

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 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 March 31, 2012.

OR

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

For the transition period from            to            .

Commission file number 001-33528

**OPKO Health, Inc.**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**75-2402409**  
(I.R.S. Employer  
Identification No.)

**4400 Biscayne Blvd.**  
**Miami, FL 33137**  
(Address of Principal Executive Offices) (Zip Code)

**(305) 575-4100**  
(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 Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES  NO

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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) (Check one):

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 May 1, 2012, the registrant had 295,126,572 shares of common stock outstanding.

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## CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains “forward-looking statements,” as that term is defined under the Private Securities Litigation Reform Act of 1995 (“PSLRA”), Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements include statements about our expectations, beliefs or intentions regarding our product development efforts, business, financial condition, results of operations, strategies or prospects. You can identify forward-looking statements by the fact that these statements do not relate strictly to historical or current matters. Rather, forward-looking statements relate to anticipated or expected events, activities, trends or results as of the date they are made. Because forward-looking statements relate to matters that have not yet occurred, these statements are inherently subject to risks and uncertainties that could cause our actual results to differ materially from any future results expressed or implied by the forward-looking statements. Many factors could cause our actual activities or results to differ materially from the activities and results anticipated in forward-looking statements. These factors include those described below and in “Item 1A-Risk Factors” of our Annual Report on Form 10-K for the year ended December 31, 2011, and described from time to time in our other reports filed with the Securities and Exchange Commission. Except as required by law, we do not undertake any obligation to update forward-looking statements. We intend that all forward-looking statements be subject to the safe-harbor provisions of the PSLRA. These forward-looking statements are only predictions and reflect our views as of the date they are made with respect to future events and financial performance.

Risks and uncertainties, the occurrence of which could adversely affect our business, include the following:

- We have a history of operating losses and we do not expect to become profitable in the near future.
- Our technologies are in an early stage of development and are unproven.
- Our business is substantially dependent on our ability to develop, launch and generate revenue from our pharmaceutical and diagnostic programs.
- Our research and development activities may not result in commercially viable products.
- The results of previous clinical trials may not be predictive of future results, and our current and planned clinical trials may not satisfy the requirements of the FDA or other non-U.S. regulatory authorities.
- We will require substantial additional funding, which may not be available to us on acceptable terms, or at all.
- We expect to finance future cash needs primarily through public or private offerings, debt financings or strategic collaborations, which may dilute your stockholdings in the Company.
- If our competitors develop and market products that are more effective, safer or less expensive than our future product candidates, our commercial opportunities will be negatively impacted.
- The regulatory approval process is expensive, time consuming and uncertain and may prevent us or our collaboration partners from obtaining approvals for the commercialization of some or all of our product candidates.
- Failure to recruit and enroll patients for clinical trials may cause the development of our product candidates to be delayed.
- Even if we obtain regulatory approvals for our product candidates, the terms of approvals and ongoing regulation of our products may limit how we manufacture and market our product candidates, which could materially impair our ability to generate anticipated revenues.
- We may not meet regulatory quality standards applicable to our manufacturing and quality processes.
- Even if we receive regulatory approval to market our product candidates, the market may not be receptive to our products.

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- The loss of Phillip Frost, our Chairman and Chief Executive Officer, could have a material adverse effect on our business and development.
- If we fail to attract and retain key management and scientific personnel, we may be unable to successfully develop or commercialize our product candidates.
- In the event that we successfully evolve from a company primarily involved in development to a company also involved in commercialization, we may encounter difficulties in managing our growth and expanding our operations successfully.
- If we fail to acquire and develop other products or product candidates, at all or on commercially reasonable terms, we may be unable to diversify or grow our business.
- We have no experience manufacturing our pharmaceutical product candidates other than at our Israeli and Mexican facilities and we therefore rely on third parties to manufacture and supply our pharmaceutical product candidates, and would need to meet various standards necessary to satisfy FDA regulations if and when we commence manufacturing.
- We currently have no pharmaceutical or diagnostic marketing, sales or distribution capabilities other than in Chile and Mexico for sales in those countries and our API business in Israel. If we are unable to develop our sales and marketing and distribution capability on our own or through collaborations with marketing partners, we will not be successful in commercializing our pharmaceutical product candidates.
- Independent clinical investigators and contract research organizations that we engage to conduct our clinical trials may not be diligent, careful or timely.
- The success of our business is dependent on the actions of our collaborative partners.
- Our license agreement with TESARO, Inc. is important to our business. If TESARO does not successfully develop and commercialize rolapitant, our business could be adversely affected.
- If we are unable to obtain and enforce patent protection for our products, our business could be materially harmed.
- We do not have an exclusive arrangement in place with Dr. Tom Kodadek with respect to technology or intellectual property that may be material to our business.
- If we are unable to protect the confidentiality of our proprietary information and know-how, the value of our technology and products could be adversely affected.
- We rely heavily on licenses from third parties.
- We license patent rights to certain of our technology from third-party owners. If such owners do not properly maintain or enforce the patents underlying such licenses, our competitive position and business prospects will be harmed.
- Our commercial success depends significantly on our ability to operate without infringing the patents and other proprietary rights of third parties.
- Adverse results in material litigation matters or governmental inquiries could have a material adverse effect upon our business and financial condition.
- Medicare prescription drug coverage legislation and future legislative or regulatory reform of the health care system may affect our ability to sell our products profitably.
- Failure to obtain regulatory approval outside the United States will prevent us from marketing our product candidates abroad.
- We may not have the funding available to pursue acquisitions.

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- Acquisitions may disrupt our business, distract our management and may not proceed as planned; and we may encounter difficulties in integrating acquired businesses.
- Non-U.S. governments often impose strict price controls, which may adversely affect our future profitability.
- Political, economic, and military instability in Israel could adversely impact our operations.
- Our business may become subject to legal, economic, political, regulatory and other risks associated with international operations.
- The market price of our common stock may fluctuate significantly.
- Directors, executive officers, principal stockholders and affiliated entities own a significant percentage of our capital stock, and they may make decisions that you do not consider to be in your best interests or in the best interests of our stockholders.
- Compliance with changing regulations concerning corporate governance and public disclosure may result in additional expenses.
- If we are unable to satisfy the requirements of Section 404 of the Sarbanes-Oxley Act of 2002, as they apply to us, or our internal controls over financial reporting are not effective, the reliability of our financial statements may be questioned and our common stock price may suffer.
- We may be unable to maintain our listing on the NYSE, which could cause our stock price to fall and decrease the liquidity of our common stock.
- Future issuances of common stock and hedging activities may depress the trading price of our common stock.
- Provisions in our charter documents and Delaware law could discourage an acquisition of us by a third party, even if the acquisition would be favorable to you.
- We do not intend to pay cash dividends on our common stock in the foreseeable future.

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Unless the context otherwise requires, all references in this Quarterly Report on Form 10-Q to the “Company”, “OPKO”, “we”, “our”, “ours”, and “us” refer to OPKO Health, Inc., a Delaware corporation, including our wholly-owned subsidiaries.

**Item 1. Financial Statements**

**OPKO Health, Inc. and Subsidiaries**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(unaudited) (in thousands except share and per share data)

	March 31, 2012	December 31, 2011
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents	\$ 47,118	\$ 71,516
Marketable securities	14,997	—
Accounts receivable, net	16,249	12,544
Inventory, net	18,393	13,339
Prepaid expenses and other current assets	2,654	2,179
Current assets of discontinued operations	—	4
Total current assets	99,411	99,582
Property and equipment, net	5,343	5,358
Intangible assets, net	75,094	76,730
Goodwill	40,319	39,815
Investments, net	10,136	6,717
Other assets	1,267	1,287
Total assets	<u>\$ 231,570</u>	<u>\$ 229,489</u>
<b>LIABILITIES, SERIES D PREFERRED STOCK, AND SHAREHOLDERS' EQUITY</b>		
Current liabilities		
Accounts payable	\$ 4,877	\$ 4,891
Accrued expenses	10,389	4,956
Current portion of lines of credit and notes payable	14,194	8,757
Current liabilities of discontinued operations	245	174
Total current liabilities	29,705	18,778
Other long-term liabilities, principally contingent consideration and deferred tax liabilities	22,499	25,443
Total liabilities	52,204	44,221
Commitments and contingencies		
Series D preferred stock – \$0.01 par value, 2,000,000 shares authorized; 1,129,032 and 1,129,032 shares issued and outstanding (liquidation value of \$28,915 and \$28,355) at March 31, 2012 and December 31, 2011, respectively	24,386	24,386
Shareholders' equity		
Series A Preferred stock – \$0.01 par value, 4,000,000 shares authorized; No shares issued or outstanding at March 31, 2012 and December 31, 2011, respectively	—	—
Series C Preferred Stock – \$0.01 par value, 500,000 shares authorized; No shares issued or outstanding at March 31, 2012 or December 31, 2011	—	—
Common Stock – \$0.01 par value, 500,000,000 shares authorized; 297,552,819 and 297,503,033 shares issued at March 31, 2012 and December 31, 2011, respectively	2,976	2,975
Treasury stock – 2,488,477 shares at March 31, 2012 and December 31, 2011	(8,092)	(8,092)
Additional paid-in capital	526,023	524,814
Accumulated other comprehensive income	2,406	907
Accumulated deficit	(368,333)	(359,722)
Total shareholders' equity	154,980	160,882
Total liabilities, Series D Preferred Stock, and shareholders' equity	<u>\$ 231,570</u>	<u>\$ 229,489</u>

*The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these statements.*

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**OPKO Health, Inc. and Subsidiaries**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(unaudited)  
(in thousands, except share and per share data)

	For the three months ended March 31,	
	2012	2011
Revenue		
Product sales	\$ 8,639	\$ 6,950
Other revenue	138	—
Total revenue	8,777	6,950
Cost of goods sold, excluding amortization of intangible assets	4,987	4,178
Gross margin, excluding amortization of intangible assets	3,790	2,772
Operating expenses		
Selling, general and administrative	4,671	5,055
Research and development	4,831	1,088
Contingent consideration	1,144	—
Other operating expenses, principally amortization of intangible assets	1,991	765
Total operating expenses	12,637	6,908
Operating loss from continuing operations	(8,847)	(4,136)
Other income and (expense)		
Interest income	27	8
Interest expense	(351)	(87)
Other income, net	1,298	122
Other income and (expense), net	974	43
Loss from continuing operations before income taxes and investment losses	(7,873)	(4,093)
Income tax provision	215	233
Loss from continuing operations before investment losses	(8,088)	(4,326)
Loss from investments in investees	(523)	(423)
Loss from continuing operations	(8,611)	(4,749)
Loss from discontinued operations, net of tax	—	(955)
Net loss	(8,611)	(5,704)
Preferred stock dividend	(560)	(645)
Net loss attributable to common shareholders	\$ (9,171)	\$ (6,349)
Loss per share, basic and diluted		
Loss from continuing operations	\$ (0.03)	\$ (0.02)
Loss from discontinued operations	—	(0.00)
Net loss per share	\$ (0.03)	\$ (0.02)
Weighted average number of common shares outstanding, basic and diluted	297,543,066	261,042,274

*The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these statements.*

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**OPKO Health, Inc. and Subsidiaries**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**  
(unaudited)  
(in thousands)

	For the three months ended March 31,	
	2012	2011
Net loss attributable to common shareholders	\$ (9,171)	\$ (6,349)
Other comprehensive income (loss)		
Change in foreign currency translation adjustment	1,390	(497)
Available for sale investments:		
Change in other net unrealized gains	109	—
Comprehensive loss	<u>\$ (7,672)</u>	<u>\$ (6,846)</u>

*The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these statements.*



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**OPKO Health, Inc. and Subsidiaries**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(unaudited)  
(in thousands)

	For the three months ended March 31,	
	2012	2011
Cash flows from operating activities		
Net loss	\$ (8,611)	\$ (5,704)
Loss from discontinued operations, net of tax	—	955
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	2,328	869
Accretion of debt discount related to notes payable	—	2
Equity-based compensation – employees and non-employees	1,180	1,646
Loss from investments in investees	523	423
(Recovery of) provision for bad debt	(151)	17
Provision for inventory reserves	255	52
Revenue from receipt of equity	(51)	—
Unrealized gain from warrants	(1,117)	—
Contingent consideration	1,144	—
Changes in assets and liabilities of continuing operations, net of the effects of acquisitions:		
Accounts receivable	(2,691)	(523)
Inventory	(4,433)	1,682
Prepaid expenses and other current assets	(481)	(109)
Other assets	7	80
Accounts payable	(271)	(2,149)
Foreign currency measurement	(458)	—
Accrued expenses	1,253	(340)
Cash used in operating activities of continuing operations	(11,574)	(3,099)
Cash provided by (used in) operating activities of discontinued operations	75	(1,586)
Net cash used in operating activities	(11,499)	(4,685)
Cash flows from investing activities		
Acquisition of businesses, net of cash	—	(10,538)
Purchase of marketable securities	(14,997)	(59,983)
Investments in investees	(2,700)	—
Capital expenditures	(175)	(108)
Net cash used in investing activities	(17,872)	(70,629)
Cash flows from financing activities:		
Issuance of common stock, including related parties, net	—	104,828
Borrowing under lines of credit	10,337	3,027
Repayments under lines of credit	(5,490)	(2,827)
Proceeds from the exercise of stock options and warrants	31	135
Net cash provided by financing activities	4,878	105,163
Effect of exchange rate changes on cash and cash equivalents	95	14
Net (decrease) increase in cash and cash equivalents	(24,398)	29,863
Cash and cash equivalents at beginning of period	71,516	18,016
Cash and cash equivalents at end of period	<u>\$ 47,118</u>	<u>\$ 47,879</u>
<b>SUPPLEMENTAL INFORMATION</b>		
Interest paid	\$ 177	\$ 65
Income taxes refunded	\$ (6)	\$ —

*The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these statements.*

**OPKO Health, Inc. and Subsidiaries**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (unaudited)**

**NOTE 1 BUSINESS AND ORGANIZATION**

We are a multi-national pharmaceutical and diagnostics company that seeks to establish industry-leading positions in large and rapidly growing medical markets by leveraging our discovery, development and commercialization expertise and our novel and proprietary technologies. We are developing a range of solutions to diagnose, treat and prevent various conditions, including molecular diagnostics tests, point-of-care tests, and proprietary pharmaceuticals and vaccines. We plan to commercialize these solutions on a global basis in large and high growth markets, including emerging markets. We have already established emerging markets pharmaceutical platforms in Chile and Mexico, which are generating revenue and which we expect to generate positive cash flow and facilitate future market entry for our products currently in development. We also operate a specialty active pharmaceutical ingredients (“APIs”) manufacturer in Israel, which is currently generating revenue and positive cash flow, and which we expect to play a valuable role in the development of our pipeline of peptoids and other molecules for our proprietary molecular diagnostic and therapeutic products. We continue to actively explore opportunities to acquire complementary pharmaceuticals, compounds, technologies, and businesses.

We are incorporated in Delaware and our principal executive offices are located in Miami, Florida. We lease office and lab space in Jupiter and Miramar, Florida, which is where our molecular diagnostics research and development and oligonucleotide research and development operations are based, respectively. We lease office, manufacturing, research and development and warehouse space in Woburn, Massachusetts for our point-of-care diagnostics business, and in Neshar, Israel for our API business. Our Chilean operations are located in leased offices and a leased warehouse facility in Santiago, Chile, and we own an office and manufacturing facility, and lease a warehouse facility in Guadalajara, Mexico.

**NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

*Basis of presentation.* The accompanying unaudited interim condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all information and notes required by accounting principles generally accepted in the United States for complete financial statements. In the opinion of management, all adjustments (consisting of only normal recurring adjustments) considered necessary to present fairly the Company’s results of operations, financial position and cash flows have been made. The results of operations and cash flows for the three months ended March 31, 2012, are not necessarily indicative of the results of operations and cash flows that may be reported for the remainder of 2012 or for future periods. The unaudited condensed consolidated financial statements should be read in conjunction with the Consolidated Financial Statements and the Notes to Consolidated Financial Statements included in our Annual Report on Form 10-K for the year ended December 31, 2011.

*Reclassifications.* As further discussed in Note 6, the results of operations and the assets and the liabilities related to the Instrumentation Business have been accounted for as discontinued operations. Accordingly, the results of the operations related to the Instrumentation Business from prior periods have been reclassified to discontinued operations.

We have reclassified certain expenses previously recorded in selling, general and administrative expenses to inventory as of March 31, 2012. This reclassification resulted in a reduction of cost of goods sold of \$0.4 million (\$0.00 per share). The activities reclassified were primarily related to certain costs related to the procurement of inventory at our Chilean pharmaceutical business.

*Principles of consolidation.* The accompanying unaudited condensed consolidated financial statements include the accounts of OPKO Health, Inc. and our wholly-owned subsidiaries. All significant intercompany accounts and transactions are eliminated in consolidation.

*Use of estimates.* The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

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*Cash and cash equivalents.* Cash and cash equivalents consist of short-term, interest-bearing instruments with original maturities of 90 days or less at the date of purchase. We also consider all highly liquid investments with original maturities at the date of purchase of 90 days or less as cash equivalents. These investments include money markets, bank deposits, and U.S. treasury securities.

*Marketable securities.* Investments with original maturities of greater than 90 days and remaining maturities of less than one year are classified as marketable securities. Marketable securities include U.S. treasury securities. Unrealized gains and temporary losses on investments are included in accumulated other comprehensive income (loss) as a separate component of stockholders' equity. Realized gains and losses, dividends, interest income, and declines in value judged to be other-than-temporary credit losses are included in other income (expense). Amortization of any premium or discount arising at purchase is included in interest income.

*Comprehensive loss.* Our comprehensive loss for the three months ended March 31, 2012 includes (i) the net loss for the three months, (ii) the unrealized gain of \$0.1 million on our common stock options and warrants of Neovasc, Inc. ("Neovasc") (Refer to Note 5), and (iii) the cumulative translation adjustment, net, of \$1.4 million for the translation results of our subsidiaries in Chile and Mexico. Comprehensive loss for the three months ended March 31, 2011 includes net loss for the three months and the cumulative translation adjustment, net, of \$0.5 million for the translation results of our subsidiaries in Chile and Mexico.

*Revenue recognition.* Generally, we recognize revenue from product sales when goods are shipped and title and risk of loss transfer to our customers.

Other revenue includes revenue related to upfront license payments, license fees and milestone payments received through our license, collaboration and commercialization agreements. We analyze our multiple-element arrangements to determine whether the elements can be separated and accounted for individually as separate units of accounting. In addition, other revenue includes \$0.1 million of revenue related to our consulting agreement we entered into with Neovasc. Refer to Note 5. We recognize the revenue on a straight-line basis over the contractual term of the agreement.

Non-refundable license fees for the out-license of our technology are recognized depending on the provisions of each agreement. We recognize non-refundable upfront license payments as revenue upon receipt if the license has standalone value and the fair value of our undelivered obligations, if any, can be determined. If the license is considered to have standalone value but the fair value of any of the undelivered items cannot be determined, the license payments are recognized as revenue over the period of our performance for such undelivered items or services. License fees with ongoing involvement or performance obligations are recorded as deferred revenue once received and generally are recognized ratably over the period of such performance obligation only after both the license period has commenced and we have delivered the technology. Our assessment of our obligations and related performance periods requires significant management judgment. If an agreement contains research and development obligations, the relevant time period for the research and development phase is based on management estimates and could vary depending on the outcome of clinical trials and the regulatory approval process. Such changes could materially impact the revenue recognized, and as a result, management reviews the estimates related to the relevant time period of research and development on a quarterly basis.

Revenue from milestone payments related to arrangements under which we have continuing performance obligations are recognized as revenue upon achievement of the milestone only if all of the following conditions are met: the milestone payments are non-refundable; there was substantive uncertainty at the date of entering into the arrangement that the milestone would be achieved; the milestone is commensurate with either the vendor's performance to achieve the milestone or the enhancement of the value of the delivered item by the vendor; the milestone relates solely to past performance; and the amount of the milestone is reasonable in relation to the effort expended or the risk associated with the achievement of the milestone. If any of these conditions are not met, the milestone payments are not considered to be substantive and are, therefore, deferred and recognized as revenue over the term of the arrangement as we complete our performance obligations.

Total deferred revenue related to other revenues was \$1.8 million and \$0.9 million at March 31, 2012 and December 31, 2011, respectively.

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*Derivative financial instruments.* We record derivative financial instruments on our balance sheet at their fair value and the changes in the fair value are recognized in income when they occur, the only exception being derivatives that qualify as hedges. To qualify the derivative instrument as a hedge, we are required to meet strict hedge effectiveness and contemporaneous documentation requirements at the initiation of the hedge and assess the hedge effectiveness on an ongoing basis over the life of the hedge. At March 31, 2012 and December 31, 2011, our forward contracts for inventory purchases did not meet the documentation requirements to be designated as hedges. Accordingly, we recognize all changes in fair values in income. Refer to Note 7.

*Product warranties.* Product warranty expense is recorded concurrently with the recording of revenue for product sales. The costs of warranties are accounted for as a component of cost of sales. We estimate warranty costs based on our estimated historical experience and adjust for any known product reliability issues.

*Allowance for doubtful accounts.* We analyze accounts receivable and historical bad debt levels, customer credit worthiness and current economic trends when evaluating the adequacy of the allowance for doubtful accounts using the specific identification method. Our reported net loss is directly affected by our estimate of the collectability of accounts receivable. Estimated allowances for sales returns are based upon our history of product returns. The amount of allowance for doubtful accounts was \$0.3 million and \$0.4 million at March 31, 2012 and December 31, 2011, respectively.

*Segment reporting.* Our chief operating decision-maker (“CODM”) is comprised of our executive management with the oversight of our board of directors. Our CODM reviews our operating results and operating plans and make resource allocation decisions on a company-wide or aggregate basis. We currently manage our operations in one reportable segment, pharmaceutical. The pharmaceutical segment consists of two operating segments, our (i) pharmaceutical research and development segment which is focused on the research and development of pharmaceutical products, diagnostic tests and vaccines, and (ii) the pharmaceutical operations we acquired in Chile, Mexico and Israel through the acquisition of OPKO Chile, Exakta-OPKO and FineTech Pharmaceuticals, respectively. There are no inter-segment sales. We evaluate the performance of each operating segment based on operating profit or loss. There is no inter-segment allocation of interest expense and income taxes.

*Equity-based compensation.* We measure the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award. That cost is recognized in the statement of operations over the period during which an employee is required to provide service in exchange for the award. We record excess tax benefits, realized from the exercise of stock options as a financing cash inflow rather than as a reduction of taxes paid in cash flow from operations. Equity-based compensation arrangements to non-employees are recorded at their fair value on the measurement date. The measurement of equity-based compensation is subject to periodic adjustment as the underlying equity instruments vest. During the three months ended March 31, 2012 and 2011, we recorded \$1.2 million and \$1.6 million, respectively, of equity-based compensation expense.

*Recent accounting pronouncements.* On January 1, 2012, we adopted an amendment issued by the Financial Accounting Standards Board (“FASB”) to the accounting standards related to fair value measurements and disclosure requirements. This standard provides certain amendments to the existing guidance on the use and application of fair value measurements and maintains a definition of fair value that is based on the notion of exit price. The adoption of this standard did not have a material impact on our consolidated financial statements.

On January 1, 2012, we adopted amendments issued by the FASB to the accounting standards related to the presentation of comprehensive income. These standards revise the manner in which entities present comprehensive income in their financial statements and remove the option to present items of other comprehensive income in the statement of changes in stockholders’ equity. These standards require an entity to report components of comprehensive income in either (1) a continuous statement of comprehensive income, or (2) two separate but consecutive statements of net income and other comprehensive income. We modified our financial statements presentation using the latter alternative.

On January 1, 2012, we adopted revised guidance issued by the FASB related to the testing of goodwill for impairment. Under the revised guidance, an entity has the option to perform a qualitative assessment of whether it is more-likely-than-not that a reporting unit’s fair value is less than its carrying value prior to performing the two-step quantitative goodwill impairment test. If, based on the qualitative factors, an entity determines that the fair value of the reporting unit is greater than its carrying amount, then the entity would not be required to perform the two-step quantitative impairment test for that reporting unit. However, if the qualitative assessment indicates that it is not more-likely-than-not that the reporting unit’s fair value exceeds its carrying value, then the quantitative assessment

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must be performed. An entity is permitted to perform the qualitative assessment on none, some or all of its reporting units and may also elect to bypass the qualitative assessment and begin with the quantitative assessment of goodwill impairment. This amendment did not have a material impact on our consolidated financial statements.

### NOTE 3 LOSS PER SHARE

Basic loss per share is computed by dividing our net loss by the weighted average number of shares outstanding during the period. Diluted earnings per share is computed by dividing our net loss by the weighted average number of shares outstanding and the impact of all dilutive potential common shares, primarily stock options. The dilutive impact of stock options and warrants is determined by applying the “treasury stock” method.

A total of 27,416,029 and 27,604,138 potential common shares have been excluded from the calculation of net loss per share for the three months ended March 31, 2012 and 2011, respectively, because their inclusion would be anti-dilutive. As of March 31, 2012, the holders of our Series D Preferred Stock could convert their Preferred Shares into approximately 11,659,137 shares of our Common Stock.

### NOTE 4 COMPOSITION OF CERTAIN FINANCIAL STATEMENT CAPTIONS

<u>(in thousands)</u>	<u>March 31,</u> <u>2012</u>	<u>December 31,</u> <u>2011</u>
<b>Accounts receivable, net:</b>		
Accounts receivable	\$16,573	\$ 12,984
Less allowance for doubtful accounts	(324)	(440)
	<u>\$16,249</u>	<u>\$ 12,544</u>
<b>Inventories, net:</b>		
Finished products	\$16,247	\$ 11,100
Work-in process	505	277
Raw materials	2,245	2,287
Less inventory reserve	(604)	(325)
	<u>\$18,393</u>	<u>\$ 13,339</u>
<b>Intangible assets, net:</b>		
Customer relationships	\$18,654	\$ 18,386
In-process research and development	10,000	10,000
Technology	47,100	47,100
Product registrations	4,154	3,895
Tradename	856	827
Covenants not to compete	1,565	1,560
Other	297	297
Less accumulated amortization	(7,532)	(5,335)
	<u>\$75,094</u>	<u>\$ 76,730</u>
<b>Other long-term obligations</b>		
Contingent consideration	\$14,804	\$ 18,002
Deferred tax liabilities	6,981	6,863
Other, including deferred revenue	714	578
	<u>\$22,499</u>	<u>\$ 25,443</u>

The change in value of the intangible assets include the foreign currency fluctuation between the Chilean and Mexican pesos against the US dollar at March 31, 2012 and December 31, 2011.

### NOTE 5 ACQUISITIONS, INVESTMENTS, AND LICENSES

#### *FineTech acquisition*

On December 29, 2011, we purchased all of the issued and outstanding shares of FineTech Pharmaceuticals, Ltd., (“FineTech”) a privately held Israeli company focused on the development and production of specialty Active Pharmaceutical Ingredients (“APIs”). At closing, we delivered to the seller \$27.7 million, of which \$10.0 million

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was paid in cash and \$17.7 million was paid in shares of our common stock. The shares delivered at closing were valued at \$17.7 million based on the closing sales price per share of our common stock as reported by the New York Stock Exchange (“NYSE”) on the actual closing date of the acquisition, or \$4.90 per share. The number of shares issued was based on the average closing sales price per share of our common stock as reported on the NYSE for the ten trading days immediately preceding the execution of the purchase agreement, or \$4.84 per share. Upon finalization of the closing financial statements of FineTech, we accrued an additional \$0.5 million for a working capital surplus, as defined in the purchase agreement, which was paid to the seller in February 2012. In addition, the purchase agreement provides for the payment of additional cash consideration subject to the achievement of certain sales milestones.

The following table summarizes the estimated fair value of the net assets acquired and liabilities assumed in the acquisition of FineTech at the date of acquisition, which are subject to change while contingencies that existed on the acquisition date are resolved:

<u>(in thousands)</u>	
Current assets (including cash of \$2,000)	\$ 3,358
Intangible assets:	
Customer relationships	14,200
Technology	2,700
Non-compete	1,500
Tradename	400
Total intangible assets	18,800
Goodwill	11,623
Plant and equipment	1,358
Other assets	1,154
Accounts payable and accrued expenses	(910)
Deferred tax liability	(2,457)
Contingent consideration	(4,747)
Total purchase price	<u>\$28,179</u>

### *Claros Diagnostics acquisition*

On October 13, 2011, we acquired Claros Diagnostics, Inc. (“Claros”) pursuant to an agreement and plan of merger. We paid \$10.0 million in cash, subject to certain set-offs and deductions, and \$22.5 million in shares of our common stock, based on the closing sales price per share of our common stock as reported by the NYSE on the closing date of the merger, or \$5.04 per share. The number of shares issued was based on the average closing sales price per share of our common stock as reported by the NYSE for the ten trading days immediately preceding the date of the merger, or \$4.45 per share. Pursuant to the merger agreement, \$5.0 million of the stock consideration is held in a separate escrow account to secure the indemnification obligations of Claros under the Claros merger agreement. In December 2011, we made a \$0.2 million claim against the escrow for certain undisclosed liabilities. In addition, the merger agreement provides for the payment of up to an additional \$19.125 million in shares of our common stock upon and subject to the achievement of certain milestones.

The following table summarizes the estimated fair value of the net assets acquired and liabilities assumed in the acquisition of Claros at the date of acquisition, which are subject to change while contingencies that existed on the acquisition date are resolved:

<u>(in thousands)</u>	
Current assets (including cash of \$351)	\$ 378
Technology	44,400
Goodwill	17,977
Equipment	333
Other assets	18
Accounts payable and accrued expenses	(655)
Deferred tax liability	(17,254)
Contingent consideration	(12,745)
Total purchase price	<u>\$ 32,452</u>

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### *Investments*

In February 2012, we made a \$1.0 million investment in ChromaDex Corporation (“ChromaDex”), a publicly traded company and leading provider of proprietary ingredients and products for the dietary supplement, nutraceutical, food and beverage, functional food, pharmaceutical and cosmetic markets, in exchange for 1,333,333 shares of ChromaDex common stock, at \$0.75 per share. In connection with our investment, we also entered into a license, supply and distribution agreement with ChromaDex pursuant to which we obtained exclusive distribution rights to certain of its products in Latin America. Our investment was part of a \$3.7 million private placement by Chromadex. Other investors participating in the private financing included certain related parties. Refer to Note 9.

We have determined that our ownership, along with our related parties do not provide us with significant influence over the operations of ChromaDex and as a result, we account for ChromaDex under the cost method.

In February 2012, we purchased from Biozone Pharmaceuticals, Inc., a publicly traded company that specializes in drug development, (“BZNE”), \$1.7 million of 10% secured convertible promissory notes (the “BZNE Notes”), convertible into BZNE common stock at a price equal to \$0.20 per common share, which Notes are due and payable on February 24, 2014 and ten year warrants (the “BZNE Warrants”) to purchase 8.5 million shares of BZNE common stock at an exercise price of \$0.40 per share. The Notes are secured pursuant to a security agreement by a first priority lien in the assets of BZNE, including the stock of its subsidiaries. As further consideration for the purchase of the Notes by us, BZNE granted us exclusive, worldwide distribution rights to its enhanced formulation of propofol. The parties also entered into a license agreement pursuant to which we acquired a world-wide license for the development and commercialization of products utilizing BZNE’s proprietary drug delivery technology, including QuSomes, exclusively for OPKO in the field of ophthalmology and non-exclusive for all other therapeutic fields, subject in each case to certain excluded products. Refer to Note 9.

We have accounted for the BZNE Notes as an available for sale investment. We recorded the BZNE Notes and BZNE Warrants at fair value on the date of acquisition, initially valuing the BZNE Notes at \$1.7 million and the BZNE Warrants at \$1.1 million, which was recorded in other income and expense, net. As a result, we recorded the investment at a total of \$2.8 million. Changes in fair value for the BZNE Notes will be recorded through other comprehensive income each reporting period and changes in fair value for the beneficial conversion feature of the BZNE Notes and the BNZE Warrants will be recorded in other income and expense in our Statement of Operations. The trading activity in BZNE does not represent an active market and as such, we have determined the fair market value utilizing a business enterprise valuation approach in order to determine the fair value of our investment in BZNE.

We have determined that BZNE has an insufficient amount of equity to carry out its principal activities without additional financial support and meets the definition of a variable interest entity (“VIE”). We determined that we do not have the power to direct the activities of BZNE which most significantly impact its economic performance and as such, have determined that we are not the primary beneficiary of BZNE. We will continue to evaluate our relationship with BZNE including if we convert the BZNE Notes or BZNE Warrants into BZNE common stock.

In August 2011, we made an investment in Neovasc, a medical technology company that is publicly traded in Canada and based in Vancouver, Canada. Neovasc is developing devices to treat cardiovascular diseases and is also a leading supplier of tissue components for the manufacturers of replacement heart valves. We invested \$2.0 million and received two million Neovasc common shares, and two-year warrants to purchase an additional one million shares for \$1.25 a share. We recorded the warrants on the date of grant at their estimated fair value of \$0.7 million using the Black-Scholes-Merton Model. Prior to the warrants being readily convertible into cash, we recorded an unrealized gain of \$0.2 million in other comprehensive income. During the three months ended March, 31, 2012 we recorded an unrealized gain of \$0.1 million related to these warrants to reflect the increase in the closing price of Neovasc common stock in other income and expense, net. We also entered into an agreement with Neovasc to provide strategic advisory services to Neovasc as it continues to develop and commercialize its novel cardiac devices. In connection with the consulting agreement, Neovasc granted us 913,750 common stock options. The options were granted at (Canadian) \$1.00 per share and vest annually over three years. We valued the options using the Black-Scholes-Merton Model at \$0.8 million on the date of grant and will recognize the revenue over four years as other revenue. Through March 31, 2012, we have recorded other comprehensive income of \$0.3 million including \$0.1 million during the three months ended March 31, 2012. The unrealized gain reflects the increase in share price of Neovasc to the (Canadian) \$1.40. Refer to Note 9.

In December 2010, we entered into a license agreement (the “TESARO License”) with TESARO, Inc. (“TESARO”) granting TESARO exclusive rights to the development, manufacture, commercialization and distribution of rolapitant and a related compound. In connection with the TESARO License, we also acquired an equity position in TESARO. We recorded the equity position at \$0.7 million, the estimated fair value based on a discounted cash flow model.

Neither we nor our related parties have the ability to significantly influence TESARO and as such, we account for our investment in TESARO under the cost method. In June 2011, TESARO announced a \$101 million financing. In connection with that financing, we determined TESARO no longer meets the definition of a variable interest entity as it has sufficient capital to carry out its principal activities without additional financial support.

In November 2010, we made an investment in Fabrus, Inc., a privately held early stage biotechnology company with next generation therapeutic antibody drug discovery and development capabilities. Fabrus is using its proprietary antibody screening and engineering approach to discover promising lead compounds against several important oncology targets. Our investment was part of a \$2.1 million financing for Fabrus and included other related parties. Refer to Note 9.

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In September 2009, we entered into an agreement pursuant to which we invested \$2.5 million in cash in Cocrysal Discovery, Inc., a privately held biopharmaceutical company (“Cocrysal”) in exchange for 1,701,723 shares of Cocrysal’s Convertible Series A Preferred Stock. Cocrysal is focused on the discovery and development of novel antiviral drugs using a combination of protein structure-based approaches. Refer to Note 9.

In October 2011, Cocrysal received an investment of \$7.5 million from Teva Pharmaceutical Industries Ltd. In connection with that investment, we determined Cocrysal no longer meets the definition of a variable interest entity as it has sufficient capital to carry out its principal activities without additional financial support. As a result of the Company’s and its related parties’ ownership interest, the Company and its related parties have the ability to significantly influence Cocrysal, and we account for our investment under the equity method.

In June 2009, we entered into a stock purchase agreement with Sorrento Therapeutics, Inc. (“Sorrento”), a publicly held company with a technology for generating fully human monoclonal antibodies, pursuant to which we invested \$2.3 million in Sorrento. The closing stock price for Sorrento’s common stock, a thinly traded stock, as quoted on the over-the-counter markets was \$0.59 per share on March 31, 2012. Refer to Note 9.

### *Variable interest entities*

We have determined that we hold a variable interests in two entities, Fabrus and BZNE. We made this determination as a result of our assessment that they do not have sufficient resources to carry out their principal activities without additional financial support.

In order to determine the primary beneficiary of Fabrus, we evaluated our investment and our related parties’ investments, as well as our investment combined with the related party group’s investment to identify if we had the power to direct the activities that most significantly impact the economic performance of Fabrus. The related party group when considering our investment in Fabrus includes the Company, Frost Gamma Investments Trust, of which Phillip Frost is the sole trustee (the “Gamma Trust”), Hsu Gamma Investment, L.P., of which Jane Hsiao is the general partner (“Hsu Gamma”), and the Richard Lerner Family Trust. Drs. Frost, Hsiao and Lerner are all members of our Board of Directors. As of March 31, 2012 we own approximately 13% of Fabrus and Dr.’s Frost, Hsiao and Lerner own a total of 24% of Fabrus’ voting stock on an as converted basis, including 16% held by the Gamma Trust. Drs. Frost and Hsiao currently serve on the board of directors of Fabrus and represent 40% of its board. Based on this analysis, we determined that neither we nor our related parties have the power to direct the activities of Fabrus. However, we did determine that our related parties can significantly influence the success of Fabrus through our related parties board representation and voting power. As we have the ability to exercise significant influence over Fabrus’ operations, we account for our investments in Fabrus under the equity method.

In order to determine the primary beneficiary of BZNE, we evaluated our investment and our related parties’ investments, as well as our investment combined with the related party group’s investments to identify if we had the power to direct the activities that most significantly impact the economic performance of BZNE. We determined that power to direct the activities that most significantly impact BZNE’s economic performance is conveyed through the board of directors of BZNE and no entity is able to appoint BZNE’s governing body who oversee its executive management team. Based on the capital structure, governing documents and overall business operations, we determined that, while a VIE, no single entity has the power to direct the activities that most significantly impact BZNE’s economic performance.



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The total assets, liabilities, and net losses of our equity method investees as of and for the three months ended March 31, 2012 were \$19.7 million, \$1.6 million, and \$3.9 million, respectively. The following table reflects our maximum exposure, accounting method, ownership interest and underlying equity in net assets of each of our investments:

<u>Investee name</u>	<u>Year invested</u>	<u>Accounting method</u>	<u>Ownership at March 31, 2012</u>	<u>(in thousands)</u>	<u>Underlying equity in net assets</u>
Cocrystal	2009	Equity method	16%	\$ 2,500	\$ 1,383
Sorrento	2009	Equity method	23%	2,300	765
Neovasc		Equity method, cost			
	2011	(warrants)	4%	2,013	214
ChromaDex	2012	Cost method	2%	1,000	125
Fabrus	2010	VIE, equity method	13%	650	132
TESARO	2010	Cost method	2%	731	1,835
Less accumulated losses in investees				(3,178)	
Total				\$ 6,016	
Biozone		Investment			
	2012	available for sale	N/A	2,779	N/A
Neovasc options				813	
Plus unrealized gain on Neovasc options and warrants				528	
TOTAL				\$ 10,136	

## NOTE 6 DISCONTINUED OPERATIONS

In September 2011, we announced that we entered into an agreement with Optos, Inc., a subsidiary of Optos plc (collectively (“Optos”) to sell our ophthalmic instrumentation business. Upon closing in October 2011, we received \$17.5 million of cash and we will receive royalties up to \$22.5 million on future sales.

The assets and liabilities related to our instrumentation business have identifiable cash flows that are independent of the cash flows of other groups of assets and liabilities and we will not have a significant continuing involvement with the related products beyond one year after the closing of the transactions. Therefore, the accompanying Condensed Consolidated Balance Sheets report the assets and liabilities related to our instrumentation business as discontinued operations in all periods presented, and the results of operations related to our instrumentation business have been classified as discontinued operations in the accompanying Condensed Consolidated Statements of Operations for all periods presented.

The following table presents the major classes of assets and liabilities that have been presented as assets of discontinued operations and liabilities of discontinued operations in the accompanying Condensed Consolidated Balance Sheets:

<u>(in thousands)</u>	<u>March 31, 2012</u>	<u>December 31, 2011</u>
Trade accounts receivable, net	\$ —	\$ —
Inventories, net	—	—
Other current assets	—	4
Property, plant and equipment, net	—	—
Intangible assets, net	—	—
Total assets of discontinued operations	\$ —	\$ 4
Trade accounts payable	\$ —	\$ 1
Accrued expenses and other liabilities	245	173
Total liabilities of discontinued operations	\$ 245	\$ 174

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The following table presents summarized financial information for the discontinued operations presented in the Condensed Consolidated Statements of Operations:

(in thousands)	For the three months ended March 31	
	2012	2011
Total revenue	\$ —	\$ 1,698
Operating loss	—	(950)
Loss before provision for income taxes	—	(955)
Net loss	—	(955)

### NOTE 7 FAIR VALUE MEASUREMENTS

We record fair value at an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. We utilize a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include: Level 1, defined as observable inputs such as quoted prices in active markets; Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and Level 3, defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions.

As of March 31, 2012, we have money market funds that qualify as cash equivalents, U.S. Treasury securities that qualify as cash equivalents, U.S. Treasury securities recorded as marketable securities, forward contracts for inventory purchases (Refer to Note 8) and contingent consideration related to the acquisitions of CURNA, Claros and FineTech (Refer to Note 10) that are required to be measured at fair value on a recurring basis. Our U.S. Treasury securities mature on April 26, 2012 (\$10.0 million) and June 28, 2012 (\$15.0 million). Of the \$19.1 million of contingent consideration, \$4.3 million is recorded as an accrued expense and \$14.8 million is recorded in other long-term liabilities. We valued the contingent consideration utilizing a discounted cash flow model for the expected payments.

In addition, in connection with our investment in Neovasc as well as entering into our consulting agreement with Neovasc, we record our options and warrants at fair value. Refer to Note 5. In connection with our BNZE investment, we recorded the BZNE Notes and BZNE Warrants at fair value on the date of acquisition, initially valuing the BZNE Notes at \$1.7 million and the BZNE Warrants at \$1.1 million which was recorded in other income and expense, net. As a result, we recorded the investment at a total of \$2.8 million. Changes in fair value for the BZNE Notes will be recorded through other comprehensive income each reporting period and changes in fair value for the beneficial conversion feature of the BZNE Notes and the BNZE Warrants will be recorded in other income and expense in our Statement of Operations. The trading activity in BZNE does not represent an active market and as such, we have determined the fair market value utilizing a business enterprise valuation approach in order to determine the fair value of our investment in BZNE.

The carrying value of our other assets and liabilities approximates their fair value due to their short-term nature.

Any future fluctuation in fair value related to these instruments that is judged to be temporary, including any recoveries of previous write-downs, would be recorded in accumulated other comprehensive income or loss. If we determine that any future valuation adjustment was other-than-temporary, we would record a charge to the consolidated statement of operations as appropriate.

Our financial assets and liabilities measured at fair value on a recurring basis are as follows:

(in thousands)	Fair value measurements as of March 31, 2012			
	Quoted prices in active markets for identical assets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)	Total
<b>Assets:</b>				
Money market funds	\$ 22,450	\$ —	\$ —	\$22,450
US Treasury securities	24,997	—	—	24,997
BNZE Note and beneficial conversion feature	—	—	1,700	1,700
BNZE common stock warrants	—	—	1,063	1,063
Neovasc common stock options	—	1,139	—	1,139
Neovasc common stock warrants	—	868	—	868
<b>Total assets</b>	<b>\$ 47,447</b>	<b>\$ 2,007</b>	<b>\$ 2,763</b>	<b>\$52,217</b>
<b>Liabilities:</b>				
Forward contracts	\$ —	\$ 87	\$ —	\$ 87
URNA contingent consideration	—	—	510	510
Claros contingent consideration	—	—	13,721	13,721
FineTech contingent consideration	—	—	4,915	4,915
<b>Total Liabilities</b>	<b>\$ —</b>	<b>\$ 87</b>	<b>\$ 19,146</b>	<b>\$19,233</b>

The following table reconciles the beginning and ending balances of our Level 3 assets and liabilities:

(in thousands)	BNZE Note and BZNE Warrants	Contingent consideration

Beginning balance	\$ —	\$ 18,002
Additions	1,700	—
Change in fair value included in:		
Statement of operations	—	1,144
Other income and expense, net	1,063	—
Ending balance	<u>\$2,763</u>	<u>\$ 19,146</u>

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**NOTE 8 DERIVATIVE CONTRACTS**

We enter into foreign currency forward exchange contracts to cover the risk of exposure to exchange rate differences arising from inventory purchases on letters of credit. Under these forward contracts, for any rate above or below the fixed rate, we receive or pay the difference between the spot rate and the fixed rate for the given amount at the settlement date.

In January 2012, we entered into a foreign exchange, fixed interest rate swap contract that provides for us to pay a fixed interest rate on the underlying loan balance denominated in Chilean Pesos. We entered into this agreement in Chile for purchases of inventory denominated in U.S. dollars. A hypothetical 1% interest rate change or 10% foreign exchange rate change will not have a material impact on our results from operations or financial position.

We record derivative financial instruments on our balance sheet at their fair value and the effect on loss is recorded in other accrued expenses and the changes in the fair value are recognized in other income expense, net. To qualify the derivative instrument as a hedge, we are required to meet strict hedge effectiveness and contemporaneous documentation requirements at the initiation of the hedge and assess the hedge effectiveness on an ongoing basis over the life of the hedge. At March 31, 2012, the forward contracts did not meet the documentation requirements to be designated as hedges. Accordingly, we recognize all changes in fair values in income.

The Neovasc warrants are accounted for as derivatives as they are readily convertible into cash. As a result, the fluctuations in fair value are recorded in our statement of operations in other income and expense as an unrealized gain or loss. During the three months ended March 31, 2012, we recorded an unrealized gain of approximately \$0.1 million in other income and expense to reflect the change in fair value based on the increase in Neovasc's stock price. We value the warrants based on the Black-Scholes-Merton valuation model. In addition, the conversion feature of the BZNE Note and BZNE Warrants also are accounted for as derivatives and the changes in their fair value will be recorded in our statement of operations in other income and expense. We did not record any change in fair value of either the conversion feature of the BZNE Note or BZNE Warrants during the three months ended March 31, 2012.

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The outstanding contracts at March 31, 2012, have been recorded at fair value, and their maturity details are as follows:

(in thousands) Days until maturity	Contract value	Fair value at March 31, 2012	Effect on loss
0 to 30	\$ 911	\$ 948	\$ (37)
31 to 60	1,368	1,395	(27)
61 to 90	515	536	(21)
91 to 120	138	140	(2)
121 to 180	249	249	—
More than 180	—	—	—
Total	\$ 3,181	\$ 3,268	\$ (87)

### **NOTE 9 RELATED PARTY TRANSACTIONS**

In February 2012, we made a \$1.0 million investment in ChromaDex. Other investors participating in the private financing included the Gamma Trust, Hsu Gamma, and Richard Lerner, a director. Curt Lockshin, OPKO's Vice President, Corporate R&D Initiatives, serves as a director for ChromaDex. Following our investment, we own 1.5% of ChromaDex, the Gamma Trust owns approximately 16% of ChromaDex; Hsu Gamma owns approximately 1%; and each of Dr. Lerner, Richard Pfenniger, Jr., Steven Rubin, and Rao Uppaluri own less than 1% of ChromaDex. Refer to Note 5.

In February 2012, we purchased from BZNE \$1.7 million of 10% secured convertible promissory notes (the "Notes"), convertible into BZNE common stock at a price equal to \$0.20 per common share, which Notes are due and payable on February 24, 2014 and ten year warrants to purchase 8.5 million shares of BZNE common stock at an exercise price of \$0.40 per share. Refer to Note 5.

Roberto Prego Novo is the Chairman of BZNE and presently serves as a Consultant to OPKO. Dr. Frost and Mr. Prego Novo previously invested in BZNE in February and March, 2011. On May 16, 2011, BZNE acquired the assets and assumed the liabilities of Aero Pharmaceuticals, Inc. ("Aero") in exchange for which BZNE issued an aggregate of 8,331,396 shares of its restricted common stock to Aero. On September 21, 2011, BZNE issued an additional 13,914 shares to Aero due to the late filing of a registration statement. Prior to the transaction, Dr. Frost, through the Gamma Trust, beneficially owned approximately 46% of Aero's issued and outstanding capital stock; Mr. Prego Novo owned approximately 23% of Aero's issued and outstanding capital stock through Olyrcra Trust; and Dr. Hsiao beneficially owned approximately 12% of Aero's issued and outstanding stock. Each of Drs. Frost and Hsiao and Mr. Prego Novo beneficially owned approximately 9.2%, 1.7%, and 8.2% of BZNE, respectively, following the purchase of Aero by BZNE. Each of Dr. Uppaluri and Mr. Rubin beneficially own less than 1% of BZNE as a result of their prior ownership of Aero shares. Effective April 18, 2012, Dr. Frost, through the Gamma Trust, also made a loan to BZNE in the principal amount of \$250,000, with a maturity date of August 7, 2012, which is secured by a first priority lien on a particular BZNE receivable.

On August 17, 2011, we made an investment in Neovasc. Refer to Note 5. Dr. Frost and other members of OPKO management are shareholders of Neovasc. Prior to the investment, Dr. Frost beneficially owned approximately 36% of Neovasc, Dr. Jane Hsiao owned approximately 6%, and each of Dr. Uppaluri and Mr. Rubin owned less than 1%. Dr. Jane Hsiao and Steven Rubin also serve on the board of directors for Neovasc.

On March 14, 2011, we issued 27,000,000 shares of our common stock. Refer to Note 7. The 27,000,000 shares of our common stock issued include an aggregate of 3,733,000 shares of our common stock purchased by the Gamma Trust and Hsu Gamma at the public offering price. The Gamma Trust purchased an aggregate of 3,200,000 shares for approximately \$12.0 million, and Hsu Gamma purchased an aggregate of 533,000 shares for approximately \$1.9 million. Jefferies & Company, Inc. and J.P. Morgan Securities LLC acted as joint book-running managers for the offering. UBS Investment Bank and Lazard Capital Markets LLC acted as co-lead managers for the offering and Ladenburg Thalmann & Co. Inc., a subsidiary of Ladenburg Thalmann Financial Services Inc., acted as co-manager for the offering. Dr. Frost is the Chairman of the Board of Directors and principal shareholder of Ladenburg Thalmann Financial Services Inc.

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In January 2011, we entered into a definitive agreement with CURNA and each of CURNA's stockholders and option holders, pursuant to which we agreed to acquire all of the outstanding stock of CURNA in exchange for \$10.0 million in cash, plus \$0.6 million in liabilities, of which \$0.5 million was paid at closing. At the time of the transaction, The Scripps Research Institute ("TSRI") owned approximately 4% of CURNA. Dr. Frost serves as a Trustee for TSRI and Dr. Richard Lerner, a director of the Company, served as its President until December 2011.

Our unutilized \$12.0 million line of credit with the Frost Group, LLC (the "Frost Group") expired on March 31, 2012. The Frost Group members include a trust controlled by Dr. Frost, who is the Company's Chief Executive Officer and Chairman of the board of directors, Dr. Jane H. Hsiao, who is the Vice Chairman of the board of directors and Chief Technical Officer, Steven D. Rubin who is Executive Vice President — Administration and a director of the Company, and Rao Uppaluri, who is the Chief Financial Officer of the Company. On June 2, 2010 we repaid all amounts outstanding on the line of credit including \$12.0 million in principal and \$4.1 million in interest. We did not have any borrowings under the line of credit at any time during the 2011 or 2012 fiscal years. We were obligated to pay interest upon maturity, capitalized quarterly, on any outstanding borrowings under the line of credit at an 11% annual rate. The line of credit was collateralized by all of our U.S. personal property except our intellectual property.

In November 2010, we made an investment in Fabrus, Inc., a privately held early stage biotechnology company with next generation therapeutic antibody drug discovery and development capabilities. In exchange for the investment, we acquired approximately 13% of Fabrus on a fully diluted basis. Our investment was part of a \$2.1 million financing for Fabrus. Other investors participating in the financing include the Gamma Trust and Hsu Gamma. In connection with the financing, Drs. Frost and Hsiao joined the Fabrus Board of Managers. Dr. Richard Lerner, a director of the Company, owns approximately 5% of Fabrus. Vaughn Smider, Founder and CEO of Fabrus, is an Assistant Professor at The Scripps Research Institute ("TSRI"). Dr. Frost serves as a Trustee for TSRI and Dr. Richard Lerner served as its President until December 2011.

On July 20, 2010, we entered into a use agreement for approximately 1,100 square feet of space in Jupiter, Florida to house our molecular diagnostics operations with TSRI. Dr. Frost is a member of the Board of Trustees of TSRI and Dr. Richard Lerner, a member of our Board of Directors, was the President of TSRI until December 2011. Pursuant to the terms of the use agreement, which was effective as of November 1, 2009, gross rent was approximately \$40 thousand per year for a two-year term. We ceased use of this space in September 2011.

On June 1, 2010, we entered into a cooperative research and development agreement with Academia Sinica in Taipei, Taiwan ("Academia Sinica"), for pre-clinical work for a compound against various forms of cancer. Dr. Alice Yu, a member of our Board of Directors, is a Distinguished Research Fellow and Associate Director at the Genomics Research Center, Academia Sinica ("Genomics Research Center"). In connection with the agreement, we are required to pay Academia Sinica approximately \$0.2 million over the term of the agreement.

On July 20, 2009, we entered into a worldwide exclusive license agreement with Academia Sinica for a new technology to develop protein vaccines against influenza and other viral infections. Dr. Alice Yu, a member of our Board of Directors, is a Distinguished Research Fellow and Associate Director at the Genomics Research Center. Effective March 5, 2010, the Frost Group assigned two license agreements with Academia Sinica to us. The license agreements pertain to alpha-galactosyl ceramide analogs and their use as immunotherapies and peptide ligands in the diagnosis and treatment of cancer. In connection with the assignment of the two licenses, we agreed to reimburse the Frost Group for the licensing fees previously paid by the Frost Group to Academia Sinica in the amounts of \$50 thousand and \$75 thousand, respectively, as well as reimbursement of certain expenses of \$50 thousand.

Effective September 21, 2009, we entered into an agreement pursuant to which we invested \$2.5 million in Cocrystal in exchange for 1,701,723 shares of Cocrystal's Convertible Series A Preferred Stock. A group of investors, led by the Frost Group (the "Cocrystal Investors"), previously invested \$5 million in Cocrystal, and agreed to invest an additional \$5 million payable in two equal installments in September 2009 and March 2010. As a result of an amendment to the Cocrystal Investors agreements dated June 9, 2009, the Company, rather than the Cocrystal Investors, made the first installment investment (\$2.5 million) on September 21, 2009. Refer to Note 5.

On June 16, 2009, we entered into an agreement to lease approximately 10,000 square feet of space in Hialeah, Florida to house manufacturing and service operations for our ophthalmic instrumentation business (the "Hialeah Facility") from an entity controlled by Drs. Frost and Hsiao. Effective as of July 1, 2011, the lease was amended to include an additional 5,000 square feet of space at the same rate per square foot as was then in effect under the lease. Following the amendment, gross rent payable under the lease was \$0.2 million per year. Upon the closing of the sale of our instrumentation business to Optos, we assigned the lease to Optos. Refer to Note 6.

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On June 10, 2009, we entered into a stock purchase agreement with Sorrento, pursuant to which we invested \$2.3 million in Sorrento. Refer to Note 5. In exchange for the investment, we acquired approximately one-third of the outstanding common shares of Sorrento and received a fully-paid, exclusive license to the Sorrento antibody library for the discovery and development of therapeutic antibodies in the field of ophthalmology. On September 21, 2009, Sorrento entered into a merger transaction with Quikbyte Software, Inc. Prior to the merger transaction, certain investors, including Dr. Frost and other members of OPKO management, made an investment in Quikbyte. Dr. Richard Lerner, a member of our Board of Directors, serves as a consultant and scientific advisory board member to Sorrento and owns less than one percent of its shares.

In November 2007, we entered into an office lease with Frost Real Estate Holdings, LLC, an entity affiliated with Dr. Frost. The lease is for approximately 8,300 square feet of space in an office building in Miami, Florida, where the Company's principal executive offices are located. We had previously been leasing this space from Frost Real Estate Holdings on a month-to-month basis while the parties were negotiating the lease. The lease provides for payments of approximately \$18 thousand per month in the first year increasing annually to \$24 thousand per month in the fifth year, plus applicable sales tax. The rent is inclusive of operating expenses, property taxes and parking. The rent for the first year was reduced to reflect a \$30 thousand credit for the costs of tenant improvements.

We reimburse Dr. Frost for Company-related use by Dr. Frost and our other executives of an airplane owned by a company that is beneficially owned by Dr. Frost. We reimburse Dr. Frost in an amount equal to the cost of a first class airline ticket between the travel cities for each executive, including Dr. Frost, traveling on the airplane for Company-related business. We do not reimburse Dr. Frost for personal use of the airplane by Dr. Frost or any other executive; nor do we pay for any other fixed or variable operating costs of the airplane. We reimbursed Dr. Frost approximately \$65 thousand and \$57 thousand, respectively, for Company-related travel by Dr. Frost and other OPKO executives during the three months ended March 31, 2012 and 2011.

### **NOTE 10 COMMITMENTS AND CONTINGENCIES**

In connection with our acquisitions of CURNA, Claros and FineTech, we agreed to pay future consideration to the sellers upon the achievement of certain events. As a result, we recorded \$19.1 million as contingent consideration with \$4.3 million recorded within accrued expenses and \$14.8 million recorded within other long-term liabilities. Refer to Note 5.

In connection with the acquisition of Vidus Ocular, Inc. ("Vidus"), we agreed to issue additional stock consideration upon the occurrence of certain events including the issuance of 488,420 shares of our common stock upon the achievement of certain development milestones and, in the event that the stock price for our common stock at the time of receipt of approval or clearance by the FDA of a pre-market notification 510(k) relating to the Aquashunt™ is not at or above a specified price, we will be obligated to issue an additional 413,850 shares of our common stock.

We are a party to litigation in the ordinary course of business. We do not believe that any such litigation will have a material adverse effect on our business, financial condition, or results of operations.

We expect to incur substantial losses as we continue the development of our product candidates, continue our other research and development activities, and establish a sales and marketing infrastructure in anticipation of the commercialization of our diagnostic and pharmaceutical product candidates. We currently have limited commercialization capabilities, and it is possible that we may never successfully commercialize any of our diagnostic and pharmaceutical product candidates. We do not currently generate revenue from any of our diagnostic and pharmaceutical product candidates. Our research and development activities are budgeted to expand over a period of time and will require further resources if we are to be successful. As a result, we believe that our operating losses are likely to be substantial over the next several years. We may need to obtain additional funds to further develop our research and development programs, and there can be no assurance that additional capital will be available to us on acceptable terms, or at all.

[Table of Contents](#)**NOTE 11 SEGMENTS**

We currently manage our operations in one reportable segment, pharmaceutical. The pharmaceutical segment consists of two operating segments, our (i) pharmaceutical research and development segment which is focused on the research and development of pharmaceutical products, diagnostic tests and vaccines, and (ii) the pharmaceutical operations we acquired in Chile, Mexico, and Israel through the acquisition of OPKO Chile, Exakta-OPKO, and FineTech, respectively. There are no inter-segment sales. We evaluate the performance of each segment based on operating profit or loss. There is no inter-segment allocation of interest expense and income taxes. We previously recorded our ophthalmic instrumentation business as its own reporting segment.

Information regarding our operations and assets for the two segments and the unallocated corporate operations as well as geographic information are as follows:

(in thousands)	For the three months ended	
	March 31,	
	2012	2011
<b>Operating (loss) income from continuing operations</b>		
Pharmaceutical	\$ (6,031)	\$ (1,019)
Corporate	<u>(2,816)</u>	<u>(3,117)</u>
	<u>\$ (8,847)</u>	<u>\$ (4,136)</u>
<b>Depreciation and amortization</b>		
Pharmaceutical	\$ 2,284	\$ 826
Corporate	<u>44</u>	<u>43</u>
	<u>\$ 2,328</u>	<u>\$ 869</u>
<b>Product sales</b>		
United States	\$ —	\$ —
Chile	5,701	5,751
Israel	1,627	—
Mexico	<u>1,311</u>	<u>1,199</u>
	<u>\$ 8,639</u>	<u>\$ 6,950</u>
		As of
	March 31,	December 31,
	2012	2011
<b>Assets</b>		
Pharmaceutical	\$165,667	\$ 154,437
Corporate	65,903	75,048
Discontinued operations	<u>—</u>	<u>4</u>
	<u>\$231,570</u>	<u>\$ 229,489</u>

During the three months ended March 31, 2012, no customer represented more than 10% of our total revenue. During the three months ended March 31, 2011, our largest customer represented 12% of our total revenue. As of March 31, 2012, one customer represented 23% of our accounts receivable balance. As of December 31, 2011, one customer represented 29% of our accounts receivable balance.

**NOTE 12 SUBSEQUENT EVENTS**

In April 2012, we completed the acquisition of ALS Distribuidora Limitada (“ALS”), a privately-held Chilean pharmaceutical company, pursuant to a stock purchase agreement entered into in January 2012. In connection with the transaction, we agreed to pay up to a total of \$4.0 million in cash to the Sellers. Pursuant to the purchase agreement, we paid (i) \$2.4 million in cash at closing to the Sellers, less certain liabilities, and (ii) \$0.8 million in cash at closing into a separate escrow account to satisfy possible indemnity claims. We agreed to pay an additional \$0.8 million, the remainder of the \$4.0 million purchase price, to the Sellers upon the legal registration in the name of ALS of certain trademarks and product registrations previously held by Arama Laboratorios y Compañía Limitada.



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We have reviewed all subsequent events and transactions that occurred after the date of our March 31, 2012 consolidated balance sheet date, through the time of filing this Quarterly Report on Form 10-Q.

### **Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations**

#### **OVERVIEW**

*You should read this discussion together with the condensed consolidated financial statements, related Notes, and other financial information included elsewhere in this report and in our Annual Report on Form 10-K for the year ended December 31, 2011 (the “Form 10-K”). The following discussion contains assumptions, estimates and other forward-looking statements that involve a number of risks and uncertainties, including those discussed under “Risk Factors,” in Part II, Item 1A of our Form 10-K for the year ended December 31, 2011. These risks could cause our actual results to differ materially from those anticipated in these forward-looking statements.*

We are a multi-national pharmaceutical and diagnostics company that seeks to establish industry-leading positions in large and rapidly growing medical markets by leveraging our discovery, development and commercialization expertise and our novel and proprietary technologies. We are developing a range of solutions to diagnose, treat and prevent various conditions, including molecular diagnostics tests, point-of-care tests, and proprietary pharmaceuticals and vaccines. We plan to commercialize these solutions on a global basis in large and high growth markets, including emerging markets. We have already established emerging markets pharmaceutical platforms in Chile and Mexico, which are generating revenue and which we expect to generate positive cash flow and facilitate future market entry for our products currently in development. We also operate a specialty active pharmaceutical ingredients (“APIs”) manufacturer in Israel, which is currently generating revenue and positive cash flow, and which we expect will play a valuable role in the development of our pipeline of peptoids and other molecules for our proprietary molecular diagnostic and therapeutic products. We continue to actively explore opportunities to acquire complementary pharmaceuticals, compounds, technologies, and businesses.

We expect to incur substantial losses as we continue the development of our product candidates, continue our other research and development activities, and establish a sales and marketing infrastructure in anticipation of the commercialization of our diagnostic and pharmaceutical product candidates. We currently have limited commercialization capabilities, and it is possible that we may never successfully commercialize any of our diagnostic and pharmaceutical product candidates. We do not currently generate revenue from any of our diagnostic and pharmaceutical product candidates. Our research and development activities are budgeted to expand over a period of time and will require further resources if we are to be successful. As a result, we believe that our operating losses are likely to be substantial over the next several years. We may need to obtain additional funds to further develop our research and development programs, and there can be no assurance that additional capital will be available to us when needed on acceptable terms, or at all.

#### **RECENT DEVELOPMENTS**

In April 2012, we completed the acquisition of ALS Distribuidora Limitada (“ALS”), a privately-held Chilean pharmaceutical company, pursuant to a stock purchase agreement entered into in January 2012. In connection with the transaction, we agreed to pay up to a total of \$4.0 million in cash to the Sellers. Pursuant to the purchase agreement, we paid (i) \$2.4 million in cash at closing to the Sellers, less certain liabilities, and (ii) \$0.8 million in cash at closing into a separate escrow account to satisfy possible indemnity claims. We agreed to pay an additional \$0.8 million, the remainder of the \$4.0 million purchase price, to the Sellers upon the legal registration in the name of ALS of certain trademarks and product registrations previously held by Arama Laboratorios y Compañía Limitada (“Arama”).

Recently, we announced a collaboration with Laboratory Corporation of America (LabCorp®), a S&P 500 company and pioneer in commercializing new diagnostic technologies, for Labcorp to complete the development and later commercialize laboratory testing services for Alzheimer’s disease. We will continue to develop (on our own or with partners) in vitro diagnostic tests for detection of Alzheimer’s disease, as well as companion diagnostic applications for the Alzheimer’s test, all of which rights were retained by us under the Labcorp agreement.

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### **RESULTS OF OPERATIONS FOR THE THREE MONTHS ENDED MARCH 31, 2012 AND 2011**

*Revenue.* Revenue for the three months ended March 31, 2012, was \$8.8 million, compared to \$7.0 million for the comparable 2011 period. The increase in revenue during the first three months of 2012 is primarily due to revenue generated by our Israeli Active Pharmaceutical Ingredient (“API”) manufacturer which we acquired in December 2011.

*Gross margin.* Gross margin for the three months ended March 31, 2012, was \$3.8 million compared to \$2.8 million for the comparable period of 2011. Gross margin for the three months ended March 31, 2012, increased from the 2011 period primarily as a result of the increased gross margin generated by our pharmaceutical businesses in Israel and Mexico, partially offset by decreased gross margin generated by our pharmaceutical business in Chile principally due to increased inventory reserves. Gross Margin for the three months ended March 31, 2012 benefited from the correction of an error related to certain costs for inventory purchases. The correction of the error resulted in an increase of gross margin of \$0.4 million, or \$0.00 per share.

*Selling, general and administrative expense.* Selling, general and administrative expense for the three months ended March 31, 2012, was \$4.7 million compared to \$5.1 million of expense for the comparable period of 2011. The decrease in selling, general and administrative expenses is primarily the result of decreased equity-based compensation expense partially offset by increased professional fees and activities related to our Israeli API business. Selling, general and administrative expenses during the first three months of 2012 and 2011 primarily consist of personnel expenses and professional fees, including equity-based compensation expense of \$0.6 million and \$1.4 million, respectively, and professional fees.

*Research and development expense.* Research and development expense during the three months ended March 31, 2012 and 2011, was \$4.8 million and \$1.1 million, respectively. The increase in research and development expense primarily reflects increased activities related to our Claros, CURNA and molecular diagnostics research and development programs. We acquired Claros in October 2011, and we have also increased staffing and related activities for our CURNA and molecular diagnostics development programs. The three months ended March 31, 2012 and 2011, include equity-based compensation expense of \$0.6 million and \$0.4 million, respectively. Research and development expense for the three months ended March 31, 2011 primarily consisted of activities related to our molecular diagnostics development programs and post-acquisition activities related to CURNA.

*Contingent consideration expense.* Contingent consideration expense for the three months ended March 31, 2012 was \$1.1 million, which represents the change in the fair value of the contingent consideration liability due to the time value of money. The contingent consideration liability relates to potential amounts payable to Claros and FineTech’s former stockholders pursuant to our agreement to acquire them in October and December 2011, respectively. The comparable period of 2011 did not include any such expense.

*Other operating expenses.* Other operating expense was \$2.0 million for the three months ended March 31, 2012 compared to \$0.8 million for the comparable period ended March 31, 2011. Other operating expenses primarily include the amortization of intangible assets. Amortization expense increased due to the October and December 2011 acquisitions of Claros and FineTech, respectively.

*Other income and expenses.* Other income and expense, net was \$1.0 million for the first three months of 2012 compared to other income, net of \$43 thousand for the comparable 2011 period. The first three months of 2012 include \$1.1 million of other income recognized from the fair value of the warrants received in connection with our investment in Biozone Pharmaceuticals, Inc. Other income primarily consists of interest earned on our cash and cash equivalents and other expense primarily reflects the interest incurred on our lines of credit in Chile. Partially offsetting the interest incurred on our Chilean lines of credit was the benefit of our Chilean and Mexican operations currencies during the three months ended March 31, 2012.

*Discontinued operations.* Loss from discontinued operations was \$0 compared to \$1.0 million for the three months ended March 31, 2012 and the comparable period of 2011, respectively. The 2011 results reflect the operating loss of our instrumentation business for that period. In October 2011 we sold the instrumentation business and no longer have any ongoing operations related to that business.

*Income taxes.* Our income tax provision reflects the income tax payable in Chile and Mexico. Our Israeli operations will benefit from a tax holiday during 2012. We have recorded a full valuation allowance against our deferred tax assets in the U.S.

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### **LIQUIDITY AND CAPITAL RESOURCES**

At March 31, 2012, we had cash, cash equivalents and marketable securities of approximately \$62.1 million. Cash used in operations during 2012 primarily reflects expenses related to selling, general and administrative activities related to our corporate operations and research and development activities, as well as our operations in Chile, Israel and Mexico. In addition, we invested \$2.7 million in two pharmaceutical businesses. Since our inception, we have not generated sufficient gross margins to offset our operating and other expenses and our primary source of cash has been from the public and private placement of stock and credit facilities available to us.

In connection with our acquisitions of CURNA, Claros and FineTech, we agreed to pay future consideration to the sellers upon the achievement of certain events, including minimum cash payments of \$5.0 to the former stockholder of FineTech upon the achievement of certain sales milestones, and up to an additional \$19.1 million in shares of the our common stock to the former stockholders of Claros upon and subject to the achievement of certain milestones.

As of March 31, 2012, we have outstanding lines of credit in the aggregate amount of \$14.2 million with 7 financial institutions in Chile, with an additional \$5.2 million available for additional borrowings. The average interest rate on these lines of credit is approximately 7%. These lines of credit are short-term and are generally due within three months. These lines of credit are used primarily as a source of working capital for inventory purchases. The highest balance at any time during the three months ended March 31, 2012 was \$14.7 million. We intend to continue to enter into these lines of credit as needed. There is no assurance that these lines of credit or other funding sources will be available to us on acceptable terms, or at all, in the future.

Our unutilized \$12.0 million line of credit with the Frost Group expired on March 31, 2012. We were obligated to pay interest upon maturity, capitalized quarterly, on any outstanding borrowings under the line of credit at an 11% annual rate. The line of credit was collateralized by all of our U.S. based personal property except our intellectual property and had no amounts borrowed after June 2, 2010 when it was repaid in full.

We expect to incur losses from operations for the foreseeable future. We expect to incur substantial research and development expenses, including expenses related to the hiring of personnel and additional clinical trials. We expect that selling, general and administrative expenses will also increase as we expand our sales, marketing and administrative staff and add infrastructure.

We believe the cash, cash equivalents, and marketable securities on hand at March 31, 2012 and the amounts available to be borrowed under our lines of credit are sufficient to meet our anticipated cash requirements for operations and debt service beyond the next 12 months. We based this estimate on assumptions that may prove to be wrong or are subject to change, and we may be required to use our available cash resources sooner than we currently expect. If we acquire additional assets or companies, accelerate our product development programs or initiate additional clinical trials, we will need additional funds. Our future cash requirements will depend on a number of factors, including possible acquisitions, the continued progress of research and development of our product candidates, the timing and outcome of clinical trials and regulatory approvals, the costs involved in preparing, filing, prosecuting, maintaining, defending, and enforcing patent claims and other intellectual property rights, the status of competitive products, the availability of financing, and our success in developing markets for our product candidates. If we are not able to secure additional funding when needed, we may have to delay, reduce the scope of, or eliminate one or more of our clinical trials or research and development programs or possible acquisitions.

We intend to finance additional research and development projects, clinical trials and our future operations with a combination of available cash on hand, payments from potential strategic research and development, licensing and/or marketing arrangements, public offerings, private placements, debt financing and revenues from future product sales, if any. There can be no assurance, however, that additional capital will be available to us on acceptable terms, or at all.

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### CRITICAL ACCOUNTING POLICIES AND ESTIMATES

*Accounting estimates.* The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of sales and expenses during the reporting period. Actual results could differ from those estimates.

*Equity-based compensation.* We recognize equity based compensation as an expense in our financial statements and that cost is measured at the fair value of the awards and expensed over their vesting period. Equity-based compensation arrangements to non-employees are recorded at their fair value on the measurement date. We estimate the grant-date fair value of our stock option grants using a valuation model known as the Black-Scholes-Merton formula or the “Black-Scholes Model” and allocate the resulting compensation expense over the corresponding requisite service period associated with each grant. The Black-Scholes Model requires the use of several variables to estimate the grant-date fair value of stock options including expected term, expected volatility, expected dividends and risk-free interest rate. We perform significant analyses to calculate and select the appropriate variable assumptions used in the Black-Scholes Model. We also perform significant analyses to estimate forfeitures of equity-based awards. We are required to adjust our forfeiture estimates on at least an annual basis based on the number of share-based awards that ultimately vest. The selection of assumptions and estimated forfeiture rates is subject to significant judgment and future changes to our assumptions and estimates may have a material impact on our Consolidated Financial Statements.

*Goodwill and intangible assets.* The allocation of the purchase price for acquisitions requires extensive use of accounting estimates and judgments to allocate the purchase price to the identifiable tangible and intangible assets acquired, including in-process research and development, and liabilities assumed based on their respective fair values. Additionally, we must determine whether an acquired entity is considered to be a business or a set of net assets, because a portion of the purchase price can only be allocated to goodwill in a business combination.

Appraisals inherently require significant estimates and assumptions, including but not limited to, determining the timing and estimated costs to complete the in-process research and development projects, projecting regulatory approvals, estimating future cash flows, and developing appropriate discount rates. We believe the estimated fair values assigned to the Claros and FineTech assets acquired and liabilities assumed are based on reasonable assumptions. However, the fair value estimates for the purchase price allocation may change during the allowable allocation period, which is up to one year from the acquisition date, if additional information becomes available that would require changes to our estimates.

*Allowance for doubtful accounts and revenue recognition.* Generally, we recognize revenue from product sales when goods are shipped and title and risk of loss transfer to our customers. Our estimates for sales returns are based upon the historical patterns of products returned matched against the sales from which they originated, and management’s evaluation of specific factors that may increase the risk of product returns. We analyze accounts receivable and historical bad debt levels, customer credit worthiness and current economic trends when evaluating the adequacy of the allowance for doubtful accounts using the specific identification method. Our reported net loss is directly affected by management’s estimate of the collectability of accounts receivable. The allowance for doubtful accounts recognized in our consolidated balance sheets at March 31, 2012 and December 31, 2011 was \$0.3 million and \$0.4 million, respectively.

*Recent accounting pronouncements.* On January 1, 2012, we adopted an amendment issued by the Financial Accounting Standards Board (“FASB”) to the accounting standards related to fair value measurements and disclosure requirements. This standard provides certain amendments to the existing guidance on the use and application of fair value measurements and maintains a definition of fair value that is based on the notion of exit price. The adoption of this standard did not have a material impact on our consolidated financial statements.

On January 1, 2012, we adopted amendments issued by the FASB to the accounting standards related to the presentation of comprehensive income. These standards revise the manner in which entities present comprehensive income in their financial statements and remove the option to present items of other comprehensive income in the statement of changes in stockholders’ equity. These standards require an entity to report components of comprehensive income in either (1) a continuous statement of comprehensive income, or (2) two separate but consecutive statements of net income and other comprehensive income. We modified our financial statements presentation using the latter alternative.

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On January 1, 2012, we adopted revised guidance issued by the FASB related to the testing of goodwill for impairment. Under the revised guidance, an entity has the option to perform a qualitative assessment of whether it is more-likely-than-not that a reporting unit's fair value is less than its carrying value prior to performing the two-step quantitative goodwill impairment test. If, based on the qualitative factors, an entity determines that the fair value of the reporting unit is greater than its carrying amount, then the entity would not be required to perform the two-step quantitative impairment test for that reporting unit. However, if the qualitative assessment indicates that it is not more-likely-than-not that the reporting unit's fair value exceeds its carrying value, then the quantitative assessment must be performed. An entity is permitted to perform the qualitative assessment on none, some or all of its reporting units and may also elect to bypass the qualitative assessment and begin with the quantitative assessment of goodwill impairment. This amendment did not have a material impact on our consolidated financial statements.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

In the normal course of doing business, we are exposed to the risks associated with foreign currency exchange rates and changes in interest rates.

**Foreign Currency Exchange Rate Risk** – Although we do not speculate in the foreign exchange market, we may from time to time manage exposures that arise in the normal course of business related to fluctuations in foreign currency exchange rates by entering into offsetting positions through the use of foreign exchange forward contracts. Certain firmly committed transactions are hedged with foreign exchange forward contracts. As exchange rates change, gains and losses on the exposed transactions are partially offset by gains and losses related to the hedging contracts. Both the exposed transactions and the hedging contracts are translated at current spot rates, with gains and losses included in earnings.

Our derivative activities, which consist of foreign exchange forward contracts and swaps, are initiated to hedge forecasted cash flows that are exposed to foreign currency risk. The foreign exchange forward contracts generally require us to exchange local currencies for foreign currencies based on pre-established exchange rates at the contracts' maturity dates. As exchange rates change, gains and losses on these contracts are generated based on the change in the exchange rates that are recognized in the consolidated statement of operations at maturity, and offset the impact of the change in exchange rates on the foreign currency cash flows that are hedged. If the counterparties to the exchange contracts do not fulfill their obligations to deliver the contracted currencies, we could be at risk for currency related fluctuations. During January 2012, we entered into a foreign exchange, fixed interest rate swap contract that provides for us to pay a fixed interest rate on the underlying loan balance denominated in Chilean Pesos. We entered into this agreement in Chile for purchases of inventory denominated in U.S. dollars. A hypothetical 1% interest rate change or 10% foreign exchange rate change will not have a material impact on our results from operations or financial position. We enter into these contracts with counterparties that we believe to be creditworthy and do not enter into any leveraged derivative transactions. We had \$3.2 million in foreign exchange forward contracts outstanding at March 31, 2012, primarily to hedge Chilean-based operating cash flows against US dollars. If Chilean Pesos were to strengthen in relation to the US dollar, our loss or gain on hedged foreign currency cash-flows would be offset by the derivative contracts, with a net effect of zero.

We do not engage in trading market risk sensitive instruments or purchasing hedging instruments or "other than trading" instruments that are likely to expose us to significant market risk, whether interest rate, foreign currency exchange, commodity price, or equity price risk.

**Interest Rate Risk** – Our exposure to market risk relates to our cash and investments and to our borrowings. We maintain an investment portfolio of money market funds. The securities in our investment portfolio are not leveraged, and are, due to their very short-term nature, subject to minimal interest rate risk. We currently do not hedge interest rate exposure. Because of the short-term maturities of our investments, we do not believe that a change in market interest rates would have a significant negative impact on the value of our investment portfolio except for reduced income in a low interest rate environment. At March 31, 2012, we had cash, cash equivalents and marketable securities of \$62.1 million. The weighted average interest rate related to our cash and cash equivalents for the three months ended March 31, 2012 was 0%. As of March 31, 2012, the principal value of our credit lines was \$14.2 million at a weighted average interest rate of approximately 7% for the three months then ended.

The primary objective of our investment activities is to preserve principal while at the same time maximizing yields without significantly increasing risk. To achieve this objective, we invest our excess cash in debt instruments of the U.S. Government and its agencies, bank obligations, repurchase agreements and high-quality corporate issuers, and money market funds that invest in such debt instruments, and, by policy, restrict our exposure to any single corporate issuer by imposing concentration limits. To minimize the exposure due to adverse shifts in interest rates, we maintain investments at an average maturity of generally less than three months.

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**Item 4. Controls and Procedures**

The Company's management, under the supervision and with the participation of the Company's Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), has evaluated the effectiveness of the Company's disclosure controls and procedures as defined in Securities and Exchange Commission ("SEC") Rule 13a-15(e) as of March 31, 2012. Based on that evaluation, the CEO and CFO have concluded that the Company's disclosure controls and procedures are effective to ensure that information the Company is required to disclose in reports that it files or submits under the Securities Exchange Act is accumulated and communicated to management, including the CEO and CFO, as appropriate, to allow timely decisions regarding required disclosure and is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms.

***Changes to the Company's Internal Control Over Financial Reporting***

In connection with the closing of the FineTech acquisition in December 2011, we began implementing standards and procedures at FineTech including upgrading and establishing controls over accounting systems, and adding employees and consultants who are trained and experienced in the preparation of financial statements in accordance with U.S. GAAP to ensure that we have in place appropriate internal control over financial reporting at FineTech. Other than as set forth above with respect to FineTech, there have been no changes to the Company's internal control over financial reporting that occurred during the Company's first fiscal quarter of 2012 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

FineTech's assets constituted \$36.3 million and \$28.1 million of total and net assets, respectively, as of March 31, 2012 and \$1.6 and \$0.3 million of revenues and net loss, respectively, for the three months ended March 31, 2012.

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**PART II. OTHER INFORMATION**

**Item 1. Legal Proceedings**

We are a party to litigation in the ordinary course of business. We do not believe that any such litigation will have a material adverse effect on our business, financial condition or results of operations.

**Item 1A. Risk Factors**

There have been no material changes from the risk factors as previously disclosed in the Item 1A of the Company Annual Report on Form 10-K.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

None.

**Item 3. Defaults Upon Senior Securities**

None.

**Item 4. Mine Safety Disclosures**

Not Applicable.

**Item 5. Other Information**

None.

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### **Item 6. Exhibits.**

Exhibit 2.7	Stock Purchase Agreement, dated January 20, 2012, by and among OPKO Health, Inc., OPKO Chile S.A., Samuel Alexandre Arama, Inversiones SVJV Limitada, Bruno Sergiani, Inversiones BS Limitada, Pierre-Yves Le Goff, and Inversiones PYTT Limitada.
Exhibit 3.1 <sup>(1)</sup>	Amended and Restated Certificate of Incorporation.
Exhibit 3.2 <sup>(2)</sup>	Amended and Restated By-Laws.
Exhibit 31.1	Certification by Phillip Frost, Chief Executive Officer, pursuant to Rule 13a-14(a) and 15d-14(a) of the Securities and Exchange Act of 1934 as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 for the quarterly period ended March 31, 2012.
Exhibit 31.2	Certification by Rao Uppaluri, Chief Financial Officer, pursuant to Rule 13a-14(a) and 15d-14(a) of the Securities and Exchange Act of 1934 as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 for the quarterly period ended March 31, 2012.
Exhibit 32.1	Certification by Phillip Frost, Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 for the quarterly period ended March 31, 2012.
Exhibit 32.2	Certification by Rao Uppaluri, Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 for the quarterly period ended March 31, 2012.
Exhibit 101*	The following materials from the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2012, formatted in XBRL (Extensible Business Reporting Language): (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Operations, (iii) Condensed Consolidated Statements of Cash Flows, and (iv) Notes to Financial Statements, tagged as blocks of text.

\* As provided in Rule 406T of Regulation S-T, this information is furnished herewith and not filed for purposes of sections 11 and 12 of the Securities Act of 1933, as amended, or section 18 of the Securities Exchange Act of 1934, as amended.

<sup>(1)</sup> Filed with the Company's Current Report on Form 8-A filed with the Securities and Exchange Commission on June 11, 2007, and incorporated herein by reference.

<sup>(2)</sup> Filed with the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 31, 2008, and incorporated herein by reference.



**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.

Date: May 10, 2012

**OPKO Health, Inc.**

/s/ Adam Logal

Adam Logal  
Executive Director of Finance, Chief Accounting Officer and  
Treasurer

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### Exhibit Index

Exhibit Number	Description
Exhibit 2.7	Stock Purchase Agreement, dated January 20, 2012, by and among OPKO Health, Inc., OPKO Chile S.A., Samuel Alexandre Arama, Inversiones SVJV Limitada, Bruno Sergiani, Inversiones BS Limitada, Pierre-Yves Le Goff, and Inversiones PYTT Limitada.
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\* As provided in Rule 406T of Regulation S-T, this information is furnished herewith and not filed for purposes of sections 11 and 12 of the Securities Act of 1933, as amended, or section 18 of the Securities Exchange Act of 1934, as amended.

PURCHASE AGREEMENT

This Purchase Agreement is entered into as of January 20, 2012, among:

/A/ **OPKO Chile S.A.**, a *sociedad anónima* organized and existing under the laws of Chile, ("**OPKO Chile**"), represented upon the execution hereof by Mr. Hans Berner Soto, national identity card number 8.302.861-0 and Mr. Horacio Marambio Raffo, national identity card number 6.613.853-4; and **OPKO Health, Inc.** a *company* organized and existing under the laws of the State of Delaware, United States of America ("**OPKO Health**"), and together with Opko Chile, the "**Buyers**"), represented upon the execution hereof by Mr. Matías de Marchena 9.979.914-5; and,

/B/ Mr. Samuel Alexandre Arama, French, married, B.A. in administration and finance, holder of identity card for foreigners No. 21.150.340-8 ("**Mr. Arama**"), who appears in his own name and on behalf, as it shall be hereinafter evidenced, of **INVERSIONES SVJV LIMITADA**", an investment company, *Rol Único Tributario* (Taxpayer's identification) Number 76.119.469-; ("**SVJV**"); Mr. Bruno Sergiani, unmarried, B.A. in administration and finance, holder of identity card for foreigners No. 21.875.405-8 ("**Mr. Sergiani**") who appears in his own name and on behalf, as it shall be hereinafter evidenced, of **INVERSIONES BS LIMITADA**", an investment company, *Rol Único Tributario* (Taxpayer's identification) Number 76.141.465-8 ("**BS**"); and Mr. Pierre-Yves Le Goff, French, businessman, married, holder of identity card for foreigners No. 22.314.339-3 ("**Mr. Le Goff**"), who appears in his own name and on behalf, as it shall be hereinafter evidenced, of **INVERSIONES PYTT LIMITADA**, *Rol Único Tributario* (Taxpayer's identification) Number 76.176.002-5 ("**PYTT**" and together with Mr. Arama, Mr. Sergiani, Mr. Le Goff, SVJV and BS, the "**Sellers**" and together with the Buyers, the "**Parties**") for the sale and transfer from the Sellers to the Buyers 100% of the company ALS Distribuidora Limitada, a *sociedad de responsabilidad limitada* organized and existing under the laws of Chile (the "**Company**").

CONTRATO DE COMPRAVENTA

El presente Contrato de Compraventa se celebra el 20 de enero de 2012, entre:

/A/ **OPKO Chile S.A.**, una sociedad anónima debidamente constituida y existente bajo las leyes de Chile ("**OPKO Chile**"), representada en este acto por don Hans Berner Soto cédula nacional de identidad número 8.302.861-0 y don Horacio Marambio Raffo, cédula nacional de identidad número 6.613.853-4; y **OPKO Health, Inc.** Una sociedad debidamente constituida y existente bajo las leyes del Estado de Delaware, Estados Unidos de América ("**OPKO Health**" y, junto con OPKO Chile, los "**Compradores**"), representada en este acto por Don Matías de Marchena cédula nacional de identidad número 9.979.914-5; y,

/B/ el Sr. Samuel Alexandre Arama, francés, casado, licenciado en administración y finanzas, cédula de identidad para extranjeros número 21.150.340-8 ("**Sr. Arama**"), quien comparece por sí y en representación según se acreditará de la sociedad "**INVERSIONES SVJV LIMITADA**", sociedad del giro de su denominación, *Rol Único Tributario* número 76.119.469-0 ("**SVJV**"); el Sr. Bruno Sergiani, francés, soltero, licenciado en administración y marketing, cédula de identidad para extranjeros número 21.875.405-8 ("**Sr. Sergiani**"), quien comparece por sí y en representación según se acreditará de la sociedad "**INVERSIONES BS LIMITADA**", sociedad del giro de su denominación, *Rol Único Tributario* número 76.141.465-8 ("**BS**"); y el Sr. Pierre-Yves Le Goff, francés, empresario, casado, cédula de identidad para extranjeros número 22.314.339-3 ("**Sr. Le Goff**"), quien comparece por sí y en representación, según se acreditará de la sociedad "**INVERSIONES PYTT LIMITADA**", sociedad del giro de su denominación, *Rol Único Tributario* número 76.176.002-5 ("**PYTT**" y conjuntamente con el Sr. Arama, el Sr. Sergiani, el Sr. Le Goff, SVJV y BS, los "**Vendedores**" y, junto con los Compradores, las "**Partes**") para la venta y traspaso, por parte de los Vendedores a los Compradores 100% de la sociedad ALS Distribuidora Limitada, sociedad de responsabilidad limitada debidamente constituida y existente bajo las leyes de Chile (la "**Empresa**").

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### **Preliminary Statements**

A. The Company is a sociedad de responsabilidad limitada (limited liability company) organized and existing under the laws in force in the Republic of Chile, as evidenced in the public deed executed on 26 August 2009 in the Notarial Office of Santiago in charge of the Notary Public, Iván Torrealba Acevedo, and is mainly engaged in the business of importation, commercialization and distribution of natural pharmaceutical products for private market.

B. Messrs. Arama, Sergiani and Le Goff owned 100% of the equity interests in the Company (the "**Quotas**"), which prior to the date hereof have been pro rata transferred to the Investment Companies referred to above, and then entirely sold to the Buyers at Closing, and the Buyers desire to acquire, on the terms and subject to the conditions set forth in this Agreement, all of the Quotas from each of the Sellers (the Investment Companies), following which the Buyers shall own 100% of the Quotas in the Company.

C. The equity capital of the Company is Ch\$1,506,000,000, divided as follows: SVJV holds 33.33%, BS holds 33.33% and PYTT holds 33.34% of all the Quotas in the Company representing such equity capital, which is fully paid-up. Together with the assignment of all the Quotas to the Investment Companies in compliance with the provisions set for in paragraph B above and prior to the execution of this Agreement, the equity capital of the Company was increased by the Investment Companies' contribution of the Intellectual Property described in Schedule 4.14(a) hereto, up to the amount described above.

### **Declaraciones preliminares**

A. La Empresa es una sociedad comercial de responsabilidad limitada constituida y existente bajo las leyes de la República de Chile, según consta en escritura pública de fecha 26 de agosto de 2009, otorgada en la Notaría de Santiago de don Iván Torrealba Acevedo, y cuyo objeto principal es el negocio de la importación, comercialización y distribución de productos farmacéuticos naturales para el mercado privado.

B. Los señores Arama, Sergiani y Le Goff eran dueños de todos los derechos en el capital de la Empresa (las "**Cuotas**"), las que con anterioridad a esta fecha han transferido a sus Sociedades de Inversión comparecientes en idéntica proporción, para posteriormente vender la totalidad de los derechos a los Compradores al Cierre de la operación, y los Compradores desean adquirir, según los términos y sujeto a las condiciones establecidas en el presente Contrato, todas las Cuotas de todos los Vendedores (las Sociedades de Inversión, tras lo cual los Compradores serán propietarios del 100% de las Cuotas de la Empresa.

C. El capital de la Empresa es CLP\$1.506.000.000, de los cuales, SVJV posee un 33,33%, BS posee un 33,33% y PYTT posee un 33,34% de las Cuotas de la Empresa que representan dicho capital de participación, el que se encuentra íntegramente pagado. Conjuntamente con la cesión de todas las Cuotas a las Sociedades de Inversión de conformidad con lo descrito en la letra B. precedente y con anterioridad a la fecha del presente Contrato, se aumentó el capital de la Empresa mediante el aporte por las Sociedades de Inversión de toda la Propiedad Intelectual descrita en el Schedule 4.14(a) del presente Contrato, quedando en consecuencia el capital ascendente a la suma ya señalada.

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**Agreement**

In consideration of the preliminary statements and the respective representations and warranties, covenants and agreements contained in this Agreement, the parties agree as set forth below:

**ARTICLE 1**

**Definitions**

In addition to terms defined elsewhere in this Agreement, the following terms when used in this Agreement shall have the meanings indicated below:

“**Action**” means any claim, action, suit, arbitration, inquiry, proceeding or investigation by or before any Governmental Authority.”

“**Agreement**” means this Agreement together with all exhibits and schedules referred to herein.

“**Arama Laboratories**” means Arama Laboratorios y Compañía Limitada.

“**Closing**” has the meaning assigned to such term in Section 7.1.

“**Company Intellectual Property**” means Intellectual Property owned by the Company.

“**Company IP Agreements**” means (a) licenses of Intellectual Property by the Company to any third party, (b) licenses of Intellectual Property by any third party to the Company , (c) agreements between the Company and any third party relating to the development or use of Intellectual Property, and (d) consents, settlements, decrees, orders, injunctions, judgments or rulings governing the use, validity or enforceability of Company Intellectual Property

**Contrato**

En virtud de las declaraciones preliminares y de las declaraciones y garantías, convenios y acuerdos respectivos contenidos en el presente Contrato, las partes acuerdan lo siguiente:

**ARTÍCULO 1**

**Definiciones**

Además de los términos definidos en este Contrato, los términos a continuación tendrán los siguientes significados al utilizarse en este Contrato:

“**Acción**” se refiere a todo reclamo, acción, juicio, arbitraje, indagación, procedimiento o investigación realizada por o ante cualquier Autoridad Gubernamental.

“**Contrato**” se refiere al presente Contrato junto con todos los anexos y apéndices referidos en el mismo.

“**Arama Laboratorios**” se refiere a Arama Laboratorios y Compañía Limitada.

“**Cierre de la Operación**” adquiere el significado asignado al mismo en el Artículo 7.1.

“**Propiedad Intelectual de la Empresa**” corresponde a la Propiedad Intelectual que posee la Empresa.

“**Acuerdos de PI de la Empresa**” se refiere a (a) las licencias de Propiedad Intelectual otorgadas por la Empresa a terceros, (b) las licencias de Propiedad Intelectual otorgadas por terceros a la Empresa, (c) los acuerdos entre la Empresa y cualquier tercero en relación con el desarrollo o uso de la Propiedad Intelectual, y (d) los consentimientos, acuerdos, decretos, órdenes, prohibiciones/medidas cautelares, sentencias judiciales, o fallos que regulan el uso, la validez o exigibilidad de la Propiedad Intelectual de la Empresa.

“**Competing Transaction**” means any of the following: (a) any merger, consolidation, capital exchange, share exchange, business combination, recapitalization, liquidation, dissolution or similar transaction involving the Company, (b) any sale, exchange, transfer or other disposition or issuance of any of the Quotas or any other registered capital or other ownership interests in the Company (including any financing of the Company), or (c) any other transaction the consummation of which would reasonably be expected to impede, prevent or materially delay the transactions contemplated by this Agreement.

“**Contracts**” means all contracts, agreements, covenants, commitments and other instruments of any kind, whether oral or written, to which the Company is a party or to which any Assets (as defined below) of the Company are bound.

“**Environmental Laws**” means any Law and any enforceable judicial or administrative interpretation thereof relating to pollution or protection of the environment or natural resources.

“**Governmental Authority**” means any Chilean governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body.

“**Governmental Order**” means any order, writ, judgment, injunction, decree, stipulation, determination or award entered into by or with any Governmental Authority.

“**Guaranty**” means, as to any Person, any contract, agreement or understanding of such Person pursuant to which such Person guarantees the indebtedness, Liabilities or obligations of others, directly or indirectly, in any manner.

“**Operación de la Competencia**” hace referencia a: (a) toda fusión, absorción, consolidación, canje de capital, traspaso de acciones, fusión de empresas, recapitalización, liquidación, disolución u otra operación similar que involucre a la Empresa, (b) toda venta, permuta, canje, transferencia, cesión u otra forma de disposición o emisión de cualquiera de las Cuotas, otro capital registrado u otras participaciones en la Empresa (incluida cualquier financiación de la Empresa), o (c) cualquier otra operación, cuya consumación, se espera que razonablemente impida, evite o retrase sustancialmente las operaciones contempladas en este Contrato.

“**Contratos**” se refiere a todo contrato, acuerdo, convenio u otro instrumento de cualquier tipo, sea verbal o escrito, del que la Empresa sea una de las partes o al que cualquier Activo (definido más adelante) de la empresa esté obligado.

“**Leves Ambientales**” se refiere a toda Ley e interpretación judicial o administrativa de la misma referente a la contaminación o protección del medioambiente o los recursos naturales

“**Autoridad Gubernamental**” se refiere a toda autoridad, organismo o comisión reguladora o administrativa del Gobierno de Chile o bien toda corte, tribunal o cuerpo judicial o arbitral.

“**Orden Gubernamental**” se refiere a toda orden, mandamiento, sentencia, prohibición/medida cautelar, decreto, estipulación, determinación o laudo pronunciado por una Autoridad Gubernamental.

“**Garantía**” se refiere, respecto de una Persona, todo contrato, acuerdo o entendimiento de esa Persona en virtud del cual esa Persona garantiza el pago de toda deuda, cumplimiento de todas las Pasivos u obligaciones de terceros, directa o indirectamente, de cualquier forma.

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**“Hazardous Materials”** means (a) any petroleum, petroleum products, by-products or breakdown products, radioactive materials, asbestos-containing materials or polychlorinated biphenyls, (b) any chemical, material or substance defined or regulated as toxic or hazardous or as a pollutant or contaminant or waste under any applicable Environmental Law and (c) any other chemical, material or substance which is regulated by any Environmental Law.

**“Intellectual Property”** means (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, statutory invention registrations together with all reissues, divisions, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof and all rights therein provided by Law or international treaties and conventions; (b) all trademarks, service marks, trade dress, logos, trade names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith; (c) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith; (d) all trade secrets and confidential business information (including databases, ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings specifications, customer and supplier lists pricing and cost information, and business and marketing plans and proposals); (e) all computer programs and software (including data and source and object codes and related documentation); (f) all other property rights in connection with the foregoing; and (g) all copies and tangible embodiments thereof; (h) all pharmaceutical health records.

**“Materiales Peligrosos”** se refiere a (a) todo tipo de petróleo, productos o subproductos derivados del petróleo, materiales radioactivos, materiales que contengan asbestos o bifenilos policlorados, (b) todo químico, material o sustancia definida o regulada como tóxica o peligrosa, o bien como agente contaminante o residuo en virtud de Ley Ambiental aplicable, y (c) cualquier otro producto químico, material o sustancia regulada por la Ley Ambiental.

**“Propiedad Intelectual”** se refiere a (a) todo invento (sea patentable o no, llevado a la práctica o no), todas sus mejoras y todas las patentes, aplicaciones y divulgaciones de patentes, registro legal de inventos junto con todas sus reemisiones, divisiones, continuaciones, continuaciones en parte, revisiones, extensiones y reexámenes, y todos los derechos respectivos otorgados por Ley o por tratados y convenciones internacionales; (b) todas las marcas comerciales, marcas de servicio, imagen comercial, , logos, nombres comerciales y corporativos, junto con todas sus traducciones, adaptaciones, derivados y combinaciones, e que incluye todo valor llave asociados a ellos, y todas las aplicaciones, registros y renovaciones relacionadas con ellos; (c) todo trabajo protegido por derecho de autor, todos los derechos de autor y todas las aplicaciones, registros y renovaciones relacionadas con ellos; (d) todos los secretos comerciales y la información comercial confidencial (incluidas las bases de datos, ideas, investigaciones y desarrollos, conocimientos, fórmulas, composiciones, procesos y técnicas de producción y manufactura, datos técnicos, diseños, planos, especificaciones, listas de clientes y proveedores, información de costos y fijación de precios, planes y propuestas comerciales y de marketing); (e) todos los programas de computadoras y recursos de informática (que incluyen los códigos de datos, fuentes y objetos y su documentación asociada); (f) todos los demás derechos de propiedad relacionados con los anteriores; (g) todas sus copias y realizaciones tangibles; (h) los registros sanitarios farmacéuticos.

“**Investment Companies**” jointly refers to INVERSIONES SVJV LIMITADA”, “INVERSIONES BS LIMITADA” and “INVERSIONES PYTT LIMITADA”.

“**Law**” means any law, statute, ordinance, rule, regulation, order, writ, judgment or decree.

“**Liabilities**” means any liability, debt or obligation (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, and whether accrued or unaccrued) any and all Actions, damages, deficiencies, fines, penalties, interest, assessments, judgments, losses, Taxes, costs, expenses, including, without limitation, fees and disbursements of counsel and experts

“**Licensed Intellectual Property**” means Intellectual Property licensed to the Company pursuant to the Company IP Agreements.

“**Liens**” means any liens, claims, charges, rights, pledges, security interests, mortgages, options, title defects, conditions or other encumbrances, restrictions or limitations of any nature whatsoever, including any restriction on the use, voting, transfer or other exercise of any attributes of ownership.

“**Toll Manufacturing Agreement**” means the toll manufacturing agreement between the Company and “LABORATORIO NEXTFARMA LIMITADA” in the form attached hereto as Exhibit A.

“**Material Adverse Effect**” means any change in or effect on the business of the Company that individually, or together with all other such changes and effects, (a) is or could reasonably be expected to be materially adverse to the business, assets, liabilities (contingent or otherwise), condition, prospects or results of operations of the Company or (b) could reasonably be expected to materially adversely affect the ability of the Buyers to operate or conduct the business of the Company in the manner in which it is currently operated or conducted after the Closing Date.

“**Sociedades de Inversión**” significa conjuntamente “INVERSIONES SVJV LIMITADA”, “INVERSIONES BS LIMITADA” e “INVERSIONES PYTT LIMITADA”.

“**Ley**” se refiere toda cualquier ley, reglamento, ordenanza, norma, regulación, orden, mandamiento, sentencia o decreto.

“**Pasivos**” se refiere a toda pasivo, deuda u obligación (sea conocida o desconocida, declarada o no declarada, absoluta o contingente, devengada o no devengada), todas y cada una de las Acciones, daños y perjuicios, deficiencias, multas, penas, intereses, valuaciones, fallos, pérdidas, Impuestos, costos o gastos, que incluyen, entre otros, a los honorarios y desembolsos de abogados y peritos.

“**Propiedad Intelectual Autorizada**” se refiere a toda Propiedad Intelectual autorizada para usode la Empresa en cumplimiento de los Acuerdos de PI de la misma.

“**Gravámenes**” se refiere a todos los gravámenes, reclamos,, cargas, derechos, prendas, derechos de garantía real, hipotecas, opciones, vicios en el título de dominio, condiciones u otros gravámenes, restricciones o limitaciones de cualquier naturaleza, que incluyen toda restricción al uso, emisión de votos, transferencia u otro ejercicio de cualquier atributo del dominio.

“**Contrato de Manufactura**” o “**Maquila**” se refiere al contrato de maquila entre la Empresa y la sociedad “LABORATORIO NEXTFARMA LIMITADA” conforme al modelo adjunto a este contrato como Anexo A.

“**Efecto Material Adverso**” se refiere a todo cambio o efecto en la actividad comercial o negocios de la Empresa que de forma individual o junto con otros cambios y efectos similares, (a) sea o podría ser, dentro de lo razonable, adverso para la actividad empresarial, los activos y pasivos (contingentes o de otra clase), condiciones, prospectos o resultados de operaciones de la Empresa o (b) que podrían, dentro de lo razonable, afectar la capacidad de los Compradores para operar o dirigir las actividades de la Empresa de la forma en que lo hace actualmente, después de la Fecha de Cierre.



“**Non-Compete Agreement**” means the non-compete agreement between the Company, each of the Sellers, Arama Laboratories and its controlling persons in the form attached hereto as Exhibit B.

“**Organizational Documents**” means any and all documents pursuant to which an entity is organized and/or operates under the applicable laws of its jurisdiction.

“**Person**” means any natural person, corporation, limited liability corporation, unincorporated organization, partnership, association, joint stock company, joint venture, trust or government, or any agency or political subdivision of any government, or any other entity.

“**Peso**” or “**Ch\$**” means the lawful currency of the Republic of Chile.

“**Quota Transfer Deed**” means the notarial deed, substantially in the form attached hereto as Exhibit C, to be executed by the Parties on the Closing.

“**Subsidiary**” of a specified Person means a Person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the specified Person.

“**Tax**” means any national, provincial, or local income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, registration, all gross receipts, sales, use, *ad valorem*, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, assets, minimum income, environmental, customs, duties, real property, personal property, capital stock, social security obligations or contributions, unemployment, disability, payroll,

“**Acuerdo de No Competencia**” se refiere al acuerdo de no competencia celebrado entre la Empresa, cada uno de los Vendedores, Arama Laboratorios y sus personas controladoras, conforme al modelo adjunto a este Contrato como Anexo B.

“**Documentos Constitutivos**” se refiere a todos y cada uno de los documentos en virtud de los cuales se constituye y/u opera una empresa conforme a la ley pertinente de su jurisdicción.

“**Persona**” quiere decir toda persona física, persona jurídica, sociedad de responsabilidad limitada, asociación sin personería jurídica, sociedad colectiva, asociación, sociedad por acciones, *joint venture* (empresa conjunta), fideicomiso o gobierno, o cualquier organismo o subdivisión política de cualquier gobierno, o cualquier otra entidad.

“**Peso**” o “**Ch\$**” se refiere a la moneda de curso legal en la República de Chile.

“**Escritura de Cesión de Cuota**” se refiere a la escritura notarial, sustancialmente de acuerdo con el modelo adjunto al presente como Anexo C, que las Partes deberán celebrar y firmar al Cierre.

“**Filial**” de una Persona específica es una Persona que directa o indirectamente por medio de uno o más intermediarios controla o es controlada por, o bien ejercer el control común con la Persona especificada.

“**Impuesto**” se refiere a todos los ingresos o rentas, nacionales, provinciales o locales, ingresos brutos, franquicias nacionales, provinciales o locales, estimados, mínimo alternativo, mínimo adicional, ventas, usos, transferencia, registros o inscripciones, todos los ingresos brutos, venta, uso, *ad valorem*, valor agregado, impuesto indirecto, recursos naturales, indemnización, sellado, ocupación, prima, beneficio imprevisto, activos, ingresos mínimos, ambientales, derechos de aduana, aranceles, bienes inmuebles, bienes muebles, capital

license, employee or other withholding, or other tax or governmental charge, of any kind whatsoever, including any interest, penalties or additions to tax or additional amounts in respect of the foregoing.

“**Transaction Documents**” means this Agreement, its Annexes and Schedules, the Toll Manufacturing Agreement, the Non-Compete Agreements, the Escrow Agreement, and the Quota Transfer Deed.

“**US\$**” or “**\$**” means the lawful currency of the United States of America.

“**Sellers**” jointly refers to Mr. Arama, Mr. Sergiani, Mr. Le Goff and the Investment Companies.

## **ARTICLE 2**

### **PURCHASE OF CAPITAL; CONSIDERATION**

**2.1. Capital to be Purchased.** Subject to the terms and conditions set forth herein, at the Closing, each of the Sellers shall sell, assign, transfer, convey and deliver, or caused to be sold, assigned, transferred, conveyed and delivered, to the Buyers, and the Buyers shall purchase from each of the Sellers, all of such Seller’s right, title and interest in and to the Quotas, which, in the aggregate, represents all of the ownership rights quotas in the capital of the Company.

#### **2.2. Consideration.**

(a) In consideration of the sale of the Quotas by the Sellers to the Buyers, the Buyers shall deliver an aggregate of US\$4,000,000 in immediately available funds payable as follows:

(i) Buyers shall deliver to each Seller at Closing US\$800,000 less any debt of the Company with any banking, financial institution or by any of the Sellers, Arama Laboratories or any of its related parties, with

accionario, aportes o contribuciones previsionales, desempleo, incapacidad, nómina, licencia, empleado u otra retención, u otro impuesto o carga gubernamental, de cualquier tipo, que incluyen los intereses penalidades o aumentos a impuestos o montos adicionales con respecto a lo antedicho.

“**Documentos de Operación**” se refiere a este Contrato, sus Anexos y Schedules, el Contrato de Manufacura, el Acuerdo de No Competencia, el Contrato de Depósito en Garantía y la Escritura de Cesión de Cuota.

“**US\$**” o “**\$**” se refiere a la moneda de curso legal en Estados Unidos de América.

“**Vendedores**” se refiere conjuntamente al Sr. Arama, el Sr. Sergiani, el Sr. Le Goff, y a las Sociedades de Inversión.

## **ARTICULO 2**

### **COMPRA DE CAPITAL, CONTRAPRESTACIÓN**

**2.1. Capital por Comprar.** Sujeto a los términos y condiciones establecidos en el presente, al Cierre, cada Vendedor deberá vender, ceder, transferir, transmitir y entregar, o disponer que se vendan, cedan, transfieran, transmitan y entreguen, a los Compradores, y los Compradores deberán comprar a cada uno de los Vendedores, todos los derechos, personales, el dominio y demás derechos reales inherentes a las Cuotas, las cuales, en conjunto, representan todos los derechos de participación en el capital de la Empresa.

#### **2.2. Contraprestación.**

(a) En virtud de la venta de las Cuotas por los Vendedores a los Compradores, los Compradores pagarán la suma total de US\$4.000.000 en fondos de disponibilidad inmediata como se establece a continuación:

(i) Al Cierre, los Compradores pagarán a cada Vendedor la suma de US\$800.000 descontados todas aquellas deudas pendientes de la Empresa con cualquier institución bancaria, financiera o de

the Company as of the date of the Closing. Such deductions shall be made pro rata from the proceeds to each of the Sellers. All those amounts shall be delivered in immediately available funds (the "**Closing Consideration**").

(ii) on the date in which all Pharmaceutical Health Records and Trademark applications and Registrations described in Schedule 4.14 (a) of this Agreement are legally registered under the name of the Company (free from all liens, prohibition or restriction on the domain) in the corresponding registers of the National Industrial Property Institute, Institute of Public Health or appropriate Governmental Authorities (the "**Required Registrations**"), the Buyers shall pay to each Seller the sum of US\$266,666.67, less any expenses or fees incurred by Buyer or the Company in connection with the Required Registrations (the "**Escrow Consideration 1**").

(iii) Buyers shall deliver to Escrow Agent at Closing an aggregate of US\$800,000 in immediately available funds ("**Escrow Consideration 2**"), 33.33% of which shall be allocated to each of the Sellers, and to be held in escrow (as part of the "**Escrow Fund**") pursuant to the escrow agreement (the "**Escrow Agreement**") with an escrow agent selected by the Parties (the "**Escrow Agent**") substantially in the form of Exhibit D hereto.

cualquiera de los Vendedores, Arama Laboratorios o cualquiera de sus partes relacionadas con la Empresa a la fecha de Cierre. Dichos descuentos se realizarán a prorrata por cada Vendedor. Todos los pagos se realizarán en fondos de disponibilidad inmediata (la "**Contraprestación de Cierre**").

(ii) en la fecha en que queden legalmente inscritas a nombre de la Empresa, (libres de todo gravamen, prohibición o limitación al dominio) en los Registros correspondientes del Instituto Nacional de Propiedad Industrial, Instituto de Salud Pública y cualquier otra Autoridad Gubernamental que fuera procedente (los "**Registros Requeridos**"), todos los registros y solicitudes de Marcas Comerciales y Registros Sanitarios Farmacéuticos, descritos en el Schedule 4.14(a) del presente Contrato, los Compradores pagarán a cada Vendedor la suma de US\$266.666,67, menos cualquier gasto o costo incurrido por los Compradores o la Empresa en relación con los Registros Requeridos (la "**Contraprestación de Garantía 1**").

(iii) Al Cierre, los Compradores deberá entregar al Depositario la suma total de US\$800.000 en fondos de disponibilidad inmediata (la "**Contraprestación de Garantía 2**"), de la cual un 33,33% se asignará a cada uno de los Vendedores en depósito (como parte del "**Fondo de Garantía**") en cumplimiento del contrato de depósito en garantía (el "**Contrato de Depósito en Garantía**") celebrado con el depositario escogido por las Partes (el "**Depositario**"), sustancialmente de acuerdo con el modelo que figura en el Anexo D del presente.

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### ARTICLE 3

#### REPRESENTATIONS AND WARRANTIES OF BUYERS

In order to induce each of the Sellers to enter into this Agreement and to consummate the transactions contemplated hereby, the Buyers makes the representations and warranties set forth below to each of the Sellers as of the date hereof and as of the Closing Date.

**3.1. Organization.** Buyers are duly organized, validly existing and in good standing under the Laws of the state of its respective formation.

**3.2. Authorization; Enforceability.** Buyers have all necessary corporate power and authority to execute and deliver the Transaction Documents, to carry out its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution and delivery of the Transaction Documents by Buyer and the consummation by the Buyers of the transactions contemplated hereby and thereby have been duly and validly authorized by all requisite corporate action. This Agreement has been, and upon execution the Escrow Agreement shall have been, duly and validly executed and delivered by the Buyers and constitutes, and upon execution the Escrow Agreement shall constitute, the legal, valid and binding obligation of the Buyers, enforceable in accordance with their respective terms.

**3.3. No Violation or Conflict.** The execution and delivery of the Transaction Documents by the Buyers, the consummation by the Buyers of the transactions contemplated hereby and thereby, and compliance by the Buyers with the provisions hereof and thereof do not and will not (a) violate or conflict with any provision of the Buyers's Organizational Documents; (b) violate or conflict with any Law applicable to the Buyers; and (c) with or without the passage of time or the giving of notice, result in the breach of, or constitute a default under, or give to others any right of acceleration of performance, termination, amendment or cancellation of, or result in the creation of any Lien upon any property or assets of, the Buyers pursuant to any instrument, contract, obligation or agreement to which the Buyers are a party or by which the Buyers or

### ARTÍCULO 3

#### MANIFESTACIONES Y GARANTÍAS DE LOS COMPRADORES

Para conseguir que los Vendedores suscriban este Contrato y materialicen las operaciones contempladas en el presente, los Compradores realizan las declaraciones y garantías enunciadas a continuación a cada uno de los Vendedores las que serán válidas a partir de esta fecha y de la Fecha de Cierre.

**3.1. Constitución.** Los Compradores son sociedades debidamente constituidas y existentes, de conformidad a las Leyes vigentes en el estado en el que se crearon.

**3.2. Autorización; Aplicación.** Los Compradores poseen todas las facultades y autoridad corporativas necesarias para celebrar y otorgar los Documentos de la Operación, cumplir sus obligaciones establecidas en el presente y en esos documentos, y para materializarlas operaciones contempladas más adelante. La celebración y entrega de los Documentos de la Operación por parte de los Compradores y la materialización de las operaciones contempladas en el presente y en esos documentos, han sido debida y válidamente autorizadas por todas las resoluciones corporativas exigidas. Este Contrato se ha celebrado, y en el momento de la celebración del Contrato de Depósito en Garantía habrá estado, debidamente otorgado por los Compradores y constituye, y el momento de la celebración del Contrato de Depósito en Garantía constituirá, la obligación legal, válida y vinculante de los Compradores, exigible de acuerdo con sus términos respectivos.

**3.3. Ausencia de Violación o Conflicto.** La celebración y otorgamiento de los Documentos de la Operación por parte de los Compradores, la materialización de las operaciones contempladas de la forma mencionada más adelante y el cumplimiento por parte de los Compradores de las cláusulas del presente y de dichos documentos (a) No violan, violarán ni entrarán en conflicto con ninguna cláusula de los Documentos Constitutivos de los Compradores; (b) No violarán ni entrarán en conflicto con ninguna Ley aplicable a los Compradores; y (c) con o sin el transcurso del tiempo o el envío de notificación, no resultarán en incumplimiento, ni constituirán falta ni otorgarán a terceros ningún derecho de exigir el cumplimiento anticipado, rescisión, modificación o cancelación de, ni resultarán en la creación de, ningún Gravamen sobre

its properties may be bound or effected, in each case which would materially adversely affect the ability of the Buyers to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement.

#### **ARTICLE 4**

##### **REPRESENTATIONS AND WARRANTIES OF EACH OF THE SELLERS RELATING TO THE COMPANY AND TO THE SELLERS**

In order to induce the Buyers to enter into this Agreement and to consummate the transactions contemplated hereby, each of the Sellers, on a joint and several basis, make the representations and warranties set forth below as of the date hereof and as of the Closing Date.

**4.1. Organization.** The Company has been duly organized and is validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization, as the case may be. The Company is duly qualified or licensed to do business, and is in good standing, in each jurisdiction where the character of the properties owned, leased or operated by it or the nature of its business makes such qualification or licensing necessary. The Company has all requisite right, power and authority to (a) own or lease and operate its properties and (b) conduct its business as presently conducted. The Company is not in violation of any provision of its Organizational Documents.

**4.2. Authorization; Enforceability.** Each of the Sellers has all necessary power and authority to execute and deliver the Transaction Documents, to carry out its obligations thereunder, and to consummate the transactions contemplated thereby. The execution and

ninguna propiedad ni bienes de los Compradores conforme a cualquier instrumento, contrato, obligación ni acuerdo del que los Compradores sea una de las partes o por el cual los Compradores o sus bienes estén obligados o se vean afectados; en cada caso que afectarían de manera sustancialmente adversa la capacidad de los Compradores de cumplir sus obligaciones según, o materializar las operaciones contempladas en, este Contrato.

#### **ARTÍCULO 4**

##### **DECLARACIONES Y GARANTÍAS DE CADA VENDEDOR RELACIONADAS CON LA EMPRESA Y CON LOS VENEDORES**

Para conseguir que los Compradores suscriban este Contrato y materialicen las operaciones contempladas en el presente, cada uno de los Vendedores, en forma solidaria, realiza las declaraciones y garantías enunciadas a continuación las que serán válidas a partir de esta fecha y de la Fecha de Cierre.

**4.1. Constitución.** La Empresa es una sociedad debidamente constituida, existente y solvente, conforme a las Leyes vigentes en el estado en el que obtuvo su personería jurídica o se creó, según el caso. La Empresa está debidamente habilitada o facultada para desarrollar sus actividades comerciales, y existe válidamente en cada jurisdicción en la que se encuentran ubicados los bienes que posee, arrienda u opera o la naturaleza de sus actividades comerciales hace que tal habilitación o autorización sea necesaria. La Empresa goza de todos los derechos, facultades y autoridad requeridos para (a) ser propietario o arrendar sus bienes; y (b) llevar a cabo sus actividades comerciales como lo realiza hasta el presente. La Empresa cumple con todas las disposiciones de sus Documentos Constitutivos.

**4.2. Autorización, Aplicación.** Cada Vendedor posee todas las facultades y autoridad necesarias para celebrar y otorgar y cumplir con los Documentos de la Operación, cumplir con sus obligaciones y materializar las operaciones contempladas en el presente Contrato y

delivery of the Transaction Documents by each of the Sellers and the consummation by it of the transactions contemplated thereby have been duly and validly authorized by all requisite action. This Agreement has been, and upon execution the Escrow Agreement shall have been, duly and validly executed and delivered by each of the Sellers and constitutes the legal, valid and binding obligations of each of the Sellers, enforceable in accordance with their respective terms.

**4.3. No Violation or Conflict.** The execution and delivery of the Transaction Documents by each of the Sellers, the consummation of the transactions contemplated thereby, and compliance with the provisions thereof, do not and will not: (a) violate or conflict with any provision of the Company's Organizational Documents; (b) violate or conflict with any Law applicable to each of the Sellers; and (c) with or without the passage of time or the giving of notice, result in the breach of, or constitute a default under, or give to others any right of acceleration of performance, termination, amendment or cancellation of, or result in the creation of any Lien upon any property or assets of each of the Sellers, including the Quotas, or of the Company pursuant to any instrument, contract, obligation or agreement to which each of the Sellers or the Company is a party or by which each of the Sellers or the Company, or their respective properties may be bound or affected.

**4.4. Subsidiaries.** The Company has no Subsidiaries or equity interest in any other person.

**4.5. Capitalization.** The Company's authorized capital, the names of the holders thereof and the amount of capital held by each such holder, is set forth on Schedule 4.5. The Quotas are owned by each of the

en esos documentos. La celebración y otorgamiento de los Documentos de Operación por cada uno de los Vendedores y la materialización de las operaciones contempladas en el presente y en esos documentos han sido debida y válidamente autorizadas por todas las resoluciones corporativas exigidas. Este Contrato se ha celebrado, y en el momento de la celebración del Contrato de Depósito en Garantía habrá estado, debidamente otorgado por cada uno de los Vendedores, y constituye, y en el momento de la celebración del Contrato de Depósito en Garantía constituirá, la obligación legal, válida y vinculante de cada uno de los Vendedores, exigible de acuerdo con sus términos respectivos.

**4.3. Ausencia de Violación o Conflicto.** La celebración y otorgamiento de los Documentos de la Operación por cada uno de los Vendedores, la materialización de las operaciones contempladas en el presente Contrato y en esos documentos y el cumplimiento de las cláusulas del presente y de esos documentos (a) No violan, violarán ni entrarán en conflicto con ninguna cláusula de los Documentos Constitutivos de la Empresa; (b) No violarán ni entrarán en conflicto con ninguna Ley aplicable a cada uno de los Vendedores; y (c) con o sin el transcurso del tiempo o el envío de notificación, no resultarán en incumplimiento, ni constituirán una falta, ni otorgarán a terceros ningún derecho de exigir el cumplimiento anticipado, rescisión, modificación o cancelación de, ni resultarán en la creación de ningún Gravamen sobre ninguna propiedad ni bienes de cada uno de los Vendedores, incluyendo las Cuotas, o de la Empresa conforme a cualquier instrumento, contrato, obligación o acuerdo del que cada uno de los Vendedores o la Empresa sean una de las partes o por el cual los Vendedores y la Empresa estén obligados o afectados

**4.4. Filiales.** La Empresa no posee Filiales ni participaciones, cuotas o acciones en ninguna otra sociedad.

**4.5. Capitalización.** El capital autorizado de la Empresa, los nombres de los titulares y el monto de capital que posee por cada uno de estos, están establecidos en el Schedule 4.5. Las Cuotas son de

Sellers free and clear of all Liens, rights of first refusal, partners' agreements, preemptive rights, charges and other encumbrances and agreements of any nature whatsoever. None of the Quotas were issued in violation of any Law, preemptive rights or rights of first refusal or other agreement or rights. At the Closing, each of the Sellers will transfer and convey, and the Buyers will acquire good and valid title to the Quotas, free and clear of all Liens.

**4.6. Rights, Warrants, Options.** Other than the Quotas, there are no shares of capital stock, other equity interests, stock options, warrants, notes, convertible securities, rights of first refusal, preemptive rights, subscription rights, stock appreciation, phantom stock or other rights, arrangements or commitments of any character outstanding to which the Company or any of the Sellers is a party or by which the Company or any of the Sellers is bound or relating to the issued or unissued capital, registered capital or equity interests of the Company or obligating the Company to issue or sell any equity interests in the Company.

**4.7. Financial Statements; Books and Records.** As of Closing, the Company shall have delivered a true and complete copy of (A) the general balance sheet of the Company for the fiscal year ended December 31, 2010 and the period ended December 31, 2011 (the "Reference Balance Sheet"), and the profit and loss statement for the fiscal year ended December 31, 2010 and the period ended December 31, 2011, including any related notes and schedules thereto, and (B) the balance sheet of the Company as of the Closing Date and the profit and loss statement as of the Closing Date, each on an estimated basis (the "Closing Date Trial Balance", and collectively, the "Financial Statements"). The Financial Statements (1) have been prepared in accordance with the books of account and records of the Company; (2) fairly present, and are true, correct and complete statements of, the consolidated financial condition of the Company and

propiedad de cada uno de los Vendedores libres de todo Gravamen, derechos de opción de compra, acuerdos de socios, derechos de preferencia, cargas u otros gravámenes y acuerdos de cualquier naturaleza. Ninguna de las Cuotas se ha emitido en violación de ninguna Ley, derecho de preferencia o de opción de compra u otros acuerdos o derechos. Al Cierre, cada uno de los Vendedores transferirá y los Compradores adquirirán el dominio absoluto y perfecto sobre las Cuotas, libre y exento de todo Gravamen.

**4.6. Derechos, Warrants, Opciones.** Más allá de las Cuotas, no existen acciones de capital social, otros intereses de participación en el capital, opciones de compra de acciones, warrants, obligaciones de deuda, títulos-valores convertibles, derechos de opción de compra, derechos de preferencia, derechos de suscripción, de revalorización de acciones, acciones fantasma u otros derechos, arreglos o compromisos de ningún carácter de los que la Empresa o cualquiera de los Vendedores sea Parte o en virtud de los cuales uno de los Vendedores esté obligado o relacionado con el capital emitido o no emitido, capital registrado o las participaciones patrimoniales en el capital de la Empresa o que obliguen a la Empresa a emitir o vender una participación o cuota o parte de interés en el capital de la Empresa.

**4.7. Estados Financieros, Libros y Registros.** En la fecha de Cierre, la Empresa deberá entregar una copia auténtica y completa de (A) el balance general de la Empresa correspondiente a los ejercicios finalizados al 31 de diciembre de 2010 y 31 de diciembre de 2011 (el "Balance de Referencia"), y el estado de pérdidas y ganancias correspondiente a los ejercicios finalizados al 31 de diciembre de 2010 y 31 de diciembre de 2011, que incluyen todas las notas y anexos relacionados con ellos, y (B) el balance general de la Empresa y el estado de pérdidas y ganancias, ambos a la fecha de Cierre en base estimativa (el "Balance de Cierre", y en su conjunto con el Balance de Referencia, los "Estados Financieros"). Los Estados Financieros se han: (1) preparado de acuerdo con los libros y registros contables llevados por la Empresa; (2) presentado claramente y son verídicos, correctos y reflejan la situación patrimonial y financiera de la Empresa a las

the results of its operations at the dates and for the periods specified in those statements; and (3) have been prepared in accordance with Chilean generally accepted accounting principles (“GAAP”), consistently applied.

**4.8. Absence of Undisclosed Liabilities.** The Company has no Liabilities or commitments of any nature whatsoever, whether accrued, absolute, contingent or otherwise, other than (a) as disclosed on Schedule 4.8, or (b) as disclosed and accrued for or reserved against in the Reference Balance Sheet or the Closing Date Trial Balance.

**4.9. Accounts and Notes Receivable and/or Payable.** Set forth on Schedule 4.9 is a true and complete aged list of unpaid accounts and notes receivable owing to and owed by the Company as of the date hereof. All of such accounts and notes receivable and payable constitute only bona fide, valid and binding claims arising in the ordinary course of the Company’s business

**4.10. Absence of Material Adverse Effects.** Since August 31, 2011, the Company has conducted its business only in the ordinary course of business consistent with past practice and, since such date: (a) there has been no Material Adverse Effect; and (b) the Company has not engaged or agreed to engage in any of the actions described in Section 5.1.

**4.11. Significant Customers and Suppliers.** Listed in Schedule 4.11 are the names of the twenty-five (25) most significant customers (measured by Chilean peso volume) of the Company (the “**Significant Customers**”) during the fiscal years ended December 31, 2011, and the amount for which each such Significant Customer was invoiced during such periods. Since December 31, 2011, no Significant Customer, in a manner adverse to the Company, (i) has canceled, suspended or otherwise

fechas y para los períodos especificados en ellos; y (3) preparados de acuerdo con los principios contables generalmente aceptados en Chile (“PCGA”), aplicados de manera consistente.

**4.8. Ausencia de Pasivos no Declarados.** La Empresa no posee Pasivos ni compromisos de ninguna naturaleza, que sean devengados, absolutos, contingentes o de otro tipo, más que (a) aquellos mencionados en el Schedule 4.8; o (b) aquellos declarados y devengados por o provisionados en el Balance de Referencia o en el Balance de Cierre.

**4.9. Cuentas y Documentos por Cobrar y/o Pagar.** Establecidos en el Schedule 4.9 corresponden a una lista histórica auténtica y completa de las cuentas impagas y documentos por cobrar que adeuda o adeudará la Empresa a partir de la fecha establecida en ellos. Todas estas cuentas y documentos por cobrar y pagar sólo constituyen reclamos de buena fe, válidos y vinculantes originados durante el giro ordinario de las actividades de la Empresa.

**4.10. Ausencia de Efectos Materiales Adversos.** A partir de 31 de agosto de 2011, la Empresa ha llevado a cabo sus actividades solo durante el giro ordinario de sus actividades, en conformidad con las prácticas establecidas en el pasado y, a partir de esta fecha: (a) no ha habido Efectos Materiales Adversos; y (b) la Empresa no ha realizado ni ha acordado realizar alguno de los actos contemplados en el Artículo 5.1.

**4.11. Clientes y Proveedores Importantes.** Mencionados en el Schedule 4.11, corresponden a los nombres de los veinticinco (25) clientes más importantes (medidos en volumen en pesos chilenos) de la Empresa (los “**Clientes Importantes**”) durante los ejercicios finalizados al 31 de diciembre de 2011, y el monto de facturación de cada Cliente Importante reportado por la Empresa durante tales períodos. A partir de 31 de diciembre de 2011, ningún Cliente Importante, de manera adversa para la Empresa: (i) ha cancelado, suspendido ni terminado su relación con la Empresa, (ii) ha comunicado a la Empresa su intención de cancelar,



terminated its relationship with the Company, (ii) has advised the Company of its intention to cancel, suspend or terminate its relationship or to materially decrease its purchase of the products or services of the Company or to change the terms upon which it purchases products or services, or (iii) could reasonably be expected to cancel, suspend or terminate its relationship or to decrease its purchase of the products or services of the Company as a result of the consummation of the transactions contemplated hereby.

**4.12. Tax Matters.** All Tax returns and other similar documents required to be filed with respect to the Company have been timely filed with the appropriate Governmental Authorities in all jurisdictions in which such returns and documents are required to be filed, all of the foregoing are true, correct and complete and reflect accurately all liabilities for Taxes of the for the periods to which such returns and documents relate, and all amounts shown as owing thereon have been paid. All Taxes, if any, collectible or payable by the Company or relating to or chargeable against any of their assets, revenues or income through the Closing Date were fully collected and paid by such date or provided for by adequate reserves in the Financial Statements and all similar items due through the Closing Date will have been fully paid by that date or provided for by adequate reserves in the Financial Statements. No claims or deficiencies have been asserted against the Company with respect to any Taxes which have not been paid or otherwise satisfied or for which accruals or reserves have not been made in the Financial Statements, and there exists no reasonable basis for the making of any such claims. There are no tax liens on any asset of the Company.

**4.13. Assets.** The Company owns, leases or has the legal rights to use all properties and assets (tangible and intangible), including the Leased Real Property and Company Intellectual Property, used or intended to be used in the conduct of the Company's business (the "Assets"). The Company has good and marketable title or leasehold interest to each Asset, free and clear of all Liens. The Assets constitute all of the assets and rights required to operate the business of the Company as previously conducted and as contemplated to be

suspender ni terminar su relación o de disminuir de forma material su compra de productos o servicios a la Empresa o bien modificar los términos mediante los cuales compra productos o servicios, ni (iii) se espera que, dentro de lo razonable, cancelaría, suspendería o terminaría su relación o disminuiría su compra de productos o servicios a la Empresa como resultado de la materialización de las operaciones contempladas en el presente.

**4.12. Asuntos Fiscales.** Todas las declaraciones de Impuestos y otros documentos similares que la Empresa debe presentar han sido oportunamente presentados antes las Autoridades Gubernamentales pertinentes en todas las jurisdicciones donde tales declaraciones y documentos se requieren, y todas ellas son auténticas, correctas y completas y reflejan con exactitud todas las deudas impositivas correspondientes a los períodos relacionados con dichas declaraciones y documentos, y todos los montos reflejados en ellas, se encuentran pagados. Todos los Impuestos, si los hubiere, por recaudar o pagar por la Empresa, relacionados con o imputados a cualquiera de sus activos o ingresos hasta la Fecha de Cierre han sido recaudados y pagados en su totalidad a dicha fecha y fueron debidamente provisionados en los Estados Financieros y todos los rubros similares exigibles hasta la Fecha de Cierre estarán pagados por completo para esa fecha o debidamente provisionados en los Estados Financieros. No se ha presentado ningún reclamo ni deficiencia contra la Empresa con respecto a ningún Impuesto impago o no provisionado ni reservado en los Estados Financieros, y no existe ningún fundamento razonable para presentarlos. No existen gravámenes impositivos que afecten ningún activo de la Empresa.

**4.13. Activos.** La Empresa posee, arrienda o tiene los derechos legales de uso de las propiedades y activos (tangibles e intangibles), incluidas las Propiedades Inmuebles Arrendadas y la Propiedad Intelectual de la Empresa, utilizadas o con pretensión de uso en las actividades empresariales (los "Activos"). La Empresa tiene título válido y perfecto sobre cada uno de los Activos y bienes arrendados, libres y exentos de todo Gravamen. Los Activos constituyen todos los activos y derechos requeridos para llevar a cabo las actividades

conducted. All of the Assets are in good operating condition and repair, ordinary wear and tear excepted.

#### **4.14. Intellectual Property.**

- (a) Schedule 4.14(a) sets forth a true and complete list of (i) all patents and patent applications, registered trademarks and trademark applications, registered copyrights and copyright applications and domain names included in the Company Intellectual Property, (ii) all Company IP Agreements, (iii) other Company Intellectual Property material to the Company's business; and (iv) all Pharmaceutical Health Records that are to be considered part of the assets of the Company as of the Closing Date and that as of this date are in the process of being registered under the name of the Company before the Instituto de Salud Pública ("ISP") y the trademark registrations of Arama Laboratorios y Compañía Limitada that as of this date are in the process of being transferred to the Company in the Instituto Nacional de Propiedad Industrial ("INAPI") or the relevant Governmental Authority as the case may be, in the following manner and order: (a) from Arama Laboratories to each of the Investment Companies; then (b) from Arama Laboratories to the Company (in the case of the "Arama" trademark Registration N° 662065); and then (c) from each of the Investment Companies to the Company (as capital contribution).
- (b) If, after the Closing Date, there is any Intellectual Property of the Company, which by inadvertent error was not included within the assets of the Company at the time of the sale, such circumstance shall not constitute a breach hereof, provided that Sellers are obligated at their sole cost and expense to execute all required documents or deeds necessary for the transfer title of such Intellectual Property to the Company within 30 days from notice thereof.

comerciales de la Empresa de acuerdo con las prácticas establecidas en el pasado y de la forma esperada. Todos los Activos se encuentran en buenas condiciones de uso y funcionamiento, con los deterioros propios del normal uso y del transcurso del tiempo.

#### **4.14. Propiedad Intelectual.**

- (a) El Schedule 4.14(a) establece una lista auténtica y completa de: (i) todas las patentes y solicitudes de patentes, registros de marcas y solicitudes de marcas, derechos de autor registrados y solicitudes de derechos de autor y nombres de dominio incluidos en la Propiedad Intelectual de la Empresa, (ii) todos los Acuerdos de PI de la Empresa, (iii) toda otra Propiedad Intelectual de la Empresa importante para sus actividades, y (iv) todos los Registros Sanitarios Farmacéuticos, que deberán ser parte del activo de La Empresa a la fecha de Cierre y que a esta fecha se encuentran en proceso de ser registradas a nombre de la Empresa en el Instituto de Salud Pública ("ISP") y las marcas de Arama Laboratorios y Compañía Limitada que a esta fecha se encuentran en proceso de transferencia a nombre de la Empresa en el Instituto Nacional de Propiedad Industrial ("INAPI") o la Autoridad Gubernamental respectiva, según sea el caso, en el siguiente orden: (a) de Arama Laboratorios y Compañía Limitada a cada una de las Sociedades de Inversión; posteriormente (b) de Arama Laboratorios a la Empresa (en relación con la marca "Arama", Registro N° 662065); y posteriormente (c) de las Sociedades de Inversión a la Empresa (como aporte de capital).
- (b) En caso de que con posterioridad al Cierre, apareciere Propiedad Intelectual de la Empresa, que por error inadvertido no hubiese sido incluido dentro del activo de la Empresa al momento de la venta, dicha circunstancia no constituirá incumplimiento al presente contrato, en el entendido que los Vendedores a su costo estarán obligados a suscribir los instrumentos y documentos necesarios para transferir dicha Propiedad Intelectual a La Empresa dentro del plazo de los 30 días siguientes de notificada dicha circunstancia.

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- (c) The Company, as of this Date, is the exclusive owner of the entire right, title and interest in and to the Company Intellectual Property listed in Schedule 4.14(a), and has a valid license to use any Licensed Intellectual Property described in Schedule 4.14 in connection with the Company's business. The Company shall be entitled to use, as of the Closing Date, all the Intellectual Property and Licensed Intellectual Property previously owned or used by Sellers in the continued operation of the Company's business consistent with past practice without limitation, subject only to the terms of the Company IP Agreements. The Company Intellectual Property and the Licensed Intellectual Property shall not be adjudged invalid or unenforceable in whole or in part, and shall be valid and enforceable.
- (d) The conduct of the Company's business as currently conducted and to be conducted in the future for the purpose of acquiring such Intellectual Property, does not infringe or misappropriate the Intellectual Property of any third party, and no Action alleging any of the foregoing shall be pending, and no Action has been threatened or asserted against any Seller or the Company alleging any of the foregoing, except as listed in Schedule 4.14. To the knowledge of the Company, as of the Closing Date, no Person is engaging in any activity that infringes the Intellectual Property of the Company.
- (e) No Company Intellectual Property is or shall be, as of the Closing Date, subject to any outstanding Governmental Order restricting the use of such Intellectual Property or that would impair the validity or enforceability of such Intellectual Property.
- (c) La Empresa a esta fecha es el propietario exclusivo de los derechos personales, el dominio y demás derechos reales sobre la Propiedad Intelectual de la Empresa listada en el Schedule 4.14(a) y posee una licencia o autorización válida para utilizar cualquier Propiedad Intelectual bajo licencia listada en el Schedule 4.14(a) en relación con el negocio de la Empresa. La Empresa poseerá a la Fecha de Cierre derechos de uso de la Propiedad Intelectual de la Empresa y de la Licencia de Propiedad Intelectual que fueron previamente utilizada o propiedad de los Vendedores, en la operación continua de su negocio en forma consistente con prácticas precedentes y sin restricciones, sujeta solamente a los términos de los Acuerdos de PI de la Empresa. La Propiedad Intelectual de la Empresa y las Licencias de Propiedad Intelectual no serán declarados total o parcialmente inválidos ni inexigibles, y serán válidos y aplicables.
- (d) Las actividades comerciales de la Empresa realizadas al presente y por realizar a objeto de adquirir dicha Propiedad Intelectual, no infringen ni constituyen apropiación indebida de la Propiedad Intelectual de ningún tercero, y ninguna Acción que alegue ninguno de estos se encontrará pendiente, excepto las mencionadas en el Anexo, y no se habrá declarado ni notificado ninguna Acción contra ningún Vendedor o la Empresa que alega cualquiera de los hechos mencionados, excepto los mencionados en el Anexo 4.14. Para conocimiento de la Empresa, a la fecha de Cierre ninguna Persona estará involucrada en ninguna actividad que infrinja la Propiedad Intelectual de propiedad de la Empresa.
- (e) Ninguna Propiedad Intelectual de la Empresa se encuentra, ni se encontrará a la fecha de Cierre sujeta a ninguna Orden Gubernamental pendiente que restrinja el uso de dicha Propiedad Intelectual o que pudiese afectar la validez o aplicación de tal Propiedad Intelectual.

#### **4.15. Real Property.**

(a) The Company does not own or hold property title to any real estate.

(b) Schedule 4.15(b) sets forth the street address of each parcel of real property leased by the Company as of this date (the “**Leased Real Property**”) indicating which of such Leased Real Property shall continue to be leased and in force at Closing. The Company has previously delivered to the Buyers true and complete copies of all of the lease agreements, as amended to date (the “**Leases**”) relating to the Leased Real Property. The Company as of the date hereof, enjoys and as of the Closing Date shall enjoy, peaceful and undisturbed possession of the Leased Real Property, except for those indicated in Schedule 4.15(b).

**4.16. Compliance with Environmental Laws.** The Company is in compliance with, and has always been in compliance with, all Environmental Laws. There have been no Governmental Orders issued against the Company for impairment, damage, injury or adverse effect to the environment or public health and, to the knowledge of each of the Sellers and the Company after due inquiry, there have been no private complaints with respect to any such matters, and there are no circumstances that would form the basis of any such Governmental Orders.

#### **4.17. Employment Matters.**

(a) Employment Agreements. Schedule 4.17(a) sets forth all employment, consulting, severance and indemnification arrangements, agreements, contracts or understandings between the Company and any officer, director, advisory board member, consultant or employee (the “**Employment Agreements**”). The Company has previously delivered to the Buyers true and complete copies of all of the Employment Agreements. No such Employment Agreement (i) will require any payment by the Company or the Buyers to any manager, officer, consultant or employee of the Company, or any other Person, by reason of the transactions contemplated by this Agreement, or (ii) provides for the acceleration or change in the award, grant, vesting or determination of options, warrants,

#### **4.15. Inmuebles**

(a) La Empresa no posee ni ostenta el dominio sobre bienes inmuebles.

(b) El Anexo 4.15(b) establece la dirección física de cada inmueble que a esta fecha se encuentra arrendado por la Empresa (las “**Propiedades Inmueble Arrendadas**”) indicando las que deberán encontrarse arrendados o vigentes a la fecha de Cierre. La Empresa ya ha entregado a los Compradores copias auténticas y completas de todos los contratos de arrendamiento, en su versión actualizada (los “**Arriendos**”) relacionados con la Propiedad Inmueble Arrendada. La Empresa a esta fecha goza y en la fecha de Cierre deberá gozar de posesión pacífica e ininterrumpida de las Propiedades Inmueble Arrendada, excepto por aquellas Propiedades Inmuebles Arrendadas indicadas en el Anexo 4.15(b).

**4.16. Cumplimiento de la Leyes Ambientales.** La Empresa cumple y siempre ha cumplido con las Leyes Ambientales. No se han emitido Órdenes Gubernamentales contra la Empresa por deterioro, daño, perjuicio o efecto adverso contra la salud pública ni ambiental y, para conocimiento de cada Vendedor, la Empresa tras debida investigación, no ha recibido reclamos ni quejas de particulares con respecto a ninguno de estos asuntos, ni existen circunstancias que pudiesen fundamentar esas Órdenes Gubernamentales.

#### **4.17. Asuntos Laborales.**

(a) Contratos de Trabajo. El Schedule 4.17(a) establece todos los contratos y convenios y Contratos de Trabajo, consultoría, finiquito e indemnización entre la Empresa y sus empleados, gerentes, o directores (los “**Contratos de Trabajo**”). La Empresa hizo entrega previa a los Compradores de copias auténticas y completas de todos los Contratos de Trabajo. Ninguno de estos Contratos de Trabajo (i) requerirá de ningún pago hecho por la Empresa o los Compradores a ningún gerente, empleado, o director, por concepto de operaciones contempladas en este Contrato, ni (ii) producirá la aceleración o modificación en la adjudicación, concesión, adquisición o determinación de opciones, garantías, derechos, pagos de indemnizaciones u otras obligaciones eventuales de ninguna naturaleza de la Empresa en favor de ninguna

rights, severance payments, or other contingent obligations of any nature whatsoever of the Company in favor of any such Persons by reason of the transactions contemplated by this Agreement.

(b) Schedule 4.17(b) contains a list of the employees of the Company who shall continue to provide services after the Closing and with respect to whom the Sellers shall not be bound or liable. After the Closing Date, the Company and the Buyers shall be exclusively liable for their salaries, social security contributions, compensation, settlements and, in general, any other legal obligation regarding labor, benefits and social security matters.

(c) Personnel. Schedule 4.17(c) contains the names, job descriptions and annual salary rates, bonus payments and other compensation of any kind of all officers, directors, advisory board members, consultants and employees of the Company (including compensation paid or payable by the Company under the collective bargaining agreements or plans).

(d) Employment Laws. The Company has complied with all applicable employment Laws, including payroll, withholding and related obligations, benefits and social security, and does not have any obligation in respect of any amount due to employees of the Company or Governmental Authorities, other than normal salary, other fringe benefits, severance payment and contributions accrued but not payable on the date hereof

(e) Policies. Schedule 4.17(e) contains a list of all employee policies (written or otherwise), employee manuals or other written statements of rules or policies concerning employment, including working conditions, vacation and sick leave, a complete copy of each of which (or, if oral, an accurate written summary thereof) has been previously delivered to the Buyers.

de estas Personas por concepto de las operaciones contempladas en este Contrato.

(b) El Schedule 4.17 (b) contiene una lista de los empleados de la Empresa, que continuarán prestando servicios después del Cierre y respecto de los cuales, los Vendedores no tendrán obligación ni responsabilidad alguna. Después de la fecha de Cierre, sus remuneraciones, cotizaciones previsionales, indemnizaciones, finiquitos y en general obligaciones legales en materia laboral, previsional y de seguridad social, serán de exclusiva responsabilidad de la Empresa y los compradores.

(c) Personal. El Schedule 4.17(c) contiene los nombres, descripciones de cargo y escalas de sueldos anuales, pagos de bonos, y otros tipos de compensaciones de todos los ejecutivos, gerentes, miembros del consejo asesor, consultores y empleados de la Empresa (incluidas las compensaciones pagadas o por pagar por parte de la Empresa según los planes o convenios colectivos).

(d) Leyes de Trabajo. La Empresa ha cumplido con todas las Leyes de trabajo aplicables, incluidas las obligaciones de pago de sueldos, retención y otras, beneficios y seguridad social, y no posee ninguna obligación con respecto a ningún monto debido a los empleados de la Empresa o las Autoridades Gubernamentales más que el sueldo normal, otros beneficios complementarios, indemnizaciones por años de servicio y contribuciones acumuladas pero no pagaderos en el día de hoy.

(e) Pólizas. El Schedule 4.17(e) contiene una lista de todas las políticas de los empleados (por escrito u otros medios), manuales de personal u otros comunicados escritos sobre reglas y políticas concernientes al empleo, incluidas las condiciones de trabajo, vacaciones y licencias médicas, una copia completa de cada una de ellas (o, de ser verbales, un resumen por escrito exacto de todos ellos) que se entregaron previamente a los Compradores.

(f) Employee Benefit Plans. The Company offers no benefit to its employees other than those required by law.

**4.18. Labor Relations.** There is no strike or dispute pending or threatened involving any employees of the Company. No unfair labor practice complaints are pending or threatened against the Company, and no Person has made any claim, and there is no basis for any claim, against the Company under any Law relating to employees or employment practices, including without limitation those relating to age, sex or racial discrimination, conditions of employment, wages or hours. There are no unions of which the employees of the Company are members.

**4.19. Contracts.** Schedule 4.19 sets forth a list of all Contracts (oral or written) to which the Company is a party, or by which any of its assets are bound or affected, which is material to the Company's business ("**Material Contracts**").

.Except as disclosed in Schedule 4.19:

(i) the Material Contracts are each in full force and effect and are the valid and legally binding obligations of the Company which is a party thereto and, are valid and legally binding obligations of the counterparties thereto;

(ii) The Company is not in breach of any of the Material Contracts, in a manner which could give rise to a Material Adverse Effect, or is in substantial violation of, or default under, any of the Material Contracts, and no counterparty is in breach or violation of, or default under, any Material Contract except as listed in Schedule 4.19(ii); and

(iii) The Company has not received any claim of default and no event has occurred which with the giving of notice or lapse of time or both would constitute such a default.

(f) Planes de Beneficios para los Empleados. La Empresa no entrega beneficios a sus empleados más que los establecidos por ley.

**4.18. Relaciones Laborales.** No existe huelga ni disputa pendiente ni amenaza que involucre a los empleados de la Empresa. No existen denuncias por prácticas laborales injustas ni amenazas contra la Empresa pendientes, ninguna Persona ha interpuesto ningún reclamo, y no existe fundamento alguno para ello, contra la Empresa, de acuerdo con ninguna Ley que se relacione con los ejecutivos o con sus prácticas, las que incluyen, sin limitación, a la discriminación etaria, sexual ni racial, condiciones de trabajo, sueldos u horarios. Los ejecutivos de la Empresa no están afiliados a ningún sindicato.

**4.19. Contratos.** El Schedule 4.19 establece una lista de todos los Contratos (verbales o escritos) ante los cuales la Empresa es una de las Partes, o por los cuales cualquiera de sus activos esté vinculado o afectado, y que sean importantes para el negocio de la Empresa ("**Contratos Importantes**").

A excepción de lo que se declara en el Schedule 4.19:

(i) cada uno de los Contratos Importantes se encuentra totalmente vigente y todos ellos se consideran obligaciones válidas y legalmente vinculantes de la Empresa que es una Parte de los mismos y, también se consideran son obligaciones válidas y legalmente vinculantes de sus contrapartes;

(ii) la Empresa no ha incurrido en incumplimiento de ninguno de los Contratos Importantes de forma tal que pueda dar lugar a un Efecto Material Adverso, ni en violación sustancial, ni incumplimiento de, ninguno de los Contratos Importantes, y ninguna contraparte ha incurrido en incumplimiento o violación de ningún Contrato Importante con excepción de lo mencionado en el Anexo 4.19(ii); y

(iii) la Empresa no ha recibido ningún reclamo por incumplimiento y no ha ocurrido ningún hecho que junto con la notificación o transcurso del tiempo constituiría tal incumplimiento.

Schedule 4.19 further identifies each Material Contract which would require the Company to give notice to, or obtain the consent of, another party to such Material Contract as a result of transactions contemplated by this Agreement.

#### **4.20. Products and Services**

(a) Schedule 4.20(a) lists (i) each product developed, licensed, distributed or sold by the Company and/or Arama Laboratories (collectively, the “**Products**”) and (ii) each service provided by the Company (collectively, the “**Services**”) that are included in the sale subject to this Agreement and those that are developed, distributed or sold to third parties and that are not part of this Agreement. Each Product has been distributed or sold in accordance with, and each Service has been provided in compliance with, the applicable contractual commitments, express or implied warranties, product and service specifications and quality standards for such Product and Service, and the provisions of all applicable Laws. No Product or Service sold, provided or delivered by the Company is subject to any guaranty, warranty (other than warranties imposed by Law) or other indemnity, other than as set forth in Schedule 4.20(a).

(b) At no time have any of the Products been recalled, withdrawn or suspended by the Company, voluntarily or otherwise; nor are there any pending Actions or proceedings seeking the recall, withdrawal, suspension or seizure of any Product; and neither the Company has received any regulatory letters, warning letters, or other notice of adverse findings, except as provided in Schedule 4.20(b).

(c) There exist no set of facts: (i) which could furnish a basis for the withdrawal or suspension of any Permit, license, approval or consent of any Governmental Authority with respect to the Company, or any Product or Service; (ii) which could furnish a basis for the recall, withdrawal or suspension of any Product from the market, the termination or suspension of any

El Schedule 4.19 identifica todo Contrato Importante que podría requerir la Empresa para notificar a, u obtener el consentimiento de, otra parte adente dicho Contrato Importante como resultado de las operaciones contempladas en este Contrato.

#### **4.20. Productos y Servicios**

(a) El Schedule 4.20(a) menciona (i) todo producto desarrollado, licenciado, distribuido o vendido por la Empresa y/o Arama Laboratorios (en conjunto, los “**Productos**”) y (ii) cada servicio que la Empresa provee (en conjunto, los “**Servicios**”) que se encuentran incluidos en la venta bajo el presente Contrato y aquellos que se desarrollan, distribuyen o venden a terceros y que no se incluyen en esta venta. Cada Producto se ha distribuido o vendido de acuerdo con, y cada Servicio se ha provisto en cumplimiento de, los compromisos contractuales aplicables, garantías implícitas o explícitas, especificaciones de producto y servicio y normas de calidad de dicho Producto y Servicio, y las disposiciones de todas las Leyes aplicables. Ningún Producto o Servicio vendido, provisto o entregado por la Empresa se encuentra sujeto a ninguna garantía o promesa (más que las garantías impuestas por la Ley) u otra indemnización más que la establecida en el Schedule 4.20(a).

Los Productos no se han retirado ni suspendido por la Empresa en ningún momento, de forma voluntaria ni de otra manera; ni existen Acciones o procedimientos pendientes cuyo objetivo sea retirar, suspender ni incautar ningún Producto; ni tampoco la Empresa ha recibido carta regulatoria o de advertencia alguna, u otra notificación de decisiones adversas, con excepción de las previstas en el Anexo 4.20(b).

No existe serie de actos que: (i) podría fundamentar el retiro o la suspensión de un Permiso, licencia, aprobación o consentimiento de una Autoridad Gubernamental con respecto a la Empresa, o a cualquier Producto o Servicio; (ii) podría fundamentar una base para el retiro o suspensión de un Producto del Mercado, el término o suspensión de cualquier prueba clínica de

clinical testing of any Product, or the change in marketing classification of any Product or (iii) which could furnish a basis for the termination or suspension of any Service, except as provided in Schedule 4.20(b).

**4.21. Related Parties.** Except as set forth in Schedule 4.21, no manager, officer or partner of the Company, nor any relative or spouse of such manager, officer or any Seller, has, directly or indirectly, (a) any ownership interest in any property or asset, tangible or intangible, including any Company Intellectual Property, used in the conduct of the Company's business; (b) any interest in or is, directly or indirectly, a party to, any Contract, except as provided in Schedule 4.21; (c) any cause of action or claim whatsoever against, or owes any amount to, the Company except as provided in Schedule 4.21, or (d) any Liability to the Company. Except as set forth in Schedule 4.21, the Company has no Liability to any Seller or its Subsidiaries or its or their Representatives.

**4.22. Absence of Certain Business Practices.** None of the Sellers, the Company or any of their respective managers, officers, employees, agents, advisors or representatives ("**Representative**") (in their capacity as Representatives) has: (a) used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity in respect of the Company's business; (b) directly or indirectly paid or delivered any fee, commission or other sum of money or item of property, however characterized, to any finder, agent, or other party acting on behalf of or under the auspices of a governmental official or Governmental Authority which is in any manner illegal under applicable Law; or (c) made any unlawful payment to any customer or supplier of the Company or any officer, director, partner, employee or agent of any such customer or supplier or given any other unlawful consideration to any such customer or supplier or any such officer, director, partner, employee or agent, in respect of the Company's business

algún Producto, o el cambio de la clasificación comercial de alguno de ellos, o (iii) que podría fundamentar el término o suspensión de ningún Servicio, con excepción de lo previsto en el Anexo 4.20(b).

**4.21. Partes Relacionadas.** Con excepción de lo establecido en el Schedule 4.21, a la fecha de Cierre, ningún gerente, ejecutivo o socio de la Empresa, ni ningún pariente o cónyuge de dicho gerente, ejecutivo o socio tiene, de forma directa o indirecta, (a) participación alguna en ninguna propiedad o activo, tangible o intangible, que incluye la Propiedad Intelectual de la Empresa, utilizadas en la conducción de las actividades de la Empresa; (b) ningún interés que sea directo o indirecto en ser Parte de, cualquier Contrato, con excepción de lo provisto en el Schedule 4.21; (c) ninguna causa de acción o demanda contra, ni que adeude suma alguna a, la Empresa, con excepción de lo provisto en el Schedule 4.21, o (d) ninguna Responsabilidad ante la Empresa. Con excepción de lo establecido en el Schedule 4.21, la Empresa no tiene Responsabilidad alguna ante ningún Vendedor o sus Filiales o sus Representantes.

**4.22. Ausencia de Ciertas Prácticas Comerciales.** Ninguno de los Vendedores, la Empresa o cualquiera de sus gerentes, ejecutivos, agentes, asesores o representantes respectivos ("**Representantes**") (en su carácter de Representantes) ha: (a) utilizado fondo alguno para contribuciones ilegales, donaciones, recreación u otros gastos ilegales relacionados con la actividad política en relación con las actividades de la Empresa; (b) pagado o entregado de forma directa o indirecta honorario, comisión u otra suma de dinero o bien de su propiedad, cualquiera sea su caracterización, a ningún intermediario, agente u otra parte que actúe en representación de o bajo el auspicio de un funcionario público de Gobierno o Autoridad Gubernamental que sea de cualquier forma ilegal según la Ley aplicable; o (c) hecho ningún pago ilícito a un cliente o proveedor de la Empresa o cualquier ejecutivo, gerente, socio, empleado o agente de dicho cliente o proveedor u otorgado cualquier otra consideración ilegal a ningún cliente o proveedor o ningún ejecutivo, gerente, socio, empleado o agente, con respecto a las actividades de la Empresa.



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**4.23. Compliance with Laws.** Except as set forth in Schedule 4.23, the Company is in compliance with all Laws applicable to it, its business or properties. The Company has not received notification from any Governmental Authority asserting that it is not in compliance with or has violated any Laws, or threatening to revoke any authorization, consent, approval, franchise, license, or Permit, and the Company is not subject to any Governmental Order, agreement or consent decree with any Governmental Authority arising out of previously asserted violations

**4.24. Legal Proceedings.** There is no Action, mediation or out-of-court settlement negotiation by or against the Company or affecting any of the Assets or business of the Company pending, or to the knowledge of the Company or any each of the Sellers after due inquiry, threatened. No person who is or was a director or officer of the Company is a party to any pending or threatened Action, mediation or out-of-court settlement negotiation in their capacity as directors or officers of the Company. Neither the Company nor any Asset is subject to any Governmental Order, nor is any Governmental Order threatened or pending

**4.25. Approvals and Filings.** No consent, approval or authorization of, or registration, qualification or filing with, any Governmental Authority or other Person is required to be made by the Company in connection with the execution, delivery or performance of the Transaction Documents by the Company or the consummation by the Company of the transactions contemplated hereby.

**4.26. Brokers.** Neither the Company nor any Seller has employed any financial advisor, broker or finder or incurred and will not incur any broker's, finder's, investment banking or similar fees, commissions or expenses in connection with the transactions contemplated by this Agreement, which would be payable by the Company or the Buyers.

**4.23. Cumplimiento de las Leyes.** Con excepción de lo establecido en el Schedule 4.23, la Empresa cumple todas las Leyes que son aplicables a ella, sus actividades o bienes. La Empresa no ha recibido notificación de ninguna Autoridad Gubernamental por violación o incumplimiento de una Ley, o ha sido amenazada con la revocación de una autorización, consentimiento, aprobación, concesión, licencia o Permiso: Asimismo la Empresa no está sujeta a ninguna Orden Gubernamental, acuerdo o sentencia pronunciada por una Autoridad Gubernamental como consecuencia de los incumplimientos mencionados previamente.

**4.24. Procedimientos Legales.** No existe Acción, mediación ni acuerdo extrajudicial por o contra la Empresa o que afecte a sus Activos o negocios que se encuentre pendiente de resolución o inminente, o de conocimiento de la Empresa o de cualquiera de los Vendedores tras debida investigación. Ninguna persona que sea o haya sido gerente o ejecutivo de la Empresa forma parte de una Acción, mediación o acuerdo extrajudicial pendiente o inminente en su carácter de gerente o ejecutivo de la Empresa. Ni la Empresa ni sus activos están sujetos a ninguna Orden Gubernamental, ni tampoco existe una Orden Gubernamental inminente o pendiente.

**4.25. Aprobaciones y Presentaciones.** No se requiere que ninguna Empresa preste consentimiento, realice una aprobación o autorización de, o proceda al registro, autorización o presentación ante, alguna Autoridad Gubernamental u otra persona en relación con la celebración, entrega u otorgamiento de los Documentos de Operación por la Empresa o la materialización por la Empresa de las operaciones contempladas en el presente.

**4.26. Corredores.** Ni la Empresa ni ningún Vendedor ha contratado a ningún asesor financiero, corredor o intermediario ni incurrirá en el pago de honorarios a ningún corredor, intermediario, banca de inversiones u honorarios similares, comisiones o gastos relacionados con las operaciones contempladas en este Contrato, que debería pagar la Empresa o los Compradores.

**4.27. Title to Securities.** Each of the Sellers is and shall be, the legal and beneficial owner of the Quotas, respectively, and such Quotas are owned free and clear of all Liens, rights of first refusal, partners' agreements, preemptive rights, charges and other encumbrances and agreements of any nature whatsoever. At the Closing, each of the Sellers will transfer and convey, and the Buyers will acquire, good and valid title to the Quotas, free and clear of all Liens.

Prior to the date hereof:

- (i) Each of Messrs. Arama, Sergiani y Le Goff have transferred to their respective Investment Companies referred to in the preliminary statements of this Agreement, 100% of the Quotas in the Company;
- (ii) Each of the Investment Companies acquired from Arama Laboratories y Compañía Limitada all of the trademarks, pending applications of trademarks registers, Intellectual Property, product registrations and Pharmaceutical Health Records relating to all products developed, manufactured and/or sold or contemplated to be sold by or on behalf of Arama Laboratories y Compañía Limitada, including without limitation, the, product registrations, the applications and Pharmaceutical Health Records set forth on Schedule 4.14(a) hereto (the "**Arama Assets**") which have been contributed to the Company by means of the capital increase described in letter C. of the preliminary statements to this Contract; and
- (iii) Arama Laboratories transferred its trademark "Arama", Registration N° 662065, through the document "Reconocimiento de Deuda y Dación en Pago" between Arama Laboratories and the Company dated December 9<sup>th</sup> 2011, which is included in the Agreement as Annex E (included within the Arama Assets definition set forth above) to the Company for the purposes of paying off a debt it had with the Company;

**4.27. Titularidad de Valores.** Cada Vendedor es y debe ser el propietario directo e indirecto de las Cuotas, respectivamente, y dichas Cuotas se encuentran libres y exentas de todo Gravamen, derechos de opción de compra, acuerdos de socios, derechos preferentes, cargas u otros gravámenes de cualquier naturaleza. Al Cierre, cada Vendedor transferirá a los Compradores, y los Compradores adquirirán, el dominio absoluto y perpetuo sobre todas las Cuotas, libre y exento de todo Gravamen.

Con anterioridad a esta fecha:

- (i) Cada uno de los Señores Arama, Sergiani y Le Goff han transferido a sus respectivas Sociedades de Inversión referidas en las declaraciones preliminares de este Contrato, todas las Cuotas en el capital de la Empresa;
- (ii) Cada una de las Sociedades de Inversión han adquirido de Arama Laboratorios todas las marcas, solicitudes de registros de marcas, Propiedad Intelectual, registros de productos y los Registros Sanitarios Farmacéuticos relacionados con aquellos productos desarrollados, manufacturados y/o comercializados o que se contempla sean comercializados por o en representación de Arama Laboratorios y Compañía Limitada, incluido sin limitación, los registros de productos, las solicitudes y los Registros Sanitarios Farmacéuticos descritos en el Schedule 4.14(a) a este Contrato (los "**Activos Arama**"), los cuales han sido aportados a la Empresa mediante el aumento de capital descrito en la letra C. de las declaraciones preliminares a este Contrato; y
- (iii) Arama Laboratorios ha transferido la marca de su propiedad "Arama", Registro N° 662065, a través del documento Reconocimiento de Deuda y Dación en Pago entre Arama Laboratorios y la Empresa de fecha 09 de diciembre de 2011 y que se incluye como Anexo E, el cual se entiende formar parte de este Acuerdo (la cual se entiende incluida dentro de la definición de Activos Arama establecida precedentemente) a la Empresa, a efectos de liquidar una deuda que mantenía con la Empresa

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**Article 5**

**COVENANTS**

During the period from the date of this Agreement through the Closing Date, each of the Company, the Sellers and the Buyers, as applicable, agree to perform the covenants set forth below

**5.1. Interim Operations of the Company**

(a) Except as otherwise approved in writing by the Buyers, the Company shall, and each of the Sellers shall cause the Company to, operate its business in, and not take any action except in, the ordinary course consistent with past practice and to preserve intact their respective business organizations, Assets, Intellectual Property, and the current relationships and goodwill of their customers, suppliers and others with whom it has significant business relations.

(b) The Company, and each of the Sellers shall cause the Company not to, during the period from the date of this Agreement to the Closing Date, except with the prior written consent of the Buyers, directly or indirectly:

- (i) amend or otherwise change the Organizational Documents of the Company;
- (ii) issue, sell, dispose of, create a Lien on, or authorize the issuance, sale, disposal or creation of any Lien on, (A) any capital stock of, or other ownership interests in, the Company, including the Quotas (including, but not limited to, by way of stock split, dividend or distribution) or any subscriptions, options, warrants, convertible securities or other rights to acquire the foregoing, or (B) any Asset or property right, except for sales of inventory in the ordinary course of business consistent with past practice;

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**ARTÍCULO 5**

**CONVENIOS**

Durante el período comprendido a partir de la fecha de este Contrato hasta la Fecha de Cierre, la Empresa, los Vendedores y los Compradores, según corresponda, acuerdan llevar a cabo los convenios establecidos a continuación.

**5.1. Operaciones Provisorias de la Empresa**

(a) A menos que los Compradores aprueben por escrito lo contrario, la Empresa, y cada Vendedor dispondrá que la Empresa, llevará a cabo sus actividades, y no adoptará medida alguna excepto durante el giro ordinario de sus negocios de acuerdo con la práctica establecida en el pasado y para preservar intactas todas sus empresas comerciales, Activos, Propiedad Intelectual y las relaciones y buena voluntad existentes con sus clientes, proveedores y terceros con quienes mantenga relaciones comerciales importantes.

(b) La Empresa, y cada Vendedor impedirá que la Empresa, durante el período comprendido a partir de la fecha del presente Contrato hasta la Fecha de Cierre, excepto con el consentimiento por escrito de los Compradores, en forma directa o indirecta:

- (i) corrija o modifique de alguna forma u otra los Documentos Constitutivos de la Empresa;
- (ii) emita, venda, disponga de, cree un gravamen sobre, o autorice la emisión, venta, disposición o creación de gravámenes sobre, (A) capital social de, u otra participación o parte de interés en, la Empresa, incluidas las Cuotas (que incluyen, pero no se limitan, a modo de división de acciones, dividendo o distribución) o cualquier suscripción, opción, warrants, títulos-valores convertibles u otros derechos para adquirir las anteriores, o (B) cualquier Activo o derecho de propiedad, con excepción de las ventas de existencias durante el giro ordinario de los negocios de la Empresa de acuerdo con la práctica establecida en el pasado;

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| <p>(iii) redeem, purchase, reclassify, combine, split, subdivide, change the terms of, or otherwise acquire, any ownership interests in, the Company;</p>  | <p>(iii) rescatar, comprar, reclasificar, combinar, dividir, subdividir, modificar los términos de, o de otra manera adquirir, una participación o parte de interés en, la Empresa;</p>   |
| <p>(iv) declare or pay any distribution (whether in cash, ownership interests or other property) with respect to any ownership interests in, the Company;</p>  | <p>(iv) declarar ni pagar una comisión (sea en efectivo, en participaciones sociales o en especie) con respecto a una participación o parte de interés en, la Empresa;</p>  |
| <p>(v) with respect to the Company create, incur or assume any indebtedness or any Liability, including granting or becoming subject to any Guaranty, individually or in the aggregate, in excess of US\$10,000;</p>   | <p>(v) con respecto a la Empresa, generar, incurrir en o asumir ningún endeudamiento o Pasivo, incluido el otorgamiento o quedar sujeto a ninguna Garantía, de forma individual o conjunta, por encima de US\$10.000;</p>   |
| <p>(vi) with respect to the Company make or commit to make any capital expenditures, individually or in the aggregate, in excess of US\$10,000;</p>  | <p>(vi) con respecto a la Empresa, incurrir o comprometerse a incurrir en gastos de capital, de forma individual o conjunta, por encima de US\$10.000;</p>  |
| <p>(vii) with respect to the Company, except in the ordinary course of business consistent with past practice, discharge or otherwise obtain the release of any Lien or pay or otherwise discharge any Liability;</p>  | <p>(vii) con respecto a la Empresa, con excepción del período comprendido entre el giro ordinario de la actividad empresarial en conformidad con la práctica establecida en el pasado, levantar u obtener el levantamiento o cancelación de cualquier Gravamen o pagar o cancelar cualquier Responsabilidad;</p>  |
| <p>(viii) with respect to the Company except in the ordinary course of business consistent with past practice, write off the value of any assets, inventory or any accounts receivable or increase the reserves for obsolete, damaged, spoiled or otherwise not usable inventory or doubtful or uncollectable receivables;</p>   | <p>(viii) con respecto a la Empresa durante el giro ordinario de su actividad empresarial en conformidad con la práctica establecida en el pasado, cancelar el valor de cualquier activo, inventario o cuenta por cobrar o aumentar las reservas de inventario obsoleto, dañado, estropeado o sin posibilidad de uso o los créditos de cobros dudosos o incobrables;</p>  |
| <p>(ix) increase the compensation payable or to become payable to managers, officers or employees of the Company, or grant any rights to severance or termination pay to, or enter into any employment or severance agreement with, any such person or establish, adopt, enter into or amend any collective bargaining, bonus, profit sharing, thrift, compensation, options on ownership interests, restricted stock, pension, retirement, deferred compensation, employment, termination, severance or other plan, agreement, trust, fund, policy or arrangement for the benefit of any manager, officer or employee of the Company;</p> | <p>(ix) aumentar la remuneración por pagar o que se pagará en el futuro a los gerentes, funcionarios o empleados de la Empresa, otorgar derechos a indemnización por despido o pagos por desvinculación laboral, o celebrar acuerdos desvinculatorios con, dichas personas ni establecer, adoptar, suscribir ni enmendar convenios colectivos de trabajo, bonificaciones, acuerdos de participación en las ganancias, planes de ahorro, compensación, opciones sobre participaciones, acciones restringidas, pensión, jubilación, indemnización diferida, empleo, terminación, despido u otro plan, acuerdo, fideicomiso, fondo, política o arreglo en beneficio de un funcionario, ejecutivo o empleado de la Empresa;</p> |

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| <p>(x) with respect to the Company, acquire (including, without limitation, by merger, consolidation or acquisition of stock or assets) any interest in any Person or assets (other than the acquisition of inventory in the ordinary course of business);</p> <p>(xi) alter the manner of keeping the books, accounts or records of the Company, or change in any manner the accounting practices, methods or assumptions therein reflected;</p> <p>(xii) amend, terminate, cancel or compromise any material claims of the Company or waive any other material rights of the Company;</p> <p>(xiii) with respect to the Company, delay or postpone the payment of accounts payable or other Liabilities;</p> <p>(xiv) take or omit to take any action which is intended to render any of each of the Seller's representations or warranties untrue or misleading, or which would be a material breach of any of each of the Sellers' covenants or agreements;</p> <p>(xv) allow any Permit to lapse or terminate or fail to renew any Permit;</p> <p>(xvi) take any action which is intended to have a Material Adverse Effect or which is intended to delay the consummation of the transactions contemplated by this Agreement; or</p> <p>(xvii) agree, whether in writing or otherwise, to do any of the foregoing.</p> | <p>(x) Con respecto a la Empresa, adquirir (incluyendo, sin restricciones, por fusión, absorción, consolidación o adquisición de acciones o activos) una participación en una Persona o activos (distintos de la adquisición de existencias durante el giro ordinario de la actividad empresarial);</p> <p>(xi) alterar la forma de llevar los libros, cuentas o registros contables de la Empresa, ni modificar de cualquier forma las prácticas, métodos contables o presunciones reflejadas en ellos;</p> <p>(xii) corregir, terminar, cancelar o transigir cualquier reclamos esenciales de la Empresa o renunciar a cualquier otro derecho esencial de la Empresa;</p> <p>(xiii) con respecto a la Empresa, retrasar o posponer el pago de las cuentas por pagar u otros Gravámenes;</p> <p>(xiv) adoptar u omitir adoptar alguna acción que pretenda otorgar cualquiera de las declaraciones o garantías de cada Vendedor como falsa o engañosa, o que pueda ser incumplimiento material de alguno de los convenios o acuerdos de los Vendedores;</p> <p>(xv) Autorizar ningún Permiso para caducar, terminar o incumplir la renovación de cualquier Permiso;</p> <p>(xvi) Tomar alguna acción que pretende ocasionar un Efecto Material Adverso o retrasar la materialización de las operaciones contempladas en este Contrato; o</p> <p>(xvii) acordar, de forma escrita o por otro medio, realizar cualquiera de las acciones mencionadas.</p> |
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**5.2. Due Diligence Review.** The Buyers shall be entitled to continue prior to the Closing the due diligence review of the assets, properties, books, records and other information of the Company. The Company shall (and shall cause its directors, officers, employees, auditors, counsel and agents to), afford the Buyers and the Buyers's officers,

**5.2 Revisión de Debida Diligencia.** Los Compradores tendrán facultad de continuar, antes del Cierre, la revisión de la debida diligencia de todos los activos, propiedades, libros, registros contables y toda otra información de la Empresa. La Empresa permitirá (y

employees, auditors, counsel and agents reasonable access at all reasonable times to the properties, offices, facilities, officers and employees, and to all books and records of the Company, and shall furnish such persons with all financial, operating and other data and information as may be requested.

**5.3. Further Assurances.** The Parties shall deliver any and all other instruments or documents required to be delivered pursuant to, or necessary or proper in order to give effect to, the provisions of this Agreement, including all such instruments of transfer as may be necessary or desirable to transfer ownership of the Quotas to the Buyers and to consummate the transactions contemplated by this Agreement.

**5.4. Publicity.** The Parties agree to cooperate in issuing any press release or other public announcement concerning this Agreement or the transactions contemplated hereby as of this date and as of the date of the Closing in the United States of America. With respect to the Chilean market, the parties expressly agree that only after the Closing occurs, this Agreement or the transactions contemplated hereby may be announced to the public. Thereafter, unless otherwise required by applicable Law or the requirements of NYSE, each Party shall use reasonable best efforts to consult with each other before issuing any press release or otherwise making any public statements or disclosures with respect to this Agreement or the transactions contemplated hereby.

**5.5. Acquisition Proposals.** The Company and each Seller agrees that neither it nor any of its Representatives will, directly or indirectly (a) solicit, encourage, initiate or participate in any negotiations or discussions with respect to any offer or proposal that constitutes, or may reasonably be expected to lead to, a Competing Transaction, (b) agree to or enter into any

dispondrá que sus directores, funcionarios, empleados, auditores, abogados y mandatarios permitan) a los Compradores y sus funcionarios, empleados, auditores, abogados y mandatarios, el acceso en todas las ocasiones, dentro del horariorazonable, a las propiedades, oficinas, dependencias, funcionarios y empleados, y a todos los libros y registros contables de la Empresa, y proporcionarán a tales personas todos los datos e informaciones operativas y financieras que pudieran solicitarse.

**5.3. Otras Garantías.** Las Partes otorgarán todos los demás instrumentos o documentos requeridos para ser otorgados en cumplimiento de, necesarios o propios para, dar efecto a, las cláusulas de este Contrato, incluyendo todos aquellos instrumentos de transferencia que sean necesarios o convenientes para transferir la titularidad de las Cuotas a los Compradores y para materializar las operaciones contempladas en este Contrato.

**5.4. Publicidad.** Las Partes acuerdan cooperar en la emisión de cualquier comunicado de prensa u otro anuncio público con respecto a este Contrato o las operaciones contempladas en el mismo a esta fecha y antes de la fecha de Cierre en los Estados Unidos de América. Respecto del mercado chileno, las partes acuerdan expresamente que, recién con posterioridad al Cierre, se podrá dar a conocer al público el presente Contrato o las operaciones contempladas en el mismo. Posteriormente al Cierre, a menos que así lo requiera la Ley aplicable o los requisitos de NYSE (Bolsa de Nueva York), cada parte se comprometerá, dentro de lo razonable, a consultar recíprocamente, antes de emitir cualquier comunicado de prensa o realizar cualquier declaración o divulgación pública con respecto a este Contrato o las operaciones contempladas en él.

**5.5. Propuestas de Adquisición.** La Empresa y cada Vendedor acuerdan que ninguno de sus Representantes, de forma directa o indirecta (a) solicitará, incentivará, iniciará o participará en ninguna negociación o discusión con respecto a una oferta o propuesta que constituya, o pueda razonablemente esperarse, que conduzca a, una Operación de la Competencia; (b) acordará o suscribirá

commitment or agreement relating to a Competing Transaction, (c) disclose any confidential information to any Person concerning the business or Assets of the Company in connection with any of the foregoing or (d) authorize any Representative to take any such action. The Sellers and the Company shall notify the Buyers promptly (and in any event within one day after attaining knowledge thereof) of receipt of any inquiry, contact or offer regarding a Competing Transaction, including all of the material terms thereof. The Company and the Sellers shall cease and cause to be terminated all existing discussions with any parties conducted heretofore with respect to any Competing Transaction.

**5.6. Notification of Certain Matters.** Each Party shall promptly notify the other of (a) any Action that shall be instituted or threatened against such Party or its Subsidiaries to restrain, prohibit or otherwise challenge the legality of any transaction contemplated by this Agreement, (b) any occurrence or event which makes or could reasonably be expected to make any representation or warranty of such Party untrue or inaccurate and (c) any breach by such Party of any covenant or agreement to be complied with or satisfied in the Transaction Documents, provided, however, that the delivery of any notice pursuant to this Section 5.6 shall not limit or otherwise affect the remedies available hereunder to the Party receiving such notice.

**5.7. Company Actions.** Each of the Sellers will cause the Company to perform all of the Company's obligations set forth in the Transaction Documents, including causing the board of directors of the Company to unanimously approve and adopt this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby.

ningún compromiso o acuerdo relacionado con una Operación de la Competencia; (c) divulgará ninguna información confidencial a ninguna Persona con respecto a la actividad empresarial o los Activos de la Empresa en relación con ninguno de los aspectos señalados; ni (d) autorizará un Representante a realizar dichos actos. Los Vendedores y la Empresa deberán notificar a los Compradores de forma inmediata (y en cualquier caso, dentro del día siguiente a haber entrado en conocimiento de ello) la recepción de una investigación, contacto u oferta en relación con una Operación de la Competencia, incluyendo todos los términos esenciales de la misma. La Empresa y los Vendedores cesarán y dispondrán el cese de todas las negociaciones con cualquiera de las partes realizadas con anterioridad al presente con respecto a cualquier Operación de la Competencia.

**5.6 Notificación de Asuntos Determinados.** Cada Parte notificará de inmediato a la otra sobre (a) cualquier Acción que se inicie o amenace contra dicha Parte o sus Filiales con el objeto de impedir, prohibir o impugnar la legalidad de cualquier operación contemplada en este Contrato, (b) el acaecimiento de cualquier acontecimiento o evento del que se espere o podría esperarse de manera razonable, que convierta en falsa o inexacta a cualquier declaración o garantía de dicha Parte ;y (c) cualquier incumplimiento de dicha Parte de un convenio o acuerdo que debe cumplirse en los Documentos de la Operación, en el entendido de que la entrega de una notificación en cumplimiento de este Artículo 5.6 no limitará ni afectará los recursos disponibles conforme al presente de la Parte que reciba dicha notificación.

**5.7. Acciones de la Empresa.** Cada Vendedor dispondrá que la Empresa cumpla con todas sus obligaciones establecidas en los Documentos de la Operación, y además dispondrá que la junta directiva de la Empresa apruebe en forma unánime y adopte este Contrato y los Documentos de la Operación y las operaciones contempladas en el presente y en esos documentos.

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## ARTICLE 6

### Additional Agreements

**6.1. Survival of the Representations and Warranties.** The representations and warranties contained in this Agreement shall survive the Closing Date for the applicable statute of limitations. If written notice of a claim has been given prior to the expiration of the applicable representations and warranties by a Party hereto to another Party hereto, then the relevant representations and warranties shall survive as to such claim until such claim has been finally resolved.

**6.2. General Release.** As additional consideration for the sale of the Quotas pursuant to this Agreement, each of the Seller hereby unconditionally and irrevocably releases and forever discharges, effective as of the Closing Date, the Company and their Representatives, from any and all rights, claims, demands, judgments, obligations, Liabilities and damages, whether accrued or unaccrued, asserted or unasserted, and whether known or unknown, relating to the Company, which ever existed, now exist, or may hereafter exist, by reason of any tort, breach of contract, violation of Law or other act or failure to act which shall have occurred at or prior to the Closing Date, or in relation to any other Liabilities of the Company. The Sellers expressly intend that the foregoing release shall be effective regardless of whether the basis for any claim or right hereby released shall have been known to or anticipated by the Sellers.

### 6.3. Indemnification.

**(a) Indemnification.** Each of the Sellers agree, on a joint and several basis, to indemnify and hold harmless the Buyers and their respective affiliates and their respective representatives, successors and assigns (the "**Buyers Indemnified Parties**") from, against and in respect of, the full amount of:

(i) any and all Liabilities arising from, in connection with any breach or violation of (A) any representation or warranty of each of the Sellers contained in this Agreement or in any schedule or exhibit hereto, and (B) any covenant or agreement of each of the Sellers contained in this Agreement;

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## ARTÍCULO 6

### ACUERDOS ADICIONALES

**6.1. Vigencia de las Declaraciones y Garantías.** Las declaraciones y garantías contenidas en este Contrato continuarán vigentes con posterioridad al vencimiento de la Fecha de Cierre para los efectos de la ley de prescripción aplicable. Si el reclamo se ha notificado por escrito antes del vencimiento de las declaraciones y garantías pertinentes, por una de las Partes del presente a la otra, entonces las declaraciones y garantías pertinentes permanecerán vigentes con posterioridad a dicho reclamo hasta su resolución definitiva.

**6.2. Renuncia General.** Como contraprestación adicional a la venta de las Cuotas en virtud de este Contrato, cada Vendedor por la presente libera y exime en forma incondicional y a perpetuidad, con efecto a partir de la Fecha de Cierre, a la Empresa, de todos los derechos, reclamos, sentencias, obligaciones, Pasivos y daños y perjuicios, devengados o no devengados, declarados o no declarados, conocidos o desconocidos, relacionados con la Empresa, existentes en el pasado, que existan actualmente, o que existirán en el futuro, como consecuencia de cualquier hecho ilícito civil, incumplimiento de contrato, violación de la Ley o cualquier otra acción u omisión que haya ocurrido en o antes la Fecha de Cierre, o en relación con cualquier otro Pasivo de la Empresa. Los Vendedores procuran expresamente que la exención anterior sea válida independientemente de que el fundamento de cualquier reclamo o derecho liberado en el presente haya sido conocido o previsto por los Vendedores.

### 6.3. Indemnización.

**(a) Indemnización.** Cada Vendedor acuerda, de forma solidaria, indemnizar y mantener indemne y libre y exento de responsabilidad a los Compradores y sus respectivas coligadas y sus respectivos representantes, sucesores y cesionarios (las "**Partes Indemnizadas de los Compradores**") de, contra, y en lo que se refiere a, la cantidad total de:

(i) Cualquiera y todo Pasivo que surja de, en relación con, cualquier incumplimiento o violación de (A) cualquier declaración o garantía de cada uno de los Vendedores contenida en este Contrato o en cualquier anexo o apéndice del mismo; y (B) cualquier convenio o acuerdo de cada uno de los Vendedores contenidos en este Contrato;



(ii) any other Taxes related to or arising from the transactions contemplated hereby or in contemplation hereof by reason of any Liability for Taxes of the Company's partners which has its origin in operations before Closing and assessed by any taxing authority against the Sellers, their shareholders, the Company, either before or after the Closing Date;

(iii) any and all Liabilities related to or arising from any products or services delivered by the Company prior to the Closing Date, including Liabilities for product recalls, product defects, warranty claims, personal injury or death; and

(iv) any and all Actions, demands, assessments or judgments, costs and expenses incidental to any of the foregoing

(b) Indemnification Procedure as to Third Party Claims.

Promptly after the Buyers Indemnified Party obtains knowledge of the commencement of any third party Action (any such Action being hereinafter referred to in this Section 6.3 as a "**Claim**"), in respect of which a Buyer Indemnified Party is entitled to indemnification under this Agreement, the Buyers Indemnified Party shall notify each of the Sellers of such Claim in writing. With respect to any Claim as to which such notice is given, the Sellers will assume and control the defense or otherwise settle such Claim with counsel reasonably satisfactory to the Buyers Indemnified Party and experienced in the conduct of Claims of that nature at the Sellers' sole risk and expense;

(ii) Cualquier otro Impuesto relacionado con o derivado de las operaciones contempladas en el presente, o previstas en el presente, como consecuencia de cualquier Deuda Tributaria de los socios de la Empresa, que tenga su origen en operaciones realizadas antes del cierre y exigido por una autoridad fiscal contra los Vendedores, sus socios, la Empresa, sea antes o después de la Fecha de Cierre;

(iii) Todo Pasivo relacionado con o derivado de productos o servicios provistos por la Empresa antes de la Fecha de Cierre, incluyendo los Pasivos por retiro de productos, defectos de productos, reclamos de garantía, lesiones personales o fallecimiento; y

(iv) Toda Acción, demanda, valuación o sentencia, costo y gastos inherentes a cualquiera de ellos.

(b) Procedimiento de Indemnización respecto de Reclamos de Terceros

Inmediatamente después de que la Parte Indemnizada de los Compradores entre en conocimiento del comienzo de cualquier Acción de terceros (dicha Acción se denomina a continuación en este Artículo 6.3 como el "**Reclamo**"), respecto de la cual una Parte Indemnizada de los Compradores tenga derecho a ser indemnizada según este Contrato, la Parte Indemnizada de los Compradores notificará a cada uno de los Vendedores de ese Reclamo por escrito. Con respecto a cualquier Reclamo notificado, los Vendedores asumirán y controlarán la defensa o, de lo contrario, resolverán dicho Reclamo con la asistencia legal de un abogado razonablemente satisfactoria para la Parte Indemnizada de los Compradores y con experiencia en la presentación de Reclamos por cuenta y riesgo de los Vendedores;

provided, however, that the Buyers Indemnified Party (1) shall be permitted to join the defense and settlement of such Claim and to employ counsel reasonably satisfactory to it at its expense, and (2) shall cooperate fully with the Sellers in the defense and any settlement of such Claim in any manner reasonably requested by the Sellers. The Sellers shall not make any settlement of any claims without the written consent of the Buyers Indemnified Party.

(ii) If the Sellers fail to assume the defense of such Claim or, having assumed the defense and settlement of such Claim, fail reasonably to contest such Claim in good faith, or the remedy sought by the claimant with respect to such Claim is not solely for money damages, the Buyers Indemnified Party, without waiving its right to indemnification, may, but is not required to, assume the defense and settlement of such Claim at the respective Sellers' expense, provided, however, that (A) each of the Sellers shall cooperate with the Buyers Indemnified Party in the defense and settlement of such Claim in any manner reasonably requested by the Buyers Indemnified Party, and (B) the Buyers Indemnified Party shall not settle such Claim without the written consent of each of the Sellers, which consent shall not be unreasonably withheld or delayed

**6.4. Confidentiality.** Each of the Sellers acknowledge that the Company Intellectual Property, the Licensed Intellectual Property and all other confidential or proprietary information with respect to the business and operations of the Company are valuable, special and unique. Each of the Sellers shall not, at any time after the Closing Date, disclose, directly or indirectly, to any Person, or use or purport to authorize any Person to use any Company

siempre y cuando la Parte Indemnizada de los Compradores (1) sea autorizada para participar en la defensa y resolución de dicho Reclamo o Demanda y contratar a un abogado que sea razonablemente satisfactorio para ello, debiendo soportar sus gastos; y (2) cooperará en todo sentido con los Vendedores en la defensa y resolución de dicho Reclamo de cualquier manera que sea razonablemente requerida por los Vendedores. Los Vendedores no procederán a resolver reclamos sin el previo consentimiento escrito de la Parte Indemnizada de los Compradores.

(ii) Si los Vendedores no asumen la defensa de dicho Reclamo o, tras haber asumido la defensa y resolución de tal Reclamo, omiten responder razonablemente al Reclamo de buena fe, o si el recurso pretendido por el demandante con respecto a dicho Reclamo no consiste exclusivamente en un resarcimiento por daños y perjuicios pecuniarios, la Parte Indemnizada de los Compradores, sin renunciar a su derecho a indemnización puede, pero no se le exige que lo haga, asumir la defensa y resolución de dicho Reclamo por cuenta y cargo de los Vendedores, en el entendido de que (A) cada uno de los Vendedores cooperará con la Parte Indemnizada de los Compradores en la defensa y resolución de dicho Reclamo de la manera razonablemente requerida, por la Parte Indemnizada de los Compradores, y (B) la Parte Indemnizada de los Compradores no resolverá Reclamo sin el revio consentimiento escrito de cada uno de los Vendedores, cuyo consentimiento no podrá denegarse ni demorarse injustificadamente.

**6.4. Confidencialidad.** Cada Vendedor reconoce que la Propiedad Intelectual de la Empresa, la Propiedad Intelectual Autorizada y otras informaciones confidenciales o propias de la empresa con respecto a sus actividades comerciales y operaciones son valiosas, especiales y únicas. Los Vendedores no divulgarán, en ningún momento con posterioridad a la Fecha de Cierre, en forma directa o indirecta, ni utilizarán o intentarán utilizar ninguna Propiedad Intelectual de la Empresa,

Intellectual Property, Licensed Intellectual Property, confidential or proprietary information with respect to the Company, the Buyers, whether or not for the each of the Seller's own benefit, without the prior written consent of the Buyers. Each of the Sellers acknowledge that the Buyers would not enter into this Agreement without the assurance that all such confidential and proprietary information will be used for the exclusive benefit of the Company.

All the documentation and/or information, irrespective of their nature or support containing it, which has been provided by the Company or the Buyers, and that is their own or directly belongs to the party providing it, shall be considered "**Confidential Information**". The transaction sought to be carried out and in general all the information received or delivered, including all kind of technical, operational information or information regarding the businesses or activities of the parties shall also be deemed Confidential Information. The parties agree to keep any information received strictly confidential, and the parties are hereby expressly authorized to disclose such information to its legal and accounting counsels and advisors, who shall issue the required reports.

It is expressly forbidden to the parties to make copies of the Confidential Information and retain all written and disclosed confidential information, which must be returned to the other party upon non-consummation of the sale.

Any infringement of the confidentiality duty referred to in the preceding paragraph, shall cause the defaulting party to be held liable for any damages that could be derived therefrom.

**6.5. Continuing Obligations.** The restrictions set forth in Section 6.4 are considered by the Parties to be reasonable for the purposes of protecting the value of the business and goodwill of the Company and the Buyers. The Buyers and the Sellers acknowledge that the Buyers would be irreparably harmed and that

Propiedad Intelectual Autorizada, información confidencial o propia de la empresa con respecto a la misma, a los Compradores, en beneficio propio o de cada uno de los Vendedores, sin el previo consentimiento por escrito de los Compradores. Cada Vendedor reconoce que los Compradores no suscribirían este Contrato si no se le garantizara que toda la información confidencial se utilizará en beneficio exclusivo de la Empresa.

Toda aquella documentación y/o información, cualquiera sea su naturaleza o el soporte en el cual conste, que haya sido proporcionada por la Empresa o los Compradores, y que sea propia o que pertenezca directamente a la parte que la proporciona, será considerada "**Información Confidencial**". Será también Información Confidencial para ambas partes, el negocio que se pretende hacer y en general toda la información que se reciba o entregue, incluyendo todo tipo de información técnica, operacional o relativa a la actividad comercial de las partes. Las partes, se obligan a mantener la información recibida en carácter de confidencialidad, quedando expresamente autorizados para revelar esta información a sus asesores legales y contables, quienes serán los que emitan los informes requeridos.

Queda expresamente prohibido a las partes realizar copias de la Información Confidencial y retener la Información Confidencial escrita entregada, la que deberá ser restituida a la otra parte en el evento de que no se realice la venta.

Cualquier infracción a la obligación de confidencialidad señalada en el párrafo precedente, hará a la parte incumplidora responsable de los perjuicios que de ello se pudiese derivar

**6.5. Obligaciones Permanentes.** Las restricciones establecidas en el Artículo 6.4 están consideradas por las Partes como razonables a los efectos de proteger el valor del negocio y buena voluntad de la Empresa y los Compradores. Los Compradores y los Vendedores reconocen que los Compradores podría sufrir daño

monetary damages would not provide an adequate remedy to the Buyers in the event the covenants contained in Section 6.4 were not complied with in accordance with their terms. Accordingly, the Sellers agree that any breach or threatened breach by any of them of any provision of Section 6.4 shall entitle each Buyer to injunctive and other equitable relief to secure the enforcement of these provisions, without posting a bond, in addition to any other remedies which may be available to the Buyers, and that the Buyers shall be entitled to receive from the Sellers reimbursement for all attorneys' fees and expenses incurred by the Buyers in enforcing these provisions. It is the desire and intent of the Parties that the provisions of Section 6.4 be enforced to the fullest extent permissible under the Laws and public policies of each jurisdiction in which enforcement is sought.

## ARTICLE 7

### CLOSING; CONDITIONS PRECEDENT; TERMINATION

**7.1. Closing.** The transfers and deliveries to be made pursuant to this Agreement (the "**Closing**") shall take place at the offices of Claro & Cía. at Apoquindo 3.721, 14<sup>th</sup> Floor, Santiago, on or around April 30, 2012 (the "**Closing Date**"), or on such other date and at such other place as may be agreed to by the Parties once all conditions set forth in this clause seven are fulfilled. All proceedings to be taken and all documents to be executed at the Closing shall be deemed to have been taken, delivered and executed simultaneously, and no proceeding shall be deemed taken nor documents deemed executed or delivered until all have been taken, delivered and executed.

(a) At the Closing, each Seller shall deliver to the Buyers (i) a duly executed Quota Transfer Deed, (ii) a notarized power of attorney issued by each Seller appointing the attorney in fact authorized to sign the Transaction Documents on their behalf; (iii) an

irreparable y que los daños monetarios no serían un remedio adecuado para los Compradores en caso de que no se cumpliera con las disposiciones del Artículo 6.4. En consecuencia, los Vendedores acuerdan que cualquier incumplimiento o amenaza de incumplimiento por parte de cualquiera de ellos de cualquier disposición del Artículo 6.4 facultará a los Compradores a solicitar una medida precautoria o cautelar que garantice el cumplimiento de estas cláusulas, sin depositar caución alguna, además de cualquier otra reparación que pueda estar disponible para los Compradores, y que los Compradores estarán facultados para recibir de los Vendedores el reembolso de todos los honorarios y gastos de abogados incurridos por los Compradores para exigir el cumplimiento de las cláusulas o disposiciones del presente. Es deseo e intención de las Partes que se exija el cumplimiento de las cláusulas del Artículo 6.4 se apliquen con el máximo alcance posible permitido por las Leyes y normas de orden público de cada jurisdicción en que se exige dicho cumplimiento.

## ARTÍCULO 7

### CIERRE; CONDICIONES PREVIAS; TÉRMINO

**7.1. Cierre.** Las transferencias y entregas que deban realizarse de acuerdo con este Contrato (el "**Cierre**") tendrán lugar en las oficinas de Claro & Cía. ubicadas en Apoquindo 3.721, Piso 14, Santiago, el 30 de Abril de 2012 o aproximadamente en esa fecha (la "**Fecha de Cierre**"), o en cualquier otra fecha o lugar acordados por ambas Partes una vez se cumplan las condiciones previstas en esta cláusula séptima. Todos los procedimientos y documentos a otorgarse al Cierre se considerarán realizados, celebrados u otorgados en forma simultánea, y ningún procedimiento ni documento se considerará realizado u otorgado hasta que todos hayan sido realizados, celebrados u otorgados.

(a) Al Cierre, cada Vendedor entregará a los Compradores (i) una Escritura de Cesión de Cuota debidamente otorgada, (ii) un poder notarial otorgado por cada Vendedor en el que se designe al apoderado autorizado para firmar los Documentos de la Operación

executed counterpart of the Escrow Agreement, (iv) such documents as are required to be delivered by such Seller to satisfy the conditions set forth in Section 7.2, and (v) such other documents and instruments as the Buyers may reasonably request

(b) At the Closing, the Buyers shall (i) deliver the Closing Consideration to the Sellers pursuant to Section 2.2(a)(i), (ii) deliver the Escrow Consideration to the Escrow Agent pursuant to Section 2.2(a)(ii) and (iii) deliver to the Sellers a copy of the estatutos of the Buyers evidencing their authorization of the execution and delivery of the Transaction Documents and the consummation of the transactions contemplated thereby; (iv) deliver an executed counterpart of the Escrow Agreement, and (v) such documents as are required to be delivered by the Buyers to satisfy the conditions set forth in Section 7.2

**7.2. Conditions Precedent to the Obligations of the Buyers.** The obligations of the Buyers to consummate the transactions contemplated by this Agreement are subject to the satisfaction or written waiver, at or prior to the Closing, of each of the following conditions.

**(a) Representations and Warranties.** The representations and warranties of each of the Sellers contained in this Agreement and in any certificate or other document delivered pursuant to this Agreement shall have been true and correct when made and shall be true and correct in all material respects (except for those representations and warranties which are by their terms qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects) as of the Closing Date (except to the extent such representations and warranties are made as of another date, in which case as of such date) with the same force and effect as though made on and as of such date.

en su nombre y representación; (iii) un ejemplar debidamente firmado del Contrato de Garantía, (iv) todos aquellos documentos que deben ser entregados por cada Vendedor en cumplimiento de las condiciones establecidas en el Artículo 7.2, y (v) todos los demás documentos e instrumentos que los Compradores pueda razonablemente requerir;

(b) Al Cierre, los Compradores entregarán (i) la Contraprestación de Cierre a los Vendedores de acuerdo con el Artículo 2.2(a)(i), (ii) la Contraprestación de Depósito al Depositario de acuerdo con el Artículo 2.2(a)(ii) y (iii) a los Vendedores una copia de los estatutos de los Compradores que acrediten su autorización para celebrar, suscribir y otorgar los Documentos de la Operación y la materialización de las operaciones contempladas en ellos; (iv) un ejemplar debidamente firmado del Contrato de Depósito en Garantía, y (v) todos aquellos otros documentos que los Compradores deba entregar u otorgar en cumplimiento de las condiciones establecidas en el Artículo 7.2.

**7.2 Condiciones Previas a las Obligaciones de los Compradores.** Las obligaciones de los Compradores de materializar las operaciones contempladas en este Contrato están sujetas al cumplimiento o renuncia escrita, en o antes del Cierre, de cada una de las siguientes condiciones.

**(a) Declaraciones y Garantías.** que todas las declaraciones y garantías de los Vendedores contenidas en este Contrato o en cualquier certificado u otro documento entregado de acuerdo con este Contrato sean auténticas y correctas a la fecha de su creación y que sean auténticas y correctas en sus aspectos esenciales (excepto aquellas declaraciones y garantías que por sus términos se califiquen como esenciales, las cuales serán auténticas y correctas en todos los aspectos) a partir de la Fecha de Cierre (excepto en la medida en que tales declaraciones y garantías correspondan a otra fecha, en cuyo caso, será a partir de esa fecha) con la misma fuerza y efecto con que se crearon en y a partir de tal fecha.

(b) Covenants. The covenants and agreements of each of the Sellers contained in this Agreement to be performed or complied with on or prior to the Closing Date shall have been duly performed or complied with in all material respects, including without limitation, the delivery of the Financial Statements, as set forth in Section 4.7 above.

(c) No Material Adverse Effect. There shall not have occurred any Material Adverse Effect

(d) Certificate. The Company and each of the Sellers shall have delivered to the Buyers a certificate executed by a duly authorized legal representative of the Company and such Seller (or by Seller if an individual), dated the Closing Date, certifying in such detail as Buyers may reasonably request, that the conditions specified in Sections 7.2(a), (b) and (c) above have been fulfilled and as to such other matters as Buyers may reasonably request.

(e) Consents. The Company and each of the Sellers shall have obtained, each in form and substance satisfactory to Buyers, (i) the consents and approvals that should be obtained according to applicable laws and regulations, if any, and (ii) all other consents and approvals of Governmental Authorities and other Persons required, or which the Buyers deems necessary, to consummate the transactions contemplated by this Agreement, in each case which shall have been obtained without the imposition of any adverse terms or condition which would adversely affect Buyers or its ability to operate the Company after the Closing.

(f) Each of the officers of the Company affiliated with the Sellers shall have resigned and delivered the Company with a full and complete release of any and all claims such persons have or may have against the Company.

(g) Each of the Sellers shall comply with its respective obligation to close the transaction contemplated hereunder.

(b) Obligaciones. que todas las obligaciones y acuerdos de cada Vendedor contenidos en este Contrato que deben cumplirse en o antes de la Fecha de Cierre hayan sido cumplidos debidamente en todos los aspectos esenciales, incluyendo sin limitación, la entrega de los Estados Financieros, de conformidad con lo establecido en la Sección 4.7 precedente.

(c) Ausencia de Efecto Material Adverso. que no haya existido ni ocurrido ningún Efecto Material Adverso.

(d) Certificado. que la Empresa y cada Vendedor haya entregado a los Compradores un certificado emitido por un representante legal debidamente autorizado de la Empresa y dicho Vendedor (o por el Vendedor si es una persona física), a la Fecha de Cierre, que certifique con la descripción detallada que los Compradores pudieran razonablemente requerir, que se ha cumplido con las condiciones especificadas en los Artículos 7.2(a), (b) y (c) anteriores, y con todos los demás requisitos que los Compradores pudieran razonablemente requerir..

(e) Consentimientos. que la Empresa y cada Vendedor hayan obtenido, de manera satisfactoria, en forma y esencia, para los Compradores, (i) los consentimientos y aprobaciones que deberían obtenerse de acuerdo con las leyes y reglamentaciones aplicables, si las hubiere, y (ii) todos los otros consentimientos y aprobaciones de las Autoridades Gubernamentales y otras Personas exigidos, o que los Compradores estime necesarias, para materializar las operaciones contempladas en este Contrato, los que, en cada caso hayan sido obtenidos sin la imposición de ningún término o condición adversa que pudiera afectar de manera adversa a los Compradores o a su capacidad de operar la Empresa luego del Cierre.

(f) que cada funcionario de la Empresa coligada con los Vendedores haya renunciado y entregado a la Empresa una renuncia absoluta y completa de todos y cada uno de los reclamos que esas personas tengan o puedan querer hacer valer contra la Empresa.

(g) Cada Vendedor cumplirá con su obligación respectiva de cerrar la operación contemplada en el presente.

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(h) Each of the Manufacturing Agreement and the Non-Compete Agreement has been executed and be in full force and effect.

(i) that the Financial Statement (specially the Closing Date Trial Balance), shows a positive balance in the working capital of the Company.

(j) evidence of the termination or release of (a) the “Convenio de fabricación, distribución, explotación y uso de marcas” dated September 25, de 2009, between the Company and Arama Laboratorios y Cía Ltda.; (b) the lease agreement between the Company and Comercial Biotonic Chile Ltda., dated September 25, de 2009; y (c) the services agreement between Importadora Sava Ltda. and the Company dated October 1<sup>st</sup>, 2009.

(k) prior to the (i) signing of this Agreement, the Sellers (though their respective Investment Companies) increased the equity capital of the Company by contributing all of the Arama Assets, as described in letter C. of the preliminary statements to this Contract; (ii) Closing, the Sellers shall inform the capital increase described in letter C. of the preliminary statements to this Contract in the Chilean Internal Revenue Service; and (iii) Closing, the Sellers shall at their sole cost and expense have properly submitted all Arama Assets before the INAPI or the relevant Governmental Authority, in the manner set forth in Section 4.14(a) above in order to consummate the transfer and capital contribution of the Arama Assets to the Company described in (i) above.

(l) prior to the Closing Date, Arama Laboratorios has properly submitted before the INAPI, the transfer of the trademark “Arama”, Registration N° 662065 (included within the Arama Assets definition set forth above) to the Company for the purposes of paying off a debt it had with the Company.

(h) que cada Contrato de Manufactura y de No Competencia haya sido celebrado y se encuentre vigente.

(i) que los Estados Financieros (en especial, el Balance de Cierre), muestran un capital de trabajo positivo de la Empresa.

(j) constancia de la terminación o finiquito de: (a) el “Convenio de fabricación, distribución, explotación y uso de marcas” de fecha 25 de septiembre de 2009, entre la Empresa y “Arama Laboratorios y Cía Ltda.”; (b) el contrato de arriendo para almacenamiento de MP y material de envase entre la Empresa y Comercial Biotonic Chile Ltda., de fecha 25 de septiembre de 2009; y (c) el contrato de consultoría existente entre Importadora Sava Ltda. y la Empresa de fecha 1° de octubre de 2009.

(k) con anterioridad a (i) esta fecha, los Vendedores (a través de sus Sociedades de Inversiones), aumentaron el capital de la Empresa mediante el aporte de todos los Activos Arama, conforme a lo descrito en la letra C. de las declaraciones preliminares a este Contrato; (ii) la fecha de Cierre, los Vendedores deberán informar el aumento de capital descrito descrito en la letra C. de las declaraciones preliminares a este Contrato ante el Servicio de Impuestos Internos; y (iii) la fecha de Cierre, los Vendedores deberán a costo, presentar en forma adecuada ante el INAPI o la Autoridad Gubernamental competente, en la forma establecida en la Sección 4.14(a) precedente, las transferencias de los Activos Arama a la Empresa, para efectos de consumar la transferencia y el aporte de capital descrito en el literal (i) anterior.

(l) con anterioridad a la fecha de Cierre, Arama Laboratorios, ha procedido a presentar en forma adecuada ante el INAPI, la transferencia de la marca “Arama”, Registro N° 662065 (la cual se entiende incluida dentro de la definición de Activos Arama establecida precedentemente) a la Empresa, a efectos de liquidar una deuda que mantenía con la Empresa.

The transfer of the Arama Assets to the Company is an essential component of the Buyers agreeing to enter into this transaction and any failure to transfer the Arama Assets and fully vest such Arama Assets in the Company shall constitute a material breach of this Agreement.

Notwithstanding the foregoing, in the event that the transfer of one or more trademarks and / or Pharmaceutical Health Records, is not approved in all respects by INAPI or ISPs, Sellers shall correct such defect at their sole cost and expense.

**7.3. Conditions Precedent to the Obligations of each of the Sellers and the Company.** The obligations of each of the Sellers to consummate the transactions contemplated by this Agreement are subject to the satisfaction or written waiver, at or prior to the Closing, of each of the following conditions.

**(a) Representations and Warranties.** The representations and warranties of Buyers contained in this Agreement or in any certificate or other document delivered pursuant to this Agreement shall have been true and correct when made and shall be true and correct in all material respects (except for those representations and warranties which are by their terms qualified by materiality, which shall be true and correct in all respects) as of the Closing Date (except to the extent such representations and warranties are made as of another date, in which case as of such date) with the same force and effect as though made on and as of such date.

**(b) Covenants.** The covenants and agreements of the Buyers contained in this Agreement to be performed or complied with on or prior to the Closing Date shall have been duly performed or complied with in all material respects

La transferencia de los Activos Arama a la Empresa es un componente esencial para que los Compradores acuerden suscribir la presente transacción por lo que cualquier fracaso en la transferencia de los Activos Arama a la Empresa será constitutivo de un incumplimiento material de este Contrato.

Sin perjuicio lo anterior, en el evento de que la transferencia de una o más marcas comerciales y/o registros sanitarios farmacéuticos no sea aprobada en todo sentido en el INAPI o ISP, los Vendedores deberán subsanar dicho defecto a su costo.

**7.3 Condiciones Previas a la Obligaciones de cada Vendedor y de la Empresa.** Las obligaciones de los Vendedores con el objeto de materializar las operaciones contempladas en este Contrato están sujetas al cumplimiento o renuncia, en o antes del Cierre, de cada una de las siguientes condiciones.

**(a) Manifestaciones y Garantías.** que todas las declaraciones y garantías de los Compradores contenidas en este Contrato o en cualquier certificado u otro documento otorgado de acuerdo con este Contrato hayan sido auténticas y correctas al momento de su creación y sean auténticas y correctas en todos sus aspectos esenciales (excepto aquellas declaraciones y garantías que por sus términos se califiquen como importantes, las cuales serán auténticas y correctas en todos los aspectos) a partir de la Fecha de Cierre (excepto en la medida en que tales declaraciones y garantías correspondan a otra fecha, en cuyo caso serán auténticas a partir de dicha fecha) con la misma fuerza y efecto con el que se crearon en y a partir de esa fecha.

**(b) Obligaciones.** Que todas las obligaciones y acuerdos de los Compradores contenidos en este Contrato que deben cumplirse en o antes de la Fecha de Cierre hayan sido cumplidos debidamente en todos los aspectos esenciales.



#### **7.4. Termination**

(a) This Agreement and the transactions contemplated hereby may be terminated prior to the Closing:

(i) at any time by mutual consent of the Parties;

(ii) by either Party if the Closing has not occurred on or prior to April 30, 2012 (the “**Termination Date**”), provided that the failure of the Closing to occur by such date is not the result of the failure of the Party seeking to terminate this Agreement to perform or fulfill any of its obligations hereunder;

(iii) by either Party if there shall be any Governmental Order that is final and non-appealable having the effect of making the purchase of the Quotas to the Sellers illegal;

(iv) by the Buyers, upon a breach of any representation, warranty, covenant or agreement on the part of the Company or any Seller set forth in this Agreement or if any representation or warranty of the Company or any Seller shall have become untrue, such that, in either case, the conditions set forth in Section 7.2(a) or Section 7.2(b) would not be satisfied, provided, however, that if such breach is curable by the Company or such Seller, as applicable, the Agreement may not be terminated by the Buyers for so long as the Company or Seller, as applicable, continues to exercise its best efforts to cure such breach, unless such breach is not cured with 10 days after notice of such breach is provided by the Buyers; or

(v) by the Sellers, upon a breach of any representation, warranty, covenant or agreement on the part of the Buyers set forth in this Agreement or if any representation or warranty of the Buyers shall have become untrue, such that, in either case, the conditions set forth in Section 7.3(a) or Section 7.3(b) would not be satisfied, provided, however, that if such breach is curable by the Buyers, the Agreement may not be

#### **7.4 Terminación**

(a) Este Contrato y las operaciones contempladas en este pueden terminar antes del Cierre:

(i) en cualquier momento por consentimiento mutuo de las Partes;

(ii) por cada Parte si el Cierre no se ha llevado a cabo antes del día 30 de abril de 2012 (la “**Fecha de Terminación**”), siempre y cuando el incumplimiento del Cierre no haya sido ocasionado por la Parte que pretende terminar este Contrato como consecuencia del incumplimiento de cualquiera de sus obligaciones establecidas en el presente;

(iii) por cualquiera de las Partes en caso de que se haya pronunciado una Orden Gubernamental que sea definitiva e inapelable y que disponga que la Compra de las Cuotas por parte de los Vendedores es contraria a la ley;

(iv) por los Compradores, en caso de violación de cualquier declaración, garantía, obligación o acuerdo por parte de la Empresa o cualquier Vendedor establecido en este Contrato, o si cualquier declaración o garantía de la Empresa o de cualquier Vendedor haya sido declarada falsa, ante lo cual, en cada caso, las condiciones establecidas en el Artículo 7.2(a) o en el Artículo 7.2(b) no podrían cumplirse, siempre y cuando si dicha violación es subsanable por la Empresa o el Vendedor, según el caso, los Compradores no terminarán el Contrato durante el tiempo en que la Empresa o el Vendedor continúen realizando sus máximos esfuerzos para subsanar tal violación, a menos que dicha violación no se subsanare dentro de 10 días siguientes a su notificación a los Compradores; o

(v) por los Vendedores, en caso de violación de cualquier declaración, garantía, obligación o acuerdo por parte de los Compradores establecido en este Contrato, o si cualquier declaración o garantía de los Compradores haya sido declarada falsa, ante lo cual, en cada caso, las condiciones establecidas en el Artículo 7.3(a) o en el Artículo 7.3(b) no podrían cumplirse, siempre y cuando si dicha violación sea subsanable por los Compradores,

terminated by the Sellers for so long as the Buyers continues to exercise its best efforts to cure such breach, unless such breach is not cured with 10 days after notice of such breach is provided by the Sellers.

(b) If this Agreement is terminated pursuant to this Section 7.4, written notice thereof shall promptly be given by the Party electing such termination to the other Party and, subject to the expiration of the cure periods provided in clauses (iv) and (v) above, this Agreement shall terminate without further actions by the Parties and no Party shall have any further obligations under this Agreement; provided that any termination of this Agreement pursuant this Section shall not relieve any Party from any liability for the breach of any representation, warranty or covenant contained in this Agreement or be deemed to constitute a waiver of any remedy available for such breach

#### **7.5. Default Compensation**

The failure of any of the parties to comply with this agreement, or the obligations hereunder, or to appear no later than the Closing Date or any extension thereof that may be mutually agreed upon by the parties shall cause the defaulting party to pay the non-defaulting party the sum of US \$400.000 provided that the non-defaulting party has complied with all of its obligations under this Agreement and each of the conditions to Closing have been met. Notwithstanding the foregoing, the parties mutually agree that the above default compensation, in any case, shall not prevent or constitute a restriction for the non-defaulting party to request and sue for, besides the above default compensation, the actual damages that breach of this Agreement by the defaulting party may cause the other in accordance with the provisions of Article 1543 of the Civil Code.

según el caso, los Vendedores no terminen el Contrato durante el tiempo en que los Compradores continúen realizando sus máximos esfuerzos para subsanar tal violación, a menos que dicha violación no se subsanare dentro de 10 días siguientes a su notificación a los Vendedores.

(b) En caso de terminación de este Contrato de acuerdo con este Artículo 7.4, la Parte que haya optado por terminarlo debe notificar por escrito en forma inmediata de su intención de hacerlo y, sujeto al vencimiento de de los períodos de subsanación previstos en las cláusulas (iv) y (v) mencionadas anteriormente, este Contrato se terminará sin acciones posteriores de ninguna de las Partes, y ninguna de las Partes tendrá obligación posterior alguna bajo este Contrato; *en el entendido que* la terminación de este Contrato de acuerdo con este artículo, no eximirá a ninguna de las Partes de su responsabilidad por falsedad de toda declaración, garantía o incumplimiento de cualquier obligación contenida en este Contrato, o se considere una renuncia a cualquier acción disponible para subsanar dicho incumplimiento.

#### **7.5 Indemnización por Incumplimiento.**

Si alguna de las partes no diere cumplimiento a este contrato, a las obligaciones que emanan de él o no concurriera el cierre dentro de la Fecha de Cierre o plazo superior que de común acuerdo determinen las partes, la parte incumplidora deberá pagar a la parte diligente la suma de US \$400.000, en el entendido que la parte cumplidora haya dado cumplimiento con todas sus obligaciones bajo este Contrato y cada una de las condiciones de Cierre se hayan cumplido. Se deja especial constancia por las partes que lo anterior, en ningún caso impedirá o constituirá una restricción para que la parte cumplidora pueda demandar, además de la pena antes estipulada, los perjuicios efectivos que el incumplimiento de la parte incumplidora le ocasione de conformidad con lo establecido en el artículo 1543 del Código Civil.

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## **ARTICLE 8**

### **MISCELLANEOUS**

**8.1. Notices.** Any notice or other communication under this Agreement shall be in writing and shall be delivered personally or sent by certified mail, return receipt requested, postage prepaid, or sent by facsimile or prepaid overnight courier to the Parties at the addresses set forth below their names on the signature pages of this Agreement (or at such other addresses as shall be specified by the Parties by like notice).

Such notices, demands, claims and other communications shall be deemed given when actually received or (a) in the case of delivery by overnight service with guaranteed next day delivery, the next day or the day designated for delivery, (b) in the case of facsimile, the date upon which the transmitting Party received confirmation of receipt by facsimile, telephone or otherwise.

To such effect, the Buyers establishes his domicile in Agustinas 640, 10th floor, in the City of Santiago, A copy of any communications or notices delivered to the Buyers shall also be sent to OPKO Health, Inc., 4400 Biscayne Boulevard, Miami, Florida 33137, Attn: Deputy General Counsel, Fax (305) 575-4140.

To such effect, the Sellers establish their domiciles in Santa Lucía 330, Segundo Piso, Santiago.

**8.2. Entire Agreement.** This Agreement, its schedules and exhibits, and the Transaction Documents contain every obligation and understanding between the Parties relating to the subject matter hereof, merges all prior discussions, negotiations and agreements, if any, between them, and none of the Parties shall be bound by any representations, warranties, covenants, or other understandings, other than as expressly provided or referred to herein or therein.

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## **ARTÍCULO 8**

### **DISPOSICIONES VARIAS**

**8.1. Notificaciones.** Toda notificación u otro comunicado que se exija en este Contrato se realizará por escrito y se entregará personalmente o se enviará por correo certificado, con acuse de recibo, franqueo pagado por anticipado, o será enviado por fax o por un servicio de correo privado dirigidos a las otras Partes a las direcciones que se indican debajo de sus nombres en las páginas de firmas de este Contrato, (o a tales otras direcciones que sean especificadas por escrito por las Partes mediante una notificación similar).

Tales notificaciones, demandas, reclamos, y otros comunicados se considerarán entregados cuando hayan sido efectivamente recibidos o (a) en el caso de la entrega por servicio de correo privado, que garantiza la entrega al día siguiente, el día posterior o bien el día designado para su entrega, (b) en el caso de que sea enviada por fax, la fecha en la cual la Parte que realiza la notificación reciba la confirmación de recepción por fax, teléfono u otro medio.

Para estos efectos, el comprador fija su domicilio en Agustinas 640, piso 10, Santiago, debiendo enviarse copia de toda comunicación o notificación a las oficinas de OPKO Health, Inc., 4400 Biscayne Boulevard, Miami, Florida 33137, A la atención de: Deputy General Counsel, Fax (305) 575-4140.

Para estos efectos, los vendedores fijan su domicilio en calle Santa Lucía 330, Segundo Piso, Santiago.

**8.2. Contrato Completo.** Este Contrato, sus anexos y apéndices y los Documentos de la Transacción, contienen todas las obligaciones y acuerdos convenidos entre las Partes relacionadas con su contenido, reúne todas las discusiones, negociaciones y acuerdos previos, si los hubiere, entre ellas, y ninguna de las Partes estará obligada a cumplir ninguna declaración, garantía, obligación u otro arreglo, que no esté expresado ni referido aquí.

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**8.3. Assignment.** This Agreement may not be assigned by any Party without the written consent of the other Parties; provided that the Buyers may assign this Agreement to a Subsidiary, whether such Subsidiary currently exists or is formed in the future. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, heirs, personal representatives, legal representatives, and permitted assigns.

**8.4. Waiver and Amendment.** Any waiver, extension or amendment of this Agreement shall be evidenced by an instrument in writing executed on behalf of the appropriate Party. No waiver by any Party hereto, whether express or implied, of its rights under any provision of this Agreement shall constitute a waiver of such party's rights under such provisions at any other time or a waiver of such party's rights under any other provision of this Agreement.

No failure by any Party hereto to take any action against any breach of this Agreement or default by another Party shall constitute a waiver of the former Party's right to enforce any provision of this Agreement or to take action against such breach or default or any subsequent breach or default by such other Party.

**8.5. No Third Party Beneficiary.** Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person other than the Parties hereto and their respective heirs, personal representatives, legal representatives, successors and permitted assigns, any rights or remedies under or by reason of this Agreement

**8.6. Severability.** In the event that any one or more of the provisions contained in this Agreement shall be declared invalid, void or unenforceable, the remainder

**8.3. Cesión.** Este Contrato no será cedido por ninguna Parte sin el consentimiento por escrito de las otras Partes; sin perjuicio que los Compradores podrán ceder este Contrato a una Filial, en caso de que dicha Filial exista actualmente o se constituya en el futuro. Este Contrato entrará en vigencia y será obligatorio y vinculante y redundará en beneficio de las Partes y sus sucesores, herederos, representantes personales, representantes legales y derechohabientes permitidos.

**8.4. Renuncia y Enmienda.** Toda renuncia, prórroga o enmienda de este Contrato se realizará por medio de un instrumento escrito otorgado en representación de la Parte respectiva. Ninguna renuncia de alguna de las Partes del presente, sea expresa o implícita, de sus derechos en virtud de una cláusula de este Contrato constituirá una renuncia de los derechos de dicha parte bajo esas cláusulas en cualquier otro momento, ni una renuncia de los derechos de dicha parte conforme a otra cláusula de este Contrato.

La omisión de cualquiera de las Partes de adoptar alguna medida en caso de violación de este Contrato o del incumplimiento incurrido por otra Parte no constituirá una renuncia del derecho de la primera Parte a exigir el cumplimiento de cualquier cláusula de este Contrato o adoptar una medida contra dicha violación o incumplimiento o cualquier violación o incumplimiento futuro por dicha Parte.

**8.5. Ausencia de Tercero Beneficiario.** Ninguna cláusula expresa o implícita de este Contrato pretende ser, ni será interpretada como, que otorga a una Persona distinta de las Partes del presente y sus respectivos herederos, representantes personales representantes legales, sucesores y derechohabientes permitidos, derechos o recursos en virtud de o como consecuencia de este Contrato.

**8.6. Divisibilidad (Invalidez Parcial).** En caso de que una o más de las cláusulas contenidas en este Contrato sea declarada inválida, nula o inexigible, las restantes

of the provisions of this Agreement shall remain in full force and effect, and such invalid, void or unenforceable provision shall be interpreted as closely as possible to the manner in which it was written.

**8.7. Expenses.** Each Party agrees to pay, without right of reimbursement from the other party, the costs (hereafter referred to as “Costs”) incurred by it incident to the performance of its obligations under this Agreement and the consummation of the transactions contemplated hereby, including, without limitation, costs incident to the preparation of this Agreement, and the fees and disbursements of counsel, accountants and consultants employed by such Party in connection herewith

**8.8. Headings.** The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of any provisions of this Agreement.

**8.9. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**8.10. Litigation; Prevailing Party.** In the event of any litigation with regard to this Agreement, the prevailing Party shall be entitled to receive from the non-prevailing Party and the non-prevailing Party shall pay upon demand all reasonable fees and expenses of counsel for the prevailing Party.

**8.11. Injunctive Relief.** It is possible that remedies at law may be inadequate and, therefore, the Parties hereto shall be entitled to equitable relief including, without limitation, injunctive relief, specific performance or other equitable remedies in addition to all other remedies provided hereunder or available to the Parties hereto at law or in equity.

**8.12. Governing Law.** This Agreement has been entered into and shall be construed and enforced in accordance with the laws of the Chile without reference to the choice of law principles thereof.

cláusulas de este Contrato permanecerán en vigencia, y la cláusula declarada inválida, nula o inexigible de este Contrato se interpretará con el significado más cercano posible al que fue redactada.

**8.7. Gastos.** Cada Parte se compromete a pagar, sin derecho de reembolso de la otra parte, los costos (en lo sucesivo denominados “Costos”) incurridos por ella, relacionados con el cumplimiento de sus obligaciones asumidas en este Contrato y la materialización de las operaciones contempladas en el presente, incluyendo, entre otras, la elaboración/redacción de este Contrato, así como los honorarios y gastos en concepto de abogados, contadores y consultores ejecutivos contratados por la Parte respectiva.

**8.8. Títulos.** Los artículos y otros títulos contenidos en este Contrato sólo constituyen una referencia y no afectarán el significado ni la interpretación de ninguna de las cláusulas o disposiciones de este Contrato.

**8.9. Ejemplares.** Este Contrato se otorgará en cualquier número de ejemplares, cada uno de las cuales se considerará un único y el mismo instrumento.

**8.10. Litigio, Parte Predominante.** En caso de cualquier litigio con respecto a este Contrato, la Parte predominante tendrá derecho a recibir de la Parte no predominante, y la Parte no predominante pagará, previa intimación, todos los honorarios y gastos legales razonables incurridos por la Parte predominante

**8.11. Medidas Cautelares.** Es posible que los recursos ante la ley sean inadecuados y, por lo tanto, las Partes de este Contrato tendrán derecho a solicitar recursos equitativos incluyendo, entre otros, pero medidas cautelares, cumplimiento estricto u otros recursos equitativos además de todos los recursos legales adicionales estipulados en el presente o disponibles para las Partes conforme a la ley o la equidad.

**8.12. Ley Aplicable.** Este Contrato se ha celebrado y se interpretará y exigirá su cumplimiento de acuerdo con las leyes chilenas independientemente de las normas que rigen los conflictos de leyes entre diversas jurisdicciones.

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**8.13. Jurisdiction and Venue.** This Agreement shall be governed by and construed in accordance with Chilean law. Any dispute or controversy between the Parties, by arising from or related to this Agreement and the Parties of this Agreement shall be finally settled by an arbitrator mixto designated by mutual agreement of the Parties or in case the Parties do not agree in the appointment of the arbitrator, it shall be appointed by the Santiago Chamber of Commerce, for which purpose the Parties hereby grant an special power of attorney so that it may, upon written request of any of the Parties, appoint the arbitrator from the list of the Centro de Arbitraje y Mediación de Santiago. The arbitration procedure shall take place in Santiago de Chile and shall be conducted in the Spanish language.

**8.14 Governing Language.** This Agreement is executed in both the English and Spanish language, both of which shall bind Seller and the Buyers, which constitute one and the same instrument; provided, however, that in the case of doubt as to the proper interpretation or construction of this Contract, the English text shall be controlling.

**8.13. Jurisdicción y Competencia.** Este contrato se regirá e interpretará de acuerdo con la ley chilena. Cualquier disputa o controversia entre las Partes, derivada de o relacionada con este Contrato y las Partes de este, será resuelta en instancia final por un árbitro mixto designado por acuerdo mutuo de las Partes, o en caso de que las Partes no acuerden la designación del árbitro, éste será nombrado por la Cámara de Comercio de Santiago, a la cual las Partes de este Contrato otorgan un poder notarial especial a fin de que pueda, mediante acuerdo escrito de ambas Partes, designar un árbitro de entre los integrantes del panel del Centro de Arbitraje y Mediación de Santiago. El proceso de arbitraje tendrá lugar en Santiago de Chile y se llevará a cabo en idioma español.

**8.14 Idioma de Prevalencia.** Este Contrato es suscrito en los idiomas inglés y castellano, idiomas ambos que obligan al Vendedor y Comprador y que constituyen uno sólo e idéntico instrumento; en el entendido, sin embargo, que en caso de duda sobre la adecuada interpretación o inteligencia de este Contrato, el texto en inglés prevalecerá.

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**IN WITNESS WHEREOF**, the parties hereto have each executed and delivered this Agreement as of the day and year first above written.

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**EN FE DE LO CUAL**, las partes han celebrado este Contrato en la fecha y año que se indican ut supra.

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**Samuel Alexandre Arama**  
pro se and on behalf of the Company  
“**Inversiones SVJV Limitada**”

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**Samuel Alexandre Arama**  
por sí y en representación de la sociedad “**Inversiones SVJV Limitada**”

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**Bruno Sergiani**  
pro se and on behalf of the company “**Inversiones BS Limitada**”

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**Bruno Sergiani**  
por sí y en representación de la sociedad “**Inversiones BS Limitada**”

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**Pierre Y-Ves Le Goff**  
pro se and on behalf of the company “**Inversiones PYTT Limitada**”

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**Pierre Y-Ves Le Goff**  
por sí y en representación de la sociedad “**Inversiones PYTT Limitada**”

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**Samuel Alexandre Arama**  
on behalf of the company “**Arama Laboratorios y Compañía Limitada**”

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**Samuel Alexandre Arama**  
en representación de la sociedad “**Arama Laboratorios y Compañía Limitada**”

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**Matías de Marchena**  
on behalf of the company “**Opko Health, Inc.**”

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**Matías de Marchena**  
en representación de la sociedad “**Opko Health, Inc.**”

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**Hans Berner Soto**  
on behalf of the company “**Opko Chile S.A.**”

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**Hans Berner Soto**  
en representación de la sociedad “**Opko Chile S.A.**”

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**Horacio Marambio Raffo**  
on behalf of the company “**Opko Chile S.A.**”

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**Horacio Marambio Raffo**  
en representación de la sociedad “**Opko Chile S.A.**”

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**The Disclosure Schedules and Exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company hereby undertakes to furnish supplementally any of the omitted schedules upon request by the Securities and Exchange Commission. Following is a list briefly identifying the contents of all omitted schedules and exhibits:**

Annex A-----	Toll Manufacturing Agreement
Annex B-----	Non-compete Agreements
Annex C-----	Quota Transfer Deed
Annex D-----	Escrow Agreement
Annex E-----	Reconocimiento de Deuda y Dación en Pago
Schedule 4.5-----	Capitalization
Schedule 4.9-----	Accounts and Notes Receivable and/or Payable
Schedule 4.8-----	Liabilities
Schedule 4.11-----	List of 25 most important Clients
Schedule 4.14(a)-----	Intellectual Property
Schedule 4.15(b)-----	Real Property
Schedule 4.17(a)-----	Employment Agreements
Schedule 4.17(b)-----	List of Employees (Remaining in ALS)
Schedule 4.17(c)-----	Compensation List
Schedule 4.17(e)-----	Labor Policies
Schedule 4.19-----	Material Contracts
Schedule 4.19(ii)-----	Material Contracts under Default
Schedule 4.20(a)-----	Product and Services
Schedule 4.20(b)-----	Recall, withdrawal, suspension or seizure of any Product
Schedule 4.21-----	Related Parties
Schedule 4.23-----	Compliance with Laws



## CERTIFICATIONS

I, Phillip Frost, certify that:

- (1) I have reviewed this Quarterly Report on Form 10-Q of OPKO Health, 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(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
- (5) The registrant's other certifying officer(s) 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: May 10, 2012

/s/ Phillip Frost

Phillip Frost, M.D.  
Chief Executive Officer

## CERTIFICATIONS

I, Rao Uppaluri, certify that:

- (1) I have reviewed this Quarterly Report on Form 10-Q of OPKO Health, 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(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
- (5) The registrant's other certifying officer(s) 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: May 10, 2012

/s/ Rao Uppaluri

Rao Uppaluri  
Chief Financial Officer

**Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002  
(Subsections (a) and (b) of Section 1350, Chapter 73 of Title 18, United States Code)**

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant section 906 of the Sarbanes-Oxley Act of 2002, I, Phillip Frost, Chief Executive Officer of OPKO Health, Inc. (the "Company"), hereby certify that:

The Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2012 (the "Form 10-Q") of the Company fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and the information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 10, 2012

/s/ Phillip Frost

\_\_\_\_\_  
Phillip Frost

Chairman of the Board, Chief Executive Officer

**Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002  
(Subsections (a) and (b) of Section 1350, Chapter 73 of Title 18, United States Code)**

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant section 906 of the Sarbanes-Oxley Act of 2002, I, Rao Uppaluri, Chief Financial Officer of OPKO Health, Inc. (the "Company"), hereby certify that:

The Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2012 (the "Form 10-Q") of the Company fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and the information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 10, 2012

/s/ Rao Uppaluri

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Rao Uppaluri

Chief Financial Officer