of any Security.

(f) (i) Notwithstanding any other provisions of this Indenture or the Securities, a Global Security shall not be exchanged in whole or in part for a Security registered in the name of any Person other than the Depositary or one or more nominees thereof, provided that a Global Security may be exchanged for Securities registered in the names of any person designated by the Depositary in the event that (A) the Depositary has notified the Company that it is unwilling or unable to continue as Depositary for such Global Security or such Depositary has ceased to be a “clearing agency” registered under the Exchange Act, and a successor Depositary is not appointed by the Company within 90 days, (B) the Company has provided the Depositary with written notice that it has decided to discontinue use of the system of book-entry transfer through the Depositary or any successor Depositary or (C) an Event of Default has occurred and is continuing. Any Global Security exchanged pursuant to clauses (A) or (B) above shall be so exchanged in whole and not in part, and any Global Security exchanged pursuant to clause (C) above may be exchanged in whole or from time to time in part as directed by the Depositary. Any Security issued in exchange for a Global Security or any portion thereof shall be a Global Security; provided that any such Security so issued that is registered in the name of a Person other than the Depositary or a nominee thereof shall not be a Global Security.

(ii) Securities issued in exchange for a Global Security or any portion thereof shall be issued in definitive, fully-registered book entry form, without interest coupons, shall have an aggregate principal amount equal to that of such Global Security or portion thereof to be so exchanged, shall be registered in such names and be in such authorized denominations as the Depositary shall designate and shall bear the applicable legends provided for herein. Any Global Security to be exchanged in whole shall be surrendered by the Depositary to the Trustee, as Registrar. With regard to any Global Security to be exchanged in part, either such Global Security shall be so surrendered for exchange or, if the Trustee is acting as custodian for the Depositary or its nominee with respect to such Global Security, the principal amount thereof shall be reduced, by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon any such surrender or adjustment, the Trustee shall authenticate and deliver the Security issuable on such exchange to or upon the order of the Depositary or an authorized representative thereof.

(iii) Subject to the provisions of clause (v) below, the registered Holder may grant proxies and otherwise authorize any Person, including Agent Members and persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Securities.

(iv) In the event of the occurrence of any of the events specified in clause (i) above, the Company will promptly make available to the Trustee a reasonable supply of Certificated Securities in definitive, fully registered form, without interest coupons.

(v) Neither Agent Members nor any other Persons on whose behalf Agent Members may act shall have any rights under this Indenture with respect to any Global Security registered in the name of the Depositary or any nominee thereof, or under any such Global Security, and the Depositary or such nominee, as the case may be, may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner and holder of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or such nominee, as the case may be, or impair, as between the Depositary, its Agent Members and any other person on whose behalf an Agent Member may act, the operation of customary practices of such Persons governing the exercise of the rights of a holder of any Security.

SECTION 2.13 CUSIP NUMBERS.

The Company in issuing the Securities may use one or more "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption or purchase as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption or purchase and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption or purchase shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee of any change in the "CUSIP" numbers.

SECTION 2.14 ADDITIONAL SECURITIES.

If authorized by a resolution of the Board of Directors, the Company shall be entitled to issue additional Securities under this Indenture ("Additional Securities") which shall have substantially identical terms as the Securities, other than with respect to the date of issuance, issue price, amount of interest payable on the first interest payment date applicable thereto, and, if such Additional Securities shall be issued in the form of Unrestricted Securities or Transfer Restricted Securities, other than with respect to transfer restrictions in respect of Securities that are, respectively, Transfer Restricted Securities or Unrestricted Securities; provided that such

issuance shall be made in compliance with this Indenture; provided, further, that no Additional Securities may be issued with the same "CUSIP", "ISIN" or "Common Code" number as other Securities unless it is so permitted in accordance with applicable law. The Securities issued on the Closing Date and any Additional Securities shall be treated as a single class for all purposes under this Indenture.

With respect to any Additional Securities, the Company shall set forth in an Officers' Certificate, a copy of which shall be delivered to the Trustee, or in a supplemental indenture, the following information:

(1) the aggregate principal amount of Securities outstanding immediately prior to the issuance of such Additional Securities;

(2) the aggregate principal amount of such Additional Securities to be authenticated and delivered pursuant to this Indenture;

(3) the issue price, if any, and the issue date of such Additional Securities and the amount of interest payable on the first interest payment date applicable thereto;

(4) the "CUSIP", "ISIN" or "Common Code" number, as applicable, of such Additional Securities;

(5) whether such Additional Securities are Purchase Agreement Securities or Exchange Agreement Securities; and

(6) whether such Additional Securities shall be Transfer Restricted Securities or Unrestricted Securities.

In connection with the authentication of any Additional Securities, the Trustee shall receive, and will be fully protected in relying upon, an Opinion of Counsel stating:

(1) if the form of such Securities has been established by or pursuant to a Board Resolution as permitted by Section 2.14, that such form has been established in conformity with the provisions of this Indenture,

(2) if the terms of such Securities have been established by or pursuant to a Board Resolution as permitted by Section 2.14, that such terms have been established in conformity with the provisions of this Indenture,

(3) that such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and binding obligations of the Company enforceable in accordance with their terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium, or other laws relating to or affecting creditors' rights and by general principles of equity; and

(4) that all conditions precedent to the execution and delivery by the Company of such Securities have been complied with, and the issuance of the Securities is in compliance with the Indenture.

ARTICLE 3.
REDEMPTION AND PURCHASES

SECTION 3.1 OPTIONAL REDEMPTION.

(a) The Company shall not have the option to redeem the Securities pursuant to this Section 3.1 prior to August 15, 2014. Thereafter, the Company shall have the option to redeem the Securities, in whole or in part, at a redemption price equal to 100% of the aggregate principal amount of the Securities to be redeemed, plus accrued and unpaid interest thereon, to the Redemption Date.

(b) Any redemption pursuant to this Section 3.1 shall be made pursuant to the provisions of Section 3.2 through 3.8 hereof.

SECTION 3.2 RIGHT TO REDEEM; NOTICE TO TRUSTEE.

If the Company elects to redeem Securities pursuant to Section 3.1 and paragraph 6 of the Securities, it shall notify the Trustee at least 45 days prior to the Redemption Date as fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee) of the Redemption Date and the principal amount of Securities to be redeemed. If fewer than all of the Securities are to be redeemed, the record date relating to such redemption shall be selected by the Company and given to the Trustee, which record date shall not be less than ten days after the date of notice to the Trustee.

SECTION 3.3 SELECTION OF SECURITIES TO BE REDEEMED.

If less than all of the Securities are to be redeemed, unless the procedures of the Depositary provide otherwise, the Trustee shall, at least 10 days but not more than 60 days prior to the Redemption Date, select the Securities to be redeemed. The Trustee shall make the selection from the Securities outstanding and not previously called for redemption, by lot, pro rata or otherwise in accordance with applicable procedures of DTC. Securities in denominations of $1,000 may only be redeemed in whole. The Trustee may select for redemption portions (equal to $1,000 or any integral multiple thereof) of the principal of Securities that have denominations larger than $1,000. Provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption.

If any Security selected for partial redemption is converted in part before termination of the conversion right with respect to the portion of the Security so selected, the converted portion of such Security shall be deemed to be the portion selected for redemption. Securities which have been converted after a selection of Securities to be redeemed has been made shall be treated by the Trustee as no longer outstanding and thus not eligible for redemption.

SECTION 3.4 NOTICE OF REDEMPTION.

At least 10 days but not more than 60 days before a Redemption Date, the Company shall mail or cause to be mailed (or transmitted electronically in accordance with DTC procedures) a notice of redemption to each Holder of Securities to be redeemed at such Holder's address as it appears on the Primary Registrar's books.

The notice shall identify the Securities (including CUSIP numbers) to be redeemed and shall state:

(1) the Redemption Date;

(2) the Redemption Price;

(3) the Applicable Conversion Rate;

(4) the name and address of each Paying Agent and Conversion Agent;

(5) that Securities called for redemption must be presented and surrendered to a Paying Agent to collect the Redemption Price;

(6) that Holders who wish to convert Securities must surrender such Securities for conversion no later than the close of business on the Business Day immediately preceding the Redemption Date and must satisfy the other requirements set forth in paragraph 9 of the Securities;

(7) that, unless the Company defaults in making the payment of the Redemption Price, interest on Securities called for redemption shall cease accruing on and after the Redemption Date and the only remaining right of the Holder shall be to receive payment of the Redemption Price plus accrued interest, if any, up to but not including the Redemption Date, upon presentation and surrender to a Paying Agent of the Securities; and

(8) if any Security is being redeemed in part, the portion of the principal amount of such Security to be redeemed and that, after the Redemption Date, upon presentation and surrender of such Security, a new Security or Securities in aggregate principal amount equal to the unredeemed portion thereof will be issued.

If any of the Securities to be redeemed is in the form of a Global Security, then the Company shall modify such notice to the extent necessary to accord with the procedures of the Depositary applicable to redemptions. At the Company's written request to the Trustee, upon reasonable prior notice (which shall be no less than 5 Business Days prior to the date of the notice of redemption), which request shall (i) be irrevocable once given and (ii) set forth all relevant information required by clauses (1) through (8) of the preceding paragraph, the Trustee shall give the notice of redemption in the Company's name and at the Company's expense.

SECTION 3.5 EFFECT OF NOTICE OF REDEMPTION.

Once notice of redemption is mailed, Securities called for redemption become due and payable on the Redemption Date and at the Redemption Price stated in the notice, together with accrued interest, if any, except for Securities that are converted in accordance with the provisions of Article 4. Upon presentation and surrender to a Paying Agent, Securities called for redemption shall be paid at the Redemption Price, plus accrued interest up to but not including the Redemption Date; provided that if the Redemption Date falls after an interest payment record date and on or before an interest payment date, then the interest will be payable to the Holders in whose name the Securities are registered at the close of business on the interest payment record date.

SECTION 3.6 DEPOSIT OF REDEMPTION PRICE.

Prior to 11:00 a.m. New York City time, on the Redemption Date, the Company shall deposit with a Paying Agent (or, if the Company acts as Paying Agent, shall segregate and hold in trust) an amount of money (in immediately available funds if deposited on such Redemption Date) sufficient to pay the Redemption Price of and accrued interest on all Securities to be redeemed on that date, other than Securities or portions thereof called for redemption on that date which have been delivered by the Company to the Trustee for cancellation or have been converted. The Paying Agent shall as promptly as practicable return to the Company any money not required for that purpose because of the conversion of Securities pursuant to Article 4 or, if such money is then held by the Company in trust and is not required for such purpose, it shall be discharged from the trust.

SECTION 3.7 SECURITIES REDEEMED IN PART.

Upon presentation and surrender of a Security that is redeemed in part, the Company shall execute and the Trustee shall authenticate and deliver to the Holder a new Security equal in principal amount to the unredeemed portion of the Security surrendered.

SECTION 3.8 CONVERSION ARRANGEMENT ON CALL FOR REDEMPTION.

In connection with any redemption of Securities, the Company may arrange for the purchase and conversion of any Securities called for redemption by an agreement with one or more investment bankers or other purchasers to purchase such Securities by paying to an agent or directly to the Holders who are selling such Securities, the purchase price thereof on or before 11:00 a.m. New York City time on the Redemption Date, provided that no later than three Business Days prior to the Redemption Date, the Company provides to the Trustee (i) written notice of such purchase of Securities, and the aggregate principal amount to be purchased, together with an instruction to cancel on a date specified by the Company any such purchased Securities in accordance with applicable procedures of DTC and (ii) a supplement to the Redemption Notice giving effect to any such purchase; provided, further that the Company shall provide the Trustee written confirmation on or prior to 11:00 a.m. New York City time on the Redemption Date that any such purchase has been consummated. Notwithstanding anything to the contrary contained in this Article 3, the obligation of the Company to pay the Redemption

Price of such Securities, including all accrued interest, shall be deemed to be satisfied and discharged to the extent such amount is so paid by such purchasers; provided, however, that nothing in this Section 3.8 shall relieve the Company of its obligation to pay the Redemption Price, plus accrued interest to but excluding the relevant Redemption Date, on Securities called for redemption. If such an agreement with one or more investment banks or other purchasers is entered into, any Securities called for redemption and not surrendered for conversion by the Holders thereof prior to the relevant Redemption Date may, at the option of the Company upon written notice to the Trustee, be deemed, to the fullest extent permitted by law, acquired by such purchasers from such Holders and (notwithstanding anything to the contrary contained in Article 4) surrendered by such purchasers for conversion, all as of 11:00 a.m. New York City time on the Redemption Date, subject to payment of the above amount as aforesaid.

SECTION 3.9 REPURCHASE AT OPTION OF THE HOLDER UPON A FUNDAMENTAL CHANGE.

(a) Subject to the satisfaction of the requirements of this Section 3.9, if a Fundamental Change occurs at any time prior to the Final Maturity Date, each Holder will, upon receipt of the notice of the occurrence of a Fundamental Change described in Section 3.9(c), have the right (subject to the Company's rights upon delivery of a Public Acquisition Notice, as defined in Section 3.11) to require the Company to repurchase any or all of such Holder's Securities for cash in an amount equal to 100% of the principal amount of the Securities to be repurchased plus accrued and unpaid interest, if any, to (but not including) the Fundamental Change Repurchase Date (the "Fundamental Change Repurchase Price"), unless such Fundamental Change Repurchase Date falls after an interest payment record date and on or prior to the corresponding interest payment date, in which case the Fundamental Change Repurchase Price will include the full amount of accrued and unpaid Interest payable on such interest payment date to the Holder of record at the close of business on the corresponding interest payment record date.

(b) Notwithstanding the foregoing, Holders will not have the right to require the Company to repurchase any Securities if a Fundamental Change described in clause (b) or (c) in the definition of Fundamental Change occurs (and the Company will not be required to deliver the notice described in Section 3.9(c)), if either:

(1) the Closing Price for any five Trading Days within the period of 10 consecutive Trading Days ending immediately after the later of the effective date of the Fundamental Change or the date of the public announcement of the Fundamental Change, in the case of a Fundamental Change relating to an acquisition of Capital Stock under clause (b) of the definition of Fundamental Change, or the period of ten consecutive Trading Days ending immediately before the effective date of the Fundamental Change, in the case of a Fundamental Change relating to a merger, consolidation, asset sale or otherwise under clause (c) of the definition of Fundamental Change, equals or exceeds 105% of the quotient of $1,000 divided by the Applicable Conversion Rate in effect on each of those five Trading Days; or

(2) at least 95% of the consideration paid for the Common Stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' or appraisal rights) in a merger or consolidation or a conveyance, sale, transfer or lease otherwise

constituting a Fundamental Change under clause (b) and/or (c) of the definition of Fundamental Change consists of shares of Capital Stock (or American Depository Shares representing such Capital Stock) traded on the New York Stock Exchange or another United States national securities exchange or quoted on the Nasdaq Stock Market or another established automated over-the-counter trading market in the United States (or will be so traded or quoted immediately following the merger or consolidation) and as a result of the merger or consolidation the Securities become convertible into shares of such Capital Stock (or American Depository Shares representing such Capital Stock).

(c) Subject to Sections 3.9(b) and 3.11, on or before the 15th day after the effective date of a Fundamental Change (which Fundamental Change results in the Holders of such Securities having the right to cause the Company to repurchase their Securities), the Company will provide to all Holders of the Securities, the Trustee and the Paying Agent a notice of the occurrence of the Fundamental Change and of the resulting repurchase right. Such notice shall state:

(1) the events causing the Fundamental Change;

(2) whether the Fundamental Change falls under clause (b) or (c) of the definition of Fundamental Change, in which case the conversion adjustments described in Section 3.10 will be applicable;

(3) the effective date of the Fundamental Change;

(4) the last date on which a Holder may exercise its repurchase right;

(5) the Fundamental Change Repurchase Price;

(6) the Fundamental Change Repurchase Date;

(7) the name and address of the Paying Agent and the Conversion Agent;

(8) the Applicable Conversion Rate and any adjustments to the Applicable Conversion Rate and availability of Additional Shares, if and to the extent applicable;

(9) that the Securities with respect to which a Fundamental Change repurchase notice has been given by the Holder may be converted only if the Holder withdraws the Fundamental Change repurchase notice as described in clause (d) below; and

(10) the procedures that Holders must follow to require the Company to repurchase their Securities and to withdraw any repurchase notice.

Substantially simultaneously with providing such notice, the Company will issue a press release and publish the information through a public medium customary for such press releases.

(d) To exercise the repurchase right in connection with a Fundamental Change, a Holder must, before the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date, deliver the Securities to be purchased to the Paying Agent, duly endorsed for transfer, or effect book-entry transfer of the Securities to the Paying Agent, and must deliver the Fundamental Change repurchase notice duly completed to the Paying Agent. The Fundamental Change repurchase notice must state:

(1) if the Securities are certificated, the certificate numbers of the Securities to be delivered for repurchase;

(2) the portion of the principal amount of the Securities to be repurchased, which must be equal to $1,000 or an integral multiple thereof; and

(3) that the Securities are to be repurchased by the Company pursuant to the applicable provisions of the Securities and this Indenture.

If the Securities are not in certificated form, the repurchase notice must comply with the Applicable Procedures.

A Holder may withdraw any Fundamental Change repurchase notice (in whole or in part) by a written notice of withdrawal delivered to the Paying Agent prior to the close of business on the Business Day prior to the Fundamental Change Repurchase Date. The notice of withdrawal must state:

(1) the principal amount of the Securities for which the repurchase notice has been withdrawn;

(2) if certificated Securities have been issued, the certificate numbers of the withdrawn Securities; and

(3) the principal amount, if any, that remains subject to the repurchase notice.

If the Securities are not in certificated form, the withdrawal notice must comply with the Applicable Procedures.

(e) The Company must repurchase the Securities for which a Fundamental Change repurchase notice has been delivered and not withdrawn no less than 20 and no more than 35 days after the date of the Company's notice of the occurrence of the relevant Fundamental Change, subject to extension to comply with applicable law. To receive payment of the Fundamental Change Repurchase Price, a Holder must either effect book-entry transfer or deliver the Securities, together with necessary endorsements, to the office of the Paying Agent after delivery of the repurchase notice. Holders will receive payment of the Fundamental Change Repurchase Price promptly following the later of the Fundamental Change Repurchase Date or the time of book-entry transfer or the delivery of the Securities. If the Paying Agent holds money sufficient to pay the Fundamental Change Repurchase Price of the Securities on or prior to the Business Day following the Fundamental Change Repurchase Date, then:

(1) the Securities will cease to be outstanding and Interest, if any, will cease to accrue (whether or not book-entry transfer of the Securities is made or whether or not the Securities are delivered to the Paying Agent); and

(2) all other rights of the Holder will terminate (other than the right to receive the Fundamental Change Repurchase Price upon delivery or transfer of the Securities).

SECTION 3.10 ADJUSTMENT TO APPLICABLE CONVERSION RATE UPON A FUNDAMENTAL CHANGE.

(a) If and only to the extent that a Holder converts Securities in connection with a Fundamental Change described in clause (b) or (c) of the definition of Fundamental Change (and subject to the Company's rights upon delivery of a Public Acquisition Notice as defined in Section 3.11), the Company will increase the Applicable Conversion Rate for the Securities surrendered for conversion by a number of additional shares (the "Additional Shares") as described in this Section 3.10; provided, however, that no increase will be made in the case of a Fundamental Change if at least 95% of the consideration paid for the Common Stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' or appraisal rights) in such Fundamental Change transaction consists of shares of Capital Stock (or American Depository Shares representing such Capital Stock) traded on the New York Stock Exchange or another United States national securities exchange or quoted on the Nasdaq Stock Market or another established automated over-the-counter trading market in the United States (or that will be so traded or quoted immediately following the transaction).

(b) The number of Additional Shares will be determined by reference to the Additional Shares Table, based on the effective date of the Fundamental Change transaction and the price (the "Stock Price") paid per share of Common Stock in such Fundamental Change transaction. If holders of Common Stock receive only cash in such Fundamental Change transaction, the Stock Price will be the cash amount paid per share of Common Stock. Otherwise, the Stock Price will be the average of the Closing Prices of the Common Stock on each of the five consecutive Trading Days prior to but not including the effective date of the Fundamental Change.

(c) A conversion of Securities by a Holder will be deemed for these purposes to be "in connection with" a Fundamental Change if the conversion notice is received by the Conversion Agent on or subsequent to the effective date of the Fundamental Change and prior to the 45th day following the effective date of the Fundamental Change (or, if earlier and to the extent applicable, the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date).

(d) The Stock Prices set forth in the first row of the Additional Shares Table (i.e., the column headers) will be adjusted as of any date on which the Applicable Conversion Rate is adjusted, as described in Section 4.6. The adjusted Stock Prices will equal (i) the Stock Prices applicable immediately prior to such adjustment, multiplied by (ii) a fraction, (A) the numerator of which is the Applicable Conversion Rate immediately prior to the adjustment giving rise to the Stock Price adjustment and (B) the denominator of which is the Applicable Conversion Rate as so adjusted. The number of Additional Shares will be adjusted in the same manner and for the same events as the Applicable Conversion Rate as set forth in Section 4.6.

(e) The exact Stock Price and effective date of the Fundamental Change may not be set forth on the Additional Shares Table; in which case, if the Stock Price is:

(1) between two Stock Price amounts on the Additional Shares Table or the effective date of the Fundamental Change is between two dates on the Additional Shares Table, the number of Additional Shares will be determined by straight-line interpolation between the number of Additional Shares set forth for the higher and lower Stock Price amounts and the two dates, as applicable, based on a 365-day year;

(2) more than $13.70 per share (subject to adjustment), no Additional Shares will be issued upon conversion; and

(3) less than $5.70 per share (subject to adjustment), no Additional Shares will be issued upon conversion.

(f) Notwithstanding the foregoing, in no event will the total number of shares of Common Stock issuable upon conversion exceed 175.4386 per $1,000 principal amount of Securities, subject to adjustment in the same manner and for the same events as the Applicable Conversion Rate as set forth in Section 4.6.

SECTION 3.11 PUBLIC ACQUIRER CHANGE OF CONTROL.

(a) Within 15 Trading Days prior to but not including the expected effective date of a Public Acquirer Change of Control, the Company will provide a notice (a "Public Acquisition Notice") to all Holders, the Trustee, any Paying Agent and any Conversion Agent describing the anticipated Public Acquirer Change of Control and stating whether the Company will:

(1) elect to adjust the Applicable Conversion Rate and related conversion obligation as described in this Section 3.11, in which case the Holders will not have the right to require the Company to repurchase their Securities as described in Section 3.9 and will not have the right to the Applicable Conversion Rate adjustment described in Section 3.10; or

(2) not elect to adjust the Applicable Conversion Rate and related conversion obligation as described in this Section 3.11, in which case the Holders will have the right (if applicable) to require the Company to repurchase their Securities as described in Section 3.9 and/or the right (if applicable) to an Applicable Conversion Rate adjustment as described in Section 3.10, in each case in accordance with the respective provisions of those Sections.

(b) If the Public Acquisition Notice indicates that the Company is making the election described in Section 3.11(a)(1), then the Applicable Conversion Rate and the related conversion obligation shall be adjusted such that from and after the effective date of the Public Acquirer Change of Control, Holders of the Securities will be entitled to convert their Securities

into a number of shares of Public Acquirer Common Stock and the Applicable Conversion Rate will be adjusted by multiplying the Applicable Conversion Rate in effect immediately before the Public Acquirer Change of Control by a fraction:

(1) the numerator of which will be (A) in the case of a consolidation, merger or binding share exchange, pursuant to which Common Stock is converted into cash, securities or other property, the average value of all cash and any other consideration (as determined by the Board of Directors) paid or payable per share of Common Stock or (B) in the case of any other Public Acquirer Change of Control, the average of the Closing Price of the Common Stock for the five consecutive Trading Days prior to but excluding the effective date of such Public Acquirer Change of Control; and

(2) the denominator of which will be the average of the Closing Price of the Public Acquirer Common Stock for the five consecutive Trading Days prior to but excluding the effective date of such Public Acquirer Change of Control.

SECTION 3.12 COMPLIANCE WITH SECURITIES LAWS UPON PURCHASE OF SECURITIES.

In connection with any offer to purchase or purchase of Securities under Section 3.9, the Company shall (a) comply with Rule 13e-4 and Rule 14e-1 (or any successor to either such Rule), if applicable, under the Exchange Act, (b) file the related Schedule TO (or any successor or similar schedule, form or report) if required under the Exchange Act, and (c) otherwise comply with all federal and state securities laws in connection with such offer to purchase or purchase of Securities, all so as to permit the rights of the Holders and obligations of the Company under Sections 3.9 through 3.12 to be exercised in the time and in the manner specified therein.

SECTION 3.13 REPAYMENT TO THE COMPANY.

To the extent that the aggregate amount of cash deposited by the Company pursuant to Section 3.9 exceeds the aggregate Fundamental Change Repurchase Price together with interest, if any, thereon of the Securities or portions thereof that the Company is obligated to purchase, then promptly after the Fundamental Change Repurchase Date, the Trustee or a Paying Agent, as the case may be, shall return any such excess cash to the Company.

ARTICLE 4.
CONVERSION

SECTION 4.1 CONVERSION PRIVILEGE.

Subject to the further provisions of this Article 4 and paragraph 10 of the Securities, a Holder of a Security may convert the principal amount of such Security (or any portion thereof equal to $1,000 or any integral multiple of $1,000 in excess thereof) into Common Stock at any time prior to the close of business on the last Business Date prior to the Final Maturity Date, at the Applicable Conversion Rate in effect on the Conversion Date; provided, however, that, if such Security is called for redemption or submitted or presented for purchase pursuant to Article 3, such conversion right shall terminate at the close of business on the Business Day

immediately preceding the Redemption Date or Fundamental Change Repurchase Date, as the case may be, for such Security or such earlier date as the Holder presents such Security for redemption or for purchase (unless the Company shall default in making the redemption payment or Fundamental Change Repurchase Price payment when due, in which case the conversion right shall terminate at the close of business on the date such default is cured and such Security is redeemed or purchased, as the case may be). The Initial Conversion Rate is subject to adjustment as provided in this Article 4.

Provisions of this Indenture that apply to conversion of all of a Security also apply to conversion of a portion of a Security.

A Security in respect of which a Holder has delivered a notice pursuant to Section 3.9 exercising the option of such Holder to require the Company to purchase such Security may be converted only if such notice is withdrawn by a written notice of withdrawal delivered to a Paying Agent prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date in accordance with Section 3.9.

A Holder of Securities is not entitled to any rights of a holder of Common Stock until such Holder has converted its Securities to Common Stock, and only to the extent such Securities are deemed to have been converted into Common Stock pursuant to this Article 4.

SECTION 4.2 CONVERSION PROCEDURE.

To convert a Security, a Holder must (a) complete and manually sign the conversion notice on the back of the Security and deliver such notice to a Conversion Agent, (b) surrender the Security to a Conversion Agent (or effect surrender in accordance with book-entry procedures), (c) furnish appropriate endorsements and transfer documents if required by a Registrar or a Conversion Agent, and (d) pay any transfer or similar tax, if required. The date on which the Holder satisfies all of those requirements is the "Conversion Date." As soon as practicable after the Conversion Date, the Company shall deliver to the Holder a certificate for the number of whole shares of Common Stock issuable upon the conversion and cash in lieu of any fractional shares pursuant to Section 4.3. Anything herein to the contrary notwithstanding, in the case of Global Securities, conversion notices may be delivered and such Securities may be surrendered for conversion in accordance with the Applicable Procedures as in effect from time to time.

The person in whose name the Common Stock certificate is registered shall be deemed to be a stockholder of record on the Conversion Date; provided, however, that no surrender of a Security on any date when the stock transfer books of the Company shall be closed shall be effective to constitute the person or persons entitled to receive the shares of Common Stock upon such conversion as the record holder or holders of such shares of Common Stock on such date, but such surrender shall be effective to constitute the person or persons entitled to receive such shares of Common Stock as the record holder or holders thereof for all purposes at the close of business on the next succeeding day on which such stock transfer books are open; provided, further, that such conversion shall be at the Applicable Conversion Rate in effect on the Conversion Date as if the stock transfer books of the Company had not been closed. Upon conversion of a Security, such person shall no longer be a Holder of such Security. No payment or adjustment will be made for dividends or distributions on shares of Common Stock issued upon conversion of a Security.

Securities so surrendered for conversion (in whole or in part) during the period from the close of business on any regular record date to the opening of business on the next succeeding interest payment date (excluding Securities or portions thereof called for redemption or presented for purchase upon a Fundamental Change on a Redemption Date or Fundamental Change Repurchase Date, as the case may be, during the period beginning at the close of business on a regular record date and ending at the opening of business on the first Business Day after the next succeeding interest payment date, or if such interest payment date is not a Business Day, the second such Business Day) shall also be accompanied by payment in funds acceptable to the Company of an amount equal to the interest payable on such interest payment date on the principal amount of such Security then being converted, and such interest shall be payable to such registered Holder notwithstanding the conversion of such Security, subject to the provisions of this Indenture relating to the payment of defaulted interest by the Company. Except as otherwise provided in this Section 4.2, no payment or adjustment will be made for accrued interest on a converted Security. If the Company defaults in the payment of interest payable on such interest payment date, the Company shall promptly repay such funds to such Holder.

Except as otherwise provided in this Section 4.2, the Company's delivery to the Holder of the full number of shares of Common Stock into which the Security is convertible, together with any cash payment for such Holder's fractional shares pursuant to Section 4.3, will be deemed to satisfy the Company's obligation to pay the principal amount of the Security and accrued but unpaid interest attributable to the period from the most recent interest payment date to the conversion date. As a result, accrued but unpaid interest to the conversion date is deemed to be paid in full rather than cancelled, extinguished or forfeited.

Nothing in this Section shall affect the right of a Holder in whose name any Security is registered at the close of business on a record date to receive the interest payable on such Security on the related interest payment date in accordance with the terms of this Indenture and the Securities. If a Holder converts more than one Security at the same time, the number of shares of Common Stock issuable upon the conversion shall be based on the aggregate principal amount of Securities converted.

Upon surrender of a Security that is converted in part, the Company shall execute, and the Trustee shall authenticate and deliver to the Holder, a new Security equal in principal amount to the unconverted portion of the Security surrendered.

SECTION 4.3 FRACTIONAL SHARES.

The Company will not issue fractional shares of Common Stock upon conversion of Securities. In lieu thereof, the Company will pay an amount in cash for the current market value of the fractional shares. The current market value of a fractional share shall be determined, (calculated to the nearest 1/1000th of a share) by multiplying the Closing Price of the Common Stock on the Trading Day immediately prior to the Conversion Date by such fractional share and rounding the product to the nearest whole cent.

SECTION 4.4 TAXES ON CONVERSION.

If a Holder converts a Security, the Company shall pay any documentary, stamp or similar issue or transfer tax due on the issue of shares of Common Stock upon such conversion. However, the Holder shall pay any such tax which is due because the Holder requests the shares to be issued in a name other than the Holder's name. The Company (through its stock transfer agent) may refuse to deliver the certificate representing the Common Stock being issued in a name other than the Holder's name until the Company (through its stock transfer agent) receives a sum sufficient to pay any tax which will be due because the shares are to be issued in a name other than the Holder's name. Nothing herein shall preclude any tax withholding required by law or regulation.

SECTION 4.5 COMPANY TO PROVIDE STOCK.

The Company shall, prior to issuance of any Securities hereunder, and from time to time as may be necessary, reserve, out of its authorized but unissued Common Stock, a sufficient number of shares of Common Stock to permit the conversion of all outstanding Securities into shares of Common Stock.

All shares of Common Stock delivered upon conversion of the Securities shall be newly issued shares, shall be duly authorized, validly issued, fully paid and nonassessable and shall be free from preemptive rights and free of any lien or adverse claim.

The Company will endeavor promptly to comply with all federal and state securities laws regulating the offer and delivery of shares of Common Stock upon conversion of Securities, if any, and will list or cause to have quoted such shares of Common Stock on each national securities exchange or on the Nasdaq National Market or other over-the-counter market or such other market on which the Common Stock is then listed or quoted; provided, however, that if rules of such automated quotation system or exchange permit the Company to defer the listing of such Common Stock until the first conversion of the Securities into Common Stock in accordance with the provisions of this Indenture, the Company covenants to list such Common Stock issuable upon conversion of the Securities in accordance with the requirements of such automated quotation system or exchange at such time. Any Common Stock issued upon conversion of a Security hereunder which at the time of conversion was a Transfer Restricted Security will also be a Transfer Restricted Security.

In no event will the Company take any action that would require adjustment to the Applicable Conversion Rate, nor will the Company adjust the Applicable Conversion Rate, if such Applicable Conversion Rate adjustment would require the Company to issue, upon conversion of the Securities, a number of shares of Common Stock that would require the Company to obtain prior shareholder approval under the rules and regulations of the Nasdaq National Market, and, if applicable, the rules of the exchange or quotation system on which the Common Stock is then traded, without obtaining such prior shareholder approval.

SECTION 4.6 ANTI-DILUTION ADJUSTMENTS.

The Applicable Conversion Rate will be subject to adjustment, without duplication, upon the occurrence of any of the following events:

(a) the Company pays a dividend or makes a distribution on the Common Stock, payable exclusively in shares of Common Stock, in which event, the conversion rate in effect immediately before the close of business on the record date fixed for determination of stockholders entitled to receive that dividend will be increased by multiplying: (x) the Applicable Conversion Rate; by (y) a fraction, (1) the numerator of which is the sum of the number of shares of Common Stock outstanding before the close of business on such record date and the total number of shares constituting such dividend or other distribution, and (2) the denominator of which shall be the number of shares of Common Stock outstanding before the close of business on such record date;

(b) the Company issues to all or substantially all holders of Common Stock rights or warrants that allow such holders to purchase shares of Common Stock for a period expiring within 60 days from the date of issuance of the rights or warrants at less than the current market price; provided that the Applicable Conversion Rate will be readjusted to the extent that the rights or warrants are not exercised prior to their expiration and as a result no additional shares are delivered or issued pursuant to such rights or warrants;

(c) the Company:

(1) subdivides or splits the outstanding shares of Common Stock into a greater number of shares, in which event the Applicable Conversion Rate shall be proportionally increased immediately after the effective date of such subdivision or split;

(2) combines or reclassifies the outstanding shares of Common Stock into a smaller number of shares, in which event the Applicable Conversion Rate shall be proportionally reduced immediately after the effective date of such combination or reclassification; or

(3) issues by reclassification of the shares of Common Stock any shares of the Capital Stock of the Company;

(d) the Company distributes to all or substantially all holders of Common Stock evidences of indebtedness, securities or assets or certain rights to purchase its securities (provided, however, that if these rights are only exercisable upon the occurrence of specified triggering events, then the Applicable Conversion Rate will not be adjusted until the triggering events occur), but excluding:

(1) dividends or distributions described in paragraph (a) above;

(2) rights or warrants described in paragraph (b) above;

(3) dividends or distributions paid exclusively in cash described in paragraph (f), (g) or (h) below (the “distributed assets”), in which event (other than in the case of a spin-off as described below), the conversion rate in effect immediately before the close of business on the record date fixed for determination of stockholders entitled to receive that distribution will be increased by multiplying:

(x) the Applicable Conversion Rate; by

(y) a fraction, (1) the numerator of which is the current market price of the Common Stock and (2) the denominator of which is the current market price of the Common Stock minus the fair market value, as determined by the Board of Directors, whose determination in good faith will be conclusive, of the portion of those distributed assets applicable to one share of Common Stock.

For purposes of this paragraph (d) (unless otherwise stated), the "current market price" of the Common Stock means the average of the Closing Prices of the Common Stock for the five consecutive Trading Days ending on the Trading Day prior to the earlier of the record date or the ex-dividend Trading Day for such distribution, and the new Applicable Conversion Rate shall take effect immediately after the record date fixed for determination of the stockholders entitled to receive such distribution.

Notwithstanding the foregoing, in cases where (x) the fair market value per share of Common Stock of the distributed assets equals or exceeds the current market price of the Common Stock, or (y) the current market price of the Common Stock exceeds the fair market value per share of Common Stock of the distributed assets by less than $1.00, in lieu of the foregoing adjustment, the Holder will have the right to receive upon conversion, in addition to shares of Common Stock, the distributed assets the Holder would have received if the Holder had converted the Securities immediately prior to the record date.

(e) In respect of a dividend or other distribution of shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary of the Company or other business unit, referred to herein as a "spin-off", the Applicable Conversion Rate in effect immediately before the close of business on the record date fixed for determination of stockholders entitled to receive that distribution will be increased by multiplying:

(x) the Applicable Conversion Rate; by

(y) an adjustment factor equal to the sum of the daily adjustments for each of the ten consecutive Trading Days beginning on the effective day of the spin-off.

For purposes of this paragraph (e) (unless otherwise stated), the "daily adjustment" for any given Trading Day is equal to a fraction, the numerator of which is the closing price of the Common Stock on that Trading Day plus the closing price of the portion of those shares of Capital Stock or similar equity interests so distributed applicable to one share of the Common Stock on that Trading Day, and the denominator of which is the product of 10 and the closing price of the Common Stock on that Trading Day. The adjustment to the Applicable Conversion Rate in the event of a spin-off will occur on the tenth Trading Day from, and including, the effective date of the spin-off.

(f) the Company makes a distribution consisting exclusively of cash to all or substantially all holders of outstanding shares of Common Stock, in which event the Applicable Conversion Rate will be adjusted by multiplying:

(1) the Applicable Conversion Rate; by

(2) a fraction, (A) the numerator of which is the current market price of the Common Stock, and (B) the denominator of which is the current market price of the Common Stock, minus the amount per share of such distribution.

Notwithstanding the foregoing, in cases where (i) the amount per share of Common Stock of such distribution equals or exceeds the current market price of the Common Stock or (ii) the current market price of the Common Stock exceeds the amount per share of Common Stock of such distribution by less than $1.00, in lieu of the foregoing adjustment, the Holder will have the right to receive upon conversion, in addition to shares of Common Stock, such distribution the Holder would have received if the Holder had converted the Securities immediately prior to the record date. For purposes of this paragraph (f), the "current market price" of the Common Stock means the average of the Closing Prices of the Common Stock for the five consecutive Trading Days ending on the Trading Day prior to the ex-dividend Trading Day for such cash distribution, and the new Applicable Conversion Rate shall take effect immediately after the record date fixed for determination of the stockholders entitled to receive such distribution.

(g) the Company or one of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for the Common Stock, in which event, to the extent the cash and value of any other consideration included in the payment per share of the Common Stock exceeds the Closing Price of the Common Stock on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender offer or exchange offer, as the case may be, the Applicable Conversion Rate will be adjusted by multiplying:

(1) the Applicable Conversion Rate; by

(2) a fraction, (A) the numerator of which will be the sum of (1) the fair market value, as determined by the Board of Directors, of the aggregate consideration payable for all shares of Common Stock the Company or any such Subsidiary purchases in the tender or exchange offer and (2) the product of (x) the number of shares of Common Stock outstanding less any such purchased shares and (y) the Closing Price of the Common Stock on the Trading Day next succeeding the date of the expiration of the tender or exchange offer, and (B) the denominator of which will be the product of (1) the number of shares of Common Stock outstanding, including any such purchased shares, and (2) the Closing Price of the Common Stock on the Trading Day next succeeding the date of expiration of the tender or exchange offer.

(h) the Company or one of its Subsidiaries makes a payment in respect of a repurchase of the Common Stock, the consideration for which exceeded the then-prevailing market price of the Common Stock (such amount being the "repurchase premium"), and that repurchase, together with any other repurchases of Common Stock by the Company or a Subsidiary involving a repurchase premium concluded within the preceding 12 months, resulted in the payment by the Company and its Subsidiaries of an aggregate consideration exceeding an amount equal to 10% of the market capitalization of the Common Stock, the Applicable Conversion Rate will be adjusted by multiplying:

(1) the Applicable Conversion Rate; by

(2) a fraction, (A) the numerator of which is the current market price of the Common Stock and (B) the denominator of which is (1) the current market price of the Common Stock, minus (2) the quotient of (x) the aggregate amount of all of the repurchase premiums paid in connection with such repurchases and (y) the number of shares of Common Stock outstanding on the day next succeeding the date of the repurchase triggering the adjustment, as determined by the Board of Directors;

provided that no adjustment to the Applicable Conversion Rate shall be made to the extent the Applicable Conversion Rate is not increased as a result of the above calculation; and provided further that the repurchases of Common Stock effected by the Company, its Subsidiaries or their respective agents in conformity with Rule 10b-18 under the Exchange Act will not be included in any adjustment to the Applicable Conversion Rate made under this paragraph (h). For purposes of this paragraph (h), (i) the market capitalization will be calculated by multiplying (A) the current market price of the Common Stock by (B) the number of shares of Common Stock then outstanding on the date of the repurchase triggering the adjustment, and (ii) the current market price will be the average of the Closing Prices of the Common Stock for the five consecutive Trading Days beginning on the Trading Day next succeeding the date of the repurchase triggering the adjustment, and (iii) in determining the repurchase premium, the "then-prevailing market price" of the Common Stock will be the average of the Closing Prices of the Common Stock for the five consecutive Trading Days ending on the relevant repurchase date.

In addition to the adjustments set forth above, the Company may increase the Applicable Conversion Rate as the Board of Directors considers advisable to avoid or diminish any income tax to holders of Common Stock or rights to purchase Common Stock resulting from any dividend or distribution of Capital Stock (or rights to acquire Capital Stock) or from any event treated as such for income tax purposes. The Company may also, from time to time, to the extent permitted by applicable law, increase the Applicable Conversion Rate by any amount for any period of at least 20 days if the Board of Directors has determined that such increase would be in the Company's best interests. If the Board of Directors makes such a determination, it will be conclusive. The Company will give Holders at least 15 days' notice of such an increase in the Applicable Conversion Rate.

No adjustment to the Applicable Conversion Rate or a Holder's ability to convert its Securities will be made if the Holder otherwise participated in the distribution without conversion or in certain other cases.

The Applicable Conversion Rate will not be adjusted:

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

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

(3) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in the preceding clause (2) and outstanding as of the date the Securities were first issued;

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

(5) for accrued and unpaid interest, if any.

If a Holder will receive shares of Common Stock upon conversion of Securities, then the Holder will also receive any associated rights under any stockholder rights plan the Company may adopt, whether or not the rights have separated from the Common Stock at the time of conversion unless, prior to conversion, the rights have expired, terminated or been redeemed or exchanged.

Substantially simultaneously with an adjustment of the Applicable Conversion Rate, the Company will disseminate a press release detailing the new Applicable Conversion Rate and other relevant information.

SECTION 4.7 TRUSTEE'S DISCLAIMER.

The Trustee shall have no duty to determine when an adjustment under this Article 4 should be made, how it should be made or what such adjustment should be, but may accept as conclusive evidence of that fact or the correctness of any such adjustment, and shall be protected in relying upon, an Officers' Certificate. In addition, in no event shall the Trustee or Conversion Agent be responsible for making any calculations under this Indenture or for determining the Closing Price, the number of Additional Shares to be delivered, the amounts to be paid or for monitoring any stock price. For the avoidance of doubt, the Trustee and Conversion Agent shall rely conclusively on the calculations and information provided to them by the Company. The Trustee makes no representation as to the validity or value of any securities or assets issued upon conversion of Securities, and the Trustee shall not be responsible for the Company's failure to comply with any provisions of this Article 4.

The Trustee shall not be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 6.1, but may accept as conclusive evidence of the correctness thereof, and shall be fully protected in relying upon, the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 6.1.

ARTICLE 5.
COVENANTS

SECTION 5.1 PAYMENT OF SECURITIES.

The Company shall promptly make all payments in respect of the Securities on the dates and in the manner provided in the Securities and this Indenture. An installment of principal (including premium, if any) or interest shall be considered paid on the date it is due if the Paying

Agent (other than the Company) holds by 11:00 a.m., New York City time, on that date money, deposited by the Company or an Affiliate thereof, sufficient to pay the installment. The Company shall, (in immediately available funds) to the fullest extent permitted by law, pay interest on overdue principal (including premium, if any) and overdue installments of interest at the rate borne by the Securities per annum.

Payment of the principal of (and premium, if any) and any interest on the Securities shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York (which shall initially be the office or agency of the Trustee in New York City), in Cash; provided, however, that at the option of the Company payment of interest may be made by check mailed to the address of the Person entitled thereto as such address appears in the Register; provided further that a Holder with an aggregate principal amount in excess of $2,000,000 will be paid by wire transfer in immediately available funds at the election of such Holder if such Holder has provided wire transfer instructions to the Company and the Trustee at least 10 Business Days prior to the payment date.

SECTION 5.2 SEC REPORTS.

The Company shall file all reports and other information and documents which it is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act, and within 15 days after it files them with the SEC, the Company shall file copies of all such reports, information and other documents with the Trustee. It is agreed that the filing of such reports via the SEC's EDGAR system shall constitute "filing" of such reports with the Trustee for purposes of this Section 5.2.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

SECTION 5.3 COMPLIANCE CERTIFICATES.

The Company shall deliver to the Trustee, within 90 days after the end of each fiscal year of the Company (beginning with the fiscal year ending December 31, 2010), an Officers' Certificate as to the signer's knowledge of the Company's compliance with all conditions and covenants on its part contained in this Indenture and stating whether or not the signer knows of any default or Event of Default. If such signer knows of such a default or Event of Default, the Officers' Certificate shall describe the default or Event of Default and the efforts to remedy the same. For the purposes of this Section 5.3, compliance shall be determined without regard to any grace period or requirement of notice provided pursuant to the terms of this Indenture. The Company shall, within 30 calendar days, upon becoming aware of any Event of Default, deliver to the Trustee a statement specifying such Event of Default.

SECTION 5.4 FURTHER INSTRUMENTS AND ACTS.

Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

SECTION 5.5 MAINTENANCE OF CORPORATE EXISTENCE.

Subject to Article 6, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

SECTION 5.6 RULE 144A INFORMATION REQUIREMENT.

Within the period prior to the expiration of the holding period applicable to sales thereof under Rule 144, and so long as there are any Transfer Restricted Securities or any shares of Common Stock issued upon conversion thereof that are restricted securities under Rule 144 ("Restricted Shares") outstanding, the Company covenants and agrees that it shall, during any period in which it is not subject to Section 13 or 15(d) under the Exchange Act, upon the request of any Holder or beneficial holder of Transfer Restricted Securities or Restricted Shares, make available to such Holder or beneficial holder, and any prospective purchaser of Transfer Restricted Securities or Restricted Shares, the information required pursuant to Rule 144A(d)(4) under the Securities Act, and it will take such further action as any Holder or beneficial holder of such Transfer Restricted Securities or Restricted Shares may reasonably request, all to the extent required from time to time to enable such Holder or beneficial holder to sell its Transfer Restricted Securities or Restricted Shares without registration under the Securities Act within the limitation of the exemption provided by Rule 144A. Upon the request of any Holder or any beneficial holder of the Transfer Restricted Securities or Restricted Shares, the Company will deliver to such Holder or beneficial holder a written statement as to whether it has complied with such requirements.

SECTION 5.7 STAY, EXTENSION AND USURY LAWS.

The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal of, premium, if any, or interest on the Securities as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture, and the Company (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE 6.
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

SECTION 6.1 COMPANY MAY CONSOLIDATE, ETC, ONLY ON CERTAIN TERMS.

The Company shall not consolidate with or merge into any other Person (in a transaction in which the Company is not the surviving corporation) or convey, transfer or lease its properties and assets substantially as an entirety to any Person, unless:

(1) in case the Company shall consolidate with or merge into another Person (in a transaction in which the Company is not the surviving corporation) or convey, transfer or lease its properties and assets substantially as an entirety to any Person, the Person formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance or transfer, or which leases, the properties and assets of the Company substantially as an entirety shall be a corporation organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal of and any premium and interest on all the Securities and the performance or observance of every covenant of this Indenture on the part of the Company to be performed or observed and the conversion rights shall be provided for in accordance with Article 4, by supplemental indenture satisfactory in form to the Trustee, executed and delivered to the Trustee, by the Person (if other than the Company) formed by such consolidation or into which the Company shall have been merged or by the Person which shall have acquired the Company's assets;

(2) immediately after giving effect to such transaction, no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

In the case of a reclassification, consolidation, merger, sale or transfer of assets or other transactions pursuant to which all or substantially all of the Common Stock would be converted into other securities, cash or property, the right to convert Securities into Common Stock will be changed into a right to convert Securities into the kind and amount of other securities, cash or property that the Holder would have received had the Holder converted such Securities immediately prior to the transaction, except that if the Company has exercised its option under Section 3.11(a)(1), the right to convert Securities into Common Stock will instead be changed into a right to convert Securities into Public Acquiror Common Stock in accordance with Section 3.11.

SECTION 6.2 SUCCESSOR SUBSTITUTED.

Upon any consolidation of the Company with, or merger of the Company into, any other Person or any conveyance, transfer or lease of the properties and assets of the Company substantially as an entirety in accordance with Section 6.1, there shall be an adjustment to the Applicable Conversion Rate and the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Indenture and the Securities.

ARTICLE 7.
DEFAULT AND REMEDIES

SECTION 7.1 EVENTS OF DEFAULT.

An "Event of Default" shall occur if:

(1) the Company defaults in the payment of any interest on any Security when the same becomes due and payable and the default continues for a period of 30 days;

(2) the Company defaults in the payment of any principal of (including, without limitation, any premium, if any, on) any Security when the same becomes due and payable (whether at maturity, upon redemption, on a Fundamental Change Repurchase Date or otherwise);

(3) the Company fails to comply with any of its other agreements contained in the Securities or this Indenture and the default continues for the period and after the notice specified below;

(4) the Company defaults in the payment of the purchase price of any Security when the same becomes due and payable;

(5) the Company fails to provide notice of a Fundamental Change to the Trustee and to each Holder if required by Section 3.9 for a period of 30 days after notice of failure to do so; or

(6) any indebtedness under any bond, debenture, note or other evidence of indebtedness for money borrowed by the Company or any Significant Subsidiary (all or substantially all of the outstanding voting securities of which are owned, directly or indirectly, by the Company) or under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any indebtedness for money borrowed by the Company or any Significant Subsidiary (all or substantially all of the outstanding voting securities of which are owned, directly or indirectly, by the Company) (an "Instrument") with an aggregate outstanding principal amount then outstanding in excess of $25,000,000, whether such indebtedness now exists or shall hereafter be created, is not paid at final maturity of the

Instrument (either at its stated maturity or upon acceleration thereof), and such indebtedness is not discharged, or such acceleration is not rescinded or annulled, within a period of 30 days after there shall have been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the outstanding Securities a written notice specifying such default and requiring the Company to cause such indebtedness to be discharged or cause such default to be cured or waived or such acceleration to be rescinded or annulled and stating that such notice is a "Notice of Default" hereunder; or

(7) the Company or any Significant Subsidiary, pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case or proceeding;

(B) consents to the entry of an order for relief against it in an involuntary case or proceeding;

(C) consents to the appointment of a Custodian of it or for all or substantially all of its property; or

(D) makes a general assignment for the benefit of its creditors; or

(8) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any Significant Subsidiary in an involuntary case or proceeding;

(B) appoints a Custodian of the Company or any Significant Subsidiary or for all or substantially all of the property of the Company or any Significant Subsidiary; or

(C) orders the liquidation of the Company or any Significant Subsidiary; and in each case the order or decree remains unstayed and in effect for 60 consecutive days.

The term "Bankruptcy Law" means Title 11 of the United States Code (or any successor thereto) or any similar federal or state law for the relief of debtors. The term "Custodian" means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

A default under clause (3) above is not an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in aggregate principal amount of the Securities then outstanding notify the Company and the Trustee, in writing of the default, and the Company does not cure the default within 60 days after receipt of such notice. The notice given pursuant to this Section 7.1 must specify the default, demand that it be remedied and state that the notice is a "Notice of Default." When any default under this Section 7.1 is cured, it ceases.

The Trustee shall not be charged with knowledge of any Event of Default unless written notice from the Company, a Paying Agent, or any Holder thereof shall have been received by a Trust Officer at the Corporate Trust Office of the Trustee, and such notice references this Indenture.

SECTION 7.2 ACCELERATION.

If an Event of Default (other than an Event of Default specified in clause (7) or (8) of Section 7.1) occurs and is continuing, the Trustee may, by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Securities then outstanding may, by notice to the Company and the Trustee, declare all unpaid principal to the date of acceleration on the Securities then outstanding (if not then due and payable) to be due and payable upon any such declaration, and the same shall become and be immediately due and payable. If an Event of Default specified in clause (7) or (8) of Section 7.1 occurs, all unpaid principal of the Securities then outstanding shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder. The Holders of a majority in aggregate principal amount of the Securities then outstanding by notice to the Trustee may rescind an acceleration and its consequences if (a) all existing Events of Default, other than the nonpayment of the principal of the Securities which has become due solely by such declaration of acceleration, have been cured or waived; (b) to the extent the payment of such interest is lawful, interest (calculated at the rate per annum borne by the Securities) on overdue installments of interest and overdue principal, which has become due otherwise than by such declaration of acceleration, has been paid; (c) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (d) all payments due to the Trustee and any predecessor Trustee under Section 8.7 have been made. No such rescission shall affect any subsequent default or impair any right consequent thereto.

Notwithstanding the foregoing, the Company may, at its option, elect that the sole remedy for an Event of Default relating to its failure to comply with the Company's obligation to file reports with the SEC in accordance with Section 5.2 (a "Filing Failure") shall for the first one hundred eighty (180) days after the occurrence of such Event of Default (the "Extension Period") consist exclusively of the right of Holders to receive a fee (the "Extension Fee") accruing at the rate of 1.00% per annum of the aggregate principal amount of Securities that are then outstanding, on the terms and in the manner described below. Any Extension Fee shall be paid at the same times and in the same manner as interest shall be paid in accordance with this Indenture. The Extension Fee shall accrue on the Securities that are then outstanding from the first day of the Event of Default to, but excluding, the earlier of (i) the date on which the Company has made the filings initially giving rise to the Filing Failure and (ii) the date that is one hundred eighty (180) days after the occurrence of the Event of Default. The Company must give written notice of its election to pay the Extension Fee prior to the occurrence of the Event of Default. On the 181st day after such Event of Default (if the Event of Default relating to the reporting obligations is not cured or waived prior to such 181st day), the Securities shall be subject to acceleration as provided in this Section 7.2. This right shall not affect the rights of Holders of Securities if any other Event of Default occurs under the Indenture. If the Company does not pay the Extension Fee on a timely basis in accordance with this Section 7.2, the Securities shall be subject to acceleration as provided in this Section 7.2. Notwithstanding the foregoing, if an additional Filing Failure occurs during an Extension Period, the Securities will

be subject to acceleration for such additional Filing Failure at the end of the Extension Period for the first Filing Failure to the extent it has not been remedied before the end of the first Extension Period, provided, however, that to the extent the Company has agreed to pay an additional Extension Fee in accordance with the terms of this Section 7.2 as to such additional Filing Failure, and the first Filing Failure has been remedied before the end of the first Extension Period, the Securities will not be subject to acceleration until the end of the additional Extension Period as to such additional Filing Failure. For the avoidance of doubt, notwithstanding the occurrence of multiple overlapping Filing Failures, the aggregate amount of all Extension Fees paid in a year shall not exceed 1.00% per annum of the aggregate principal amount of the Securities that are outstanding as of the beginning of such year.

SECTION 7.3 OTHER REMEDIES.

If an Event of Default occurs and is continuing, the Trustee may, but shall not be obligated to, pursue any available remedy by proceeding at law or in equity to collect the payment of the principal of or interest on the Securities or to enforce the performance of any provision of the Securities or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Securities or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Securityholder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

SECTION 7.4 WAIVER OF DEFAULTS AND EVENTS OF DEFAULT.

Subject to Sections 7.7 and 10.2, the Holders of a majority in aggregate principal amount of the Securities then outstanding by notice to the Trustee may waive an existing default or Event of Default and its consequence, except a default or Event of Default in the payment of the principal of, premium, if any, or interest on any Security, a failure by the Company to convert any Securities into Common Stock in accordance with the provisions of the Securities and this Indenture or any default or Event of Default in respect of any provision of this Indenture or the Securities which, under Section 10.2, cannot be modified or amended without the consent of the Holder of each Security affected. When a default or Event of Default is waived, it is cured and ceases.

SECTION 7.5 CONTROL BY MAJORITY.

The Holders of a majority in aggregate principal amount of the Securities then outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, that the Trustee determines may be unduly prejudicial to the rights of another Holder or the Trustee, or that may involve the Trustee in personal liability unless the Trustee is offered indemnity satisfactory to it; provided, however, that the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

SECTION 7.6 LIMITATIONS ON SUITS.

A Holder may not pursue any remedy with respect to this Indenture or the Securities (except actions for payment of overdue principal or interest or for the conversion of the Securities pursuant to Article 4) unless:

(1) the Holder gives to the Trustee written notice of a continuing Event of Default;

(2) the Holders of at least 25% in aggregate principal amount of the then outstanding Securities make a written request to the Trustee to pursue the remedy;

(3) such Holder or Holders offer to the Trustee reasonable indemnity to the Trustee against any loss, liability or expense;

(4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of indemnity; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in aggregate principal amount of the Securities then outstanding.

A Securityholder may not use this Indenture to prejudice the rights of another Securityholder or to obtain a preference or priority over such other Securityholder.

SECTION 7.7 RIGHTS OF HOLDERS TO RECEIVE PAYMENT AND TO CONVERT.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Security to receive payment of the principal of and interest on the Security, on or after the respective due dates expressed in the Security and this Indenture, to convert such Security in accordance with Article 4 and to bring suit for the enforcement of any such payment on or after such respective dates or the right to convert, is absolute and unconditional and shall not be impaired or affected without the consent of the Holder.

SECTION 7.8 COLLECTION SUIT BY TRUSTEE.

If an Event of Default in the payment of principal or interest specified in clause (1) or (2) of Section 7.1 occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company or another obligor on the Securities for the whole amount of principal and accrued interest remaining unpaid, together with, to the extent that payment of such interest is lawful, interest on overdue principal and on overdue installments of interest, in each case at the rate per annum borne by the Securities and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 7.9 TRUSTEE MAY FILE PROOFS OF CLAIM.

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor on the Securities), its creditors or its property and shall be entitled and empowered to collect and receive any money or other property payable or deliverable on any such claims and to distribute the same, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 8.7, and to the extent that such payment of the reasonable compensation, expenses, disbursements and advances in any such proceedings shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other property which the Holders may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to, or, on behalf of any Holder, to authorize, accept or adopt any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 7.10 PRIORITIES.

If the Trustee collects any money pursuant to this Article 7, it shall pay out the money in the following order:

First, to the Trustee for amounts due under Section 8.7;

Second, to Holders for amounts due and unpaid on the Securities for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Securities for principal (including premium, if any) and interest, respectively; and

Third, the balance, if any, to the Company or to such other person a court of competent jurisdiction may determine.

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 7.10.

SECTION 7.11 UNDERTAKING FOR COSTS.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 7.11 does not apply to a suit made by the Trustee, a suit by a Holder pursuant to Section 7.7, or a suit by Holders of more than 10% in aggregate principal amount of the Securities then outstanding.

ARTICLE 8.
TRUSTEE

SECTION 8.1 DUTIES OF TRUSTEE.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) Except during the continuance of an Event of Default:

(1) the Trustee need perform only those duties as are specifically set forth in this Indenture and no others and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. The Trustee, however, shall examine any certificates and opinions which by any provision hereof are specifically required to be delivered to the Trustee to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of subsection (b) of this Section 8.1;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 7.5.

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers unless the Trustee shall have received adequate indemnity in its opinion against potential costs and liabilities incurred by it relating thereto.

(e) Every provision of this Indenture that in any way relates to the Trustee is subject to subsections (a), (b), (c) and (d) of this Section 8.1.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

SECTION 8.2 RIGHTS OF TRUSTEE.

Subject to Section 8.1:

(a) The Trustee may rely conclusively on any document believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel, which shall conform to Section 11.4(b). The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel.

(c) The Trustee may act through its agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers.

(e) The Trustee may consult with counsel of its selection, and the advice or opinion of such counsel as to matters of law shall be full and complete authorization and protection in respect of any such action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(g) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(h) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Trust Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office, and such notice references the Securities and this Indenture.

(i) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder.

(j) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(k) The Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

(l) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 8.3 INDIVIDUAL RIGHTS OF TRUSTEE.

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or an Affiliate of the Company with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights. However, the Trustee is subject to Sections 8.10 and 8.11.

SECTION 8.4 TRUSTEE'S DISCLAIMER.

The Trustee makes no representation as to the validity, priority or adequacy of this Indenture or the Securities, it shall not be accountable for the Company's use of the proceeds from the Securities, and it shall not be responsible for any statement in the recitals contained herein or the Securities other than its certificate of authentication.

SECTION 8.5 NOTICE OF DEFAULT OR EVENTS OF DEFAULT.

If a default or an Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to each Securityholder notice of the default or Event of Default within 90 days after it is known to the Trustee. However, the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding notice is in the interests of Securityholders, except in the case of a default or an Event of Default in payment of the principal of or interest on any Security.

SECTION 8.6 RESERVED.

SECTION 8.7 COMPENSATION AND INDEMNITY.

The Company shall pay to the Trustee from time to time such compensation (as agreed to from time to time by the Company and the Trustee in writing) for its services (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust). The Company shall reimburse the Trustee upon request for all reasonable disbursements, expenses and advances incurred or made by it. Such expenses may include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company shall indemnify the Trustee or any predecessor Trustee (which for purposes of this Section 8.7 shall include its officers, directors, employees and agents) for, and hold it harmless against, any and all loss, liability or expense including taxes (other than taxes based upon, measured by or determined by the income of the Trustee), (including reasonable legal fees and expenses) incurred by it in connection with the acceptance or administration of its duties under this Indenture or any action or failure to act as authorized or within the discretion or rights or powers conferred upon the Trustee hereunder including the reasonable costs and expenses of the Trustee and its counsel in defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The Trustee shall notify the Company promptly of any claim asserted against the Trustee for which it may seek indemnity. The Company need not pay for any settlement without its written consent, which shall not be unreasonably withheld.

The Company need not reimburse the Trustee for any expense or indemnify it against any loss or liability incurred by it resulting from its gross negligence or bad faith.

To secure the Company's payment obligations in this Section 8.7, the Trustee shall have a senior claim to which the Securities are hereby made subordinate on all money or property held or collected by the Trustee, except such money or property held in trust to pay the principal of and interest on the Securities.

When the Trustee incurs expenses or renders services after an Event of Default specified in clause (7) or (8) of Section 7.1 occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law. The obligations of the Company under this Section 8.7 shall survive the termination or satisfaction and discharge of this Indenture or the resignation or removal of the Trustee for any reason.

SECTION 8.8 REPLACEMENT OF TRUSTEE.

The Trustee may resign by so notifying the Company. The Holders of a majority in aggregate principal amount of the Securities then outstanding may remove the Trustee by so notifying the Trustee and may, with the Company's written consent, appoint a successor Trustee. The Company may remove the Trustee if:

(1) the Trustee fails to comply with Section 8.10;

(2) the Trustee is adjudged a bankrupt or an insolvent;

(3) a receiver or other public officer takes charge of the Trustee or its property; or

(4) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. The resignation or removal of a Trustee shall not be effective until a successor Trustee shall have delivered the written acceptance of its appointment as described below.

If a successor Trustee does not take office within 45 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of 10% in principal amount of the Securities then outstanding may petition any court of competent jurisdiction for the appointment of a successor Trustee at the expense of the Company.

If the Trustee fails to comply with Section 8.10, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Immediately after that, the retiring Trustee shall transfer all property held by it as Trustee to the successor Trustee and be released from its obligations (exclusive of any liabilities that the retiring Trustee may have incurred while acting as Trustee) hereunder, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. A successor Trustee shall mail notice of its succession to each Holder.

A retiring Trustee shall not be liable for the acts or omissions of any successor Trustee after its succession.

Notwithstanding replacement of the Trustee pursuant to this Section 8.8, the Company’s obligations under Section 8.7 shall continue for the benefit of the retiring Trustee.

SECTION 8.9 SUCCESSOR TRUSTEE BY MERGER, ETC.

If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust assets (including the administration of this Indenture) to, another corporation, by sale or otherwise, the resulting, surviving or transferee corporation, without any further act, shall be the successor Trustee, provided such transferee corporation shall qualify and be eligible under Section 8.10. Such successor Trustee shall promptly mail notice of its succession to the Company and each Holder.

SECTION 8.10 ELIGIBILITY; DISQUALIFICATION.

The Trustee shall always satisfy the requirements of paragraphs (1), (2) and (5) of TIA Section 310(a). The Trustee (or its parent holding company) shall have a combined capital and surplus of at least $50,000,000. If at any time the Trustee shall cease to satisfy any such

requirements, it shall resign immediately in the manner and with the effect specified in this Article 8. The Trustee shall be subject to the provisions of TIA Section 310(b). Nothing herein shall prevent the Trustee from filing with the SEC the application referred to in the penultimate paragraph of TIA Section 310(b).

SECTION 8.11 PREFERENTIAL COLLECTION OF CLAIMS AGAINST COMPANY.

The Trustee shall comply with TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed shall be subject to TIA Section 311(a) to the extent indicated therein.

SECTION 8.12 MAY HOLD SECURITIES.

The Trustee, any Paying Agent or any other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Company with the same rights it would have if it were not Trustee, Paying Agent or such other agent.

SECTION 8.13 MONEY HELD IN TRUST.

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company.

ARTICLE 9.
SATISFACTION AND DISCHARGE OF INDENTURE

SECTION 9.1 SATISFACTION AND DISCHARGE OF INDENTURE.

This Indenture shall cease to be of further effect (except as to any surviving rights of conversion, registration of transfer or exchange of Securities herein expressly provided for and except as further provided below), and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when

(1) either

(A) all Securities theretofore authenticated and delivered (other than Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.7) have been delivered to the Trustee for cancellation; or

(B) all such Securities not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at the Final Maturity Date within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and the Company, in the case of clause (i), (ii) or (iii) above, has irrevocably deposited or caused to be irrevocably deposited with the Trustee or a Paying Agent (other than the Company or any of its Affiliates) as trust funds in cash in an amount sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal (including premium, if any) and interest to the date of such deposit (in the case of Securities which have become due and payable) or to the Final Maturity Date or Redemption Date, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 8.7 shall survive and, if money shall have been deposited with the Trustee pursuant to subclause (B) of clause (1) of this Section, the provisions of Sections 2.3, 2.4, 2.5, 2.6, 2.7, 2.12, 3.9, 3.10, 3.11, 3.12 and 11.5, Article 4, the last paragraph of Section 5.2 and this Article 9, shall survive until the Securities have been paid in full.

SECTION 9.2 APPLICATION OF TRUST MONEY.

Subject to the provisions of Section 9.3, the Trustee or a Paying Agent shall hold in trust, for the benefit of the Holders, all money deposited with it pursuant to Section 9.1 and shall apply the deposited money in accordance with this Indenture and the Securities to the payment of the principal of and interest on the Securities.

SECTION 9.3 REPAYMENT TO COMPANY.

The Trustee and each Paying Agent shall promptly pay to the Company upon request any excess money (i) deposited with them pursuant to Section 9.1 and (ii) held by them at any time.

The Trustee and each Paying Agent shall pay to the Company upon request any money held by them for the payment of principal or interest that remains unclaimed for two years after a right to such money has matured; provided, however, that the Trustee or such Paying Agent, before being required to make any such payment, may at the expense of the Company cause to be mailed to each Holder entitled to such money notice that such money remains unclaimed and that after a date specified therein, which shall be at least 30 days from the date of such mailing, any unclaimed balance of such money then remaining will be repaid to the Company. After payment to the Company, Holders entitled to money must look to the Company for payment as

general creditors unless an applicable abandoned property law designates another person. In the absence of a written request from the Company to return unclaimed funds to the Company, the Trustee shall from time to time deliver all unclaimed funds to or as directed by applicable escheat authorities, as determined by the Trustee in its sole discretion, in accordance with the customary practices and procedures of the Trustee. Any unclaimed funds held by the Trustee pursuant to this Section 9.3 shall be held uninvested and without any liability for interest.

SECTION 9.4 RESERVED.

SECTION 9.5 RESERVED.

SECTION 9.6 RESERVED.

SECTION 9.7 REINSTATEMENT.

If the Trustee or any Paying Agent is unable to apply any money in accordance with Section 9.2 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Securities shall be revived and reinstated as though no deposit had occurred pursuant to Section 9.1 until such time as the Trustee or such Paying Agent is permitted to apply all such money in accordance with Section 9.2; provided, however, that if the Company has made any payment of the principal of or interest on any Securities because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive any such payment from the money held by the Trustee or such Paying Agent.

ARTICLE 10.
AMENDMENTS, SUPPLEMENTS AND WAIVERS

SECTION 10.1 WITHOUT CONSENT OF HOLDERS.

The Company and the Trustee may amend or supplement this Indenture or the Securities without notice to or consent of any Securityholder:

(a) to comply with Section 6.1;

(b) to cure any ambiguity, defect or inconsistency;

(c) to make any other change that does not adversely affect the rights of any Securityholder;

(d) to comply with the provisions of the TIA;

(e) to add to the covenants of the Company for the equal and ratable benefit of the Securityholders or to surrender any right, power or option conferred upon the Company;

(f) to secure the Company's obligations with respect to the Securities; or

(g) to appoint a successor Trustee.

SECTION 10.2 WITH CONSENT OF HOLDERS.

The Company and the Trustee may amend or supplement this Indenture or the Securities with the written consent of the Holders of at least a majority in aggregate principal amount of the Securities then outstanding. The Holders of at least a majority in aggregate principal amount of the Securities then outstanding may waive compliance in a particular instance by the Company with any provision of this Indenture or the Securities without notice to any Securityholder. However, notwithstanding the foregoing but subject to Section 10.4, without the written consent of each Securityholder affected, an amendment, supplement or waiver, including a waiver pursuant to Section 7.4, may not:

(a) change the stated maturity of the principal of, or interest on, any Security;

(b) reduce the principal amount of, or any premium or interest on, any Security;

(c) reduce the amount of principal payable upon acceleration of the maturity of any Security;

(d) change the place or currency of payment of principal of, or any premium or interest on, any Security;

(e) impair the right to institute suit for the enforcement of any payment on, or with respect to, any Security;

(f) modify the provisions with respect to the purchase right of Holders pursuant to Article 3 upon a Fundamental Change in a manner adverse to Holders;

(g) adversely affect the right of Holders to convert Securities other than as provided in or under Article 4 of this Indenture;

(h) reduce the percentage of the aggregate principal amount of the outstanding Securities whose Holders must consent to a modification or amendment;

(i) reduce the percentage of the aggregate principal amount of the outstanding Securities necessary for the waiver of compliance with certain provisions of this Indenture or the waiver of certain defaults under this Indenture; and

(j) modify any of the provisions of this Section or Section 7.4, except to increase any such percentage or to provide that certain provisions of this Indenture cannot be modified or waived without the consent of the Holder of each outstanding Security affected thereby.

It shall not be necessary for the consent of the Holders under this Section 10.2 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 10.2 becomes effective, the Company shall mail to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

To the extent that the Company or any of the Subsidiaries hold any Securities, such Securities shall be disregarded for purposes of voting in connection with any notice, waiver, consent or direction requiring the vote or concurrence of Securityholders.

SECTION 10.3 RESERVED.

SECTION 10.4 REVOCATION AND EFFECT OF CONSENTS.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to its Security or portion of a Security if the Trustee receives the notice of revocation before the date the amendment, supplement or waiver becomes effective.

After an amendment, supplement or waiver becomes effective, it shall bind every Securityholder, unless it makes a change described in any of clauses (a) through (j) of Section 10.2. In that case the amendment, supplement or waiver shall bind each Holder of a Security who has consented to it and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security.

SECTION 10.5 NOTATION ON OR EXCHANGE OF SECURITIES.

If an amendment, supplement or waiver changes the terms of a Security, the Trustee may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security about the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms.

SECTION 10.6 TRUSTEE TO SIGN AMENDMENTS, ETC.

The Trustee shall sign any amendment or supplemental indenture authorized pursuant to this Article 10 if the amendment or supplemental indenture does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may, in its sole discretion, but need not sign it. In signing or refusing to sign such amendment or supplemental indenture, the Trustee shall be entitled to receive and, subject to Section 8.1, shall be fully protected in relying upon, an Opinion of Counsel stating that such amendment or supplemental indenture is authorized or permitted by this Indenture. The Company may not sign an amendment or supplement indenture until the Board of Directors approves it.

SECTION 10.7 EFFECT OF SUPPLEMENTAL INDENTURES.

Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

ARTICLE 11.
MISCELLANEOUS

SECTION 11.1 RESERVED.

SECTION 11.2 NOTICES.

Any demand, authorization notice, request, consent or communication shall be given in writing and delivered in person or mailed by first-class mail, postage prepaid, addressed as follows or transmitted by facsimile transmission (confirmed by delivery in person or mail by first-class mail, postage prepaid, or by guaranteed overnight courier) to the following facsimile numbers:

If to the Company, to:

PDL BioPharma, Inc.
932 Southwood Boulevard
Incline Village, Nevada 89451
Attention: Chief Financial Officer or General Counsel
Facsimile No.: (775) 832-8501
Phone No.: (775) 832-8500

If to the Trustee, to:

The Bank of New York Mellon Trust Company, N.A.
700 South Flower St., Suite 500
Los Angeles, California 90017
Attention: Corporate Trust Administration
Facsimile No.: (213) 630-6298
Phone No.: (213) 630-6256

Such notices or communications shall be effective when received.

The Company or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication mailed to a Securityholder shall be mailed by first-class mail or delivered by an overnight delivery service or by other electronic means to it at its address shown on the register kept by the Primary Registrar.

Failure to mail a notice or communication to a Securityholder or any defect in it shall not affect its sufficiency with respect to other Securityholders. If a notice or communication to a Securityholder is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods (including pdf files). If the party elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk or interception and misuse by third parties.

SECTION 11.3 RESERVED.

SECTION 11.4 CERTIFICATE AND OPINION AS TO CONDITIONS PRECEDENT.

(a) Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee at the request of the Trustee:

(1) an Officers' Certificate stating that, in the opinion of the signers, all conditions precedent (including any covenants, compliance with which constitutes a condition precedent), if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent (including any covenants, compliance with which constitutes a condition precedent) have been complied with.

(b) Each Officers' Certificate and Opinion of Counsel with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(1) a statement that the person making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with;

provided however, that with respect to matters of fact an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

SECTION 11.5 RECORD DATE FOR VOTE OR CONSENT OF SECURITYHOLDERS.

The Company (or, in the event deposits have been made pursuant to Section 9.1, the Trustee) may set a record date for purposes of determining the identity of Holders entitled to vote or consent to any action by vote or consent authorized or permitted under this Indenture, which record date shall not be more than thirty (30) days prior to the date of the commencement of solicitation of such action. Notwithstanding the provisions of Section 10.4, if a record date is fixed, those persons who were Holders of Securities at the close of business on such record date (or their duly designated proxies), and only those persons, shall be entitled to take such action by vote or consent or to revoke any vote or consent previously given, whether or not such persons continue to be Holders after such record date.

SECTION 11.6 RULES BY TRUSTEE, PAYING AGENT, REGISTRAR AND CONVERSION AGENT.

The Trustee may make reasonable rules (not inconsistent with the terms of this Indenture) for action by or at a meeting of Holders. Any Registrar, Paying Agent or Conversion Agent may make reasonable rules for its functions.

SECTION 11.7 LEGAL HOLIDAYS.

A "Legal Holiday" is a Saturday, Sunday or a day on which state or federally chartered banking institutions in New York, New York and the state in which the Corporate Trust Office is located are not required to be open. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

SECTION 11.8 GOVERNING LAW.

This Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 11.9 NO ADVERSE INTERPRETATION OF OTHER AGREEMENTS.

This Indenture may not be used to interpret another indenture, loan or debt agreement of the Company or a Subsidiary of the Company. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 11.10 NO RECOURSE AGAINST OTHERS.

All liability described in paragraph 19 of the Securities of any director, officer, employee or shareholder, as such, of the Company is waived and released.

SECTION 11.11 SUCCESSORS.

All agreements of the Company in this Indenture and the Securities shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor.

SECTION 11.12 MULTIPLE COUNTERPARTS.

The parties may sign multiple counterparts of this Indenture. Each signed counterpart shall be deemed an original, but all of them together represent the same agreement.

SECTION 11.13 SEPARABILITY.

In case any provisions in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 11.14 TAX TREATMENT.

The Company agrees, and by acceptance of beneficial ownership in the Securities each beneficial holder of the Securities will be deemed to have agreed, for United States federal income tax purposes to treat the Securities as indebtedness that is not subject to the contingent payment debt instrument regulations under Treas. Reg. Sec. 1.1275-4.

SECTION 11.15 DESIGNATED SENIOR INDEBTEDNESS.

The Company’s indebtedness under the Securities is “designated senior indebtedness” for purposes of the Indenture, dated as of July 14, 2003, between the Company and The Bank of New York Mellon Trust Company, N.A. (as successor to J.P. Morgan Trust Company, National Association).

SECTION 11.16 TABLE OF CONTENTS, HEADINGS, ETC.

The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

SECTION 11.17 WAIVER OF JURY TRIAL

EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands as of the date and year first above written.

PDL BIOPHARMA, INC.

By: /s/ John McLaughlin
Name: John McLaughlin
Title: President and CEO

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.

By: /s/ Teresa Petta
Name: Teresa Petta
Title: Vice President

Schedule I

Additional Shares Table

The following table sets forth the hypothetical Stock Price and number of Additional Shares per $1,000 principal amount of Securities:

Effective Date	$5.700	$6.700	$7.700	$8.700	$9.700	$10.700	$11.700	$12.700	$13.700
November 1, 2010	34.8676	23.7126	16.8706	12.4750	9.3568	7.3729	5.5914	4.4369	3.3560
February 15, 2011	34.8676	20.2082	12.9370	9.5663	7.1752	5.6538	4.2877	3.4024	2.5735
February 15, 2012	34.8676	16.7038	9.0035	6.6576	4.9935	3.9348	2.9840	2.3679	1.7910
February 15, 2013	34.8676	13.1995	5.0699	3.7490	2.8119	2.2157	1.6803	1.3334	1.0085
February 15, 2014	34.8676	9.6951	1.1364	0.8403	0.6303	0.4966	0.3766	0.2989	0.2261
February 15, 2015	34.8676	8.6827	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

EXHIBIT A

[FORM OF FACE OF SECURITY]

[UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. THIS NOTE IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS NOTE IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE AND, UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY.][1]

[THIS NOTE AND ANY COMMON STOCK ISSUABLE UPON THE CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR ANY APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS NOTE IS HEREBY NOTIFIED THAT THE SELLER OF THIS NOTE MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER][2]

[THIS NOTE AND ANY COMMON STOCK ISSUABLE UPON THE CONVERSION OF THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) (1) TO A PERSON WHO THE TRANSFEROR REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT ACQUIRING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A

[1] These paragraphs should be included only if the Security is a Global Security.

[2] These paragraphs to be included only if the Security is a Transfer Restricted Security.

TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) PURSUANT TO AN EXEMPTION FROM REGISTRATION RIGHTS UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (3) TO AN INSTITUTIONAL INVESTOR THAT IS AN ACCREDITED INVESTOR WITHIN THE MEANING OF RULE 501(a)(1), (2), (3) OR (7) OF REGULATION D UNDER THE SECURITIES ACT (IF AVAILABLE) OR (4) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.][2]

[THIS NOTE, ANY SHARES OF COMMON STOCK ISSUABLE UPON ITS CONVERSION AND ANY RELATED DOCUMENTATION MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY THE RESTRICTIONS ON RESALES AND OTHER TRANSFERS OF THIS NOTE AND ANY SUCH SHARES TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE OR TRANSFER OF RESTRICTED SECURITIES GENERALLY. THE HOLDER OF THIS NOTE AND SUCH SHARES SHALL BE DEEMED BY THE ACCEPTANCE OF THIS NOTE AND ANY SUCH SHARES TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.][2]

PDL BIOPHARMA, INC.

CUSIP No.:

2.875% CONVERTIBLE SENIOR NOTES DUE FEBRUARY 15, 2015

PDL BIOPHARMA, Inc., a Delaware corporation (the "Company", which term shall include any successor corporation under the Indenture referred to on the reverse hereof), promises to pay to Cede & Co., or registered assigns, the principal sum of Dollars ($) on February 15, 2015, or such greater or lesser amount as is indicated on the Schedule of Exchanges of Notes on the other side of this Note.

Interest Payment Dates: February 15 and August 15, commencing February 15, 2011

Record Dates: February 1 and August 1

This Note is convertible as specified on the other side of this Note. Additional provisions of this Note are set forth on the other side of this Note.

SIGNATURE PAGE FOLLOWS

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

PDL BIOPHARMA, INC.

By: _____
Name:
Title:

Attest:

By: _____
Name:
Title:

Dated:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION
This is one of the Securities referred to
in the within-mentioned Indenture.

The Bank of New York Mellon Trust Company, N.A., as Trustee

_____
Authorized Signatory

[FORM OF REVERSE SIDE OF SECURITY]

PDL BIOPHARMA, INC.
2.875% CONVERTIBLE SENIOR NOTES DUE FEBRUARY 15, 2015

1. INTEREST

PDL BioPharma, Inc., a Delaware corporation (the "Company", which term shall include any successor corporation under the Indenture hereinafter referred to), promises to pay interest on the principal amount of this Security at the rate of 2.875% per annum. The Company shall pay interest semiannually on February 15 and August 15 of each year, commencing on February 15, 2011. Interest on the Securities shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from November 1, 2010; provided, however, that if there is not an existing default in the payment of interest and if this Security is authenticated between a record date referred to on the face hereof and the next succeeding interest payment date, interest shall accrue from such interest payment date. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. METHOD OF PAYMENT

The Company shall pay interest on this Security (except defaulted interest) to the person who is the Holder of this Security at the close of business on February 1 or August 1, as the case may be, next preceding the related interest payment date. The Holder must surrender this Security to a Paying Agent to collect payment of principal. The Company will pay principal and interest in money of the United States that at the time of payment is legal tender for payment of public and private debts. The Company may, however, pay principal and interest in respect of any Certificated Security by check or wire payable in such money; provided, however, that a Holder with an aggregate principal amount in excess of $2,000,000 will be paid by wire transfer in immediately available funds at the election of such Holder if such Holder has provided wire transfer instructions to the Company and the Trustee at least 10 Business Days prior to the payment date.

3. PAYING AGENT, REGISTRAR AND CONVERSION AGENT

Initially, The Bank of New York Mellon Trust Company, N.A. (the "Trustee", which term shall include any successor trustee under the Indenture hereinafter referred to) will act as Paying Agent, Registrar and Conversion Agent. The Company may change any Paying Agent, Registrar or Conversion Agent without notice to the Holder. The Company or any of its Subsidiaries may, subject to certain limitations set forth in the Indenture, act as Paying Agent or Registrar.

4. INDENTURE, LIMITATIONS

This Security is one of a duly authorized issue of Securities of the Company designated as its 2.875% Convertible Senior Securities due February 15, 2015 (the "Securities"), issued under an Indenture, dated as of November 1, 2010 (together with any supplemental indentures thereto, the "Indenture"), between the Company and the Trustee. The terms of this Security include, and are subject to, the terms of the Indenture. The Securities are unsecured obligations of the Company. The Indenture does not limit other debt of the Company, secured or unsecured.

5. OPTIONAL REDEMPTION

The Securities are subject to redemption, at any time on or after August 15, 2014, on at least 10 days and no more than 60 days notice, in whole or in part, at the election of the Company, at a redemption price equal to 100% of the aggregate principal amount of the Securities to be redeemed together with accrued interest up to but not including the Redemption Date; provided that if the redemption date falls after an interest payment record date and on or before an interest payment date, interest will be payable to the Holders in whose names the Securities are registered at the close of business on the relevant record dates.

No sinking fund is provided for the Securities.

6. NOTICE OF REDEMPTION

Notice of redemption will be mailed by first-class mail at least 10 days but not more than 60 days before the Redemption Date to each Holder of Securities to be redeemed at its registered address. Securities in denominations larger than $1,000 may be redeemed in part, but only in whole multiples of $1,000. On and after the Redemption Date, subject to the deposit with the Paying Agent of funds sufficient to pay the Redemption Price plus accrued interest, if any, accrued to, but excluding, the Redemption Date, interest shall cease to accrue on Securities or portions of them called for redemption.

7. REPURCHASE OF NOTES AT OPTION OF HOLDER UPON A FUNDAMENTAL CHANGE

Subject to the terms and conditions of the Indenture (including the rights of the Company upon delivery of a Public Acquisition Notice as described in Section 3.11 of the Indenture and Section 8 hereof), if a Fundamental Change occurs at any time prior to the Final Maturity Date, each Holder will, upon receipt of the notice of the occurrence of a Fundamental Change, have the right to require the Company to repurchase any or all of such Holder's Securities for cash in an amount equal to 100% of the Principal Amount of the Securities to be purchased plus accrued and unpaid interest, if any, to (but not including) the Fundamental Change Repurchase Date, unless such Fundamental Change Repurchase Date falls after an interest payment record date and on or prior to the corresponding interest payment date, in which case the Fundamental Change Repurchase Price will include the full amount of accrued and unpaid interest payable on such interest payment date to the Holder of record at the close of business on the corresponding interest payment record date. Subject to Sections 3.9(b) and 3.11 of the Indenture, on or before the 15th day after the effective date of a Fundamental Change, the Company will provide to all Holders of the Securities and the Trustee and Paying Agent a notice of the occurrence of the Fundamental Change and of the resulting repurchase right. To exercise the repurchase right, a Holder must deliver the Fundamental Change repurchase notice duly completed to the Paying Agent as described in the Indenture.

Notwithstanding the foregoing, the Holders will not have the right to require the Company to repurchase any Securities if a Fundamental Change described in clause (b), (c) or (d) in the definition of Fundamental Change occurs (and the Company will not be required to deliver the notice described in Section 3.9(c) of the Indenture), if either:

(1) the Closing Price for any five Trading Days within the period of 10 consecutive Trading Days ending immediately after the later of the effective date of the Fundamental Change or the date of the public announcement of the Fundamental Change, in the case of a Fundamental Change relating to an acquisition of Capital Stock under clause (b) of the definition of Fundamental Change, or the period of ten consecutive Trading Days ending immediately before the effective date of the Fundamental Change, in the case of a Fundamental Change relating to a merger, consolidation, asset sale or otherwise under clause (c) of the definition of Fundamental Change, equals or exceeds 105% of the quotient of $1,000 divided by the Applicable Conversion Rate in effect on each of those five Trading Days; or

(2) at least 95% of the consideration paid for the Common Stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' or appraisal rights) in a merger or consolidation or a conveyance, sale, transfer or lease otherwise constituting a Fundamental Change under clause (b) and/or (c) of the definition of Fundamental Change consists of shares of Capital Stock (or American Depository Shares representing such Capital Stock) traded on the New York Stock Exchange or another United States national securities exchange or quoted on the Nasdaq Stock Market or another established automated over-the-counter trading market in the United States (or will be so traded or quoted immediately following the merger or consolidation) and as a result of the merger or consolidation the Securities become convertible into shares of such Capital Stock (or American Depository Shares representing such Capital Stock).

Holders have the right to withdraw any Fundamental Change repurchase notice, in whole or in part, by delivering to the Paying Agent a written notice of withdrawal in accordance with the provisions of the Indenture.

If cash sufficient to pay the Fundamental Change Repurchase Price of all Securities or portions thereof to be purchased as of the Fundamental Change Repurchase Date, has been deposited with the Paying Agent on or prior to the Business Day following the Fundamental Change Repurchase Date, all interest shall cease to accrue on such Securities (or portions thereof) immediately after such Fundamental Change Repurchase Date and the Holder thereof shall have no other rights as such other than the right to receive the Fundamental Change Repurchase Price, upon surrender of such Securities.

8. PUBLIC ACQUIRER CHANGE OF CONTROL

Within fifteen Trading Days prior to but not including the expected effective date of a Fundamental Change that is also a Public Acquirer Change of Control, the Company will provide a Public Acquisition Notice to all Holders, the Trustee, any Paying Agent and any Conversion Agent describing the anticipated Public Acquirer Change of Control and stating whether the Company will:

(i) elect the adjust the Applicable Conversion Rate and related conversion obligation as described in Section 3.11 of the Indenture, in which case the Holders will not have the right to require the Company repurchase their Securities as described in Section 3.9 of the Indenture and will not have the right to the Applicable Conversion Rate adjustment described in Section 3.10 of the Indenture; or

(ii) not elect to adjust the Applicable Conversion Rate and related conversion obligation as described in Section 3.11 of the Indenture, in which case the Holders will have the right to require the Company to repurchase their Securities as described in Section 3.9 of the Indenture and/or the right to an Applicable Conversion Rate adjustment as described in Section 3.10 of the Indenture, in each case in accordance with the respective provisions of those Sections.

If the Public Acquisition Notice indicates that the Company is making the election described in clause (i) above, then the Applicable Conversion Rate and the related conversion obligation shall be adjusted such that from and after the effective date of the Public Acquirer Change of Control, Holders of the Securities will be entitled to convert their Securities into a number of shares of Public Acquirer Common Stock pursuant to Section 3.11 of the Indenture.

9. CONVERSION

A Holder of a Security may convert the principal amount of such Security (or any portion thereof equal to $1,000 or any integral multiple of $1,000 in excess thereof) into Common Stock at any time prior to the close of business on the last Business Day prior to the Final Maturity Date, at the Applicable Conversion Rate in effect on the Conversion Date; provided, however, that, if such Security is called for redemption or submitted or presented for purchase pursuant to Article 3 of the Indenture, such conversion right shall terminate at the close of business on the Business Day immediately preceding the Redemption Date or Fundamental Change Repurchase Date, as the case may be, for such Security or such earlier date as the Holder presents such Security for redemption or for purchase (unless the Company shall default in making the redemption payment or Fundamental Change Repurchase Price payment when due, in which case the conversion right shall terminate at the close of business on the date such default is cured and such Security is redeemed or purchased, as the case may be).

The Initial Conversion Rate means 140.571 shares of Common Stock per $1,000 principal amount of Securities, subject to adjustment under certain circumstances as provided in the Indenture. No fractional shares will be issued upon conversion; in lieu thereof, an amount will be paid in cash based upon the Closing Price (as defined in the Indenture) of the Common Stock on the Trading Day immediately prior to the Conversion Date.

To convert a Security, a Holder must (a) complete and manually sign the conversion notice set forth below and deliver such notice to a Conversion Agent, (b) surrender the Security to a Conversion Agent, and (c) furnish appropriate endorsements and transfer documents if required by a Registrar or a Conversion Agent. Securities so surrendered for conversion (in whole or in part) during the period from the close of business on any regular record date to the opening of business on the next succeeding interest payment date (excluding Securities or portions thereof called for redemption or subject to purchase upon a Fundamental Change on a Redemption Date or Fundamental Change Repurchase Date, as the case may be, during the period beginning at the close of business on a regular record date and ending at the opening of

business on the first Business Day after the next succeeding interest payment date, or if such interest payment date is not a Business Day, the second such Business Day) shall also be accompanied by payment in funds acceptable to the Company of an amount equal to the interest payable on such interest payment date on the principal amount of such Security then being converted, and such interest shall be payable to such registered Holder notwithstanding the conversion of such Security, subject to the provisions of this Indenture relating to the payment of defaulted interest by the Company. If the Company defaults in the payment of interest payable on such interest payment date, the Company shall promptly repay such funds to such Holder. A Holder may convert a portion of a Security equal to $1,000 or any integral multiple thereof.

A Security in respect of which a Holder had delivered a Fundamental Change repurchase notice exercising the option of such Holder to require the Company to purchase such Security may be converted only if the Fundamental Change repurchase notice is withdrawn in accordance with the terms of the Indenture.

10. CONVERSION ARRANGEMENT ON CALL FOR REDEMPTION

Any Securities called for redemption, unless surrendered for conversion before the close of business on the Business Day immediately preceding the Redemption Date, may be deemed to be purchased from the Holders of such Securities at an amount not less than the Redemption Price, together with accrued interest, if any, to, but not including, the Redemption Date, by one or more investment bankers or other purchasers who may agree with the Company to purchase such Securities from the Holders, to convert them into Common Stock of the Company and to make payment for such Securities to the Paying Agent in trust for such Holders.

11. DENOMINATIONS, TRANSFER, EXCHANGE

The Securities are in registered form, without coupons, in denominations of $1,000 and integral multiples of $1,000. A Holder may register the transfer of or exchange Securities in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes or other governmental charges that may be imposed in relation thereto by law or permitted by the Indenture.

12. PERSONS DEEMED OWNERS

The Holder of a Security may be treated as the owner of it for all purposes.

13. UNCLAIMED MONEY

If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent will pay the money back to the Company at its written request, subject to applicable unclaimed property law. After that, Holders entitled to money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another person.

14. AMENDMENT, SUPPLEMENT AND WAIVER

Subject to certain exceptions, the Indenture or the Securities may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the Securities then outstanding, and an existing default or Event of Default and its consequence or compliance with any provision of the Indenture or the Securities may be waived in a particular instance with the consent of the Holders of a majority in aggregate principal amount of the Securities then outstanding. Without the consent of or notice to any Holder, the Company and the Trustee may amend or supplement the Indenture or the Securities to, among other things, cure any ambiguity, defect or inconsistency or make any other change that does not adversely affect the rights of any Holder.

15. SUCCESSOR ENTITY

When a successor corporation assumes all the obligations of its predecessor under the Securities and the Indenture in accordance with the terms and conditions of the Indenture, the predecessor corporation (except in certain circumstances specified in the Indenture) shall be released from those obligations.

16. DEFAULTS AND REMEDIES

Under the Indenture, an Event of Default includes: (i) default for 30 days in payment of any interest on any Securities; (ii) default in payment of any principal (including, without limitation, premium, if any) on the Securities when due; (iii) failure by the Company for 60 days after notice to it to comply with any of its other agreements contained in the Indenture or the Securities; (iv) default in the payment of certain indebtedness of the Company or a Significant Subsidiary; (v) the Company fails to provide a notice of a Fundamental Change within 30 days after notice of failure to timely deliver the same; and (vi) certain events of bankruptcy, insolvency or reorganization of the Company or any Significant Subsidiary. If an Event of Default (other than as a result of certain events of bankruptcy, insolvency or reorganization of the Company) occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the Securities then outstanding may declare all unpaid principal to the date of acceleration on the Securities then outstanding to be due and payable immediately, all as and to the extent provided in the Indenture. If an Event of Default occurs as a result of certain events of bankruptcy, insolvency or reorganization of the Company, unpaid principal of the Securities then outstanding shall become due and payable immediately without any declaration or other act on the part of the Trustee or any Holder, all as and to the extent provided in the Indenture. Holders may not enforce the Indenture or the Securities except as provided in the Indenture. The Trustee may require indemnity satisfactory to it before it enforces the Indenture or the Securities. Subject to certain limitations, Holders of a majority in aggregate principal amount of the Securities then outstanding may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing default (except a default in payment of principal or interest) if it determines that withholding notice is in their interests. The Company is required to file periodic reports with the Trustee as to the absence of default.

17. TRUSTEE DEALINGS WITH THE COMPANY

The Bank of New York Mellon Trust Company, N.A., the Trustee under the Indenture, in its individual or any other capacity, may make loans to, accept deposits from and perform services for the Company or an Affiliate of the Company, and may otherwise deal with the Company or an Affiliate of the Company, as if it were not the Trustee.

18. NO RECOURSE AGAINST OTHERS

A director, officer, employee or stockholder, as such, of the Company shall not have any liability for any obligations of the Company under the Securities or the Indenture nor for any claim based on, in respect of or by reason of such obligations or their creation. The Holder of this Security by accepting this Security waives and releases all such liability. The waiver and release are part of the consideration for the issuance of this Security.

19. AUTHENTICATION

This Security shall not be valid until the Trustee or an authenticating agent manually signs the certificate of authentication on the other side of this Security.

20. ABBREVIATIONS AND DEFINITIONS

Customary abbreviations may be used in the name of the Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian) and UGMA (= Uniform Gifts to Minors Act).

All terms defined in the Indenture and used in this Security but not specifically defined herein are defined in the Indenture and are used herein as so defined.

21. INDENTURE TO CONTROL; GOVERNING LAW

In the case of any conflict between the provisions of this Security and the Indenture, the provisions of the Indenture shall control. This Security shall be governed by, and construed in accordance with, the laws of the State of New York.

The Company will furnish to any Holder, upon written request and without charge, a copy of the Indenture. Requests may be made to: PDL BioPharma, Inc., 932 Southwood Boulevard, Incline Village, Nevada 89451, Attention: Investor Relations.

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Security to

_____

(Insert assignee's soc. sec. or tax I.D. no.)

_____

_____

_____

_____

(Print or type assignee's name, address and zip code)

and irrevocably appoint

_____

agent to transfer this Note on the books of the Company. The agent may substitute another to act for him or her.

Your Signature:

Date: _____

_____

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

*Signature guaranteed by:

By: _____

_____

* The signature must be guaranteed by an institution which is a member of one of the following recognized signature guaranty programs: (i) the Securities Transfer Agent Medallion Program (STAMP); (ii) the New York Stock Exchange Medallion Program (MSP); (iii) the Stock Exchange Medallion Program (SEMP); or (iv) such other guaranty program acceptable to the Trustee.

CONVERSION NOTICE

To convert this Security into Common Stock of the Company, check the box: ☐

To convert only part of this Security, state the principal amount to be converted (must be $1,000 or a integral multiple of $1,000): $.

If you want the stock certificate made out in another person's name, fill in the form below:

(Insert assignee's soc. sec. or tax I.D. no.)

(Print or type assignee's name, address and zip code)

Your Signature:

Date: _____

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

*Signature guaranteed by:

By: _____

* The signature must be guaranteed by an institution which is a member of one of the following recognized signature guaranty programs: (i) the Securities Transfer Agent Medallion Program (STAMP); (ii) the New York Stock Exchange Medallion Program (MSP); (iii) the Stock Exchange Medallion Program (SEMP); or (iv) such other guaranty program acceptable to the Trustee.

Participant Name and Number

OPTION TO ELECT REPURCHASE
UPON A FUNDAMENTAL CHANGE

To: PDL BioPharma, Inc.

The undersigned registered owner of this Security hereby irrevocably acknowledges receipt of a notice from PDL BioPharma, Inc. (the "Company") as to the occurrence of a Fundamental Change with respect to the Company and requests and instructs the Company to redeem the entire principal amount of this Security, or the portion thereof (which is $1,000 or an integral multiple thereof) below designated, in accordance with the terms of the Indenture referred to in this Note at the Fundamental Change Repurchase Price, together with accrued interest to, but excluding, such date, to the registered Holder hereof.

Dated: _____

_____

Signature(s)

Signature(s) must be guaranteed by a qualified guarantor institution with membership in an approved signature guarantee program pursuant to Rule 17Ad-15 under the Securities Exchange Act of 1934.

_____

Signature Guaranty

Principal amount to be redeemed
(in an integral multiple of $1,000, if less than all):

_____

NOTICE: The signature to the foregoing Election must correspond to the name as written upon the face of this Security in every particular, without alteration or any change whatsoever.

_____

Participant Name and Number

SCHEDULE OF EXCHANGES OF SECURITY[3]

The following exchanges, redemptions, repurchases or conversions of a part of this global Note have been made:

Principal Amount of this Global Security Following Such Decrease Date of Exchange (or Increase)	Authorized Signatory of Securities Custodian	Amount of Decrease in Principal Amount of this Global Security	Amount of Increase in Principal Amount of this Global Security

[3] This schedule should be included only if the Security is a Global Security.

EXHIBIT B

CERTIFICATE TO BE DELIVERED UPON EXCHANGE OR REGISTRATION OF TRANSFER OF TRANSFER RESTRICTED SECURITIES(4)

Re: 2.875% Convertible Senior Securities due February 15, 2015 (the "Securities") of PDL BioPharma, Inc.

This certificate relates to $ principal amount of Securities owned in (check applicable box)

☐ book-entry or ☐ definitive form by (the "Transferor").

The Transferor has requested a Registrar or the Trustee to exchange or register the transfer of such Securities.

In connection with such request and in respect of each such Security, the Transferor does hereby certify that the Transferor is familiar with transfer restrictions relating to the Securities as provided in Section 2.12 of the Indenture dated as of November 1, 2010 between PDL BioPharma, Inc. and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Indenture"), and the transfer of such Security is being made pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act") (check applicable box) or the transfer or exchange, as the case may be, of such Security does not require registration under the Securities Act because (check applicable box):

☐ Such Security is being transferred pursuant to an effective registration statement under the Securities Act.

☐ Such Security is being transferred outside the United States in an offshore transaction in accordance with Rule 904 under the Securities Act.

☐ Such Security is being acquired for the Transferor's own account, without transfer.

☐ Such Security is being transferred to the Company or a Subsidiary (as defined in the Indenture) of the Company.

☐ Such Security is being transferred to a person the Transferor reasonably believes is a "qualified institutional buyer" (as defined in Rule 144A or any successor provision thereto ("Rule 144A") under the Securities Act) that is purchasing for its own account or for the account of a "qualified institutional buyer", in each case to whom notice has been given that the transfer is being made in reliance on such Rule 144A, and in each case in reliance on Rule 144A.

(4) This certificate should only be included if this Security is a Transfer Restricted Security.

☐ Such Security is being transferred pursuant to and in compliance with an exemption from the registration requirements under the Securities Act in accordance with Rule 144 (or any successor thereto) ("Rule 144") under the Securities Act.

☐ Such Security is being transferred pursuant to and in compliance with an exemption from the registration requirements of the Securities Act (other than an exemption referred to above) and as a result of which such Security will, upon such transfer, cease to be a "restricted security" within the meaning of Rule 144 under the Securities Act.

Date: _____

_____
(Insert Name of Transferor)

Exhibit 10.1

[…] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

SETTLEMENT AGREEMENT

This settlement agreement ("**Settlement Agreement**") is entered into this 18th day of December 2003 ("**Effective Date**") between Protein Design Labs, Inc., a corporation organized under the laws of the State of Delaware (hereafter "**PDL**"), and Genentech, Inc., a corporation organized under the laws of the State of Delaware (hereafter "**Genentech**").

WHEREAS PDL owns rights to the PDL Patents related to humanized antibodies and methods of making and manufacturing humanized antibodies;

WHEREAS Genentech develops, produces, uses, and/or sells a number of humanized antibody products, including, without limitation, Xolair, Raptiva, Herceptin, and Avastin;

WHEREAS PDL and Genentech are parties to that certain Patent Licensing Master Agreement dated September 25, 1998, as amended by Amendment No. 1 To The Patent Licensing Master Agreement dated September 18, 2003 and Amendment No. 2 To The Patent Licensing Master Agreement of even date herewith (collectively the **"PLMA"**) pertaining to licensing of rights to their respective patents, and are parties to that certain PDL License Agreement dated November 3, 1998, as amended by Amendment No. 1 To The Herceptin License Agreement of even date herewith (collectively the **"Herceptin License Agreement"**) under which PDL licensed the PDL Patents to Genentech for the Herceptin antibody product;

WHEREAS in 2003, Genentech received approval from the United States Food and Drug Administration ("**FDA**") for the Xolair and Raptiva antibody products, and continues to seek FDA approval for the Avastin antibody product;

WHEREAS in 2003, PDL and Genentech disagreed concerning whether Xolair and other Genentech products infringe the PDL Patents and concerning the validity and enforceability of the PDL Patent Family; obtained extensive and thorough advice of counsel and detailed factual information and legal analyses concerning these issues; presented their respective positions and disagreements on these issues to one another; engaged in extensive discussions with one another regarding the infringement, validity, and enforceability of the PDL Patents; and decided to resolve and settle their disputes regarding infringement by these products, subject to the terms and conditions of this Settlement Agreement, and further decided to resolve and settle their disputes forever regarding the validity and enforceability of the PDL Patent Family in order to avoid protracted litigation of those disputed issues and the business uncertainty and damage that litigation of those issues would cause, and thus compromise and settle those disputes as set forth in this Settlement Agreement, Amendment No. 2 to the PLMA and Amendment No. 1 To The Herceptin License Agreement;

THEREFORE, the Parties agree as follows:

1. DEFINITIONS

The capitalized terms used in this Settlement Agreement shall have the definitions assigned to them in this Section 1 and shall include the singular as well as the plural.

1.1 "**Party**" means either PDL or Genentech. "**PDL Patents**" means U.S. Patent Nos. 5,585,089; 5,693,761; 5,693,762; and 6,180,370.

1.2 **PDL Patent Family**" means U.S. Patent Nos. 5,585,089; 5,693,761; 5,693,762; and 6,180,370, and related United States patent applications owned by, assigned to, or subject to an obligation to assign to PDL as of the Effective Date, including any divisionals, continuations, continuations-in-part, reissues, extensions, and reexamination certificates or patents claiming priority from any of the foregoing.

1.3 "**Opposition**" means Genentech's pending European Patent Office Opposition to PDL's European Patent No. 415, 216 B1.

1.4 "**Four Products**" means Herceptin, Xolair, Raptiva and Avastin.

1.5 "**Final Adverse Decision**" means a decision, that results in a significant change to a majority of the independent claims of the PDL Patent(s) that was or were the subject of a proceeding between PDL and a Third Party or a PTO Proceeding resulting in such decision, by a court or other body of competent jurisdiction from which no appeal has been or may be taken, where such decision: (i) invalidates such majority of independent claims; (ii) cancels such majority of independent claims; or (iii) holds unenforceable such majority of independent claims. Such decision must arise out of an action taken by a Third Party or a PTO Proceeding.

1.6 **"GNE Licensed Product"** shall have the same meaning as that set forth in the PLMA.

1.7 **"Licensed Product"** shall have the same meaning as that set forth in a PDL License Agreement relating to a particular antibody product.

1.8 **"PTO Proceeding"** means a proceeding in the U.S. Patent and Trademark Office relating to one or more patents within the PDL Patents which proceeding does not involve GNE. By way of example only, and without limitation, PTO Proceeding includes reexamination and reissue proceedings.

1.9 **"Third Party"** means a person or entity that is not Genentech or a Genentech Affiliate (as defined in the PLMA); for the sake of clarity, the Parties hereby agree that each of Roche Holdings, Inc., and its affiliated companies (other than Genentech) shall be considered a Third Party for purposes of this Settlement Agreement.

1.10 **"Legal Materials"** means and includes any and all opinions of counsel, attorney work product and/or any other legal analyses regarding the validity and/or enforceability of the PDL Patent Family.

2. FINAL RESOLUTION OF PATENT DISPUTES; RELEASE AND WAIVER OF PATENT DEFENSES

2.1 Genentech has obtained detailed factual and legal information and has carefully analyzed and obtained detailed and thorough legal advice and opinions concerning whether Xolair, Raptiva, Herceptin, and Avastin infringe the PDL Patents and whether the PDL Patents are valid and enforceable. Genentech and PDL have presented their respective positions and disagreements on these issues to one another; engaged in extensive discussions with one another regarding the infringement, validity, and enforceability of the PDL Patents; and decided to resolve and settle their disputes regarding infringement by these products, subject to the terms and conditions of this Settlement Agreement, and further decided to resolve and settle their disputes forever regarding the validity and enforceability of the PDL Patent Family in order to avoid protracted litigation of those disputed issues and the business uncertainty and damage that litigation of those issues would cause.

2.2 Subject to Section 2.5, Genentech agrees and stipulates that each of the Four Products is, with respect to the PDL Patents only, a GNE Licensed Product and a Licensed Product.

2.3 Genentech further agrees and stipulates that each of the claims of any present or future issued patents within the PDL Patent Family is valid and enforceable, subject to the Proviso (as defined in Section 2.4).

2.4 Genentech agrees, covenants, represents, and warrants that it will not: (i) knowingly or intentionally file or otherwise initiate or participate in a lawsuit, arbitration proceeding, United States Patent And Trademark Office (**"USPTO"**) interference or other legal proceeding in the United States in which Genentech alleges or seeks a determination that one or more claims of an issued patent within the PDL Patent Family is invalid or unenforceable; or (ii) knowingly or intentionally provide assistance to any party alleging or seeking a determination that one or more claims of an issued patent within the PDL Patent Family is invalid or unenforceable, except as required by law and except as Genentech may be required (and only to the extent it is so required) to provide technical scientific or business documents and/or information to any party under a contract or other written agreement between Genentech and such party (excluding Legal Materials); (iii) knowingly or intentionally encourage another party to allege or to seek a determination that one or more claims of an issued patent within the PDL Patent Family is invalid or unenforceable, (iv) knowingly or intentionally refuse to pay royalties to PDL under a PDL License Agreement on the ground that one or more claims of an issued patent within the PDL Patent Family is invalid or unenforceable, or (v) knowingly or intentionally terminate a PDL License Agreement on the ground that one or more claims of an issued patent within the PDL Patent Family is invalid or unenforceable. The preceding sentence is not intended to, and shall not, prevent Genentech from characterizing the technical aspects of one or more claims of the PDL Patent Family in prosecuting its own patent applications or in litigation with a Third Party concerning either a Genentech patent or a Third Party patent. Genentech releases and waives its right to challenge the invalidity and unenforceability of any issued patent within the PDL Patent Family in any future litigation, arbitration, interference, or other proceeding; provided, however, that Genentech shall not be prohibited from referencing and relying on a decision by a court or other body of competent jurisdiction from which no appeal has been

or may be taken holding one or more claims of a PDL Patent to be invalid or unenforceable where such decision has arisen out of an action taken by a Third Party, where such reference and reliance by Genentech is made solely in a dispute concerning whether a GNE Licensed Product continues to be a GNE Licensed Product and/or whether a Licensed Product continues to be a Licensed Product following a Final Adverse Decision as permitted in Sections 2.5 and 2.6 of this Settlement Agreement (such proviso being referred to herein as the "Proviso"). This agreement and covenant by Genentech shall apply not only to the Four Products, but also to any future products of Genentech. PDL expressly acknowledges and agrees that Genentech cannot control, and that Genentech therefore shall not be held responsible or liable for, the actions of any Third Party (including but not limited to its development, commercialization or marketing partners) that may decide to challenge the validity or enforceability of any of the PDL Patent Family in any court, agency (including, without limitation, the USPTO), or tribunal, or in any litigation, arbitration, interference, or other proceeding. In the event Genentech is: (i) required by law to provide documents and/or information to a Third Party in connection with a Third Party litigation, arbitration, interference or other proceeding; or (ii) required (and only to the extent it is so required) to provide technical scientific or business documents and/or information (excluding Legal Materials) to any party under a contract or other written agreement between Genentech and such party, Genentech's provision of such documents and/or information under the circumstances set forth in such subsections (i) or (ii) shall not constitute a breach of this Settlement Agreement.

2.5 (a) If no Final Adverse Decision has occurred, then the stipulation in Section 2.2 shall remain in effect and GNE shall continue to pay royalties to PDL with respect to the Four Products as required under the PLMA and the applicable PDL License Agreements relating to each such Licensed Product.

(b) Following a Final Adverse Decision, if Genentech (i) believes in good faith that one or more GNE Licensed Products clearly no longer constitutes a GNE Licensed Product and clearly no longer constitutes a Licensed Product by virtue of such Final Adverse Decision and (ii) believes it can establish by clear and convincing evidence that one or more GNE Licensed Products clearly no longer constitutes a GNE Licensed Product and clearly no longer constitutes a Licensed Product by virtue of such Final Adverse Decision, Genentech shall provide written notice (**"Written Notice"**) to PDL specifying each GNE Licensed Product it believes clearly no longer constitutes neither a GNE Licensed Product nor a Licensed Product (the **"Disputed Product"**); provided however, that Genentech shall not reassert or rely on any of the four grounds that Genentech raised with PDL during the discussions leading up to this Settlement Agreement, as evidenced by the records of the Parties, as grounds for establishing that a GNE Licensed Product clearly no longer constitutes a GNE Licensed Product and that a Licensed Product clearly no longer constitutes a Licensed Product by virtue of such Final Adverse Decision.

(c) Promptly following receipt of such Written Notice by PDL, the Parties will each designate a representative (collectively the **"Representatives"**) and such Representatives will meet in an attempt to informally resolve whether Genentech can show by clear and convincing evidence that each Disputed Product identified in the Written Notice clearly constitutes neither a GNE Licensed Product nor a Licensed Product. If the Representatives are unable to resolve such issue within sixty (60) days after their first meeting, then either

Party may at any time thereafter provide the other with written notice specifying the terms of such disagreement in reasonable detail ("**Detailed Written Notice"**).

(d) Upon receipt of such Detailed Written Notice, the chief executive officers of PDL and Genentech shall meet at a mutually agreed upon time and location in an attempt to informally resolve whether Genentech can show by clear and convincing evidence that each Disputed Product identified in the Written Notice clearly constitutes neither a GNE Licensed Product nor a Licensed Product.

(e) Either Party may initiate arbitration proceedings under Section 2.5 if: (i) the chief executive officers are unable to resolve whether Genentech can show by clear and convincing evidence that each Disputed Product identified in the Written Notice clearly constitutes neither a GNE Licensed Product nor a Licensed Product within sixty (60) days of their first meeting; or (ii) prior to the expiration of such sixty (60) days, the chief executive officers agree that they are unlikely to resolve such issue.

2.6 Arbitration.

(a) Any dispute under Section 2.5 that cannot be resolved through the procedures set forth in Section 2.5 shall be submitted by the parties to arbitration in Santa Clara County, California in accordance with the then-current commercial arbitration rules of the American Arbitration Association ("AAA") except as otherwise provided herein. For each Disputed Product, the sole issue to be resolved in such arbitration is whether Genentech can prove, by clear and convincing evidence, that each Disputed Product clearly constitutes neither a GNE Licensed Product nor a Licensed Product by virtue of a Final Adverse Decision. Each of the Disputed Products in question shall be considered separately.

(b) Any arbitration proceeding hereunder shall be held in English and a transcribed record prepared in English. The Parties shall choose, by mutual agreement, one (1) neutral arbitrator within thirty (30) days of receipt of notice of the intent to arbitrate. If no arbitrator is appointed within the times herein provided or any extension of time which is mutually agreed upon, the AAA shall make such appointment of a person who shall devote substantial time to arbitrating within thirty (30) days of such failure. Discovery permitted by the arbitrator shall be pursuant to California Code of Civil Procedure Sections 1283.05 and 1283.1, provided that all discovery shall be completed within sixty (60) days of the appointment of such arbitrator and the decision rendered by such arbitrator shall thereafter be delivered in writing setting forth the basis therefor within thirty (30) days after the completion of discovery. Judgment on such award may be entered and enforceable in any court having jurisdiction thereof. Nothing in this Settlement Agreement shall be deemed as preventing either Party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the Parties and the subject matter of the dispute but only to the extent necessary to protect either Party's name, proprietary information, trade secrets, know-how or any other similar proprietary rights. If the issues in dispute involve scientific or technical matters related to monoclonal antibody technology, any arbitrator chosen hereunder shall have not less than five (5) years of educational training and/or experience sufficient to demonstrate a reasonable level of relevant scientific and/or technical knowledge related to monoclonal antibody technology. If the issues in dispute involve patent matters, then such arbitrator shall also be a licensed patent attorney or otherwise

knowledgeable about patent law matters and to the extent possible, with monoclonal antibody technology. The decision of the arbitrator shall be in writing and shall set forth the basis therefor. Such decision shall be final, binding and unappealable. The arbitrator shall have the authority to award such remedies as he or she believes appropriate in the circumstances, including, but not limited to, compensatory damages, consequential and incidental damages, interest, tort damages (but not punitive or similar damages) and specific performance and other equitable relief. Without limiting the generality of the foregoing remedies, in each instance that Genentech prevails on its claim that a Disputed Product clearly constitutes neither a GNE Licensed Product nor a Licensed Product by virtue of a Final Adverse Decision, the arbitrator may award to Genentech a refund of some or all of the royalties that Genentech paid pursuant to Section 2.7 for such Disputed Product during the dispute resolution procedures.

(c) The prevailing party in the arbitration shall be awarded reasonable attorneys' fees and costs arising out of Sections 2.5 and 2.6 by the non-prevailing party.

2.7 Genentech shall continue to pay royalties as required under the PLMA and the applicable PDL License Agreements during any dispute resolution procedures under Sections 2.5 and 2.6 until a final, unappealable determination by an arbitrator pursuant to Section 2.6 has been rendered.

3. COVENANTS

3.1 As part of this Settlement Agreement and as consideration for the promises, covenants, warranties, and agreements therein, the Parties agree and covenant as follows:

(a) Genentech agrees and covenants that within seven (7) days after the Effective Date, Genentech shall file with the European Patent Office ("**EPO**") a withdrawal of the Opposition in the form attached hereto as Exhibit B. PDL expressly acknowledges and agrees that Genentech cannot control, and that Genentech therefore shall not be held responsible or liable for, the actions of any Third Party (including but not limited to its development, commercialization or marketing partners) that may decide to challenge or continue challenging the validity or enforceability of PDL's European Patent No. 415, 216 B1 in any court, agency (including, without limitation, the EPO or European Board Of Patent Appeals), or tribunal, or in any litigation, arbitration, interference, or other proceeding. However, Genentech further covenants that it will not knowingly or intentionally assist any party in opposing or challenging PDL's European Patent No. 415, 216 B1. In the event Genentech is: (i) required by law to provide documents and/or information to a Third Party in connection with a Third Party litigation, arbitration, interference or other proceeding; or (ii) required (and only to the extent it is so required) to provide technical scientific or business documents and/or information (excluding Legal Materials) to any party under a contract or other written agreement between Genentech and such party, Genentech's provision of such documents and/or information under the circumstances set forth in such subsections (i) or (ii) shall not constitute a breach of this Settlement Agreement.

(b) PDL agrees and covenants that it will waive and release any claim it may have that Genentech has breached the Herceptin License Agreement based on Genentech's participation in the Opposition prior to the Effective Date.

(c) The Parties agree and covenant that, concurrently with the execution of this Settlement Agreement, they will execute Amendment No. 2 To The PLMA and Amendment No. 1 To The Herceptin License Agreement in the forms attached as Exhibits C and D.

(d) The Parties agree and covenant that, concurrently with execution of this Settlement Agreement, they will execute PDL License Agreements under the PLMA for Xolair, attached as Exhibit E, and Raptiva, attached as Exhibit F.

(e) The Parties agree and covenant that within ten (10) days after first regulatory approval of Avastin, they will enter into a PDL License Agreement under the PLMA for Avastin, attached as Exhibit G.

(f) The Parties agree and covenant that, concurrently with the execution of this Settlement Agreement, they will execute a Master Licensing Agreement relating to the Carter Patents, attached as Exhibit H.

4. BREACH OF ARTICLE 2

4.1 Genentech and PDL agree, represent, and warrant that, based on their analyses and judgments regarding their businesses and patents, the market for humanized antibodies, the value of the PDL Patent Family, the market for patent licensing, the consideration exchanged herein, and the terms of this Settlement Agreement:

(a) PDL is relying materially on Genentech's agreement to comply fully and in all respects with Sections 2.3 and 2.4, and PDL will be severely and irreparably injured and will suffer substantial, irreparable loss if Genentech violates or fails to comply in any respect with Section 2.3 or 2.4;

(b) as of the Effective Date, the reasonable royalty value of the PDL Patents is […]% of net sales of products covered by the PDL Patents and is expected to increase above this level; and

(c) PDL has made concessions and sacrifices to Genentech in its licensing revenue and licensing business in exchange for Genentech's promises, covenants, representations, and warranties in this Settlement Agreement.

(d) Genentech has failed to pay royalties to PDL for certain of the Four Products prior to the Effective Date, which royalties Genentech now believes are payable and shall be paid in accordance with the applicable PDL License Agreements.

4.2 Genentech and PDL therefore agree that, in the event that Genentech violates or fails to comply with Section 2.3 or 2.4 of this Settlement Agreement in any respect, PDL shall notify Genentech of such violation or failure to comply, and Genentech shall have ten (10) days to cure such violation or failure to comply (the **"Cure Period"**). If Genentech fails to cure such violation, continues to violate, or fails to comply with Section 2.3 or 2.4 of this Settlement Agreement at the end of the Cure Period, PDL shall be entitled to invoke the following additional relief:

(a) PDL may terminate each and any PDL License Agreement, including, without limitation, the Herceptin License Agreement, the PDL License Agreements for Xolair, Raptiva, and Avastin, and any other PDL License Agreement, in any sequence, at any time, individually, or in any combination, and may terminate all of Genentech's rights under the PLMA to take additional licenses under the PDL Patent Family;

(b) In the event PDL elects not to exercise its termination rights under Section 4.2(a), PDL may suspend the operation of: (i) Section 4.1, entitled "Royalties," to the PLMA; and (ii) Section 3.04 of any PDL License Agreement that PDL elects not to terminate under Section 4.2(a). In such a case, Genentech will be required to pay a royalty rate of 3.75% (or any higher royalty rate at which PDL has licensed the PDL Patents), under each PDL License Agreement, on all GNE US Net Sales of such Licensed Product occurring following the end of the Cure Period as well as on all GNE US Net Sales for which royalties have accrued but have not yet been paid;

(c) Upon PDL's written request, Genentech shall pay PDL royalties at a rate of 3.75% of all GNE US Net Sales (or any higher royalty rate at which PDL has licensed the PDL Patents) of each GNE Licensed Product, from the Effective Date of the PDL License Agreement for such GNE Licensed Product to the end of the Cure Period, minus any royalties already paid by Genentech to PDL for such GNE Licensed Product;

(d) Upon PDL's written request, Genentech shall immediately pay PDL liquidated damages of $[…] million for costs incurred by PDL and disruption of PDL's business in response to Genentech's violation of or failure to comply with Section 2.3 or 2.4 of this Settlement Agreement;

(e) Upon PDL's written request, Genentech shall immediately pay PDL liquidated damages of $[…] million for the harm and decreased value of PDL's licensing business resulting from PDL's agreements with Genentech and the harm PDL will suffer from the business uncertainty caused by the disagreement and Genentech's violation of Section 2.3 or 2.4 of this Settlement Agreement;

(f) PDL shall have the right to reduce any payments it owes or becomes obligated to make to Genentech under any and all GNE License Agreements to a royalty rate of […]% of PDL ROW Net Sales and […]% of PDL US Net Sales.

(g) In the event Genentech fails to pay PDL any amounts owed under this Section 4.2, PDL may deduct such amounts from any amounts that PDL owes to Genentech under any and all GNE License Agreements.

(h) Upon PDL's written request, Genentech shall reimburse PDL for any and all attorneys' fees and expenses arising out of or relating in any way to Genentech's failure to comply with Section 2.3 or 2.4 and any events resulting therefrom.

(i) The parties agree and stipulate that regardless of any possibility or opportunity for cure in this Settlement Agreement, PDL will be immediately and irreparably injured by Genentech's violation of Section 2.3 or 2.4, and Genentech stipulates and agrees to the entry of injunctive relief, specific performance, and any other appropriate emergency relief in any court with jurisdiction prohibiting Genentech's continued violations of Section 2.3 or 2.4.

5. CONFIDENTIALITY

5.1 Other than the fact that the dispute between the Parties has been resolved, and the fact that the Parties have entered into this Settlement Agreement, the Parties shall not disclose the terms of this Settlement Agreement to any third party except under the terms below:

(a) with the prior written consent of the other Party; or

(b) to any governmental body demanding such terms which has jurisdiction to compel production; or

(c) to the U.S. Securities Exchange Commission or any equivalent foreign regulatory authority, with a request for confidential treatment of the financial terms;

(d) as otherwise may be required by law, legal processes, or accounting requirements; or

(e) to legal counselors, auditors, or other similar professionals representing a Party, who are under a general obligation of confidentiality with respect to information disclosed to them by such Party.

5.2 When providing a disclosure under Sections 5.1(a) or (d), the divulging Party will, absent written agreement of the other Party to the contrary and to the extent permitted by law, enter into a written non-disclosure agreement with the receiving party under which the receiving party agrees to keep such disclosed information in strict confidence. When disclosing under Sections 5.1(b) or (c), the disclosing Party will provide notice to the other Party of the matters to be disclosed as far in advance of the disclosure as is reasonably practicable.

5.3 The Parties agree that no press releases or other public announcements concerning this Settlement Agreement will be issued, except in the form attached hereto as Exhibit A and except in response to questions relating thereto.

6. TERM

6.1 This Settlement Agreement shall become effective upon the Effective Date, and shall remain in full force and effect until the last to expire of the issued claims within the PDL Patent Family, except that the provisions of Articles 5, 7, and 8 shall survive termination of this Settlement Agreement.

7. WARRANTY AND DISCLAIMER

7.1 Genentech represents and warrants to PDL that Genentech will not: (i) knowingly or intentionally file or otherwise initiate or participate in a lawsuit, arbitration proceeding, United States Patent And Trademark Office interference or other legal proceeding in the United States in which Genentech alleges or seeks a determination that one or more claims of an issued patent within the PDL Patent Family is invalid or unenforceable; or (ii) knowingly or intentionally provide assistance to any party alleging or seeking a determination that one or more claims of an issued patent within the PDL Patent Family is invalid or unenforceable, except as required by law; (iii) knowingly or intentionally encourage another party to allege or to seek a determination that one or more claims of an issued patent within the PDL Patent Family is invalid or unenforceable, (iv) knowingly or intentionally refuse to pay royalties to PDL under a PDL License Agreement on the ground that one or more claims of an issued patent within the PDL Patent Family is invalid or unenforceable, or (v) knowingly or intentionally terminate a PDL License Agreement on the ground that one or more claims of an issued patent within the PDL Patent Family is invalid or unenforceable. The preceding sentence is not intended to, and shall not, prevent Genentech from characterizing the technical aspects of one or more claims of the PDL Patent Family in prosecuting its own patent applications or in litigation with a Third Party concerning either a Genentech patent or a Third Party patent. PDL expressly acknowledges and agrees that Genentech cannot control, and that Genentech therefore shall not be held responsible or liable for, the actions of any Third Party (including but not limited to its development, commercialization or marketing partners) that may decide to challenge the validity or enforceability of any of the PDL Patent Family in any court, agency (including, without limitation, the USPTO), or tribunal, or in any litigation, arbitration, interference, or other proceeding. In the event Genentech is: (i) required by law to provide documents and/or information to a Third Party in connection with a Third Party litigation, arbitration, interference or other proceeding; or (ii) required (and only to the extent it is so required) to provide technical scientific or business documents and/or information (excluding Legal Materials) to any party under a contract or other written agreement between Genentech and such party, Genentech's provision of such documents and/or information under the circumstances set forth in such subsections (i) or (ii) shall not constitute a breach of this Settlement Agreement.

7.2 EACH PARTY MAKES NO REPRESENTATION, EXTENDS NO WARRANTIES OF ANY KIND AND ASSUMES NO RESPONSIBILITY WHATEVER WITH RESPECT TO THE DESIGN, DEVELOPMENT, MANUFACTURE, USE, LEASE OR SALE OF ANY LICENSED PRODUCT, OR PART THEREFOR, BY THE OTHER PARTY, ANY OF ITS AFFILIATES, OR ANY DIRECT OR INDIRECT SUPPLIER OR VENDEE OR OTHER TRANSFEREE OF ANY SUCH COMPANY.

8. MISCELLANEOUS PROVISIONS

8.1 Nothing in this Settlement Agreement shall be construed as:

(a) requiring the filing of any patent application, the securing of any patent or the maintaining of any patent in force;

(b) a warranty or representation that any design, development, manufacture, use, lease or sale of any humanized antibody product, or the use of any method pertaining to humanized antibodies, will be free from infringement of the patent rights of third parties;

(c) an obligation to furnish any manufacturing or technical information or assistance; or

(d) conferring by implication, estoppel or otherwise any license or other right under any patent, except the licenses and rights expressly granted herein (including, but not limited to, the licenses under the PDL License Agreements for Herceptin, Xolair, Raptiva and Avastin (subject to regulatory approval).

8.2 This Settlement Agreement may be amended or modified only by an instrument in writing duly executed by the authorized representatives of the Parties.

8.3 All notices required or permitted to be given hereunder shall be in writing and shall be valid and sufficient if dispatched by overnight mail, postage prepaid, return receipt requested, or if dispatched by confirmed fax, addressed as follows:

If to Genentech:

Genentech, Inc.
1 DNA Way
South San Francisco, CA 94080
ATTENTION: Corporate Secretary
Facsimile No.: (650) 952-9881

If to PDL:

Protein Design Labs, Inc.
34801 Campus Drive
Fremont, CA 94555
ATTENTION: Chief Executive Officer
cc: General Counsel
Facsimile No.: (510) 574-1500

The aforementioned address of either party may be changed at any time by giving ten (10) days advance notice to the other party in accordance with the foregoing.

8.4 The captions used in this Settlement Agreement are for convenience only and shall not be used in interpreting this Settlement Agreement.

8.5 If any term, clause, or provision of this Settlement Agreement shall be judged to be invalid, the validity of any other term, clause, or provision shall not be affected; and such invalid term, clause, or provision shall be deemed deleted from this Settlement Agreement and the Settlement Agreement shall be enforced as if the deleted provision had never been part hereof unless to do so materially alters a responsibility owed by the Party against whom enforcement is sought, and in such an event this Settlement Agreement shall be subject to reformation to achieve for the Parties the benefit and responsibilities most appropriate under those changed circumstances.

8.6 This Settlement Agreement sets forth the entire agreement and understanding between the Parties as to the subject matter hereof and supersedes all prior discussions, agreements and representations, whether oral or written, and none of the Parties shall be bound by any conditions, definitions, warranties, understandings or representations with respect to such subject matter other than as expressly provided in this Settlement Agreement or as duly set forth on or subsequent to the date hereof in writing and signed by a proper and duty authorized official of the Party to be bound thereby.

8.7 This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of California.

8.8 Both Parties and their counsel have reviewed and contributed to the drafting of this Settlement Agreement, and the rule of construction providing that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Settlement Agreement. This Settlement Agreement shall be construed as if drafted by both Parties.

The undersigned warrant, as representatives for their respective Parties, that they have the authority to bind their respective Parties under the terms of this Settlement Agreement.

Protein Design Labs, Inc.

By: /s/ Douglas O. Ebersole
Title: Senior VP, Legal & Corp. Dev.

Genentech, Inc.

By: /s/ Stephen G. Juelsgaard
Title: Executive Vice President & General Counsel

Exhibit 10.2

[…] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

AMENDED AND RESTATED PATENT LICENSING MASTER AGREEMENT

(QUEEN PATENTS)

This AMENDED AND RESTATED PATENT LICENSING MASTER AGREEMENT (this "Agreement") is entered into as of July 27, 2009 (the "Effective Date") by and between PDL BioPharma, Inc., a corporation organized and existing under the laws of the State of Delaware and having its principal office at 932 Southwood Boulevard, Incline Village, Nevada 89451 (hereinafter referred to as "PDL"), and Genentech, Inc., a corporation organized and existing under the laws of the State of Delaware and having its principal office at 1 DNA Way, South San Francisco, California 94080 (hereinafter referred to as "GNE").

RECITALS

WHEREAS, PDL has exclusive rights to certain patents designated as the Queen patents;

WHEREAS, GNE desires to obtain certain nonexclusive license rights under the Queen patents for the development, manufacture and commercialization of antibody products directed against antigens under the terms and conditions set forth below;

WHEREAS, PDL and GNE previously entered into a Patent Licensing Master Agreement, dated September 25, 1998 (the "Original Effective Date") as amended by Amendment No. 1 on September 18, 2003 and by Amendment No. 2 on December 18, 2003, which provided certain rights to GNE to obtain licenses to PDL's Queen Patents and certain rights to PDL to obtain licenses to GNE's Cabilly Patents (the "Original PLMA");

WHEREAS, on December 17, 2008 PDL transferred, contributed, assigned and conveyed to Facet Biotech Corporation ("Facet"), which was then a wholly-owned subsidiary of PDL, certain biotechnology operations related assets, and Facet accepted and assumed from PDL certain biotechnology operations related liabilities, and thereafter PDL spun-off Facet as a separate company independent from PDL (the "Spin-off");

WHEREAS, in connection with the Spin-off, PDL agreed to transfer, assign and convey to Facet, and Facet agreed to accept and assume the Cabilly-related rights and obligations under the Original PLMA; and

WHEREAS, in view of the foregoing, PDL and GNE now wish to amend the Original PLMA and separate the Original PLMA, as amended, to facilitate the transfer, assignment and conveyance to Facet of the Cabilly-related rights and obligations under the Original PLMA, as amended, as set forth in a separate agreement dated as of the date hereof (the "Cabilly Agreement"), while PDL retains the Queen-related rights and obligations under the Original PLMA, as amended, as set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. DEFINITIONS

All references to particular Exhibits, Articles and Sections shall mean the Exhibits to, and Articles and Sections of, this Agreement, unless otherwise specified. References to this "Agreement" include the Exhibits. For the purposes of this Agreement the following words and phrases shall have the following meanings:

1.1 "Affiliate" means any corporation or other business entity controlled by, controlling, or under common control with another entity, with "control" meaning direct or indirect beneficial ownership of more than fifty percent (50%) of the voting stock of such corporation, or more than a fifty percent (50%) interest in the decision-making authority of such other unincorporated business entity; and a corporation in which the maximum amount of stock permitted by law to be held by another entity is beneficially owned by such other entity. Notwithstanding the foregoing, for purposes of this Agreement, Roche Holdings, Inc. and its affiliates (other than GNE and its subsidiaries) shall not be deemed Affiliates of GNE unless and until GNE opts to include Roche Holdings, Inc. or such an affiliate as an Affiliate of GNE by giving written notice to PDL. For purposes of this Agreement, "Roche" shall mean Roche Holdings, Inc. together with its affiliated companies (other than GNE and its subsidiaries).

1.2 "Antibody" means any antibody directed against an Antigen and shall include, without limitation, monospecific and bispecific antibodies (but a separate license shall be required for the antigen involved for each arm of a bispecific antibody); less than full-length antibody forms such as Fv, Fab, and $F(ab')_2$; single-chain antibodies; and antibody conjugates bound to a toxin, label or other moiety. The term "Antibody" shall include any and all such constructs directed against any particular Antigen.

1.3 "Antigen" means a target molecule, usually a protein, to which an Antibody specifically binds and includes all epitopes on that target molecule.

1.4 "Europe" means the European Patent Convention Member Countries, including any successor organization and any additional countries that may join such organization from time to time during the term of this Agreement.

1.5 "GNE Antigen Extension Fee" means the fee defined in Section 3.4(a).

1.6 "GNE Double Up Fee" means the fee defined in Section 3.4(b).

1.7 "GNE Licensed Product" means an Antibody with respect to which GNE has either significant marketing rights or has done significant development (e.g., created, humanized or conducted preclinical or clinical development), the manufacture, import, use, offer to sell or sale of which would infringe, if not licensed under this Agreement, one or more claims of a PDL Licensed Patent which have neither expired nor have been disclaimed nor have been held invalid or unenforceable by a court or other body of competent jurisdiction from which no appeal has been or may be taken.

1.8 "GNE Named Antigen(s)" means the following Antigens: […].

1.9 "GNE ROW Net Sales" means Net Sales (as such term is defined under the form PDL License Agreement) of GNE Licensed Product(s) other than GNE US Net Sales.

1.10 "GNE US Net Sales" means Net Sales (as such term is defined under the form PDL License Agreement) of GNE Licensed Products(s) made, imported, used, offered for sale or sold in the United States.

1.11 "Opposition Proceedings" means the legal proceedings at the European Patent Office (**"EPO"**) initiated against EP patent 451,216B1 and terminating at the decision (oral and/or written) rendered by the Opposition Division (**"OD"**) of the EPO, but excluding any proceedings resulting from the filing of an appeal to the OD's decision.

1.12 "PDL License Agreement(s)" means the form of PDL License Agreement attached as **Exhibit A**.

1.13 "PDL Licensed Patents" means the patents and patent applications identified on **Exhibit B** and including any applications filed as of the Original Effective Date in the United States or any foreign jurisdiction. Licensed Patents shall include U.S. or foreign patents or patent applications which claim priority to any application to which a listed U.S. patent also claims priority. PDL Licensed Patents shall also include any foreign equivalents, addition, continuation, continuation-in-part or division of such patents or patent applications or any substitute applications therefor, any patent issued with respect to any such patent application, any reissue, extension or patent term extension of any such patent, and any confirmation patent or registration patent or patent of addition based on any such patent. Attached hereto as **Exhibit B** is a list of patents and patent applications that PDL in good faith believes represents PDL Licensed Patents as of the Original Effective Date.

1.14 "PDL Named Antigen(s)" means the following Antigens: […].

2. GNE'S RIGHTS TO LICENSES

2.1 Election. Subject to the terms and conditions of this Agreement and in partial consideration of the rights granted to PDL in Section 5 of the Original Agreement and in Section 2 of the Cabilly Agreement, PDL hereby grants to GNE (a) through the period and subject to the limitation on the number of Antigens provided in Section 2.2, the right to receive for each Antigen designated by GNE, a nonexclusive, worldwide (except as provided in Section 3.2(a)(ii)) license under the PDL Licensed Patents to make, have made, use, import, offer to sell and sell Antibodies pursuant to a PDL License Agreement. This right shall not extend to the PDL Named Antigens. The rights of GNE under the PDL License Agreements shall include the right to grant sublicenses for Antibodies in accordance with the terms of the applicable PDL License Agreement. Each license elected by GNE hereunder shall be pursuant to a separate PDL License Agreement and effective as of the date of execution by both parties.

2.2 Numberof Licensed Antigens; Term of Rights.

(a) **Limit on Number of Antigens**. Except as provided in Section 2.2(c), GNE's right to obtain licenses pursuant to Section 2.1 may be exercised for Antibodies directed against a maximum total of six (6) Antigens. As of the Effective Date, GNE has already exercised licenses with respect to the following Antigens: […].

(b) **Expiration of Rights to Elect**. Except as provided in Section 2.2(c), GNE's right to obtain licenses pursuant to Section 2.1 shall expire on […]; provided that GNE may elect to extend the expiration period for each license right under Section 2.1 not exercised by […] for an additional […] year period by written notice and payment of the GNE Antigen Extension Fee to PDL prior to […] as provided in Section 3.4(a). On December 22, 2008, GNE notified PDL of its election to extend the expiration period under this Section 2.2(b) until […] for such license right for […] Antigens and paid PDL the applicable GNE Antigen Extension Fee.

(c) **Double Up Right**. Upon written notice to PDL and payment of the GNE Double Up Fee at any time prior to […], GNE may elect a minimum of three (3) and up to a maximum of […] additional Antigens, at GNE's discretion, under Section 2.1 for a period of […] years following the date of such notice; provided that rights to elect licenses with respect to the first […] Antigens shall expire as of […] unless otherwise extended pursuant Section 2.2(b). On December 22, 2008, GNE notified PDL of its election under this Section 2.2(c) of an additional […] Antigens and paid PDL the applicable GNE Double Up Fee. Notwithstanding anything to the contrary in this Section 2.2(c), GNE's right to elect licenses to an additional […] Antigens under this Section 2.2(c) shall expire […].

2.3 Procedurefor Exercise of License Rights.

GNE shall provide PDL with written notice identifying the Antigen for which GNE desires to enter into a PDL License Agreement pursuant to the provisions of Section 2.1. Such written notice shall occur no later than ten (10) days following first regulatory approval of a product incorporating an Antibody directed against the relevant Antigen. Within fifteen (15) business days of the written notice, GNE shall pay the applicable License Exercise Fee specified in Section 3.2(a). PDL shall promptly review and respond in writing to the request by GNE for a license within ten (10) business days of receipt of the written request. PDL may deny GNE's request for a license grant only if PDL has previously granted an exclusive or co-exclusive license or an unexpired option for an exclusive or co-exclusive license with respect to Antibodies to the identical Antigen or is then actively engaged in bona fide negotiations for such an exclusive or co-exclusive license or option for an exclusive or co-exclusive license; provided, however, that with respect to each of the GNE Named Antigens and […], PDL shall provide GNE written notice prior to entering into an exclusive or co-exclusive license or option with any third party with respect to that GNE Named Antigen or […] and shall permit GNE the opportunity to exercise its rights under Section 2.1 for a period not to exceed fifteen (15) days for a license for such GNE Named Antigen or […] prior to the conclusion of an agreement with such third party for such a license or option. In the event that PDL denies GNE's request, as set forth herein, for a PDL License Agreement, GNE's right under Section 2.1 shall not be considered exercised. If PDL affirms GNE's request or has not responded within ten (10) business days of

receipt of GNE's request under this Section 2.3(b), then GNE and PDL shall enter into a PDL License Agreement with respect to the Antigen. For the avoidance of doubt, if GNE has not given PDL notice of its desire to enter into a PDL License Agreement with respect to an Antigen within ten (10) days after first regulatory approval of a product incorporating an Antibody directed against such Antigen, GNE shall no longer have the right to exercise a PDL License Agreement with respect to such Antibody under this Agreement, but GNE shall retain the right to exercise a PDL License Agreement with respect to a different Antibody directed at such Antigen. If, after GNE has exercised its license rights with respect to a particular Antigen and has entered into a PDL License Agreement pursuant to Section 2.1, GNE later has another product incorporating an Antibody that is directed against the same Antigen, then GNE must provide an additional written notice that such product is a GNE Licensed Product no later than ten (10) days following regulatory approval of such other product.

3. GNE'SPAYMENTS

3.1 Initial Fees. PDL acknowledges that within ten (10) days of the Original Effective Date, GNE paid to PDL an initial nonrefundable, noncreditable fee of Six Million Dollars ($6,000,000) for the right to obtain nonexclusive licenses pursuant to Section 2.1. In recognition of the value of the license rights hereunder attributable to Licensed Products that have received regulatory approval, the parties agreed that Five Million Dollars ($5,000,000) of the Six Million Dollars ($6,000,000) paid under this Section 3.1 would be considered payment attributable to the first license hereunder.

3.2 LicenseExercise Fees.

(a) **License Exercise Fee**. Within fifteen (15) business days after the delivery of a written notice to PDL for a nonexclusive license for Antibodies for one (1) Antigen under Section 2.1. GNE shall pay to PDL an exercise fee ("GNE License Exercise Fee") of either:

(i) One Million Dollars ($1,000,000) […]

provided further that such amounts shall be increased annually beginning January 1, 1999 and on each January 1 thereafter by an amount equal to the Consumer Price Index-U (or its successor) published by the U.S. Bureau of Labor Statistics ("CPI-U") for the prior year. All adjustments hereunder shall be payable within fifteen (15) days of the publication of the CPI-U for the applicable year. GNE shall be entitled to deduct from the applicable GNE License Exercise Fee paid to PDL any amounts not previously credited and subject to credit under Section 3.2(b). All such deductions shall be documented with any payments made hereunder.

(b) **Credits**. […]

3.3 Annual Maintenance Fees. Each PDL License Agreement shall provide for the payment to PDL of an annual maintenance fee beginning on the […] anniversary of each PDL License Agreement of either:

(a) […]

(b) […]

The PDL License Agreement shall further provide that annual maintenance fees shall be […] against royalties payable in the year with respect to which such annual maintenance fee is paid.

3.4 GNEAntigen Extension Fee; GNE Double Up Fee

(a) **GNE Antigen Extension Fee.** Concurrent with the delivery of the written notice of election to extend the expiration period of an exercise right under Section 2.2(b), GNE shall pay to PDL for each Antigen with respect to which GNE desires to extend such exercise period, a nonrefundable, noncreditable extension fee of […].

(b) **GNE Double Up Fee.** Concurrent with the delivery of the written notice of election of the "double up" right under Section 2.2(c), GNE shall pay to PDL for each additional Antigen under Section 2.2(c), a nonrefundable, noncreditable fee of […] (the "**GNE Double Up Fee**").

4. GNE'S ROYALTIES

4.1 RoyaltyRates.

(a) **GNE ROW Net Sales**. GNE will pay royalties to PDL under each executed PDL License Agreement (including the Herceptin License Agreement), notwithstanding any provision of such PDL License Agreement to the contrary, at the rate of three percent (3%) of GNE ROW Net Sales by GNE, its Affiliates and sublicensees and Roche of each GNE Licensed Product. Royalties for any GNE ROW Net Sales of any GNE Licensed Product sold prior to the effective date of such PDL License Agreement shall be paid in the first royalty payment under such PDL License Agreement.

(b) **GNE US Net Sales**. GNE will pay royalties to PDL under each executed PDL License Agreement (including the Herceptin License Agreement), notwithstanding any provision of such PDL License Agreement to the contrary, on total annual GNE US Net Sales by GNE, its Affiliates and sublicensees and Roche for all GNE Licensed Product(s) at the following rates:

Total Annual GNE US Net Sales For All GNE Licensed Products	Royalty Rate
First $1.5 billion	3.0%
Next $1.0 billion (from $1.5 billion through $2.5 billion)	2.5%
Next $1.5 billion (from $2.5 billion through $4.0 billion)	2.0%
Total amounts over $4.0 billion	1.0%

Such total annual GNE US Net Sales shall be calculated on a calendar year basis. Royalties for any GNE US Net Sales of any GNE Licensed Product sold prior to the effective date of such PDL License Agreement shall be paid in the first royalty payment under such PDL License Agreement, and shall be included in the total annual GNE US Net Sales for the calendar year in which such GNE US Net Sales occur.

(c) In the case of a GNE Licensed Product that is a bispecific antibody, to the extent a license is required under the PDL Licensed Patents, each arm of such bispecific antibody shall require a separate license, provided that even if two licenses are required, the bispecific antibody shall be considered one GNE Licensed Product and bear the royalty applicable to one GNE Licensed Product. For example, if two licenses are required for a GNE Licensed Product that is a bispecific antibody that generates GNE ROW Net Sales, the royalty due on such sales of such GNE Licensed Product, even if two licenses are required, shall be three percent (3%) of GNE ROW Net Sales by GNE, its Affiliates and sublicensees and Roche.

4.2 Royalties to Third Parties. GNE acknowledges and agrees that other licenses may be required from third parties with respect to the development, manufacture, use and sale of any products licensed under the PDL License Agreements, and that GNE shall be responsible for any royalties and other payments with respect to those license rights. In no event shall GNE have a right to credit against, reduce or otherwise offset any royalty or payment obligations to such third parties against royalty amounts payable to PDL under the PDL License Agreements.

5. REPRESENTATIONS, DISCLAIMERS

5.1 Representations of PDL. PDL represents and warrants to GNE that:

(a) The execution, delivery and performance of this Agreement by PDL will not, with or without notice, the passage of time or both, result in any violation of, be in conflict with, or constitute a default under any material contract, obligation or commitment to which PDL is a party or by which it is bound, or to PDL's knowledge, violate any statute, rule or governmental regulation applicable to PDL.

(b) PDL has all requisite legal and corporate power and authority to enter into this Agreement and to carry out and perform its obligations under the terms of this Agreement.

(c) The PDL Licensed Patents constitute all of the patents and patent applications owned by PDL as of the Original Effective Date which relate generally to the humanization of antibodies.

5.2 Representations of GNE. GNE represents and warrants to PDL that:

(a) The execution, delivery and performance of this Agreement by GNE will not, with or without notice, the passage of time or both, result in any violation of, be in conflict with, or constitute a default under any material contract, obligation or commitment to which GNE is a party or by which it is bound, or to GNE's knowledge, violate any statute, rule or governmental regulation applicable to GNE.

(b) GNE has all requisite legal and corporate power and authority to enter into this Agreement and to carry out and perform its obligations under the terms of this Agreement.

5.3 No Warranty of Validity, Non-Infringement. Nothing in this Agreement shall be construed as (a) a warranty or representation by GNE as to the validity or scope of any GNE Licensed Patents; or (b) a warranty or representation that anything made, used, sold or otherwise disposed of under any PDL License Agreement is or will be free from infringement of patents, copyrights, trademarks, trade secrets or other rights of third parties.

5.4 Disclaimer of Warranties. EXCEPT AS SPECIFICALLY SET FORTH IN SECTIONS 5.1 AND 5.2 ABOVE, NEITHER PDL NOR GNE MAKE TO THE OTHER ANY REPRESENTATIONS OR EXTEND ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. FURTHER, PDL DOES NOT MAKE TO GNE ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR THAT PRACTICE UNDER THE PDL LICENSED PATENTS UNDER A PDL LICENSE AGREEMENT WILL NOT INFRINGE ANY THIRD PARTY RIGHTS.

6. CONFIDENTIALITY; DISCLOSURE

6.1 Prior Agreement. This Agreement supersedes any and all previous agreements and understandings, whether oral or written, between the parties regarding the treatment of confidential information, including without limitation the Original PLMA and that certain Confidentiality Agreement entered into between PDL and GNE as of September 4, 1997.

6.2 Confidentiality. During the term of this Agreement and for a period of five (5) years following expiration or termination of this Agreement, each party shall maintain in confidence all information and materials disclosed by the other party in writing and marked as confidential or disclosed orally or otherwise and which has been denominated in writing by the disclosing party to be confidential within 30 days after such disclosure, including, without limitation, information relating to the PDL Licensed Patents and GNE Licensed Products, and the business plans of the other party, including information provided by either party to the other party prior to the Original Effective Date, and shall not use such trade secrets or proprietary information for any purpose except as permitted by this Agreement or disclose the same to anyone other than those of its Affiliates, sublicensees, employees, consultants, agents or subcontractors as are necessary in connection with such party's activities as contemplated in this Agreement. Each party shall obtain an appropriate enforceable agreement from any sublicensees, employees, consultants, agents and subcontractors, prior to disclosure, to hold in confidence and not make use of such trade secrets or proprietary information for any purpose other than those permitted by this Agreement. GNE may disclose to Roche such trade secrets or proprietary information of PDL (other than any such trade secrets or proprietary information of PDL regarding the validity or enforceability of the PDL Licensed Patents disclosed to GNE during the negotiation of the Settlement Agreement (as defined below)) to facilitate the coordination of business operations between Roche and GNE; provided Roche agrees to hold in confidence and not make use of such trade secrets or proprietary information for any purpose other than those permitted by this Agreement.

6.3 Exceptions. The obligation of confidentiality contained in this Agreement shall not apply to the extent that (a) either party (the "Recipient") is required to disclose information by order or regulation of a governmental agency or a court of competent jurisdiction, provided that the Recipient shall not make any such disclosure (other than a filing of information or

materials with the U.S. Securities and Exchange Commission made with a request for confidential treatment for portions of such material for which such treatment may reasonably be expected to be granted) without first notifying the other party and allowing the other party a reasonable opportunity to seek injunctive relief from the obligation to make such disclosure or (b) the Recipient can demonstrate that (i) the disclosed information was at the time of such disclosure to the Recipient already in the public domain other than as a result of actions of the Recipient, its Affiliates, employees, sublicensees, agents or subcontractors in violation hereof; (ii) the disclosed information was rightfully known by' the Recipient or its Affiliates (as shown by its written records) prior to the date of disclosure to the Recipient in connection with the negotiation, execution or performance of this Agreement; or (iii) the disclosed information was received by the Recipient or its Affiliates on an unrestricted basis from a source unrelated to any party to this Agreement and not under a duty of confidentiality to the other party, (c) disclosure is made to a government regulatory agency as part of such agency's biological product license approval process or (d) the amount of royalties paid or received is disclosed in a party's financial statements or reports.

6.4 Public Disclosure. Except as required by law or regulation, neither party shall publicly disclose the terms and conditions of this Agreement unless expressly authorized to do so by the other party, which authorization shall not be unreasonably withheld. In the event that disclosure shall be agreed upon then the parties will work together to develop a mutually acceptable disclosure. In any event, each party shall be entitled to identify the number of licenses with respect to which a party has exercised its rights hereunder, licensed Antigens if such Antigens have been previously publicly identified, and the number of Antigens with respect to which a party may obtain a license hereunder.

7. TERM AND TERMINATION

7.1 Term. Unless earlier terminated in accordance with this Article 7, this Agreement shall remain in effect until the expiration of the last PDL License Agreement.

7.2 Default. If either party defaults in the performance of, or fails to be in compliance with, any material agreement, condition or covenant of this Agreement, the party not in default may provide notice of such default to the defaulting party. The provisions for resolution of a default are limited to those set forth in Section 8.6 below.

7.3 Rights and Obligations Upon Termination or Expiration. Upon expiration or termination of this Agreement for any reason, nothing herein shall be construed to release either party from any obligation that matured prior to the effective date of such termination. In addition, the obligations set forth in Articles 6 and 8 shall survive the expiration or termination of this Agreement. Upon termination of this Agreement, each party shall return to the other party any Confidential Information disclosed by the other party under this Agreement.

8. MISCELLANEOUS

8.1 Assignment. This Agreement may not be assigned by either party without the prior written consent of the other, except that either may assign this Agreement without consent to a party which acquires all or substantially all of that portion of the business to which this Agreement pertains, whether by merger, sale of assets or otherwise. A merger or consolidation shall be deemed to constitute an assignment.

8.2 Entire Agreement; Amendment. This Agreement, including Exhibits hereto, constitutes the entire agreement between the parties hereto with respect to the within subject matter and supersedes all previous agreements, whether written or oral, including without limitation the Original PLMA. This Agreement shall not be changed or modified orally, but only by an instrument in writing signed by both parties.

8.3 Severability. If any provision of this Agreement is declared invalid by any court of competent jurisdiction from which an appeal is not taken within the time provided by law, then and in such event, this Agreement will be deemed to have been terminated only as to the portion thereof which relates to the provision invalidated by that decision and only in the relevant jurisdiction, but this Agreement, in all other respects and all other jurisdictions, will remain in force; provided, however, that if the provision so invalidated is essential to this Agreement as a whole, then the parties shall negotiate in good faith to amend the terms hereof as nearly as practical to carry out the original interest of the parties.

8.4 Notices. Any notice or report required or permitted to be given under this Agreement shall be in writing and shall be sent by express courier or facsimile and confirmed by mailing, as ‘ follows (or at such other address as PDL or GNE shall have furnished to the other in writing) and shall be effective three (3) days business after such mailing:

If to PDL:
PDL BioPharma, Inc.
932 Southwood Blvd.
Incline Village, NV 89451
Attention: General Counsel

Facsimile number: (775) 832-8501

If to GNE:
Genentech, Inc.
1 DNA Way
South San Francisco, CA 94080
Attention: Corporate Secretary

Facsimile number: (650) 225-8654

8.5 Choice of Law. The validity, performance, construction, and effect of this Agreement and any arbitration conducted under Section 8.6 below shall be governed by the laws of the State of California which are applicable to contracts between California residents to be performed wholly within California.

8.6 DisputeResolution.

(a) **Negotiations**. Any dispute, controversy or claim arising out of or relating to any provision of this Agreement or a GNE License Agreement or the interpretation, enforceability, performance, breach, termination or validity hereof or thereof, including without limitation, this dispute resolution provision, shall be subject to the procedures set forth in this

Section 8.6. A designated representative of PDL and GNE will meet as reasonably requested by either party to review any dispute, controversy or claim arising out of or relating to any provision of this Agreement or a GNE License Agreement. If the disagreement is not resolved by the designated representatives by mutual agreement within thirty (30) days after a meeting to discuss the disagreement, either party may at any time thereafter provide the other written notice specifying the terms of such disagreement in reasonable detail. Upon receipt of such notice, the chief executive officers of PDL and GNE shall meet at a mutually agreed upon time and location for the purpose of resolving such disagreement. They will discuss the problems and/or negotiate for a period of up to sixty (60) days in an effort to resolve the disagreement or negotiate an acceptable interpretation or revision of the applicable portion of this Agreement mutually agreeable to both parties, without the necessity of formal procedures relating thereto. During the course of such negotiations, the parties will reasonably cooperate and provide information that is not materially confidential in order that each of the parties may be fully informed with respect to the issues in dispute. The institution of a formal legal proceeding under Section 8.6(a) or (b) to resolve the disagreement may occur by written notice to the other party only after the earlier of: (a) the chief executive officers mutually agreeing that resolution of the disagreement through continued negotiation is not likely to occur, or (b) following expiration of the sixty (60) day negotiation period. Participation in the Opposition Proceedings shall not be subject to the provisions of this Section 8.6.

(b) **Arbitration**. Subject to Section 8.6(a), any dispute, controversy or claim arising out of or in connection with or relating to this Agreement or the breach or alleged breach thereof, but not including any dispute, controversy or claim concerning the validity of any PDL Licensed Patent, shall be submitted by the parties to arbitration in Santa Clara County, California in accordance with the then-current commercial arbitration rules of the American Arbitration Association ("AAA") except as otherwise provided herein.

If the dispute, controversy or claim concerns the validity of any PDL Licensed Patent, all matters subject to dispute, controversy or claim hereunder shall be removed to Federal District Court as provided in Section 8.6(c).

Any arbitration proceeding hereunder shall be held in English and a transcribed record prepared in English. The parties shall choose, by mutual agreement, one (1) neutral arbitrator within thirty (30) days of receipt of notice of the intent to arbitrate. If no arbitrator is appointed within the times herein provided or any extension of time which is mutually agreed upon, the AAA shall make such appointment of a person who shall devote substantial time to arbitrating within thirty (30) days of such failure. Discovery permitted by the arbitrator shall be pursuant to California Code of Civil Procedure Sections 1283.05 and 1283.1, provided that all discovery shall be completed within sixty (60) days of the appointment of such arbitrator and the decision rendered by such arbitrator shall thereafter be delivered in writing setting forth the basis therefor within thirty (30) days after the completion of discovery. The award rendered by the arbitrator shall include costs of arbitration, reasonable attorneys' fees and reasonable costs for expert and other witnesses, and judgment on such award may be entered in any court having jurisdiction thereof. Nothing in this Agreement shall be deemed as preventing either party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the parties and the subject matter of the dispute but only to the extent necessary to protect either party's name, proprietary information, trade secrets, know-how or any other similar proprietary

rights. If the issues in dispute involve scientific or technical matters related to monoclonal antibody technology, any arbitrator chosen hereunder shall have not less than five (5) years of educational training and/or experience sufficient to demonstrate a reasonable level of relevant scientific and/or technical knowledge related to monoclonal antibody technology. If the issues in dispute involve patent matters (other than validity of a PDL Licensed Patent), then such arbitrator shall also be a licensed patent attorney or otherwise knowledgeable about patent law matters and to the extent possible, with monoclonal antibody technology. The decision of the arbitrator shall be in writing and shall set forth the basis therefor. The arbitrator shall have the authority to award such remedies as he or she believes appropriate in the circumstances, including, but not limited to, compensatory damages subject to the Three Percent (3%) royalty maximum set forth herein, consequential and incidental damages, interest, tort damages (but not punitive or similar damages) and specific performance and other equitable relief.

(c) **Patent Validity**. Subject to Section 8.6(a), any dispute, controversy or claim (i) which involves the validity of a PDL Licensed Patent issued in the United States shall be subject to actions before the United States Patent and Trademark Office and/or adjudicated in Federal District Court, Northern District of the State of California, and (ii) which involves the validity of a PDL Licensed Patent issued in any other country shall be brought before an appropriate regulatory or administrative body or court in that country. The prevailing party shall be entitled to recover from the other party, the reasonable attorneys' fees, costs and expenses incurred by such prevailing party in connection with any action or proceeding under this Section 8.6(c).

(d) Patent infringement of future products. GNE agrees not to object to PDL's reliance on the stipulation in Section 2.2 of the Settlement Agreement between PDL and GNE dated December 18, 2003 (the "Settlement Agreement") for purposes of analyzing whether future products constitute GNE Licensed Products; provided, however, GNE shall have the right to rebutt any such reliance with information relating to: (i) any and all differences between future products and the Four Products (as defined in the Settlement Agreement); and (ii) any factual or legal determinations relating to the PDL Licensed Patents after the effective date of the Settlement Agreement (including, but not limited to, orders and judgments resulting from Markman proceedings).

8.7 Waiver. The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other party. None of the terms, covenants and conditions of this Agreement can be waived except by the written consent of the party waiving compliance.

8.8 Headings. The captions used herein are inserted for convenience of reference only and shall not be construed to create obligations, benefits, or limitations.

8.9 Counterparts. This Agreement may be executed in counterparts, all of which taken together shall be regarded as one and the same instrument. Execution and delivery of this Agreement by exchange of facsimile copies bearing the facsimile signature of a party hereto shall constitute a valid and binding execution and delivery of this Agreement by such party. Such facsimile copies shall constitute enforceable original documents.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

PDL:	GNE:
PDL BioPharma, Inc.	Genentech, Inc.
By: /s/ Christopher Stone	By: /s/ Sean Johnston
Name: Christopher Stone	Name: Sean Johnston
Title: VP, General Counsel and Secretary	Title: Senior Vice President and General Counsel

Exhibit 10.3

July 27, 2009

PDL BioPharma, Inc.
932 Southwood Blvd.
Incline Village, NV 89451
Attention: Mr. Chris Stone, General Counsel

Re: Amendments to Product Licenses and Settlement Agreement.

Dear Mr. Stone:

The following three paragraphs provide background information for this letter agreement (this "Letter Agreement") between Genentech, Inc. ("Genentech") and PDL BioPharma, Inc. ("PDL"):

A. WHEREAS, Genentech and PDL are parties to the following agreements:

(i) PDL License Agreement between PDL and Genentech, dated as of November 3, 1998, as amended, re: HER-2/neu/erbB2 (the "HER-2 License");

(ii) PDL License Agreement between PDL and Genentech, dated as of March 5, 2004 re: VEGF (the "VEGF License");

(iii) PDL License Agreement between PDL and Genentech, dated as of December 18, 2003 re: CD11a (the "CD11a License");

(iv) PDL License Agreement between PDL and Genentech, dated as of December 18, 2003 re: IgE (the "IgE License") ((i) – (iv), collectively the "Product Licenses"); and

(v) Settlement Agreement between PDL and Genentech, dated as of December 18, 2003 (the "Settlement Agreement"); and

B. WHEREAS, as of the date hereof, Genentech and PDL have entered into the Amended and Restated Patent Licensing Master Agreement (Queen Patents) (the "Master Agreement"); and

C. WHEREAS, in view of the foregoing, Genentech and PDL now wish to amend the Product Licenses and the Settlement Agreement so that certain provisions of such agreements conform to the corresponding provisions in the Master Agreement.

NOW THEREFORE, Genentech and PDL agree, effective as of June 29, 2009 (the "Effective Date"), as follows:

1. Recital A of each Product License is hereby deleted in its entirety and replaced with the following sentence:

   GNE and PDL have entered into a Patent Licensing Master Agreement effective September 25, 1998, as amended by Amendment No. 1 To The Patent Licensing Master Agreement dated September 18, 2003 and Amendment No. 2 To The Patent Licensing Master Agreement dated December 18, 2003 and as amended and restated by the Amended and Restated Patent Licensing Master Agreement (Queen Patents) effective July 27, 2009 (such amended and restated agreement, the "Master Agreement"), pursuant to which GNE may enter into this Agreement with respect to a license under the "Queen Patents" for GNE's antibody products.

2. The last sentence of Section 1.01 of each Product License is hereby deleted in its entirety and replaced with the following two sentences:

   Notwithstanding the foregoing, for purposes of this Agreement, Roche Holdings, Inc. and its affiliates (other than GNE and its subsidiaries) shall not be deemed Affiliates of GNE unless and until GNE opts to include Roche Holdings, Inc. or such an affiliate as an Affiliate of GNE by giving written notice to PDL. For purposes of this Agreement, "Roche" shall mean Roche Holdings, Inc. together with its affiliated companies (other than GNE and its subsidiaries).

3. In Article 6 of each Product License, the reference to "Article 9 of the Master Agreement" is hereby changed to "Article 6 of the Master Agreement."

4. In Section 7.02(b) of each Product License, the reference to "Section 11.6 of the Master Agreement" is hereby changed to "Section 8.6 of the Master Agreement."

5. In Section 8.02 of each Product License, the reference to "Section 8.02 of the Master Agreement" is hereby changed to "Section 8.6 of the Master Agreement."

6. In Section 8.04 of each Product License, the reference to PDL's name, address and facsimile number is hereby deleted in its entirety and replaced with the following:'

   If to PDL: PDL BioPharma, Inc.
   932 Southwood Blvd.
   Incline Village, NV 89451
   Attention: General Counsel

   Facsimile number: (775) 832-8501

7. The third WHEREAS clause of the Settlement Agreement is hereby deleted in its entirety and replaced with the following sentence:

WHEREAS PDL and Genentech are parties to that certain Patent Licensing Master Agreement dated September 25, 1998, as amended by Amendment No. 1 To The Patent Licensing Master Agreement dated September 18, 2003 and Amendment No. 2 To The Patent Licensing Master Agreement dated December 18, 2003 and as amended and restated by the Amended and Restated Patent Licensing Master Agreement (Queen Patents) effective July 27, 2009 (such amended and restated agreement, the **"PLMA"**), and are parties to that certain PDL License Agreement dated November 3, 1998, as amended by Amendment No. 1 To The Herceptin License Agreement dated December 18, 2003 and the Letter Agreement between Genentech and PDL dated July 29, 2009 (collectively, the **"Herceptin License Agreement"**) under which PDL licensed the PDL Patents to Genentech for the Herceptin antibody product;

8. Section 1.9 of the Settlement Agreement is hereby deleted in its entirety and replaced with the following three sentences:

"Third Party" means a person or entity that is not Genentech or a Genentech Affiliate. For purposes of this Settlement Agreement, **"Affiliate"** means any corporation or other business entity controlled by, controlling, or under common control with another entity, with "control" meaning direct or indirect beneficial ownership of more than fifty percent (50%) of the voting stock of such corporation, or more than a fifty percent (50%) interest in the decision-making authority of such other unincorporated business entity; and a corporation in which the maximum amount of stock permitted by law to be held by another entity is beneficially owned by such other entity. Notwithstanding the foregoing, for purposes of this Settlement Agreement, Roche Holdings, Inc. and its affiliates (other than GNE and its subsidiaries) shall not be deemed Affiliates of GNE unless and until GNE opts to include Roche Holdings, Inc. or such an affiliate as an Affiliate of GNE by giving written notice to PDL.

As of the Effective Date, each reference in a Product License, or the Settlement Agreement to "this Agreement," "this Settlement Agreement," "hereunder," "hereof" or words of like import referring to such Product License or the Settlement Agreement shall mean and be a reference to such Product License or the Settlement Agreement, as applicable, as amended by this Letter Agreement. Each Product License and the Settlement Agreement, as amended by this Letter Agreement, is and shall continue to be in full force and effect.

If PDL is in agreement with the terms and conditions of this Letter Agreement, please have an authorized representative sign the originals in the space provided below, and return one signed original to the attention of Mr. Nicholas Galli, M/S 49, Genentech, Inc., 1 DNA Way, South San Francisco, CA 94080.

[SIGNATURE PAGE FOLLOWS]

Sincerely,

Genentech, Inc.

By: /s/ Sean Johnston

Name: Sean Johnston

Title: Senior Vice President and General Counsel

AGREED:

PDL BioPharma, Inc.

By: /s/ Christopher Stone

Name: Christopher Stone

Title: VP, General Counsel and Secretary

Exhibit 31.1

CERTIFICATIONS

I, John P. McLaughlin, President and Chief Executive Officer of PDL BioPharma, Inc., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of PDL BioPharma, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 9, 2010

/s/ John P. McLaughlin

John P. McLaughlin
President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATIONS

I, Christine R. Larson, Vice President and Chief Financial Officer of PDL BioPharma, Inc., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of PDL BioPharma, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 9, 2010

/s/ Christine R. Larson

Christine R. Larson
Vice President and Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION

John P. McLaughlin, President and Chief Executive Officer, and Christine R. Larson, Vice President and Chief Financial Officer, of PDL BioPharma, Inc. (the "Registrant"), each hereby certifies in accordance with 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, based on his or her knowledge:

(1) the Quarterly Report on Form 10-Q for the quarter ended September 30, 2010 of the Registrant, to which this certification is attached as an exhibit (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

A signed original of this written statement required by Section 906 will be provided to the Securities and Exchange Commission or its staff upon request.

Dated: November 9, 2010

/s/ John P. McLaughlin
John P. McLaughlin
President and Chief Executive Officer
(Principal Executive Officer)

/s/ Christine R. Larson
Christine R. Larson
Vice President and Chief Financial Officer
(Principal Financial Officer)