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

FORM 10-K/A
Amendment No. 1

Mark One

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the Fiscal Year Ended December 31, 2011

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 No. 001-33093

LIGAND PHARMACEUTICALS INCORPORATED
(Exact name of registrant as specified in its charter)

Delaware	**77-0160744**
(State or other jurisdiction of incorporation or organization)	**(IRS Employer Identification No.)**
11085 North Torrey Pines Rd., Suite 100 La Jolla, CA	**92037**
(Address of Principal Executive Offices)	**(Zip Code)**

Registrant's telephone number, including area code: (858) 550-7500

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

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, par value $.001 per share	The NASDAQ Global Market of The NASDAQ Stock Market LLC
Preferred Share Purchase Rights	The NASDAQ Global Market of The NASDAQ Stock Market LLC

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

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

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934. Yes ☐ No ☒

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer or a smaller reporting company. See definition 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 Exchange Act Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the Registrant's voting and non-voting stock held by non-affiliates was approximately $206.6 million based on the last sales price of the Registrant's Common Stock on the NASDAQ Global Market of the NASDAQ Stock Market LLC on June 30, 2011. For purposes of this calculation, shares of Common Stock held by directors, officers and 10% stockholders known to the

Registrant have been deemed to be owned by affiliates which should not be construed to indicate that any such person possesses the power, direct or indirect, to direct or cause the direction of the management or policies of the Registrant or that such person is controlled by or under common control with the Registrant.

As of May 1, 2012, the Registrant had 19,734,419 shares of Common Stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Proxy Statement for the Registrant's 2011 Annual Meeting of Stockholders to be filed with the Commission on or before April 30, 2012 are incorporated by reference in Part III of this Annual Report on Form 10-K. With the exception of those portions that are specifically incorporated by reference in this Annual Report on Form 10-K, such Proxy Statement shall not be deemed filed as part of this Report or incorporated by reference herein.

EXPLANATORY NOTE

This Form 10-K/A amends the Annual Report on Form 10-K of Ligand Pharmaceuticals Incorporated for the fiscal year ended December 31, 2011 (the "Form 10-K"), as filed with the Securities and Exchange Commission on February 23, 2012 to revise Item 9A, Item 15 and certain exhibits of the original Form 10-K. The revision relates to adding language to Management's Report on Internal Control over Financial Reporting for the exclusion of the internal controls of CyDex Pharmaceuticals, Inc., which was acquired by the Company in January 2011, from the Company's assessment of and conclusion on the effectiveness of internal control over financial reporting. The revision also amends the Report of Independent Registered Public Accounting Firm related to the Company's internal control over financial reporting to add language regarding such exclusion (the "Amended Report"). Additionally, in response to comments received from the Commission in connection with a request for confidential treatment of certain portions of Exhibits 10.131 and 10.133 to the Original Form 10-K, revised redacted version of Exhibits 10.131 and 10.133, are being filed herewith. As required by Rule 12b-15 under the Securities Exchange Act of 1934, as amended, new certifications by our principal executive officer and principal financial officer are filed as exhibits to this Amendment. In addition, we have included as an exhibit to this form 10-K/A a Consent of Independent Registered Public Accounting Firm to use the Amended Report in certain Securities Act filings into which the Amended Report is incorporated by reference.

Except as described above, no other changes have been made to the Form 10-K, and this Form 10-K/A does not modify, amend or update in any other way any other of the financial or other information contained in the Form 10-K. This Form 10-K/A does not reflect events that may have occurred subsequent to the filing date of the Form 10-K.

Item 9A. Controls and Procedures

(a) Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act, as of the end of the period covered by this report, December 31, 2011, which we refer to as the Evaluation Date.

As a result of a material weakness in our internal control over financial reporting relating to the accounting for significant non-routine transactions, our management has assessed the effectiveness of our disclosure controls and procedures and have determined that our disclosure controls and procedures were not effective as of December 31, 2011.

Restatement of Consolidated Financial Statements. On February 6, 2012, management of the Company concluded that the Company's unaudited condensed consolidated financial statements for the interim periods ended March 31, June 30, and September 30, 2011, did not properly account for certain acquisition-related costs, and, therefore, should not be relied upon. As a result, management and the Audit Committee of the Company authorized and directed the officers of the Company to restate its unaudited interim financial statements. The restated reports on Form 10-Q have been filed for the applicable periods.

Remediation Plan. Since the transaction date which resulted in this material weakness, we have added a corporate controller to our finance and accounting staff. While we had processes to identify and intelligently apply accounting standards to complex transactions, we did not employ adequate numbers of highly skilled accountants to provide for a detailed analysis, documentation and review of the acquisition of CyDex, which closed on January 24, 2011. This material weakness prevented us from properly reporting the financial information for previous interim periods, and we have filed restated 10-Q reports for the applicable periods. We enhanced our processes with the addition of a resource with the ability to research and understand the nuances of complex accounting standards. Management will continue to review and make necessary changes to the overall design of its internal control environment, as well as to policies and procedures to improve the overall effectiveness of internal control over financial reporting.

Changes in Internal Controls. Except as described above, there have been no changes in our internal controls over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

(b) Management's Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting for the Company. Internal control over financial reporting is a process to provide reasonable assurance regarding the reliability of the Company's financial reporting for external purposes in accordance with accounting principles generally accepted in the United States of America. Internal control over financial reporting includes maintaining records that in reasonable detail accurately and fairly reflect the Company's transactions; providing reasonable assurance that transactions are recorded as necessary for preparation of the Company's financial statements in accordance with generally accepted accounting principles; providing reasonable assurance that receipts and expenditures of the Company are made in accordance with management and directors of the Company; and providing reasonable assurance that unauthorized acquisition, use or disposition of company assets that could have a material effect on the Company's financial statements would be prevented or detected on a timely basis. Because of its inherent limitations, internal control over financial reporting is not intended to provide absolute assurance that a misstatement of the Company's financial statements would be prevented or detected.

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework established by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) as set forth in Internal Control - Integrated Framework. Based on our evaluation under the framework in Internal Control - Integrated Framework, our management concluded that our internal controls over financial reporting were ineffective as of December 31, 2011 based on a material weakness identified by management as a result of inadequate staffing. The material weakness led to a misstatement of transaction costs related to the acquisition of CyDex in our interim financial statements. We enhanced our processes with the addition of a corporate controller during the third quarter of 2011 with the ability to research and properly apply complex accounting standards. The Company will continue to review the updated control structure to ensure management's plan is effective in remediating the material weakness identified.

As described in our Annual Report on Form 10-K, during the year ended December 31, 2011, we acquired CyDex. The internal controls over financial reporting of an acquired business are eligible for a one year exclusion, as permitted by Securities and Exchange Commission Staff interpretive guidance. Accordingly, management's assessment of and conclusion on the effectiveness of internal control over financial reporting did not include the internal controls of CyDex, which are included in our December 31, 2011 consolidated financial statements. CyDex constituted $10.9 million of total assets as of December 31, 2011 and generated $16.2 million in revenues for the year then ended.

Grant Thornton LLP, the Company's independent registered public accountants, has audited the effectiveness of the Company's internal control over financial reporting as of December 31, 2011, based on the COSO criteria; their report is included in Item 9A.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Shareholders
Ligand Pharmaceuticals Incorporated

We have audited Ligand Pharmaceuticals Incorporated's internal control over financial reporting as of December 31, 2011, based on criteria established *in Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Ligand Pharmaceuticals Incorporated's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report. Our responsibility is to express an opinion on Ligand Pharmaceuticals Incorporated's internal control over financial reporting based on our audit. Our audit of, and opinion on, the Company's internal control over financial reporting does not include internal control over financial reporting of CyDex Pharmaceuticals, Inc., a wholly owned subsidiary, whose financial statements reflect total assets and revenues constituting 8.9% and 54.1%, respectively, of the related consolidated financial statement amounts as of and for the year ended December 31, 2011. As indicated in Managements Report, CyDex Pharmaceuticals, Inc. was acquired during 2011 and therefore, management's assertion on the effectiveness of the Company's internal control over financial reporting excluded internal control over financial reporting of CyDex Pharmaceuticals, Inc.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

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

A material weakness is a deficiency, or combination of control deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis. The following material weakness has been identified and included in management's assessment. The Company identified a material weakness in accounting for significant, non-routine transactions.

In our opinion, because of the effect of the material weakness described above on the achievement of the objectives of the control criteria, Ligand Pharmaceuticals Incorporated has not maintained effective internal control over financial reporting as of December 31, 2011, based on criteria established in *Internal Control—Integrated Framework* issued by COSO.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Ligand Pharmaceuticals Incorporated as of December 31, 2011 and 2010, and the related statement of operations, stockholders' equity (deficit) and comprehensive loss and cash flows for each of the three years in the period ended December 31, 2011. The material weakness identified above was considered in determining the nature, timing, and extent of audit tests applied in our audit of the 2011 financial statements, and this report does not affect our report dated February 23, 2011, which expressed an unqualified opinion on those financial statements.

/s/ GRANT THORNTON LLP

San Diego, California
February 23, 2012

Item 15. Exhibits and Financial Statement Schedule

(a) The following documents are included as part of this Annual Report on Form 10-K.

(1) Financial statements

Index to Consolidated Financial Statements

Report of Independent Registered Public Accounting Firm

Consolidated Balance Sheets

Consolidated Statements of Operations

Consolidated Statements of Stockholders' Equity (Deficit) and Comprehensive Income (Loss)

Consolidated Statements of Cash Flows

Notes to Consolidated Financial Statements

(2) Schedules not included herein have been omitted because they are not applicable or the required information is in the consolidated financial statements or notes thereto.

(3) The following exhibits are filed as part of this Form 10-K and this list includes the Exhibit Index.

Exhibit Number	Description
2.1 (36)	Agreement and Plan of Merger, dated as of September 24, 2008, by and among Ligand Pharmaceuticals Incorporated, Pharmacopeia, Inc., Margaux Acquisition Corp. and Latour Acquisition, LLC. (Exhibit 2.1).
2.2 (52)	Agreement and Plan of Merger, by and among the Company, Neurogen Corporation and Neon Signal, LLC, dated as of August 23, 2009 (Filed as Exhibit 10.1).
2.3 (56)	Amendment to Agreement and Plan of Merger, by and among the Company, Neurogen Corporation, and Neon Signal, LLC, dated September 18, 2009 (Filed as Exhibit 10.1).
2.4 (56)	Amendment No. 2 to Agreement and Plan of Merger, by and among the Company, Neurogen Corporation, and Neon Signal, LLC, dated November 2, 2009 (Filed as Exhibit 10.2).
2.5 (54)	Amendment No. 3 to Agreement and Plan of Merger, by and among the Company, Neurogen Corporation, and Neon Signal, LLC, dated November 2, 2009 (Filed as Exhibit 10.2).
2.6 (53)	Certificate of Merger for acquisition of Neurogen Corporation (Filed as Exhibit 2.1).
2.7 (57)	Agreement and Plan of Merger, dated as of October 26, 2009, by and among the Company, Metabasis Therapeutics, Inc., and Moonstone Acquisition, Inc. (Filed as Exhibit 10.1).
2.8 (55)	Amendment to Agreement and Plan of Merger, by and among the Company, Metabasis Therapeutics, Inc., Moonstone Acquisition, Inc., and David F. Hale as Stockholders' Representative, dated November 25, 2009
2.9 (63)	Certificate of Merger for acquisition of Metabasis Therapeutics, Inc. dated January 27, 2010 (Filed as Exhibit 2.1).
2.10 (68)	Certificate of Merger, dated and filed January 24, 2011 (Filed as Exhibit 2.1).
2.11 (68)	Agreement and Plan of Merger, by and among the Company, CyDex Pharmaceuticals, Inc., and Caymus Acquisition, Inc., dated January 14, 2011 (Filed as Exhibit 10.1).

Exhibit Number	Description
3.1 (1)	Amended and Restated Certificate of Incorporation of the Company. (Filed as Exhibit 3.2).
3.2 (1)	Bylaws of the Company, as amended. (Filed as Exhibit 3.3).
3.3 (2)	Amended Certificate of Designation of Rights, Preferences and Privileges of Series A Participating Preferred Stock of the Company.
3.4 (12)	Certificate of Amendment of the Amended and Restated Certificate of Incorporation of the Company dated June 14, 2000.
3.5 (3)	Certificate of Amendment of the Amended and Restated Certificate of Incorporation of the Company dated September 30, 2004.
3.6 (20)	Amendment to the Bylaws of the Company dated November 13, 2005. (Filed as Exhibit 3.1).
3.7 (34)	Amendment of Bylaws of the Company dated December 4, 2007. (Filed as Exhibit 3.1).
3.8 (67)	Certificate of Amendment of the Amended and Restated Certificate of Incorporation of the Company dated November 17, 2010 (Filed as Exhibit 3.1).
4.1 (4)	Specimen stock certificate for shares of Common Stock of the Company.
4.2 (27)	2006 Preferred Shares Rights Agreement, by and between Ligand Pharmaceuticals Incorporated and Mellon Investor Services LLC, dated as of October 13, 2006. (Filed as Exhibit 4.1)
10.1 (4)	Agreement, dated May 1, 1991, between the Company and Pfizer Inc (with certain confidential portions omitted).
10.2 (4)	License Agreement, dated January 5, 1990, between the Company and the University of North Carolina at Chapel Hill (with certain confidential portions omitted).
10.3 (4)	Form of Indemnification Agreement between the Company and each of its directors.
10.4 (4)	Form of Indemnification Agreement between the Company and each of its officers.
10.5 (4)	Stock Purchase Agreement, dated September 9, 1992, between the Company and Glaxo, Inc.
10.6 (4)	Research and Development Agreement, dated September 9, 1992, between the Company and Glaxo, Inc. (with certain confidential portions omitted).
10.7 (8)	Supplementary Agreement, dated October 1, 1993, between the Company and Pfizer, Inc. to Agreement, dated May 1, 1991.
10.8 (9)	Option Agreement, dated September 2, 1994, between the Company and American Home Products Corporation, as represented by its Wyeth-Ayerst Research Division (with certain confidential portions omitted). (Filed as Exhibit 10.80).
10.9 (5)	Research, Development and License Agreement, dated December 29, 1994, between SmithKline Beecham Corporation and the Company (with certain confidential portions omitted).
10.10 (10)	Lease, dated July 6, 1994, between the Company and Chevron/Nexus partnership, First Amendment to lease dated July 6, 1994.
10.11 (11)	Settlement Agreement and Mutual Release of all Claims, signed April 20, 1996, between the Company and Pfizer, Inc. (with certain confidential portions omitted).

Exhibit Number	Description
10.12 (6)	Letter of Agreement dated September 28, 1998 among the Company, Elan Corporation, plc and Elan International Services, Ltd. (with certain confidential portions omitted), (Filed as Exhibit 10.5).
10.13 (7)	Stock Purchase Agreement by and between the Company and Warner-Lambert Company dated September 1, 1999 (with certain confidential portions omitted). (Filed as Exhibit 10.2).
10.14 (7)	License Agreement effective June 30, 1999 by and between the Company and X-Ceptor Therapeutics, Inc. (with certain confidential portions omitted). (Filed as Exhibit 10.7).
10.15 (13)	Purchase Agreement, dated March 6, 2002, between the Company and Pharmaceutical Royalties International (Cayman) Ltd.
10.16 (14)	Amendment Number 1 to Purchase Agreement, dated July 29, 2002, between the Company and Pharmaceutical Royalties International (Cayman) Ltd.
10.17 (15)	Amended and Restated License and Supply Agreement, dated December 6, 2002, between the Company, Elan Corporation, plc and Elan Management Limited (with certain confidential portions omitted).
10.18 (15)	Amendment Number 1 to Amended and Restated Registration Rights Agreement, dated November 12, 2002, between the Company and Elan Corporation plc and Elan International Services, Ltd.
10.19 (15)	Second Amendment to Purchase Agreement, dated December 19, 2002, between the Company and Pharmaceuticals Royalties International (Cayman) Ltd.
10.20 (15)	Amendment Number 3 to Purchase Agreement, dated December 30, 2002, between the Company and Pharmaceuticals Royalties International (Cayman) Ltd. (with certain confidential portions omitted).
10.21 (15)	Purchase Agreement, dated December 30, 2002, between the Company and Pharmaceuticals Royalties International (Cayman) Ltd. (with certain confidential portions omitted).
10.22 (16)	Co-Promotion Agreement, dated January 1, 2003, by and between the Company and Organon Pharmaceuticals USA Inc. (with certain confidential portions omitted).
10.23 (17)	Amendment No. 2 to Amended and Restated Registration Rights Agreement, dated June 25, 2003.
10.24 (18)	Option Agreement Between Investors Trust & Custodial Services (Ireland) Ltd., as Trustee for Royalty Pharma, Royalty Pharma Finance Trust and the Company, dated October 1, 2003 (with certain confidential portions omitted).
10.25 (18)	Amendment to Purchase Agreement Between Royalty Pharma Finance Trust and the Company, dated October 1, 2003 (with certain confidential portions omitted).
10.26 (22)	2002 Stock Incentive Plan (as amended and restated through March 9, 2006).
10.27 (18)	2002 Employee Stock Purchase Plan, dated July 1, 2002 (as amended through June 30, 2003).
10.28 (18)	Form of Stock Option Agreement.
10.29 (18)	Form of Employee Stock Purchase Plan Stock Purchase Agreement.
10.30 (18)	Form of Automatic Stock Option Agreement.

Exhibit Number	Description
10.31 (18)	Form of Director Fee Stock Option Agreement.
10.32 (19)	Manufacturing and Packaging Agreement, dated February 13, 2004 between Cardinal Health PTS, LLC and the Company (with certain confidential portions omitted).
10.33 (21)	Form of Distribution, Storage, Data and Inventory Management Services Agreement.
10.34 (21)	Amendment Number 1 to the Option Agreement between Investors Trust & Custodial Services (Ireland) Ltd., solely in its capacity as Trustee for Royalty Pharma, Royalty Pharma Finance Trust and Ligand Pharmaceuticals Incorporated dated November 5, 2004.
10.35 (21)	Amendment to Purchase Agreement between Royalty Pharma Finance Trust, Ligand Pharmaceuticals Incorporated & Investors Trust and Custodial Services (Ireland) Ltd., solely in its capacity as Trustee of Royalty Pharma dated November 5, 2004.
10.36 (22)	Amended and Restated Research, Development and License Agreement dated as of December 1, 2005 between the Company and Wyeth (formerly American Home Products Corporation) (with certain confidential portions omitted).
10.37 (22)	Form of Stock Issuance Agreement for non-employee directors.
10.38 (22)	Form of Amended and Restated Director Fee Stock Option Agreement for 2005 award to Henry Blissenbach, John Groom, Irving Johnson, John Kozarich, Daniel Loeb, Carl Peck, Jeffrey Perry, Brigette Roberts and Michael Rocca.
10.39 (23)	Termination and Return of Rights Agreement between Ligand Pharmaceuticals Incorporated and Organon USA Inc. dated as of January 1, 2006
10.40 (24)	First Amendment to the Manufacturing and Packaging Agreement between Cardinal Health PTS, LLC and Ligand Pharmaceuticals Incorporated (with certain confidential portions omitted).
10.41 (25)	Purchase Agreement, by and between Ligand Pharmaceuticals Incorporated, King Pharmaceuticals, Inc. and King Pharmaceuticals Research and Development, Inc., dated as of September 6, 2006.
10.42 (26)	Contract Sales Force Agreement, by and between Ligand Pharmaceuticals Incorporated and King Pharmaceuticals, Inc. dated as of September 6, 2006.
10.43 (25)	Purchase Agreement, by and among Ligand Pharmaceuticals Incorporated, Seragen, Inc., Eisai Inc. and Eisai Co., Ltd., dated as of September 7, 2006.
10.44 (31)	Stipulation of Settlement by and among Plaintiffs and Ligand Pharmaceuticals, Inc. et al., In re Ligand Pharmaceuticals Inc. Securities Litigation, United States District Court, District of Southern California, dated as of June 28, 2006, approved by Order dated October 16, 2006.
10.45 (31)	Stipulation of Settlement by and among Plaintiffs and Ligand Pharmaceuticals, Inc. et al., In re Ligand Pharmaceuticals Inc. Derivative Litigation, Superior Court of California, County of San Diego, dated as of September 19, 2006, approved by Order dated October 12, 2006.
10.46 (31)	Loan Agreement by and between Ligand Pharmaceuticals Incorporated and King Pharmaceuticals, 303 Inc. dated as of October 12, 2006.
10.47 (29)	Letter Agreement by and between Ligand and King Pharmaceuticals, Inc. effective as of December 29, 2006.
10.48 (29)	Amendment Number 1 to Purchase Agreement, Contract Sales Force Agreement and Confidentiality Agreement by and between Ligand and King Pharmaceuticals, Inc. effective as of November 30, 2006.

Exhibit Number	Description
10.49 (28)	Purchase Agreement and Escrow Instructions by and between Nexus Equity VI, LLC, a California Limited Liability Company, and Ligand Pharmaceuticals Incorporated, a Delaware Corporation and Slough Estates USA Inc., a Delaware corporation dated October 25, 2006.
10.50 (31)	2006 Employee Severance Plan dated as of October 4, 2006.
10.51 (31)	Form of Letter Agreement regarding Change of Control Severance Benefits between the Company and its officers.
10.52 (29)	Letter Agreement by and between the Company and John L. Higgins dated as of January 10, 2007.
10.53 (30)	Amendment Number 2 to Purchase Agreement, by and between the Company and King Pharmaceuticals, Inc. effective as of February 26, 2007.
10.54 (32)	Letter Agreement by and between the Company and John P. Sharp dated as of March 30, 2007. (Filed as Exhibit 10.1).
10.55 (33)	Form of Executive Officer Change in Control Severance Agreement. (Filed as Exhibit 10.1).
10.56 (35)	Sublease Agreement between the Company and eBIOSCIENCE, INC., effective as of December 13, 2007. (Filed as Exhibit 10.1).
10.57 (37)	Form of Restricted Stock Unit Grant Notice and Restricted Stock Unit Agreement under the Company's 2002 Stock Incentive Plan. (Filed as Exhibit 10.318).
10.58 (37)	Form of Amendment to Restricted Stock Agreement for executive officers other than Chief Executive Officer. (Filed as Exhibit 10.319).
10.59 (37)	Amendment to Restricted Stock Agreement between the Company and John L. Higgins. (Filed as Exhibit 10.320).
10.60 (47)	Collaboration and License Agreement, dated as of July 9, 2003 and effective August 8, 2003, between Pharmacopeia, Inc. and Schering-Plough Ltd. (with certain confidential portions omitted).
10.61 (47)	Collaboration and License Agreement, dated as of July 9, 2003 and effective August 8, 2003, between Pharmacopeia, Inc. and Schering Corporation (with certain confidential portions omitted).
10.62 (39)	Amendment No. 1, dated July 27, 2006, to the Collaboration and License Agreements, effective as of July 9, 2003, between (i) Pharmacopeia, Inc. and Schering Corporation and (ii) Pharmacopeia, Inc. and Schering-Plough Ltd. (Filed as Exhibit 10.1).
10.63 (47)	Lease, dated August 20, 2003, between Pharmacopeia, Inc. and Eastpark at 8A (Building 1000).
10.64 (40)	Amendment to Lease, dated September 10, 2007, between Eastpark at 8A and Pharmacopeia, Inc. (Building 1000). (Filed as Exhibit 10.1).
10.65 (47)	Lease, dated August 20, 2003, between Pharmacopeia, Inc. and Eastpark at 8A (Building 3000).
10.66 (40)	Amendment to Lease, dated April 18, 2007, between Eastpark at 8A and Pharmacopeia, Inc. (Building 3000). (Filed as Exhibit 10.2).
10.67 (41)	License Agreement, dated as of March 27, 2006, between Pharmacopeia, Inc. and Bristol-Myers Squibb Company (Filed as Exhibit 10.2).

Exhibit Number	Description
10.68 (42)	Collaboration and License Agreement between Pharmacopeia, Inc. and Cephalon, Inc., dated May 18, 2006. (Filed as Exhibit 10.1).
10.69 (43)	License Agreement, amended and restated as of July 1, 2003, among The Trustees of Columbia University in the City of New York, Cold Spring Harbor Laboratory and Pharmacopeia, Inc. (Filed as Exhibit 10.2).
10.70 (44)	Collaboration and License Agreement, amended and restated effective as of February 8, 2007, between Pharmacopeia, Inc. and N.V. Organon. (Filed as Exhibit 10.1).
10.71 (45)	License Agreement, dated October 11, 2007, between Bristol-Myers Squibb Company and Pharmacopeia, Inc. (Filed as Exhibit 10.45).
10.72 (38)	Contingent Value Rights Agreement, dated December 23, 2008, among the Company, Pharmacopeia, Inc. and Mellon Investor Services LLC. (Filed as Exhibit 10.1).
10.73 (37)	Amended and Restated Severance Plan, dated December 20, 2008, of the Company. (Filed as Exhibit 10.2).
10.74 (46)	Settlement Agreement and Mutual Release of all Claims, by and between the Company and The Salk Institute for Biological Studies, dated as of September 2, 2008 (Filed as Exhibit 10.316).
10.75 (47)	License Agreement, dated of December 17, 2008, between the Company and SmithKline Beecham Corporation, doing business as GlaxoSmithKline (with certain confidential portions omitted) (Filed as Exhibit 10.346).
10.76 (48)	Settlement Agreement and Mutual Release, by and between the Company and The Rockefeller University, dated as of February 11, 2009 (Filed as Exhibit 10.318).
10.77 (49)	Exclusive Patent License Agreement, by and between Glycomed, Inc., a wholly owned subsidiary of the Company and ParinGenix Inc, dated as of June 18, 2009 (Filed as Exhibit 10.321).
10.78 (49)	Amended and Restated Director Compensation and Stock Ownership Policy, effective as of April 16, 2009 (Filed as Exhibit 10.322).
10.79 (50)	Research Collaboration Termination Agreement, between the Company and N.V. Organon, dated as of July 29, 2009 (Filed as Exhibit 10.323).
10.80 (51)	Lease, between the Company and HCP TPSP, LLC, dated August 7, 2009 (Filed as Exhibit 10.321).
10.81 (51)	Lease Termination Agreement, between the Company and TPSC IX, LLC, dated August 7, 2009 (Filed as Exhibit 10.322).
10.82 (53)	H3 Contingent Value Rights Agreement (Filed as Exhibit 10.3).
10.83 (53)	Merck Contingent Value Rights Agreement (Filed as Exhibit 10.4).
10.84 (58)	Collaborative Research Agreement and License and Royalty Agreement between Neurogen Corporation and Pfizer Inc, dated as of January 1, 1992 (Filed as Exhibit 10.35) (File No. 000-18311).
10.85 (59)	Collaborative Research Agreement and License and Royalty Agreement between Neurogen Corporation and Pfizer Inc, dated as of July 1, 1994 (Filed as Exhibit 10.1) (File No. 000-18311).

Exhibit Number	Description
10.86 (60)	Collaboration and License Agreement and Screening Agreement between Neurogen Corporation and Schering-Plough Corporation (Filed as Exhibit 10.1) (File No. 000-18311).
10.87 (61)	Collaborative Research Agreement between Neurogen Corporation and Pfizer dated as of November 1, 1995 (Filed as Exhibit 10.1) (File No. 000-18311).
10.88 (61)	Development and Commercialization Agreement between Neurogen Corporation and Pfizer dated as of November 1, 1995 (Filed as Exhibit 10.2) (File No. 000-18311).
10.89 (62)	Collaboration and License Agreement dated as of November 24, 2003 between Neurogen Corporation and Merck Sharp & Dohme Limited (Filed as Exhibit 10.43) (File No. 000-18311).
10.90 (62)	Stock Purchase Agreement dated as of November 24, 2003 between Neurogen Corporation and Merck Sharp & Dohme Limited (Filed as Exhibit 10.43) (File No. 000-18311).
10.91 (63)	TR Beta Contingent Value Rights Agreement, dated January 27, 2010, among the Company, Metabasis Therapeutics, Inc., David F. Hale and Mellon Investor Services LLC. (Filed as Exhibit 10.2).
10.92 (63)	Glucagon Contingent Value Rights Agreement, dated January 27, 2010, among the Company, Metabasis Therapeutics, Inc., David F. Hale and Mellon Investor Services LLC. (Filed as Exhibit 10.3).
10.93 (63)	General Contingent Value Rights Agreement, dated January 27, 2010, among the Company, Metabasis Therapeutics, Inc., David F. Hale and Mellon Investor Services LLC. (Filed as Exhibit 10.4).
10.94 (69)	Amendment of "General" Contingent Value Rights Agreement, dated January 26, 2011 [original agreement was dated January 27, 2010] (filed as Exhibit 10.1).
10.95 (64)	Purchase and Sale Agreement, dated May 18, 2010, between the Company and The Genaera Liquidating Trust (Filed as Exhibit 10.1).
10.96 (65)	Purchase Agreement, dated May 20, 2010, between the Company and Biotechnology Value Fund, L.P., on its own behalf and on behalf of Biotechnology Valude Fund II, L.P. and Investment 10, L.L.C. (Filed as Exhibit 10.1).
10.97 (66)	Asset Purchase Agreement, dated as of July 30, 2010, between Wyeth LLC, Pharmacopeia, Inc. and the Company (Filed as Exhibit 10.1).
10.98 (68)	Contingent Value Rights Agreement, by and among the Company, CyDex Pharmaceuticals, Inc., and Allen K. Roberson and David Poltack, acting jointly as Shareholders' Representative, dated January 14, 2011 (Filed as Exhibit 10.2).
10.99 (68)	Loan and Security Agreement, by and among the Company, its subsidiaries and Oxford Finance Corporation, dated January 24, 2011 (Filed as Exhibit 10.3).
10.100 (71)	Supply Agreement, dated December 20, 2002, between CyDex and Hovione LLC, Hovione FarmaCiencia S.A., Hovione Pharmascience Limited, and Hovione International Limited (with certain confidential portions omitted)
10.101 (71)	First Amendment to the Supply Agreement, dated July 29, 2005, between CyDex and Hovione LLC, Hovione FarmaCiencia S.A., Hovione Pharmascience Limited, and Hovione International Limited (with certain confidential portions omitted)
10.102 (71)	2nd Amendment to the Supply Agreement of December 20, 2002 and amended July 29, 2005, dated March 1, 2007, between CyDex and Hovione LLC, Hovione FarmaCiencia S.A., Hovione Pharmascience Limited, and Hovione International Limited

Exhibit Number	Description
10.103 (71)	3rd Amendment to the Supply Agreement of December 20, 2002 and amended July 29, 2005 and March 1, 2007, dated January 25, 2008, between CyDex and Hovione LLC, Hovione FarmaCiencia S.A., Hovione Pharmascience Limited, and Hovione International Limited (with certain confidential portions omitted)
10.104 (71)	4th Amendment to the Supply Agreement of December 20, 2002 and amended July 29, 2005, March 1, 2007, and January 25, 2008, amended September 28, 2009 between CyDex and Hovione LLC, Hovione FarmaCiencia S.A., Hovione Pharmascience Limited, and Hovione International Limited (with certain confidential portions omitted)
10.105 (71)	License Agreement, dated September 3, 1993, between CyDex and The University of Kansas (with certain confidential portions omitted)
10.106 (71)	Second Amendment to the License Agreement of September 3, 1993, dated August 4, 2004, between CyDex and The University of Kansas (with certain confidential portions omitted)
10.107 (71)	Exclusive License Agreement, dated June 4, 1996, between Pfizer, Inc. and CyDex (with certain confidential portions omitted)
10.108 (71)	Nonexclusive License Agreement, dated June 4, 1996, between Pfizer, Inc. and CyDex (with certain confidential portions omitted)
10.109 (71)	Addendum to Nonexclusive License Agreement of June 4, 1996, dated December 11, 2001, between CyDex and Pfizer, Inc. (with certain confidential portions omitted)
10.110 (71)	Acknowledgement agreement, dated March 3, 2008, between CyDex and The University of Kansas (with certain confidential portions omitted)
10.111 (71)	License Agreement, dated January 4, 2006, between CyDex and Prism Pharmaceuticals (with certain confidential portions omitted)
10.112 (71)	Amendment to License Agreement, dated May 12, 2006 between CyDex and Prism Pharmaceuticals (with certain confidential portions omitted)
10.113 (71)	Supply Agreement, dated March 5, 2007, between CyDex and Prism Pharmaceuticals (with certain confidential portions omitted)
10.114 (71)	License and Supply Agreement, dated October 12, 2005 between CyDex and Proteolix, Inc. (with certain confidential portions omitted)(Filed as Exhibit 10.22)(File No. 000-28298)
10.115 (72)	Amendment to General Contingent Value Rights Agreement of January 27, 2010, dated January 27, 2011 among the Company, Metabasis Therapeutics, Inc., David F. Hale and Mellon Investor Services LLC. (Filed as Exhibit 10.1)
10.116 (73)	License Agreement, dated March 24, 2011 by and between the Company and Chiva Pharmaceuticals, Inc. (Filed as Exhibit 10.23)
10.117 (74)	Loan and Security Agreement, by and between Ligand Pharmaceuticals Incorporated and Square 1 Bank, dated March 31, 2011 (Filed as Exhibit 10.23)
10.118 (75)	First Amendment to Loan and Security Agreement, by and between Ligand Pharmaceuticals Incorporated and Square 1 Bank, dated April 29, 2011 (Filed as Exhibit 10.1)

Exhibit Number	Description
10.119 (75)	First Amendment to Loan and Security Agreement, by and between Ligand Pharmaceuticals Incorporated and Oxford Finance LLC, dated April 29, 2011 (Filed as Exhibit 10.2)
10.120 (76)	License Agreement, by and between CyDex and the Medicines Company, dated June 1, 2011 (with certain confidential portions omitted) (Filed as Exhibit 10.25)
10.121 (76)	Supply Agreement, by and between CyDex and the Medicines Company, dated June 1, 2011 (with certain confidential portions omitted) (Filed as Exhibit 10.26)
10.122 (76)	Supply Agreement dated June 13, 2011 by and between CyDex and Merck (with certain confidential portions omitted) (Filed as Exhibit 10.27)
10.123 (77)	First Amendment to License Agreement between the Company and Chiva Pharmaceuticals, Inc. dated as of August 31, 2011 (Filed as Exhibit 10.1)
10.124 (78)	Lease Agreement, dated September 5, 2011 between the Company and ARE-SD Region No. 24, LLC. (Filed as Exhibit 10.1)
10.125 (78)	License Agreement, dated September 5, 2011 between the Company and ARE-3535/3565 General Atomics Court, LLC (Filed as Exhibit 10.2)
10.126 (77)	Amendment to Lease Agreement dated November 1, 2011 between the Company and HCP TPSP, LLC (Filed as Exhibit 10.4)
10.127 (79)	Letter Agreement, dated September 29, 2011, between the Company and Biotechnology Value Fund, L.P. (Filed as Exhibit 10.1)
10.128 (77)	License Agreement, dated October 7, 2011, between the Company and Chiva Pharmaceuticals, Inc. (with certain confidential portions omitted) (Filed as Exhibit 10.6)
10.129 (77)	License Agreement, dated October 13, 2011, between CyDex and SAGE Therapeutics, Inc. (with certain confidential portions omitted) (Filed as Exhibit 10.7)
10.130 (80)	Joinder and Second Amendment, dated October 28, 2011, by and among the Company, its subsidiaries and Oxford Finance LLC
10.131†	License Agreement, dated December 16, 2011, between CyDex and Eli Lilly and Company (with certain confidential portions omitted)
10.132† (80)	Supply Agreement, dated December 16, 2011, between CyDex and Eli Lilly and Company (with certain confidential portions omitted)
10.133†	License and Supply Agreement, dated December 22, 2011 between CyDex and Hospira, Inc. (with certain confidential portions omitted)
10.134 (80)	Fourth Amendment to Loan and Security Agreement, by and among the Company, its subsidiaries and Oxford Finance LLC
14.1(18)	Code of Business Conduct and Ethics.
21.1 (80)	Subsidiaries of Registrant.
23.1	Consent of independent registered public accounting firm-Grant Thornton LLP
24.1	Power of Attorney (See page 21).
31.1	Certification by Principal Executive Officer, Pursuant to Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

31.2	Certification by Principal Financial Officer, Pursuant to Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Certification by Principal Executive Officer, Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2*	Certification by Principal Financial Officer, Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.1	The following financial information from the Company's Quarterly Report on Form 10-K for The period ended December 31, 2011, 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) the Notes to Condensed Consolidated Financial Statements, tagged as blocks of text.

† Confidential treatment has been requested for portions of this exhibit. These portions have been omitted and submitted separately to the Securities and Exchange Commission.

* These certifications are being furnished solely to accompany this annual report pursuant to 18 U.S.C. Section 1350, and are not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and are not to be incorporated by reference into any filing of Ligand Pharmaceuticals Incorporated, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

(1) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Registration Statement on Form S-4 (No. 333-58823) filed on July 9, 1998.

(2) This exhibit was previously filed as part of and is hereby incorporated by reference to same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended March 31, 1999.

(3) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2004.

(4) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Registration Statement on Form S-1 (No. 33-47257) filed on April 16, 1992 as amended.

(5) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Registration Statement on Form S-1/S-3 (No. 33-87598 and 33-87600) filed on December 20, 1994, as amended.

(6) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended September 30, 1998.

(7) This exhibit was previously filed as part of and is hereby incorporated by reference to the numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended September 30, 1999.

(8) This exhibit was previously filed as part of, and are hereby incorporated by reference to the same numbered exhibit filed with the Company's Annual Report on Form 10-K for the year ended December 31, 1993.

(9) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended September 30, 1994.
(10) This exhibit was previously filed, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Annual Report on Form 10-K for the year ended December 31, 1995.
(11) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly report on Form 10-Q for the period ended June 30, 1996.
(12) This exhibit was previously filed as part of, and are hereby incorporated by reference to the same numbered exhibit filed with the Company's Annual Report on Form 10-K for the year ended December 31, 2000.
(13) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended March 31, 2002.
(14) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2002.
(15) This exhibit was previously filed as part of, and are hereby incorporated by reference to the same numbered exhibit filed with the Company's Annual Report on Form 10-K for the year ended December 31, 2002.
(16) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended March 31, 2003.
(17) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2003.
(18) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Annual Report on Form 10-K for the year ended December 31, 2003.
(19) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended March 31, 2004.
(20) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on November 14, 2005.
(21) This exhibit was previously filed as part of, and are hereby incorporated by reference to the same numbered exhibit filed with the Company's Annual Report on Form 10-K for the year ended December 31, 2004.
(22) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Registration Statement on Form S-1 (no. 333-131029) filed on January 13, 2006 as amended.
(23) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with an Amendment to the Company's Registration Statement on Form S-1 (No. 333-1031029) filed on February 10, 2006.
(24) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2006.
(25) This exhibit was previously filed as part of, and is being incorporated by reference to the numbered exhibit filed with the Company's Current Report Form 8-K filed on September 11, 2006.
(26) This exhibit was previously filed as part of, and is being incorporated by reference to the numbered exhibit filed with the Company's Current Report Form 8-K filed on September 12, 2006.

(27) This exhibit was previously filed as part of, and is being incorporated by reference to the numbered exhibit filed with the Company's Current Report Form 8-K filed on October 17, 2006.
(28) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on October 31, 2006.
(29) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on January 5, 2007.
(30) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on February 28, 2007.
(31) This exhibit was previously filed as part of, and are hereby incorporated by reference to the same numbered exhibit filed with the Company's Annual Report on Form 10-K for the year ended December 31, 2006.
(32) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on May 4, 2007.
(33) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on August 22, 2007.
(34) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on December 6, 2007.
(35) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on December 19, 2007.
(36) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on September 26, 2008.
(37) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Annual Report on Form 10-K for the period ended December 31, 2007.
(38) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Pharmacopeia, Inc.'s Current Report on Form 8-K filed on May 3, 2004.
(39) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Pharmacopeia, Inc.'s Current Report on Form 8-K filed on August 2, 2006.
(40) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Pharmacopeia, Inc.'s Quarterly Report on Form 10-Q for the period ended September 30, 2007.
(41) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Pharmacopeia, Inc.'s Quarterly Report on Form 10-Q for the period ended March 31, 2006.
(42) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Pharmacopeia, Inc.'s Quarterly Report on Form 10-Q for the period ended June 30, 2006.
(43) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Pharmacopeia, Inc.'s Quarterly Report on Form 10-Q for the period ended June 30, 2005.

(44) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Pharmacopeia, Inc.'s Quarterly Report on Form 10-Q for the period ended March 31, 2007.
(45) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Pharmacopeia, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2007.
(46) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Pharmacopeia, Inc.'s Quarterly Report on Form 10-Q for the period ended September 30, 2008.
(47) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Annual Report on Form 10-K for the period ended December 31, 2008.
(48) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended March 31, 2009.
(49) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2009.
(50) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2009.
(51) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on August 11, 2009.
(52) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on August 24, 2009.
(53) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on December 24, 2009.
(54) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on December 17, 2009.
(55) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on December 1, 2009.
(56) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on November 6, 2009.
(57) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on October 28, 2009.
(58) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with Neurogen Corporation's Annual Report on Form 10-K for the period ended December 31, 1991.
(59) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with Neurogen Corporation's Quarterly Report on Form 10-Q for the period ended June 30, 1994.
(60) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with Neurogen Corporation's Current Report on Form 8-K filed on July 28, 1995.
(61) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with Neurogen Corporation's Current Report on Form 8-K filed on November 1, 1995.

(62) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with Neurogen Corporation's Annual Report on Form 10-K for the period ended December 31, 2003.
(63) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on January 28, 2010.
(64) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on May 24, 2010.
(65) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2010.
(66) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2010.
(67) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on November 19, 2010.
(68) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on January 26, 2011.
(69) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on January 31, 2011.
(70) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with Onyx Pharmaceuticals, Inc.'s Annual Report on Form 10-K for the period ended December 31, 2009.
(71) This exhibit was previously filed as part of, and are hereby incorporated by reference to the same numbered exhibit filed with the Company's Annual Report on Form 10-K for the year ended December 31, 2011.
(72) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on January 31, 2011.
(73) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended March 31 30, 2011.
(74) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on April 4, 2011.
(75) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on April 29, 2011.
(76) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2011.
(77) This exhibit was previously filed as part of, and is hereby incorporated by reference to the same numbered exhibit filed with the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2011.
(78) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on September 9, 2011.
(79) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Current Report on Form 8-K filed on September 30, 2011.
(80) This exhibit was previously filed as part of, and is hereby incorporated by reference to the numbered exhibit filed with the Company's Annual Report on Form 10-K filed on February 23, 2012.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

LIGAND PHARMACEUTICALS INCORPORATED

By: /s/ JOHN L. HIGGINS
John L. Higgins,
President and Chief Executive Officer

Date: May 16, 2012

POWER OF ATTORNEY

Know all men by these presents, that each person whose signature appears below constitutes and appoints John L. Higgins or John P. Sharp, his or her attorney-in-fact, with power of substitution in any and all capacities, to sign any amendments to this Annual Report on Form 10-K, and to file the same with exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that the attorney-in-fact or his or her substitute or substitutes may do or cause to be done by virtue hereof.

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

Signature	Title	Date
/s/ JOHN L. HIGGINS **John L. Higgins**	President, Chief Executive Officer and Director (Principal Executive Officer)	May 16, 2012
/s/ JOHN P. SHARP **John P. Sharp**	Vice President, Finance and Chief Financial Officer (Principal Financial and Accounting Officer)	May 16, 2012
/s/ JASON M. ARYEH **Jason M. Aryeh**	Director	May 16, 2012
/s/ TODD C. DAVIS **Todd C. Davis**	Director	May 16, 2012
/s/ DAVID M. KNOTT **David M. Knott**	Director	May 16, 2012
/s/ JOHN W. KOZARICH **John W. Kozarich**	Director	May 16, 2012
/s/ JOHN L. LAMATTINA **John L. LaMattina**	Director	May 16, 2012
/s/ SUNIL PATEL **Sunil Patel**	Director	May 16, 2012
/s/ STEPHEN L. SABBA **Stephen L. Sabba**	Director	May 16, 2012

CERTAIN MATERIAL (INDICATED BY AN ASTERISK) HAS BEEN OMITTED FROM THIS DOCUMENT PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT. THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

LICENSE AGREEMENT

BETWEEN

CYDEX PHARMACEUTICALS, INC.

AND

ELI LILLY AND COMPANY

DATED: December 16, 2011

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TABLE OF EXHIBITS

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "**Agreement**") is made this 16th day of December, 2011 (the "**Effective Date**") between:

CYDEX PHARMACEUTICALS, INC., a Delaware corporation with offices at 10513 W. 84th Terrace, Lenexa, Kansas 66214 ("**CyDex**"); and

ELI LILLY AND COMPANY, an Indiana corporation, with offices at Lilly Corporate Center Indianapolis, Indiana 46285 USA ("**Company**").

RECITALS

WHEREAS, CyDex, a wholly-owned subsidiary of **LIGAND PHARMACEUTICALS INC.**, is engaged in the business of developing and commercializing novel drug delivery technologies designed to enhance the solubility and effectiveness of existing and development-stage drugs, including without limitation Captisol®, a patented drug formulation system designed to enhance the solubility and stability of drugs;

WHEREAS, Company desires to obtain a license to use the Captisol® patented drug formulation system in connection with its development and commercialization of one or more Compounds (defined below) and CyDex is willing to grant such license to Company under the terms and conditions set forth herein; and

WHEREAS, CyDex desires to sell Captisol® to Company, and Company desires to purchase Captisol® from CyDex, in accordance with the terms and conditions of that certain Supply Agreement between the parties of even date herewith (the "**Supply Agreement**");

NOW, THEREFORE, in consideration of the following mutual promises and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties, intending to be legally bound, agree as follows:

1. DEFINITIONS.

For the purposes of this Agreement, the following terms shall have the meanings as defined below:

"**Affiliate**" means, with respect to any party, any entity controlling, controlled by, or under common control with such party, during and for such time as such control exists. For these purposes, "control" shall refer to the ownership, directly or indirectly, of at **[***]** of the voting securities or other ownership interest of the relevant entity.

"**Adverse Event**" means any undesirable medical occurrence in a patient or clinical investigation subject administered the Licensed Product and which does not necessarily have a causal relationship with the Licensed Product.

"**Captisol**" means Captisol®, also known scientifically as **[***]**.

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

"**Captisol Data Package**" means (i) all toxicology/safety and other relevant scientific safety data owned, licensed or developed by CyDex and its Affiliates; and (ii) all toxicology/safety and other relevant scientific data owned, licensed or developed by the licensees or sublicensees of CyDex or its Affiliates or other third parties (to the extent permitted in the applicable license or other agreements between CyDex and/or its Affiliates and such licensees, sublicensees or other third parties), in each case on Captisol alone (and not in conjunction with a product formulation).

[***].

"**Claim**" has the meaning specified in **Section 10.1**.

"**Commercial Launch Date**" means, in any particular country, the **[***]**.

"**Compound**" means, with respect to each Licensed Product, the active pharmaceutical ingredient for such Licensed Product approved by CyDex in accordance with **Section 2.5,** owned by or exclusively licensed to Company and developed and manufactured by or on behalf of Company.

"**Confidential Information**" has the meaning specified in **Section 8.1**.

"**Disclosing Party**" has the meaning specified in **Section 8.1** hereof.

"**DMF**" means a **[***]**, as filed as of the Effective Date, or as hereafter updated from time to time during the Term, by CyDex with the FDA.

"**FDA**" means the United States Food and Drug Administration, or any successor thereto.

"**Field**" means, with respect to each Licensed Product, the specified field of use for such Licensed Product approved by CyDex in accordance with **Section 2.5**.

"**Generic Captisol**" means a GMP manufactured **[***]**.

"**GMP**" means material that (a) has been manufactured under conditions of current good manufacturing practices for bulk excipients as set forth in U.S. Pharmacopoeia <1078> as of the Effective Date or any successor thereto.

"**IND**" means an Investigational New Drug application, as defined in the United States Federal Food, Drug and Cosmetic Act and the regulations promulgated thereunder, or similar application filed with an equivalent regulatory body in another country.

"**Indemnitee**" has the meaning specified in **Section 10.4**.

"**Indemnitor**" has the meaning specified in **Section 10.4**.

"**Licensed Patents**" means all patents and patent applications in the Territory which cover Captisol and which now or at any time during the Term are owned by or licensed to CyDex or any CyDex Affiliate with the right to sublicense, including any and all extensions, renewals, continuations, substitutions, continuations-in-part, divisions, patents-of-addition, reissues, reexaminations and/or supplementary protection certificates to any such patents. Set forth in ***Exhibit A*** attached hereto is a list of the Licensed Patents as of the Effective Date. Such ***Exhibit A*** shall be updated by CyDex at least annually during the Term.

"**Licensed Product**" means a Compound combined with or formulated using Captisol for ultimate use **[***]** approved by CyDex in accordance with **Section 2.5**. For clarity, a Licensed Product **[***]**.

"**Losses**" has the meaning set forth in **Section 10.1**.

"**Marketing Approval**" means final approval of an NDA by the FDA, or final approval of a comparable document filed with an equivalent health regulatory authority in any other country or in the European Union (using the centralized process or mutual recognition), including all required marketing, pricing or reimbursement approvals.

"**NDA**" means a New Drug Application, as defined in the United States Federal Food, Drug and Cosmetic Act and the regulations promulgated thereunder, or similar application filed with an equivalent regulatory body in another country.

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"**Notice of Default**" has the meaning specified in **Section 13.2**.

"**Notice of Termination**" has the meaning specified in **Section 13.2**.

[***]

"**Quality Agreement**" means the document developed, approved, and updated between CyDex and Company that sets forth the quality expectations, responsibilities, rights (including, as applicable and agreed upon, audit requirements) and requirements relating to the manufacture and supply of Captisol. Such agreement may be amended from time to time by written agreement between the Parties.

"**Receiving Party**" has the meaning specified in **Section 8.1**.

"**Safety Agreement**" has the meaning specified in **Section 7.4**.

"**SEC**" has the meaning specified in **Section 8.3**.

"**Study**" has the meaning specified in **Section 6.3**.

"**Sublicensees**" has the meaning specified in **Section 2.3**.

"**Term**" has the meaning specified in **Section 13.1**.

"**Territory**" means the entire world.

"**Valid Claim**" means a claim which, but for the license granted hereunder, would be infringed by Company's use, manufacture or sale of a Licensed Product, and which is covered by an issued and unexpired patent included within the Licensed Patents which has not been held invalid or unenforceable by a decision of a court or governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, and which has not been disclaimed, denied, or admitted to be invalid, canceled, or unenforceable by the owner through re-issue, re-examination or disclaimer, opposition procedure, nullity suit, or otherwise or is not enforceable by virtue of applicable law in the Territory.

2. GRANT OF RIGHTS.

(a) License Grants from CyDex to Company.

(1) Licensed Patents. Subject to the terms and conditions of this Agreement, including but not limited to payment of the amounts set forth in **Section 4.1** below, CyDex hereby grants to Company an exclusive, nontransferable (except with respect to the assignment provision in **Section 14.15**) license during the Term under the Licensed Patents, solely to make, use, sell, offer for sale and import the Licensed Product in the Territory in the Field. Notwithstanding the foregoing, to the extent that any Licensed Patents are licensed to CyDex or its Affiliates by a third party on a non-exclusive basis, the license granted to Company in the foregoing sentence shall be exclusive as to CyDex and non-exclusive as to any third party. For clarity, as CyDex is unable to grant Company any rights that it does not have, in the event that CyDex obtains a non-exclusive license from a third party for intellectual property necessary for Company to perform its obligations hereunder, then CyDex shall pass on such rights to Company hereunder via a license that grants rights that are non-exclusive with respect to third parties but that is exclusive with respect to CyDex. Company may not make, use, sell, offer for sale, or import the Licensed Product for any other purposes than those granted to it in this Agreement. Company may sublicense the Licensed Patents, as expressly set forth in **Sections 2.3** and **2.4** below.

(2) Captisol Data Package. Subject to the terms and conditions of this Agreement, including but not limited to payment of the amounts set forth in **Section 4.1** below, CyDex hereby grants to Company a non-exclusive, nontransferable (except with respect to the assignment provision in **Section 14.14**) license during the Term under CyDex's right in and to the Captisol Data Package, solely to make, use, sell, offer for sale and import the Licensed Product in the Territory in the Field. Company may not sublicense its rights to the Captisol Data Package, except as expressly set forth in **Sections 2.3** and **2.4** below.

(3) Scope of Licenses. Without limiting the generality of the foregoing, CyDex grants no rights to Company to manufacture, import, sell or offer for sale bulk Captisol; provided, however, that Company may provide Captisol to *bona fide* collaborators in order to help Company to make, use, sell, offer for sale or import the Licensed Product in the Territory in the Field. Licensee acknowledges that not all rights of CyDex related to Captisol are included within the rights licensed hereunder, given that CyDex shall supply Company's requirements of Captisol for the Licensed Product. CyDex shall not be liable to Company for violation of Company's exclusive rights hereunder by parties which are not Affiliates or licensees of CyDex **[***]**. Company acknowledges and agrees that (i) CyDex shall not be required to obtain or maintain patent rights in the Territory for the Licensed Patents, (ii) CyDex shall not be restricted in making sales of Captisol or, except as provided herein for the Licensed Product, licensing rights to other parties, and (iii) CyDex does not warrant or indemnify Licensee or its Affiliates and Sublicensees against the Licensed Product infringing third party rights.

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

(b) Grant of License from Company to CyDex. Company hereby grants to CyDex a nonexclusive, transferable, perpetual, worldwide and royalty-free license, with the right to grant sublicenses (through multiple tiers of sublicensees), under Company's and its Affiliates' and Sublicensees' rights in and to Captisol Improvements to develop, make, have made, use, market, distribute, import, sell and offer for sale Captisol, any Captisol Improvement and products formulated with Captisol or any Captisol Improvement (other than the Licensed Product in the Field). If during the Term any of (a) Company, (b) Affiliates to whom Company has provided rights under the licenses granted to Company by CyDex pursuant to **Section 2.1**, or (c) Sublicensees pursuant to the practice of their respective sublicenses from Company under **Section 2.3**, file any patent application claiming Captisol anywhere in the world, CyDex shall be deemed automatically to have a nonexclusive, transferable, perpetual, worldwide and royalty-free license, with the right to grant sublicenses (through multiple tiers of sublicensees), under the claims relating specifically to Captisol to make, have made, use, market, distribute, import, sell, and offer for sale Captisol and all products formulated with Captisol (other than the Licensed Product in the Field during the Term). Company shall provide prompt notice of any Captisol Improvement.

(c) Sublicensing. Company shall have the right to grant sublicenses to its Affiliates and licensees of the Licensed Product (collectively "**Sublicensees**") under the licenses granted to Company pursuant to **Section 2.1**; [***].

(d) Contracting. Company may manufacture the Licensed Product (but not the bulk Captisol) or contract the manufacture of the Licensed Product (but not the manufacture of bulk Captisol) with Company qualified third party manufacturers. To the extent necessary to engage a third party manufacturer for the Licensed Product, Company shall be permitted under this Agreement to grant any such third party manufacturer a sublicense under the licenses granted to Company pursuant to **Section 2.1** solely for such purposes; **[***]**.

2.5 CyDex Approval Rights. Company acknowledges that (i) CyDex has granted and in the future shall have the right to grant exclusive and non-exclusive licenses for the use of Captisol for various products in various fields for various territories, and (ii) as a result, the written approval of CyDex shall be required for the Compound, formulation and Field of each Licensed Product. Such written approval by CyDex shall be substantially in the form of ***Exhibit B*** hereto, and shall include specific approval rights for CyDex, which CyDex may provide or withhold in its reasonable discretion, for the Compound, formulation or Field for any proposed Licensed Product. Without limiting the generality of the foregoing, for clarity it shall be deemed reasonable for CyDex to withhold its consent if: (w) CyDex has conflicting or potentially conflicting contractual obligations existing at the time of Company's request, including without limitation if CyDex is a party to a research agreement or limited clinical use agreement or similar contract with a third party; (x) CyDex is then in substantive negotiations with a third party to grant such rights or conflicting rights and/or (y) CyDex or an Affiliate is actively pursuing its own development program in relation to the applicable composition(s) of matter. For the avoidance of doubt, CyDex hereby approves the Compound, formulation and Field for the Licensed Products specified in ***Exhibit C*** hereto. Further, for the avoidance of doubt, Company shall not be prohibited from developing products at its discretion as a result of this Section 2.5, provided that such products do not include Captisol supplied by CyDex and do not violate the valid intellectual property rights of CyDex.

3. MANUFACTURE AND SUPPLY OF CAPTISOL.

The provisions of the Supply Agreement and any related Quality Agreement shall govern the manufacture and supply of Captisol for use in the formulation of the Licensed Product. Company acknowledges and agrees that, pursuant to the Supply Agreement, CyDex is the exclusive manufacturer of Captisol for Company and its Affiliates and Sublicensees and nothing set forth herein shall be deemed to grant Company or its Affiliates or Sublicensees the right to manufacture Captisol nor the right to contract the manufacture of Captisol to a third party **[***]**.

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

CyDex shall have the right to change the Specifications from time to time during the Term; **[***]**. CyDex shall provide Company with **[***]** prior written notice of any proposed change to the Specifications and provide Company with an opportunity to evaluate whether **[***]**.

Lilly shall have the right to discontinue using/purchasing CyDex's Captisol at any time for any reason at its sole discretion [***].

4. COMPENSATION.

(a) Payments and Royalties for Licenses.

(1) One-Time Fee. Company shall pay to CyDex a non-refundable, one-time fee of One Million Dollars (US $1,000,000) in partial consideration of the rights granted Company under this Agreement, which amount shall be due and payable in full on December 31, 2011, with commercially reasonable efforts to make such payment prior to December 31, 2011.

(b) [***]

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[***]

(c) Late Payments. Unpaid balances shall accrue interest, from due date until paid, at a rate equal to the prime rate, **[***]**.

5. RECORDS; REPORTS; AUDIT.

(a) Records. Company shall, and shall require its Affiliates and Sublicensees to, maintain complete and accurate records relating to Net Sales of Licensed Product in accordance with its standard procedures.

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

(b) Reports.

(1) Quarterly Financial Reports. Within **[***]** following the conclusion of **[***]** during the Term, Company shall provide CyDex with a written report with respect to **[***]** that sets forth sales of the Licensed Product in the Territory during such **[***]**. Such report shall include Net Sales and royalties due for each Licensed Product.

(2) Annual Milestone Reports. Annually, by November 1st of each calendar year during the Term, Company shall provide CyDex with written reports that: describe in reasonable detail Company's progress made toward achievement of the milestones specified in **Section 4.1**(b) above during [***]; and set forth such other information regarding Captisol as mutually agreed upon by the parties. Company shall also provide quarterly updates regarding any significant changes to the expected completion of any such milestones outlined in the annual report or any change that may materially affect the Supply Agreement or orders placed thereunder.

(c) Audit. Upon the written request of CyDex, Company will permit Company's independent Third Party certified public accountant to have access during normal business hours to such of the records of Company as may be reasonably necessary to verify the royalty reports under Section 5.2 **[***]**.

In the event such accountant concludes that additional payments of any kind as required by this Agreement were owed to CyDex during such period, the additional amounts will be paid within **[***]** of the date CyDex delivers to Company such accountant's written report so concluding. The fees charged by such accountant will be paid by CyDex, unless the audit discloses that the amounts payable by Company **[***]**. In the event such accountant concludes that there was an overpayment by Company to CyDex during such period, at Company's option, **[***]** of the date of the written report.

The independent certified public accountants shall keep confidential any information obtained during such inspection and shall report to the CyDex and Company only the amounts of Net Sales and royalties due and payable. The parties agree that all information subject to review under this Section 5.3 or under any sublicense agreement is confidential and that it will cause its accountant to retain all such information in confidence.

6. DEVELOPMENT AND COMMERCIALIZATION BY COMPANY.

(a) Diligence. Company agrees that, during the Term, it will use, and shall require its Affiliates and Sublicensees to use, commercially reasonable efforts to obtain Marketing Approval in the major markets in the Territory and to market, promote, and sell Licensed Product thereafter in each country in which Marketing Approval is obtained. For clarity, Company will be under no obligation to market a Product if it determines, in its sole and reasonable business judgment, that such an effort is not commercially viable for Company.

(b) Costs and Expenses. Company shall be solely responsible for all costs and expenses related to its development and commercialization of the Licensed Product, including without limitation costs and expenses associated with all preclinical activities and clinical trials, and all regulatory filings and proceedings relating to the Licensed Product.

(c) In Vivo Studies. If Company wishes to conduct any in vivo study (preclinical or clinical, in animals or in humans, each a "**Study**") of the Licensed Product utilizing Captisol, the following provisions shall apply:

(a) Dosing. Company shall not exceed the maximum allowable dosing levels of Captisol specified in CyDex's then-current clinical dosing matrix (which shall be provided by CyDex to Company from time to time) without the written consent of CyDex.

(b) Compliance with Laws. Company represents and warrants that each Study will be performed in accordance with all applicable laws, regulations and requirements. Company will provide or cause to be provided all appropriate warnings to participants enrolled in each Study and obtain or cause to be obtained appropriate documentation of informed consent from all participants in each such Study.

(c) Adverse Events. Company agrees to immediately inform CyDex if any adverse effects are observed and ascribed to Captisol in any Study in accordance with **Section 7.3** hereof. To accurately track adverse events and preserve the validity of each Study, Company shall only use Captisol supplied by CyDex for each such Study conducted under the scope of this Agreement.

(d) Reporting and Study Data. Within **[***]** after the completion of the relevant Study, Company shall provide to CyDex a summary of the data and results of each Study that pertain solely to Captisol, and Company hereby grants to CyDex a non-exclusive, royalty-free license (with the right to sublicense) to use and disclose such data for regulatory purposes, including without limitation to update the DMF for Captisol.

(e) Right of Reference. Company shall have the right to reference the DMF solely in connection Company's regulatory filings submitted in connection with obtaining Marketing Approval for the Licensed Product.

(f) Access to Company's Data. CyDex shall have the right to reference and utilize all toxicology/safety and other relevant scientific data developed on Captisol alone (and not in conjunction with a product formulation) by Company, its Sublicensees or Affiliates in connection with CyDex's development and commercialization of Captisol or compounds, at no cost to CyDex. Upon request by CyDex, Company shall either provide CyDex with a copy of all such data or shall make such data accessible to CyDex at such times and locations mutually agreed upon by the parties.

7. REGULATORY MATTERS.

(a) Captisol Information Submitted for Regulatory Review. Except as otherwise set forth herein, Company shall be solely responsible for all communications with regulatory agencies in connection with the Licensed Product.

(b) Material Safety. CyDex shall provide Company, in writing, from time to time, with (a) relevant information currently known to it regarding handling precautions, toxicity and hazards with respect to Captisol, and (b) the then-current material safety data sheet for Captisol. Notwithstanding the foregoing or anything in this Agreement to the contrary, Company is solely responsible for (i) use of all documentation provided by CyDex, including without limitation, use in any regulatory submission to the FDA or any other regulatory agency in the Territory, (ii) document control and retention, and (iii) determining the suitability of any documentation provided by CyDex hereunder for use in any regulatory submission.

(c) Adverse Event Reporting. Company shall adhere, and shall require that its Affiliates, Sublicensees, co-marketers and distributors adhere, to all requirements of applicable law and regulations that relate to the reporting and investigation of any adverse event, including without limitation an unfavorable and unintended diagnosis, symptom, sign (including an abnormal laboratory finding), syndrome or disease, whether or not considered Captisol or Licensed Product-related, which occurs or

worsens following administration of Captisol or Licensed Product. Company shall provide CyDex with copies of all reports of any such adverse event which is serious (any such adverse event involving Captisol or the Licensed Product that results in death, is life-threatening, requires or prolongs inpatient hospitalization, results in disability, congenital anomaly or is medically important (i.e., may require other medical or surgical intervention to prevent other serious criteria from occurring)) which Company has reason to believe are associated with Captisol within **[***]** following (i) Company's submission of any such report to any regulatory agency, or (ii) receipt from Company's Sublicensee, co-marketer or distributor of any such report to any regulatory agency. Reports from Company shall be delivered to the attention of Chief Scientific Officer, CyDex, with a copy to Chief Executive Officer, CyDex, at the address set forth in **Section 14.6**. The parties shall mutually cooperate with regard to investigation of any such serious adverse event, whether experienced by Company, CyDex or any other Affiliate, Sublicensee, co-marketer or distributor of CyDex or Company.

(d) Safety Agreement. Company and CyDex shall execute a separate related safety agreement (the "Safety Agreement") to this Agreement, for each compound (see Exhibit C), at least [***]. The Safety Agreement will provide details related to the management of serious Adverse Events that occur during clinical trials, including safety issues rising from pre-clinical research and other safety and reporting practices and procedures, detailing obligations related to the development and commercialization of the Licensed Product in compliance with all applicable laws, rules, and regulations.

8. CONFIDENTIALITY.

(a) Definition. Company and CyDex each recognizes that during the Term, it may be necessary for a party (the "**Disclosing Party**") to provide Confidential Information (as defined herein) to the other party (the "**Receiving Party**") that is highly valuable, the disclosure of which would be highly prejudicial to such party. The disclosure and use of Confidential Information will be governed by the provisions of this **Section 8**. Neither Company nor CyDex shall use the other's Confidential Information except as expressly permitted in this Agreement. For purposes of this Agreement, "**Confidential Information**" means all information disclosed by the Disclosing Party to the Receiving Party and designated in writing by the Disclosing Party as "Confidential" (or equivalent), and all material disclosed orally which is declared to be confidential by the Disclosing Party, including but not limited to product specifications, data, know-how, formulations, product concepts, sample materials, business and technical information, financial data, batch records, trade secrets, processes, techniques, algorithms, programs, designs, drawings, and any other information related to a party's present or future products, sales, suppliers, customers, employees, investors or business. Without limiting the generality of the foregoing, CyDex's Confidential Information includes all materials provided as part of the Captisol Data Package.

(b) Obligation. CyDex and Company agree that they will disclose the other's Confidential Information to its own officers, employees, consultants and agents only if and to the extent necessary to carry out their respective responsibilities under this Agreement or in accordance with the exercise of their rights under this Agreement, and such disclosure shall be limited to the maximum extent possible consistent with such responsibilities and rights. Neither party shall disclose Confidential Information of the other to any third party without the other's prior written consent, and any such disclosure to a third party shall be pursuant to the terms of a non-disclosure agreement no less restrictive than this **Section 8**. Each party shall take such action to preserve the confidentiality of each other's Confidential Information as it would customarily take to preserve the confidentiality of its own Confidential Information (but in no event less than a reasonable standard of care). Each party, upon the other's request, will return or destroy (at disclosing party's discretion) all the Confidential Information disclosed to the other party pursuant to this Agreement, including all copies and extracts of documents, within **[***]** of the request, and in any event, promptly following the expiration or termination of this Agreement.

(c) Exceptions. The use and non-disclosure obligations set forth in this **Section 8** shall not apply to any Confidential Information, or portion thereof, that the Receiving Party can demonstrate:

i. at the time of disclosure is in the public domain;

ii. after disclosure, becomes part of the public domain, by publication or otherwise, through no fault of the Receiving Party;

iii. at the time of disclosure is already in the Receiving Party's possession, and such prior possession can be properly demonstrated by the Receiving Party, with the exception of Confidential Information exchanged between parties prior to the execution of this Agreement;

iv. is made available to the Receiving Party by an independent third party, provided, however, that to the Receiving Party's knowledge, such information was not obtained by said third party, directly or indirectly, from the Disclosing Party hereunder; or

v. is independently developed by an employee of the Receiving Party not having access to the Disclosing Party's information.

In addition, the Receiving Party may disclose information that is required to be disclosed by law, by a valid order of a court or by order or regulation of a governmental agency including but not limited to, regulations of the United States Securities and Exchange Commission (the "**SEC**"), or in the course of litigation, *provided* that in all cases the Receiving Party shall give the other party prompt notice of the pending disclosure and makes a reasonable effort to obtain, or to assist the Disclosing Party in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the Confidential Information so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

(d) Injunction. Each party agrees that should it breach or threaten to breach any provisions of this **Section 8**, the Disclosing Party will suffer irreparable damages and its remedy at law will be inadequate. Upon any breach or threatened breach by the Receiving Party of this **Section 8**, the Disclosing Party shall be entitled to seek injunctive relief in addition to any other remedy which it may have, without need to post any bond or security.

(e) Third Party Information. Company acknowledges that CyDex's Confidential Information and DMF includes information developed by [***] that is confidential to both CyDex and [***]. Only to the extent that Confidential information of [***] is disclosed to Company hereunder, and only as required by CyDex's pre-existing contractual obligations to Pfizer, then [***] is a limited third party beneficiary of only this Section 8 of this Agreement and may seek remedies pursuant to it, but only in accordance with its terms.

9. REPRESENTATIONS AND WARRANTIES.

(a) Mutual Representations and Warranties. Each party represents and warrants to the other as follows:

(i) it is a corporation duly organized and validly existing under the laws of the state or country of its incorporation;

(ii) it has the complete and unrestricted power and right to enter into this Agreement and to perform its obligations hereunder;

(iii) this Agreement has been duly authorized, executed and delivered by such party and constitutes a legal, valid and binding obligation of such party enforceable against such party in accordance with its terms except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, receivership, moratorium, fraudulent transfer, or other similar laws affecting the rights and remedies of creditors generally and by general principles of equity;

(iv) the execution, delivery and performance of this Agreement by such party do not conflict with any agreement, instrument or understanding, oral or written, to which such party is a party or by which such party may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having authority over such party;

(v) all consents, approvals and authorizations from all governmental authorities or other third parties required to be obtained by such party in connection with the execution and delivery of this Agreement have been obtained;

(vi) no person or entity has or will have, as a result of the transactions contemplated by this Agreement, any right, interest or valid claim against or upon such party for any commission, fee or other compensation as a finder or broker because of any act by such party or its agents, or, with respect to Company, because of any act by its Affiliates or Sublicensees; and

(vii) it has not entered into any agreement with any third party that is in conflict with the rights granted to the other party pursuant to this Agreement.

(b) CyDex Representations and Warranties. CyDex hereby represents and warrants to Lilly as follows:

(i) That it has no knowledge of any unsettled past or current, and has not received notice of any threatened, patent, trade secret or other intellectual property dispute with any Third Party that actually or is reasonably likely to have a material adverse effect on ability to carry out its material obligations under this Agreement.

(ii) That it has not executed or granted to any third party or Affiliate, directly or indirectly, or entered into any agreement for, any license or other right under any patent, trade secret or other intellectual property or any license or covenant not to sue respecting such patents, trade secrets or other intellectual property that conflicts with its obligations under this Agreement.

(iii) That all Captisol has been manufactured and packaged in compliance with all relevant applicable laws and regulations.

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*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

9.3 Disclaimer. THE WARRANTIES SET FORTH IN THIS **SECTION 9** ABOVE ARE PROVIDED IN LIEU OF, AND EACH PARTY HEREBY DISCLAIMS, ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT, CAPTISOL, THE LICENSED PATENTS, THE CAPTISOL DATA PACKAGE, OR THE LICENSED PRODUCT, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. EACH PARTY'S WARRANTIES UNDER THIS AGREEMENT ARE SOLELY FOR THE BENEFIT OF THE OTHER PARTY AND MAY BE ASSERTED ONLY BY THE OTHER PARTY AND NOT BY ANY AFFILIATE, SUBLICENSEE OR ANY CUSTOMER OF THE OTHER PARTY, ITS AFFILIATES OR SUBLICENSEES. EACH PARTY, ITS AFFILIATES AND SUBLICENSEES SHALL BE SOLELY RESPONSIBLE FOR ALL REPRESENTATIONS AND WARRANTIES THAT IT, ITS AFFILIATES OR SUBLICENSEES MAKE TO ANY CUSTOMER OF SUCH PARTY, ITS AFFILIATES OR SUBLICENSEES.

10. INDEMNIFICATION.

(a) By CyDex. CyDex shall defend, indemnify and hold Company and its Affiliates and Sublicensees, and each of their respective directors, officers and employees, harmless from and against any and all losses, damages, liabilities, costs and expenses (including the reasonable costs and expenses of attorneys and other professionals) (collectively "**Losses**") incurred by Company as a result of any claim, demand, action or other proceeding (each, a "**Claim**") by a third party, to the extent such Losses arise out of (i) CyDex's breach of this Agreement, including without limitation any of its representations and warranties set forth herein; (ii) the research, development, manufacture, use, handling, promotion, marketing, distribution, importation, sale or offering for sale of Captisol by CyDex, its Affiliates, distributors or agents (for clarity, such terms shall not include Company in any event); or (iii) interactions and communications by CyDex, its Affiliates, distributors or agents (for clarity, such terms shall not include Company in any event) with governmental authorities, physicians or other third parties relating to Captisol, including the Captisol Data Package.

(b) By Company. Company shall defend, indemnify and hold CyDex and its Affiliates, and each of their respective directors, officers and employees, harmless from and against any and all Losses incurred by CyDex as a result of any Claim by a third party, to the extent such Losses arise out of: (i) Company's breach of this Agreement, including without limitation any of its representations herein; (ii) the research, development, manufacture, use, handling, promotion, marketing, distribution, importation, sale or offering for sale of Licensed Products by Company, its Affiliates, Sublicensees, distributors, agents or other parties (for clarity, such terms shall not include CyDex in any event); or (iii) interactions and communications with governmental authorities, physicians or other third parties relating to Licensed Products.

(c) Expenses. As the parties intend complete indemnification, all costs and expenses of enforcing any provision of this **Section 10** shall also be reimbursed by the Indemnitor.

(d) Procedure. The party intending to claim indemnification under this **Section 10** (an "**Indemnitee**") shall promptly notify the other party (the "**Indemnitor**") of any Claim in respect of which the Indemnitee intends to claim such indemnification, and the Indemnitor shall assume the defense thereof whether or not such Claim is rightfully brought; *provided, however,* that an Indemnitee shall have the right to retain its own counsel, with the fees and expenses to be paid by the Indemnitee, unless Indemnitor does not assume the defense, in which case the reasonable fees and expenses of counsel retained by the Indemnitee shall be paid by the Indemnitor. The Indemnitee, and its employees and agents, shall cooperate fully with the Indemnitor and its legal representatives in the investigations of any Claim. The Indemnitor shall not be liable for the indemnification of any Claim settled or compromised by the Indemnitee without the written consent of the Indemnitor.

11. LIMITATION OF LIABILITY.

EXCEPT FOR DAMAGES FOR WHICH A PARTY IS RESPONSIBLE PURSUANT TO ITS INDEMNIFICATION OBLIGATIONS SET FORTH IN **SECTION 10** ABOVE, EACH PARTY SPECIFICALLY DISCLAIMS ALL LIABILITY FOR AND SHALL IN NO EVENT BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EXPENSES, LOST PROFITS, LOST SAVINGS, INTERRUPTIONS OF BUSINESS OR OTHER DAMAGES OF ANY KIND OR CHARACTER WHATSOEVER ARISING OUT OF OR RELATED TO THIS AGREEMENT OR RESULTING FROM THE MANUFACTURE, HANDLING, MARKETING, SALE, DISTRIBUTION OR USE OF LICENSED PRODUCT OR USE OF THE LICENSED PATENTS AND CAPTISOL DATA PACKAGE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY SHALL HAVE NO REMEDY, AND EACH PARTY SHALL HAVE NO LIABILITY, OTHER THAN AS EXPRESSLY SET FORTH IN THIS AGREEMENT. **[***]**.

12. MANAGEMENT OF INTELLECTUAL PROPERTY.

(a) Ownership.

(1) Existing Rights. Each party shall maintain its ownership and other rights with respect to intellectual property owned or controlled by such party prior to the Effective Date.

(2) New Rights. Discoveries, inventions, improvements and other technology, whether or not patentable, arising from the use of Captisol and/or any formulations containing Captisol shall be:

[***]

[***]

[***]

Inventorship shall be determined in accordance with US patent law. For clarity, rights **[***]**.

(b) Prosecution and Maintenance.

(1) Existing Rights (Licensed Patents). During the Term CyDex shall maintain, [***].

(2) New Rights. The parties shall cooperate to take whatever, if any, action they mutually agree upon in writing and in their respective discretion to prosecute patent applications and maintain patents covering rights which are jointly owned in accordance with **Section 12.1(b)(iii)**. Such agreement shall include actions to be taken by each party and the allocation of expenses related to such action. Neither party shall seek patent protection covering such rights without such agreement.

(c) Infringement by Third Parties.

(1) Existing Rights (Licensed Patents). If Company becomes aware that a third party may be infringing a Licensed Patent, it will promptly notify CyDex in writing, providing all information available to Company regarding the potential infringement. CyDex shall take whatever, if any, action it deems appropriate, in its sole discretion, against the alleged infringer. **[***]**.

(2) New Rights. The parties shall cooperate to take whatever, if any, action they mutually agree upon in writing and in their respective discretion against the alleged infringer of rights which are jointly owned in accordance with **Section 12.1(b)(iii)**. Such agreement shall include actions to be taken by each party and the allocation of expenses and recoveries related to such action. Neither party shall take any such action against the alleged infringer without the written consent of the other party.

13. TERM AND TERMINATION.

(a) Term. The term of this Agreement (the "**Term**") shall commence on the Effective Date and shall continue in effect thereafter until the later of (i) expiration of Company's obligation to pay royalties under **Section 4.1(c)**, or (ii) the expiration of the last-to-expire of the Licensed Patents in the Territory, unless terminated earlier as set forth herein.

(b) Termination by Company. Company may terminate this Agreement upon sixty (60) days prior express written notice to CyDex. If the Agreement is terminated by Company, within thirty (30) days after such termination, Company shall pay to CyDex all payments owing at the date of termination.

(c) Termination for Breach. If either party should violate or fail to perform any term or covenant of this Agreement, then the other party may give written notice of such default (a "**Notice of Default**") to such party. If such party should fail to cure such default within sixty (60) days (or thirty (30) days with respect to any payment obligation) of the date of such notice or prior to the natural expiration date of this Agreement, whichever is shorter in duration, the other party shall have the right to terminate this Agreement by a second written notice (a "**Notice of Termination**") to such party. If Notice of Termination is sent to such party, this Agreement shall automatically terminate on the effective date of such notice.

(d) Termination for Bankruptcy. Either party may terminate this Agreement immediately upon written notice to the other party in the event that the other party makes an assignment for the benefit of creditors or has a petition in bankruptcy filed for or against it that is not dismissed within ninety (90) days of such filing.

(e) Effect of Termination. Following the termination by Company under Section 13.2 or by CyDex for Lilly's breach under Section 13.3 and Lilly fails to cure such default within the applicable cure period under Section 13.3, of this Agreement, all rights granted to Company herein shall immediately terminate and each party shall promptly return all relevant records and materials in its possession or control containing the other party's Confidential Information with respect to which the former party does not retain rights hereunder; *provided, however,* that each party may retain one archival copy of such records and materials solely to be able to monitor its obligations that survive under this Agreement. In the event of a material breach by CyDex, and CyDex fails to cure such default within the applicable cure period under Section 13.3, Lilly may elect to either (i) terminate this Agreement, or (ii) without limiting any other legal or equitable remedies that Lilly may have, continue this Agreement in full force and effect, but with the milestones and royalties otherwise due hereunder to be reduced by an amount to be mutually agreed upon by the Parties.

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

(f) Survival. Notwithstanding any other provisions of this Agreement, any liability or obligation of either party to the other for acts or omissions prior to the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement. Such termination or expiration shall not relieve either party from obligations that are expressly indicated to survive termination or expiration of this Agreement, nor shall any termination or expiration of this Agreement relieve Company of its obligation to pay CyDex (i) royalties for all Licensed Product sold by Company, its Affiliates or Sublicensees prior to the effective date of such expiration or termination, or (ii) sums due in respect of Captisol shipped prior to termination or expiration of this Agreement. Sections 2.2 (Grant of License from Company to CyDex), 4.1 (Payments and Royalties for Licenses), 4.3 (Currency), 4.2 (Taxes), 4.3 (Late Payments), 5 (Records; Reports; Audits), 6.3(f) (Reporting and Study Data), 6.5 (Access to Company's Data), 7.3 (Adverse Event Reporting), 8 (Confidentiality), 9.3 (Disclaimer), 10 (Indemnification), 11 (Limitation of Liability), 12 (Management of Intellectual Property), 13.5 (Effect of Termination), 13.6 (Survival), and 14 (General Provisions) shall survive termination or expiration of this Agreement.

14. GENERAL PROVISIONS.

(a) Relationship of Parties. Each of the parties hereto is an independent contractor and nothing in this Agreement is intended or shall be deemed to constitute a partnership, agency, employer-employee or joint venture relationship between the parties. No party shall incur any debts or make any commitments for the other.

(b) Compliance with Law. Company agrees that use of the Licensed Patents, Captisol and Captisol Data Package by it and its Affiliates and Sublicensees, and the manufacture, handling, marketing, sale, distribution and use of Licensed Product, will comply with all applicable international, federal, state and local laws, rules and regulations, including, but not limited to, import/export restrictions, laws, rules and regulations governing use and patent, copyright and trade secret protection. CyDex agrees that its manufacture, handling, marketing, sale, distribution and use of Captisol hereunder will comply with all applicable international, federal, state and local laws, rules and regulations, including, but not limited to, import/export restrictions, laws, rules and regulations governing use and patent, copyright and trade secret protection.

(c) Arbitration.

(1) Procedure. Any and all disputes or controversies arising out of or relating to this Agreement shall be exclusively and finally resolved by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association then in effect, in Chicago, Illinois. The arbitration shall be conducted by an arbitrator reasonably knowledgeable about the pharmaceutical industry and acceptable to CyDex and Company. If CyDex and Company cannot agree on a single arbitrator within **[***]** after a demand for arbitration has been made, CyDex shall appoint an arbitrator, Company shall appoint an arbitrator, the **[***]** arbitrators shall appoint a **[***]** arbitrator, and the **[***]** arbitrators shall hear and decide the issue in controversy. If either party fails to appoint an arbitrator within **[***]** after service of the demand for arbitration, then the arbitrator appointed by the other party shall arbitrate any controversy in accordance with this **Section 14.3(a)**. Except as to the selection of arbitrators, the arbitration proceedings shall be conducted promptly and in accordance with the rules of the American Arbitration Association then in effect. The expenses of any arbitration, including the reasonable attorney fees of the prevailing party, shall be borne by the party deemed to be at fault or on a pro-rata basis should the arbitration conclude in a finding of mutual fault.

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(2) Confidentiality of Proceedings. All arbitration proceedings hereunder shall be confidential and the arbitrator(s) shall issue appropriate protective orders to safeguard each party's Confidential Information. Except as required by law, no party shall make (or instruct the arbitrator(s) to make) any public announcement with respect to the proceedings or decision of the arbitrator(s) without prior written consent of the other party.

(3) Interim Equitable Relief. Each party shall, in addition to all other remedies accorded by law and permitted by this Agreement, be entitled to equitable relief (including but not limited to interim injunctive relief) in any court having jurisdiction to protect its interests. Neither party shall commence any court proceeding or action against the other to resolve any dispute, except (i) to enforce an arbitral award rendered pursuant to this **Section 14.3**, or (ii) for such interim injunctive relief.

(4) Binding Effect. The provisions of this **Section 14.3** shall survive any expiration or termination of this Agreement, and shall be severable and binding on the parties hereto, notwithstanding that any other provision of this Agreement may be held or declared to be invalid, illegal or unenforceable.

(d) Costs and Expenses. Except as otherwise expressly provided in this Agreement, each party shall bear all costs and expenses associated with the performance of such party's obligations under this Agreement.

(e) Force Majeure. Neither party shall be liable for failure to perform, or delay in the performance of, its obligations under this Agreement (other than payment obligations) when such failure or delay is caused by an event of *force majeure*. For purposes of this Agreement, an event of *force majeure* means any event or circumstance beyond the reasonable control of the affected party, including but not limited to, war, insurrection, riot, fire, flood or other unusual weather condition, explosion, act of God, peril of the sea, strike, lockout or other industrial disturbance, sabotage, accident, embargo, breakage of machinery or apparatus, injunction, act of governmental authority, compliance with governmental order on national defense requirements, or inability to obtain fuel, power, raw materials, labor or transportation facilities. If, due to any event of *force majeure*, either party shall be unable to fulfill its obligations under this Agreement (other than payment obligations), the affected party shall immediately notify the other party of such inability and of the period during which such inability is expected to continue.

(f) Notices. Any notice, request, or communication under this Agreement shall be effective only if it is in writing and personally delivered; sent by certified mail, postage pre-paid; or by nationally recognized overnight courier with signature required, addressed to the parties at the addresses stated below or such other persons and/or addresses as shall be furnished in writing by any party in accordance with this **Section 14.6**. Unless otherwise provided, all notices shall be sent:

If to CyDex, to:

CyDex Pharmaceuticals, Inc.
c/o Ligand Pharmaceuticals Inc.
11085 North Torrey Pines Road, Suite 300
La Jolla, CA 92037 USA
Attention: President

If to Company, to:

Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285 USA
Attention: General Counsel

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

With a copy to:

Ligand Pharmaceuticals Incorporated
11085 North Torrey Pines Road, Suite 300
La Jolla, CA 92037 USA
Attention: General Counsel

If sent by overnight courier, the **[***]** after the date of deposit with such courier shall be deemed to be the date on which such notice, request or communication was given. If sent by certified mail, the **[***]** after the date of mailing shall be deemed the date on which such notice, request or communication was given.

(g) Use of Name. Neither party shall have any right, express or implied, to use in any manner the name or other designation of the other party or any other trade name or trademark of the other party for any purpose, except as may be required by applicable law or regulation or with the written approval of the other party, such approval not to be unreasonably withheld.

(h) Public Announcements. No party shall use the name, trademark, trade name or logo of the other party, its Affiliates or their respective employee(s) in any publicity, promotion, news release or public disclosure relating to this Agreement or its subject matter, without the prior express written permission of the other party, such permission not to be unreasonably withheld, except as may be required by law or as permitted by **Section 14.7**. The parties agree that a party may disclose this Agreement and its terms, and material developments or material information generated under this Agreement, in (i) securities filings with the Securities Exchange Commission ("**SEC**") (or equivalent foreign agency), or taxing authorities, to the extent required by law after complying with the procedure set forth in this **Section 14.8**, or (ii) under conditions of confidentiality in connection with investment and similar corporate transactions. In the event of a required public announcement, the party making such announcement shall provide the other party with a copy of the proposed text prior to such announcement sufficiently in advance of the scheduled release of such announcement to afford such other party a reasonable opportunity to review and comment upon the proposed text and the timing of such disclosure.

(i) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware (without giving effect to any conflicts of law principles that require the application of the law of a different state).

(j) Entire Agreement; Amendment. This Agreement and all Exhibits attached hereto or thereto contain the entire agreement of the parties relating to the subject matter hereof and supersede any and all prior agreements, written or oral, between CyDex and Company relating to the subject matter of this Agreement. This Agreement may not be amended unless agreed to in writing by both parties.

(k) Binding Effect. This Agreement shall be binding upon, and the rights and obligations hereof shall apply to the CyDex and Company and any successor(s) and permitted assigns. The name of a party appearing herein shall be deemed to include the names of such party's successors and permitted assigns to the extent necessary to carry out the intent of this Agreement.

(l) Waiver. The rights of either party under this Agreement may be exercised from time to time, singularly or in combination, and the exercise of one or more such rights shall not be deemed to be a waiver of any one or more of the others. No waiver of any breach of a term, provision or condition of this Agreement shall be deemed to have been made by either party unless such waiver is addressed in writing and signed by an authorized representative of that party. The failure of either party to insist upon the strict performance of any of the terms, provisions or conditions of this Agreement, or to exercise any option contained in this Agreement, shall not be construed as a waiver or relinquishment for the future of any such term, provision, condition or option or the waiver or relinquishment of any other term, provision, condition or option.

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(m) Severability. If a final judicial determination is made that any provision of this Agreement is unenforceable, this Agreement shall be rendered void only to the extent that such judicial determination finds such provisions unenforceable, and such unenforceable provisions shall be automatically reconstituted and become a part of this Agreement, effective as of the date first written above, to the maximum extent they are lawfully enforceable.

(n) Assignment. Neither party may assign its rights or delegate its obligations under this Agreement, in whole or in part, by operation of law or otherwise, to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, either party may assign its rights and delegate its obligations under this Agreement to an Affiliate or to a third party successor, whether by way of merger, sale of all or substantially all of its assets, sale of stock or otherwise, without prior written consent. As a condition to any permitted assignment hereunder, the assignor must guarantee the performance of any assignee to the terms and obligations of this Agreement. Any assignment not in accordance with this **Section 14.14** shall be void.

14.16 Third Party Beneficiaries. Except for the rights of Indemnitees pursuant to **Section 10** hereof, and subject to **[***]** rights under **Section 8.5** hereof, the terms and provisions of this Agreement are intended solely for the benefit of each party hereto and their respective successors or permitted assigns and it is not the intention of the parties to confer third-party beneficiary rights upon any other person, including without limitation Sublicensees. The enforcement of any obligation of CyDex under this Agreement shall only be pursued by Company or such Indemnitees, and not Sublicensees.

14.17 Headings. The descriptive headings of this Agreement are for convenience only, and shall be of no force or effect in construing or interpreting any of the provisions of this Agreement.

14.18 Counterparts. This Agreement may be executed in two counterparts, each of which shall constitute an original document, but both of which shall constitute one and the same instrument.

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*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CYDEX PHARMACEUTICALS, INC.

By: /s/ Charles Berkman
Name: Charles Berkman
Title: VP and Secretary

ELI LILLY & CO.

By: /s/ Newton F. Crenshaw
Name: Newton Crenshaw
Title: V.P. Oncology Business Unit

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EXHIBIT A

LICENSED CAPTISOL PATENTS

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*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

EXHIBIT B

FORM OF CYDEX APPROVAL FOR LICENSED PRODUCT

[***]

[***]

[***] _____

[***] _____

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EXHIBIT C

APPROVED LICENSE PRODUCTS AS OF THE EFFECTIVE DATE

[***]	
[***]	
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
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[***]

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[***]

[***]

[***]

[***]

[***] [***] [***] [***]

[***]

[***]

[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
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[***] [***]

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CERTAIN MATERIAL (INDICATED BY AN ASTERISK) HAS BEEN OMITTED FROM THIS DOCUMENT PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT. THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

LICENSE AND SUPPLY AGREEMENT

THIS LICENSE AND SUPPLY AGREEMENT (this "**Agreement**") is made this 22nd day of December, 2011 (the "**Effective Date**") between:

CYDEX PHARMACEUTICALS, INC., (a wholly-owned subsidiary of Ligand Pharmaceuticals Incorporated) a Delaware corporation with offices at 10513 W. 84th Terrace, Lenexa, Kansas 66214 ("**CyDex**"); and

HOSPIRA, INC., a Delaware corporation with offices at 275 N. Field Drive, Lake Forest, Illinois 60045 ("**Hospira**").

RECITALS

WHEREAS, CyDex is engaged in the business of developing and commercializing novel drug delivery technologies designed to enhance the solubility and effectiveness of existing and development-stage injectable pharmaceutical drugs;

WHEREAS, CyDex is the supplier of Captisol®, a patented drug formulation system designed to enhance the solubility and stability of drugs;

WHEREAS, Hospira is, among other things, currently engaged in or intends to engage in the business of manufacturing and selling certain finished drug products of which said Captisol is a component;

WHEREAS, Hospira desires to obtain a license to use Captisol together with the Compound (defined below) for the development and commercialization of the Finished Product (defined below) and CyDex is willing to grant such license to Hospira under the terms and conditions set forth herein; and

WHEREAS, CyDex desires to sell Captisol to Hospira or its Contract Manufacturers (defined below), and Hospira desires to obtain supplies of Captisol from CyDex, for use in development of and in the Finished Product under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the following mutual promises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties, intending to be legally bound, agree as follows:

1. DEFINITIONS.

For the purposes of this Agreement, the following terms whether used in singular or plural form shall have the meanings as defined below:

"**Affiliate**" means, with respect to any party, any entity controlling, controlled by, or under common control with such party, during and for such time as such control exists. For these purposes, "control" shall refer to the ownership, directly or indirectly, of at least **[***]**% of the voting securities or other ownership interest of the relevant entity.

"Act" shall mean the U.S. Food, Drug & Cosmetic Act and the regulations promulgated thereunder.

"**ADR**" has the meaning specified in **Exhibit F**.

"**Authorization Letter**" has the meaning specified in **Section 6.13**.

"**Bankruptcy Code**" means title 11 of the United States Code.

"Business Day" shall mean any day of the week which is not a Saturday, Sunday or legal holiday observed by the federal government of the United States.

"**Captisol**" means Captisol, also known scientifically as **[***]**.

"**Captisol Data Package**" means (a) the DMF/CEP for Captisol, (b) all toxicology/safety and other relevant scientific safety data owned, licensed to or developed by CyDex and/or its Affiliates; and (c) all toxicology/safety and other relevant scientific safety data owned, licensed to or developed by the licensees or sublicensees of CyDex and/or its Affiliates and/or other third parties (to the extent permitted in the applicable license or other agreements between CyDex and/or its Affiliates and such licensees, sublicensees or other third parties), in each case on Captisol alone (and not in conjunction with a product formulation).

[***]

"Certificate of Analysis" shall mean a document which is signed and dated by a duly authorised representative of CyDex certifying that the Captisol conforms with the Specifications.

"**Claim**" has the meaning specified in **Section 9.1**.

"**Clinical Grade Captisol**" means **[***]**

"**Commercial Grade Captisol**" means **[***]**

"**Competing Product**" shall mean any pharmaceutical product containing the Compound **[***]**.

"**Compound**" means that certain compound known as **[***]**.

"**Confidential Information**" has the meaning specified in **Section 7.1**.

"**Contract Manufacturer**" has the meaning specified in **Section 2.3**.

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

"Control" shall mean, with respect to any Intellectual Property, possession by a party or its Affiliates of the right, whether directly or indirectly, and whether by ownership, license or otherwise, to assign, grant the right to use, or grant a license, sublicense or other right to or under, such right as provided for herein without violating the terms of any agreement or other arrangement with any Third Party.

"Cover" (including variations thereof such as "Covered") means that the manufacture, use, importation or sale of the product to which such term is being applied would infringe a Valid Claim of a patent in the absence of a grant of rights under such patent. The determination of whether an item or process is Covered by a Valid Claim shall be made on a country–by-country basis.

"**Cover Costs**" has the meaning specified in **Section 3.6(b).**

"**CPR**" has the meaning specified in **Exhibit F**.

"**Customer Supply Agreements**" has the meaning specified in **Section 3.6(b).**

"**CyDex Intellectual Property**" shall mean all Intellectual Property which pertains to Captisol and/or the Finished Product which now or at any time during the Term is Controlled by CyDex or any of its Affiliates including, without limitation, the Licensed Patents, the Captisol Data Package, all Captisol Improvements and all of CyDex's and any of its Affiliates' Know-How.

"**Debarred Entity**" has the meaning specified in **Section 8.6.**

"**Debarred Individual**" has the meaning specified in **Section 8.6**.

"**Disclosing Party**" has the meaning specified in **Section 7.1**.

"DMF/CEP" means the **[***]** relating to Captisol and comprises all information in relation to Captisol which **[***]**.

"Excess Demand" shall mean the quantity of Captisol requested by Hospira in its purchase orders for any particular **[***]** that is in excess of **[***]**% of the latest forecasted amount for such **[***]** provided to CyDex under **Section 3.3**.

"**Exclusivity Period**" means the period beginning on the Effective Date and ending on the later of (i) the fourth anniversary of the Effective Date, or (ii) the First Commercial Sale of the Finished Product; provided, that in the event of any timely extension or extensions purchased under **Section 4.1(b)**, the Exclusivity Period shall end on the last day of the last such extension.

"**FDA**" means the United States Food and Drug Administration, or any successor thereto.

"Finished Product" means the Compound combined with or formulated using Captisol in a dosage form/formulation. **[***]**.

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"First Commercial Sale" shall mean the first sale of the Finished Product (manufactured using the Captisol provided hereunder) in the United States by Hospira or its Affiliates to a Third Party (as evidenced by the invoice date for such a sale) after FDA Regulatory Approval has been obtained. Sales for test marketing, sampling and promotional uses, clinical trial purposes or compassionate or similar use shall not be considered to constitute a First Commerical Sale. A sale to an Affiliate or a Sublicense shall not constitute a First Commerical Sale.

"Good Manufacturing Practices" shall mean current and any future good manufacturing practices and quality system regulations set forth by the FDA or any other national or supra-national Regulatory Authority of **[***]** in which the Finished Product shall be manufactured or sold, plus the current and any future good manufacturing practices and quality system regulations in the country(ies) in which Captisol is manufactured.

"**Indemnified Party**" has the meaning specified in **Section 9.4**.

"**Indemnifying Party**" has the meaning specified in **Section 9.4**.

"Intellectual Property" shall mean all existing and future intellectual property throughout the world, including (but not limited to) Know-How, trade secrets, patent rights, data, reports, Regulatory Approvals, including applications therefor, and any other results of intellectual activity, including the right to apply for registration of such rights.

"Know-How" shall mean all technical information and other technical subject matter, proprietary methods, ideas, concepts, formulations, discoveries, inventions, devices, technology, trade secrets, compositions, designs, formulae, know-how, show-how, specifications, drawings, techniques, results, processes, methods, procedures and/or designs whether or not patentable.

"**Licensed Patents**" means all patents and patent applications in the Territory which pertain to Captisol and which now or at any time during the Term are Controlled by CyDex or any CyDex Affiliate, including any and all extensions, renewals, continuations, substitutions, continuations-in-part, divisions, patents-of-addition, reissues, reexaminations and/or supplementary protection certificates to any such patents. For avoidance of doubt, all intellectual property pertaining to the Finished Product generated by Hospira or its Affiliates or their Sublicensees during the Term of this Agreement shall be solely owned by Hospira and shall not be part of the Licensed Patents. Set forth in ***Exhibit A*** attached hereto is a list of the Licensed Patents as of the Effective Date. CyDex shall supplement ***Exhibit A*** from time to time during the Term.

"**Losses**" has the meaning set forth in **Section 9.1**.

"Major-Market" means the **[***]**.

[***]

"**Non-breaching Party**" has the meaning specified in **Section 11.2**.

"**Notified Party**" has the meaning specified in **Section 11.2**.

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

[***]

[***]

"**Receiving Party**" has the meaning specified in **Section 7.1**.

"Regulatory Approval" means, the technical, medical and scientific licenses, registrations, authorizations and approvals required for the manufacture, use, storage, import, transport, marketing, promotion, selling, and placing on the market of a product (including, without limitation, approvals of ANDAs and SNDAs submitted to the FDA and similar applications filed with other Regulatory Authorities in the Territory, post-approval changes, pricing and Third Party reimbursement approvals, and labeling approvals) by any Regulatory Authority in the Territory. This includes any authorization necessary for the development, manufacture, distribution, marketing, promotion, offer for sale, use, import, export or sale of a product within the Territory.

"Regulatory Filing" shall mean any filing made with a Regulatory Authority to obtain a Regulatory Approval.

"Regulatory Authorities" shall mean the FDA and its successors and any other governmental agencies in the Territory which are responsible for granting manufacturing, marketing, price and/or reimbursement price authorizations and includes applicable national, supra-national (e.g., the European Commission or the Council of the European Union), state or local regulating groups, departments, bureau commissions, councils or other governmental entities in the Territory that have jurisdiction over Captisol or the Finished Product, whether relating to the development, manufacture, handling, storage transportation, destruction otherwise.

"Renewal Term" has the meaning specified in **Section 11.1**.

"**Required Changes**" has the meaning specified in **Section 3.10(b)**.

"**Specifications**" means the specifications for Captisol set forth in ***Exhibit B*** hereto, as such may be amended from time to time in accordance with the terms of this Agreement.

"**Sublicensees**" has the meaning specified in **Section 2.2**.

[***]

"**Term**" has the meaning specified in **Section 11.1**.

"**Territory**" means the entire world (but subject to **Section 2.6** hereof).

"**Third Party**" means any person or entity or authority other than CyDex or Hospira or an Affiliate of either of them.

"**Third Party Rights**" has the meaning specified in **Section 3.6**.

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"**Transfer License**" has the meaning specified in **Section 3.6**.

"**Valid Claim**" means (a) any claim of an issued and unexpired Licensed Patent that (i) has not been held permanently revoked, unenforceable or invalid by a decision of a court or governmental agency of competent jurisdiction, which decision is unappealable or unappealed within the time allowed for appeal, and (ii) has not been abandoned, disclaimed, denied or admitted to be invalid or unenforceable through reissue or disclaimer or otherwise; or (b) any claim of a pending Licensed Patent that was filed and is being prosecuted in good faith and has not been abandoned or finally disallowed without the possibility of appeal or re-filing of the application.

2. GRANT OF RIGHTS.

2.1 License Grants from CyDex to Hospira.

(a) Licensed Patents. Subject to the terms and conditions of this Agreement, CyDex hereby grants to Hospira a world-wide, nontransferable (except with respect to the assignment provision in **Section 12.13**), sublicensable, **[***]** during the Term under the Licensed Patents, solely to **[***]** the Finished Product in the Territory. For the duration of the Exclusivity Period, such license shall be exclusive even as to CyDex and its Affiliates; after the expiration of the Exclusivity Period, such license shall be non-exclusive. Notwithstanding the foregoing, to the extent that any Licensed Patents are licensed to CyDex or its Affiliates by a Third Party on a non-exclusive basis, Hospira acknowledges that the license granted to Hospira in this **Section 2.1(a)** to any such Licensed Patents shall during the Exclusivity Period be exclusive as to CyDex and its Affiliates and non-exclusive as to any Third Party licensee who obtained a license to any such Licensed Patents other than from CyDex or any of its Affiliates or any of their sublicensees. Hospira may not sublicense the Licensed Patents, except as expressly set forth in **Section 2.2** and **Section 2.3** below.

(b) Other Intellectual Property License. Subject to the terms and conditions of this Agreement, CyDex hereby grants to Hospira a world-wide, nontransferable (except with respect to the assignment provision in **Section 12.13**), sublicensable, **[***]** during the Term to all other CyDex Intellectual Property, including, without limitation, to CyDex's rights in and to the Captisol Data Package, solely to **[***]** the Finished Product in the Territory. For the duration of the Exclusivity Period, such license shall be exclusive even as to CyDex and its Affiliates; after the expiration of the Exclusivity Period, such license shall be non-exclusive. Notwithstanding the foregoing, to the extent that any contents of the Captisol Data Package are licensed to CyDex or its Affiliates by a Third Party on a non-exclusive basis, the license granted to Hospira in this **Section 2.1(b)** to any such contents of the Captisol Data Package shall during the Exclusivity Period be exclusive as to CyDex and its Affiliates and non-exclusive as to any Third Party licensee who obtained a license to any such contents of the Captisol Data Package other than from CyDex or any of its Affiliates or any of their sublicensees. Hospira may not sublicense its rights to the Captisol Data Package, except as expressly set forth in **Section 2.2** and **Section 2.3** below.

(c) Scope of Licenses. CyDex grants no licenses or rights to use other than as expressly set forth herein. Hospira agrees not to use Captisol supplied hereunder other than as expressly set forth herein. Unless otherwise expressly provided in this Agreement, CyDex grants no rights to Hospira to manufacture, import, sell or offer for sale bulk Captisol.

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(d) Bankruptcy Code. All rights and licenses granted under or pursuant to this Agreement by CyDex to Hospira are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101 of the Bankruptcy Code. The parties agree that Hospira, as a licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the Bankruptcy Code.

(e) Disclosure of and Compliance with Licenses. ***Exhibit C*** sets forth a list of all licenses under which, pursuant to **Section 2.1**, Hospira is granted a sub-license by CyDex and/or its Affiliates. If CyDex or any of its Affiliates enters into any future license agreements under which, pursuant to **Section 2.1**, Hospira is granted a sub-license by CyDex and/or its Affiliates, CyDex will promptly disclose such license agreements to Hospira. CyDex shall comply and shall cause its Affiliates to comply with the provisions of all such licenses, including without limitation all such licensing provisions of the **[***]**.

(f) [***].

2.2 Sublicensing. Hospira shall have the right to grant sublicenses to any Third Party (collectively "**Sublicensees**") under the licenses granted to Hospira pursuant to **Section 2.1**; **[***]**

2.3 Contracting. Hospira and any of its Affiliates may manufacture the Finished Product (but, except as otherwise expressly provided in this Agreement, not the bulk Captisol if the manufacture of bulk Captisol would be Covered by a Licensed Patent for which there is a Valid Claim or if such manufacture would require a license to CyDex Intellectual Property) or contract the manufacture of the Finished Product (but, except as otherwise expressly provided in this Agreement, not the manufacture of bulk Captisol if the manufacture of bulk Captisol would be Covered by a Licensed Patent for which there is a Valid Claim or if such manufacture would require a license to CyDex Intellectual Property) with any Third Party manufacturers selected by Hospira (each a "**Contract Manufacturer**"). To the extent necessary to engage a Contract Manufacturer for the Finished Product, Hospira shall be permitted under this Agreement to grant any such Contract Manufacturer a sublicense under the licenses granted to Hospira pursuant to **Section 2.1;** provided that Hospira shall comply with the requirements of **Section 2.2**. For the sake of clarity, Hospira, its Affiliates and any of their Contract Manufacturers may at all times manufacture [***] provided that the manufacture of such [***] is not Covered by a Licensed Patent for which there is a Valid Claim and such manufacture would not require a license to CyDex Intellectual Property.

2.4 Negative Covenants by CyDex.

(a) During the Exclusivity Period, neither CyDex nor any of its Affiliates shall directly themselves, or grant any Third Party any right or license to any of the CyDex Intellectual Property to research, develop, modify, make, have made, import, export, use, promote, market, distribute, package, offer for sale, sell, or otherwise commercially exploit the Finished Product or any Competing Product.

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(b) During the Exclusivity Period, neither CyDex nor any of its Affiliates shall themselves nor provide any Third Party any assistance whatsoever to **[***]**.

(c) During the Exclusivity Period, neither CyDex nor any of its Affiliates shall supply Captisol to any Third Party other than a Hospira designee to utilize Captisol to **[***]** the Finished Product or any Competing Product. If during the Exclusivity Period any such Third Party, or any other Third Party that acquires any Captisol, commences to **[***]** the Finished Product or any Competing Product, CyDex must immediately cease and cause its Affiliates and any other Third Parties to immediately cease supplying Captisol to the offending Third Party for the duration of the Exclusivity Period or until (if sooner) assurances reasonably satisfactory to Hospira that the infringing use has ended and will not resume have been obtained.

2.5 [***].

2.6 Negative Covenants by Hospira.

(a) Notwithstanding anything to the contrary in this Agreement, Hospira agrees not to **[***]** any Finished Product or Captisol in **[***]**.

(b) Hospira covenants and agrees that it and its Affiliates, Sublicensees and Contract Manufacturers shall not re-sell any Captisol purchased pursuant to this Agreement (except as incorporated into the Finished Product), and shall not use any Captisol purchased pursuant to this Agreement except in connection with the Finished Product.

(c) Notwithstanding anything to the contrary herein, Hospira shall only have a license or right to use or reference CyDex's DMF/CEP in conjunction with Captisol supplied by CyDex or manufactured by Hospira or any Hospira designee pursuant to **Section 3.6**.

3. MANUFACTURE AND SUPPLY OF CAPTISOL.

3.1 Supply.

(a) Subject to the terms and conditions of this Agreement, CyDex agrees to supply to Hospira those quantities of Captisol ordered by Hospira in accordance with **Section 3.2** of this Agreement. So long as CyDex is able to deliver Captisol in accordance with the terms of this Agreement, except as provided in **Section 3.11 (c)** below, Hospira agrees that Hospira and its Affiliates shall during the Term order from CyDex no less than 90% of Hospira and its Affiliates aggregate requirements for Captisol for use in the formulation of Finished Product to be sold in the Major-Market countries.

(b) The parties hereby agree that **[***]** is CyDex's Third-Party manufacturer of Captisol as of the Effective Date of this Agreement.

3.2 Purchase Orders. Hospira shall periodically submit firm purchase orders for Captisol to CyDex, which purchase orders shall set forth the specific quantities needed, the grade of Captisol required, delivery date and shipping instructions. Such purchase orders shall be submitted to CyDex at least **[***]** but not more than **[***]** prior to the required delivery date specified therein. If any purchase order or other document submitted by Hospira hereunder or any other document passing between the parties contains terms or conditions in addition to or

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inconsistent with the terms of this Agreement, the terms of this Agreement shall control and prevail and the parties hereby agree that such additional or inconsistent terms shall simply be ignored and deemed not to exist, unless they are expressly identified as being additional to or inconsistent with this **Section 3.2** and are signed by officers of both parties.

3.3 Forecasts and Excess Demand. No later than the First Commercial Sale date, Hospira shall provide to CyDex a **[***]** forecast of its requirements for Captisol, with the first **[***]** of such forecast constituting a binding commitment upon Hospira to purchase such quantities under firm purchase orders submitted for the respective applicable **[***]** in accordance with **Section 3.2**. The balance of the forecast shall merely represent reasonable good-faith estimates for planning purposes only and shall not obligate Hospira to purchase any such amounts. On a **[***]** basis, Hospira shall update the forecast. If Hospira fails to provide any updated forecast in accordance with this **Section 3.3**, the forecast last provided by Hospira shall be deemed to be resubmitted as Hospira's binding forecast for the next succeeding **[***]** period, and with the same quantity and timing as had been forecasted (or deemed to be forecasted) for the **[***]** of the prior forecast being repeated as the forecasted quantity and timing for the forecast's **[***]**. CyDex shall notify Hospira as soon as possible, but in any event within **[***]** of the receipt of any forecast, if CyDex will be unable to deliver Captisol in accordance with such forecast. CyDex's providing of such notification shall not be interpreted in any manner as relieving CyDex of its obligations under this Agreement, nor shall it prevent Hospira from pursuing any and all rights and remedies Hospira may have based on CyDex's failure to be able to deliver Captisol in accordance with the terms of this Agreement. If any purchase order includes an Excess Demand, then (a) CyDex shall supply the quantity of Captisol which does not constitute an Excess Demand to Hospira in accordance with **Section 3.2**, and (b) CyDex shall use commercially reasonable efforts to supply the Excess Demand quantities of Captisol requested by Hospira in its purchase orders as soon as commercially possible.

3.4 Delivery Terms.

(a) CyDex agrees to deliver Captisol to Hospira's carrier at a continental United States factory or warehouse designated by CyDex, in accordance with the purchase orders submitted by Hospira in accordance with **Section 3.2** (each such delivery to be accompanied by a copy of the purchase order submitted by Hospira that corresponds to such delivery). All Captisol shall be delivered to Hospira using the carrier and in accordance with the delivery schedule specified by Hospira in its purchase orders. Captisol shall be delivered by CyDex to Hospira **[***]**. CyDex will provide the carrier with proper instructions regarding how to transport the Captisol in conditions which will not adversely affect the Captisol, including ensuring that the shipment is temperature monitored and the Captisol is kept at an appropriate temperature throughout shipment.

(b) If CyDex is unable to deliver the Captisol on the date specified by Hospira, CyDex shall notify Hospira as soon as possible, but in any event within **[***]** of receipt of the purchase order. CyDex's providing of such notification shall not be interpreted in any manner as relieving CyDex of its obligations under this Agreement, nor shall it prevent Hospira from pursuing any and all rights and remedies Hospira may have based on CyDex's failure to deliver the Captisol in accordance with the terms of this Agreement.

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(c) With each shipment of Captisol, CyDex shall, if so requested, provide by reference or otherwise all documentation as is reasonably required by any **[***]** from time to time in connection with Hospira's research, development, modification, manufacture, importation, exportation, use, promotion, marketing, distribution, packaging, offering for sale, selling, and otherwise commercially exploitation, as applicable, of Captisol or the Finished Product. If such documentation is not supplied Hospira may reject the Captisol.

3.5 Safety Stock. Within **[***]** of CyDex's receipt of the first purchase order from Hospira, CyDex shall establish and maintain a safety stock of at least **[***]** of Captisol available to Hospira based on Hospira's latest forecast provided under **Section 3.3**. CyDex shall keep Hospira reasonably informed of the level of inventory identified as the safety stock and shall notify Hospira in the event any deliveries to Hospira deplete the current safety stock levels.

3.6 Failure to Supply.

(a) CyDex shall maintain sufficient capacity to manufacture Hospira's projected needs for Captisol during the Term. If CyDex fails to deliver or anticipates that it will be unable to deliver any quantity of Captisol ordered pursuant to the terms of this Agreement for **[***]**, CyDex will promptly notify Hospira. If CyDex fails to deliver any quantity of Captisol for **[***]**, if such notice is received from CyDex, or if upon request by Hospira CyDex fails to provide adequate assurance of its ability to continue to deliver Captisol as required by the terms of this Agreement, then Hospira in its sole discretion and without impairing or limiting any other rights that Hospira may have under this Agreement or under applicable law, including, without limitation, its rights under Sections 2-609 and 2-610 of the Uniform Commercial Code, shall have the right to agree to a revised delivery date or Hospira may: [***] (2) terminate this Agreement [***]; above, CyDex shall assist Hospira, if so requested by Hospira, by **[***]**.

(b) [***].

(c) [***].

(d) Alternate Manufacturers. If CyDex fails to supply to Hospira, or if CyDex will be unable to supply Hospira with **[***]**% or more of the quantity of Captisol properly forecasted and ordered by Hospira in accordance with this Agreement, for a period of **[***]** then CyDex shall immediately provide written notice to Hospira of the **[***]**. In the event of a **[***]** in addition to any other rights and remedies Hospira may have under this Agreement, or in equity, or at law:

(i) [***].

(ii) [***].

3.7 Inspection and Acceptance.

(a) CyDex shall test and inspect each lot of Captisol for compliance with Specifications prior to the release and shipment thereof to Hospira. CyDex will provide a Certificate of Analysis with each shipment of each lot of Captisol signed by the responsible quality official of CyDex. This Certificate of Analysis must include the results (whether

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numerical or otherwise) for each test performed that verifies that the Captisol is in compliance with the Specifications, as well as a statement that the subject lot was manufactured in accordance with the appropriate DMF/CEP. To the extent that any reference standard material is delivered to Hospira along with any shipment of Captisol as a result of Hospira's request for such material pursuant to **Section 3.2** of this Agreement, the Certificate of Analysis shall also include specifications on such material for each criterion listed in ***Exhibit B*** hereto, which specifications shall meet or exceed the Specifications.

(b) Hospira may test and inspect the Captisol after receipt and either accept or reject it. Captisol may be rejected if it does not comply with the Specifications or is otherwise defective. Hospira will be deemed to have accepted the Captisol, except as to latent defects which are not reasonably discoverable, if Hospira fails to give notice of rejection within **[***]** after receipt by Hospira of such Captisol. The written notice of rejection shall be given to CyDex and shall include identification of the lot number and description of the Specification failure or other defect.

(c) Following receipt of written notice of rejection of a particular lot of Captisol, in addition to any other rights or remedies Hospira may have under this Agreement, in equity, or at law, CyDex shall, at Hospira's option, provide a credit, refund or prompt replacement of Captisol to Hospira; provided, however, that if CyDex does not agree with Hospira's claim of noncompliance with Specifications or other defect, then the parties shall designate a mutually acceptable Third Party laboratory to make a determination on such matter from a sample obtained from the batch or other quantity shipped to Hospira. The decision of the Third Party laboratory shall be binding on all parties hereto and all expenses related to such Third Party investigation shall be borne by the party found to have been mistaken. Should such Third Party laboratory confirm Hospira's claim, CyDex shall, at Hospira's request, promptly provide Hospira with a credit, refund or prompt replacement of Captisol to Hospira.

(d) Hospira shall return any rejected Captisol to CyDex at CyDex's expense to an address that CyDex may designate within **[***]** of CyDex receiving written notice of rejection; provided, however, that if CyDex does not agree with Hospira's claim of noncompliance with Specifications or other defect, Hospira shall not be obligated to return the rejected Captisol to CyDex until **[***]** after a final determination is made by a Third Party laboratory that such Captisol does not comply with Specifications or is otherwise defective as provided in subparagraph (c) above. Absent such designation of address, Hospira will ship rejected Captisol to CyDex's facility at **[***]**, or such other address as CyDex may previously have given written notice of to Hospira as being the default address for return of rejected Captisol. All freight, insurance and other costs of such shipment along with any risk of loss shall be borne by CyDex, and shipment will be made from Hospira's designated plant.

(e) Hospira's rights of rejection, return, refund and replacement set forth in this **Section 3.7** shall not apply to any Captisol that is non-conforming due to damage that occurs after delivery of such Captisol to Hospira's carrier at the point of origin that is caused by Hospira, any of its Affiliates' or their respective employees or agents' negligence or willful misconduct, including but not limited to, misuse, neglect, improper storage, transportation or use beyond any dating provided.

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3.8 Quality Agreement. The parties shall on the Effective Date enter into a separate Quality Agreement, in the form attached hereto as ***Exhibit D***. The parties shall comply with the terms of the Quality Agreement, and any breach of the Quality Agreement shall be deemed a breach of this Agreement.

3.9 Quality Assurance. Each lot of Captisol to be supplied to Hospira hereunder shall be subject to a quality assurance inspection by CyDex in accordance with CyDex's then current quality assurance standards and the Quality Agreement, which standards shall be designed to ensure that the Captisol meets the requirements of the Specifications and is manufactured per Good Manufacturing Practices.

3.10 Process Change Provisions and Procedure.

(a) General. To the extent pertaining to Captisol to be delivered pursuant to this Agreement, all modifications, changes, additions or deletions to the (i) Specifications; (ii) changes in the expiration period for Captisol; (iii) composition or source of any raw material for Captisol; (iv) method of producing, processing or testing Captisol; (v) change in subcontractors for producing, processing or testing Captisol; or (vi) site of manufacture for Captisol, which CyDex intends to carry out must be evaluated and documented by CyDex. **[***]**, CyDex shall if so required amend its DMF/CEP through the appropriate notification to the FDA and any other applicable Regulatory Authorities. **[***]**.

(b) Required Changes. Any changes relating to the Specifications or manufacturing processes for Captisol hereunder that are required by any applicable laws or other Regulatory Authority requirements in any Major Market, or by medical concerns related to the toxicity, safety and/or efficacy of Captisol shall hereinafter be referred to as "**Required Changes**". The parties shall cooperate in making such changes promptly.

(c) Costs of Changes. **[***]**.

3.11 Pricing.

(a) The purchase price for the Product shall be as set forth in ***Exhibit E*** and shall be paid in U.S. dollars.

(b) If, at any time during the Term, Hospira has the good faith opportunity to purchase, from an alternative supplier which satisfies Hospira's quality, terms and delivery standards, any amount of **[***]** that Hospira may be required to purchase under this Agreement at a price that is less than the price Hospira is then paying for Captisol under this Agreement, **[***]**.

3.12 Invoicing; Payment. Simultaneously with the shipment of any particular lot of Captisol to Hospira, CyDex shall send an invoice to Hospira covering such Captisol. Hospira shall pay the invoice within **[***]** after receipt of such lot of Captisol.

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4. LICENSE AND EXCLUSIVITY COMPENSATION.

4.1 Payments; Extension of Exclusivity Period.

(a) Upfront License Fee and Prepayment. Hospira shall within **[***]** after the Effective Date (and in any event, before December 30, 2011) pay to CyDex a non-refundable upfront license fee of $500,000, in consideration of the rights granted Hospira under this Agreement. In addition, Hospira shall within **[***]** after the Effective Date (and in any event, before December 30, 2011) pay to CyDex $2,500,000 by wire transfer as a one-time materials purchase prepayment usable only as a cumulative $2,500,000 credit toward future purchases of Captisol hereunder. Such credit shall be applied to the first $2,500,000 of Captisol purchased hereunder, until exhausted. In the event that this Agreement is terminated, then to the extent so provided in **Section 11.4** CyDex shall immediately make a payment to Hospira in the amount of any such remaining prepayment credit.

(b) Extension of Exclusivity Period. To retain the benefits of having the Exclusivity Period remain in force for additional time, Hospira shall have the option to extend one or more times the expiration date of the Exclusivity Period. Not more than **[***]** before and not less than **[***]** before the Exclusivity Period would otherwise expire (taking into account any previous proper extension or extensions of the Exclusivity Period pursuant to this **Section 4.1(b)**), CyDex shall deliver to Hospira written notice that the Exclusivity Period is set to expire. Hospira may, in its sole discretion, extend the Exclusivity Period by making a non-refundable payment, by wire transfer, of $**[***]** to CyDex within **[***]** after the receipt of CyDex's notice. Each such extension shall extend the erstwhile expiration date of the Exclusivity Period for **[***]** beyond when it would otherwise have expired. For avoidance of doubt: (i) such option to extend can be exercised in compliance with this **Section 4.1(b)** multiple times, but no extension can extend the Exclusivity Period beyond the end of the Term, (ii) if CyDex does not provide notice to Hospira at least **[***]** before the end of the then current term of the Exclusivity Period, the Exclusivity Period will automatically extend for **[***]** after Hospira's receipt of any such notice and Hospira shall have the right to further extend the Exclusivity Period as set forth above by making the required payment within **[***]** after receipt of CyDex's notice, and (iii) the Exclusivity Period cannot be resuscitated after it has expired or terminated.

(c) [***].

	[***]	[***]
(i)	[***]	$[***]
(ii)	[***]	$[***]

(d) Rationale of Payment Structure. **[***]**.

4.2 Currency. All amounts due hereunder are stated in, and shall be paid in, U.S. dollars. Net Sales based on foreign revenue will be converted to U.S. dollars at the mean average rate of exchange published in **[***]**.

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4.3 Taxes. All amounts due hereunder exclude all applicable sales, use, and other taxes and duties, and Hospira will be responsible for payment of all such taxes (other than taxes based on CyDex's income), arising from the payment of amounts due under this Agreement. The parties agree to cooperate with one another and use reasonable efforts to avoid or reduce tax withholding or similar obligations in respect of payments made by Hospira to CyDex under this Agreement. To the extent Hospira is required to deduct and withhold taxes on any payment to CyDex, Hospira shall pay the amounts of such taxes to the proper governmental authority in a timely manner and promptly transmit to CyDex official receipts issued by the appropriate taxing authority and/or an official tax certificate, or such other evidence as CyDex may reasonably request, to establish that such taxes have been paid. CyDex shall provide Hospira any tax forms that may be reasonably necessary in order for Hospira to not withhold tax or to withhold tax at a reduced rate under an applicable bilateral income tax treaty. CyDex shall use reasonable efforts to provide any such tax forms to Hospira at least **[***]** before the due date for any payment for which CyDex desires that Hospira apply a reduced withholding rate. Each party shall provide the other with reasonable assistance to enable the recovery, as permitted by applicable law, of withholding taxes, value added taxes, or similar obligations resulting from payments made under this Agreement, such recovery to be for the benefit of the party bearing such withholding tax or value added tax.

5. RECORDS; AUDIT.

5.1 Records and Reports.

(a) Records. During the Term and for a period of [***], Hospira shall, and shall require its Affiliates to, maintain accurate records relating to Net Sales of the Finished Product. [***].

(b) Reports. **[***]** during the Term, Hospira shall provide CyDex with written a report that identifies whether each respective **Section 4.1(c)** milestone has been achieved.

5.2 Audit. Upon reasonable prior notice, such **Section 5.1** records shall be available during regular business hours for examination and audit at the expense of CyDex by an independent certified public accountant selected by CyDex and reasonably acceptable to Hospira, for the sole purpose of verifying Net Sales. CyDex shall **[***]**. Such records may not be audited more often than **[***]** and the records for any period may not be audited more than once. During any audit, the scope of such audit shall only include, with respect to those items of deduction for which Hospira, under its then-current system, calculates using a fixed allocation system, a review of actual allocated deductions thereunder unless and until such time as Hospira has changed its system to reflect actual deductions for such category of deductions. In the event that Hospira begins tracking actual costs and deductions on a product by product basis generally (which it has no obligation to do hereunder), Hospira will implement such actual tracking for purposes of this Agreement in lieu of fixed allocation percentages and the calculation of such actual costs and deductions shall thereafter become subject to audit pursuant to this **Section 5.2**. All information learned in the course of any audit or inspection under this **Section 5.2** shall be deemed to be Confidential Information of Hospira, subject to the terms and provisions of **Section 7** below.

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6. REGULATORY MATTERS.

6.1 Captisol Information Submitted for Regulatory Review. Except as otherwise set forth herein, Hospira shall be solely responsible for all communications with Regulatory Authorities in connection with the Finished Product.

6.2 Material Safety. CyDex shall provide Hospira, in writing, from time to time, with (a) relevant material information currently known to it regarding handling precautions, toxicity and hazards with respect to Captisol, and (b) the then-current material safety data sheet for Captisol. Hospira is solely responsible for (i) any Finished Product regulatory submission to the FDA or any other Regulatory Authority, and (ii) determining the suitability of any documentation provided by CyDex hereunder for use in any such regulatory submission.

6.3 Adverse Event Reporting. Hospira shall adhere, and shall require that its Affiliates, Sublicensees, co-marketers and distributors adhere, to all requirements of applicable law and regulations that relate to the reporting and investigation of any adverse event, including without limitation an unfavorable and unintended diagnosis, symptom, sign (including an abnormal laboratory finding), syndrome or disease, whether or not considered Captisol or Finished Product-related, which occurs or worsens following administration of Captisol or Finished Product. Hospira shall provide CyDex with copies of all reports of any such adverse event which is serious (any such adverse event involving Captisol or the Finished Product that results in death, is life-threatening, requires or prolongs inpatient hospitalization, results in disability, congenital anomaly or is medically important (i.e., may require other medical or surgical intervention to prevent other serious criteria from occurring)) which Hospira has reason to believe are associated with Captisol within [***] following (i) Hospira's submission of any such report to any Regulatory Authority, or (ii) receipt from Hospira's Sublicensee, co-marketer or distributor of any such report to any Regulatory Authority. Hospira shall also advise CyDex regarding any proposed labeling or registration dossier changes affecting Captisol. Reports from Hospira shall be delivered to the attention of Chief Scientific Officer, CyDex, with a copy to General Counsel, Ligand, at the address set forth in **Section 12.6**. The parties shall mutually cooperate with regard to investigation of any such serious adverse event associated with Captisol, whether experienced by Hospira, CyDex or any other Affiliate, Sublicensee, co-marketer or distributor of CyDex or Hospira. This **Section 6.3** applies both before the First Commercial Sale (e.g., without limitation, in respect of use of the Finished Product in clinical studies) and after the First Commercial Sale.

6.4 Product Recalls. If any Captisol should be alleged or proven not to meet the Specifications, Hospira shall notify CyDex promptly, and both parties shall cooperate fully regarding the investigation and disposition of any such matter. If (i) Hospira decides to recall any Finished Product, or (ii) any Regulatory Authority requires the recall of any Finished Product, then **[***]**. Hospira shall in all events be responsible for conducting any such recalls with respect to the Finished Product and shall maintain records of all sales of Finished Product and customers sufficient to adequately administer any such recall, for a period of five years after expiration or termination of this Agreement.

6.5 Retention Samples. CyDex is responsible for storing and maintaining retention samples of each lot of Captisol shipped to Hospira in accordance with Good Manufacturing Practices.

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6.6 Stability. CyDex shall be responsible for the testing and generation of stability data for Captisol in accordance with the Captisol DMF/CEP.

6.7 Validation. CyDex shall be responsible to ensure that all facilities, utilities, equipment and the processes utilized to manufacture Captisol delivered or to be delivered hereunder are satisfactorily validated according to all applicable Major-Market Regulatory Authorities guidelines.

6.8 Batch Records. Records which include the information relating to the manufacturing, packaging and quality operations for each lot of Captisol delivered or to be delivered hereunder shall be prepared by CyDex for each lot at the time such operations occur. Such records shall be prepared in accordance with Good Manufacturing Practices and any similar laws or regulations of applicable Major-Market Regulatory Authorities and CyDex's standard operating procedures. These documents for each lot may be reviewed by Hospira at CyDex's and each of its subcontractors' site of manufacturing of the Captisol upon Hospira giving CyDex **[***]** written notice of its intent to review such documents; provided, however, that in the event of any regulatory or quality issues relating to the Captisol, Hospira shall be permitted to review such documents as soon as practicable after giving notice to CyDex of its intent to do so. CyDex shall keep batch records for each lot of Captisol for the period of time required by any and all applicable statutes, ordinances and regulations of Major-Market Regulatory Authorities, including without limitation, the Act and the regulations promulgated by the FDA.

6.9 Inspection Rights. CyDex hereby grants to Hospira the right to inspect the manufacturing operations for Captisol delivered or to be delivered hereunder at CyDex's and any of its subcontractors' facilities, provided that Hospira provides CyDex with at least **[***]** of its intent to inspect such manufacturing operations. **[***]**.

6.10 Regulatory Visits and Inspections. CyDex shall and shall cause its subcontractors to permit the FDA and any other Major-Market national, supra-national and United States Regulatory Authorities to perform routine inspections of its and any of its subcontractors' facilities which contains the manufacturing operations for Captisol delivered or to be delivered hereunder and shall immediately notify Hospira of any such regulatory inspection and the results thereof that affect the manufacturing process of Captisol delivered or to be delivered hereunder or may have an effect on CyDex's ability to supply Captisol to Hospira. Should any issues arise in the course of such inspection, CyDex and Hospira shall consult with each other in resolving such issues.

6.11 Regulatory Clearance. Hospira shall be responsible for submitting and subsequently obtaining approval from any Regulatory Authority for marketing the Finished Products. CyDex shall provide reasonable amounts of assistance and cooperation with Hospira toward obtaining such approval. Such assistance and cooperation shall include, but not be limited to, pre-approval inspections, technical assistance, etc. CyDex shall also file DMF/CEPs in all Major-Market countries and any other countries in the Territory reasonably requested by Hospira, each such filing to be at CyDex's cost.

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6.12 Regulatory Correspondence. CyDex shall deliver to Hospira all copies of correspondence after the Effective Date between CyDex and any Regulatory Authorities that concern Captisol. CyDex shall deliver such correspondence to Hospira within **[***]** of distributing or receiving such correspondence, as the case may be. CyDex may redact such correspondence to delete the name of any of its other customers or other customers' products or any Third Party's Intellectual Property or proprietary information that is not included in the CyDex Intellectual Property.

6.13 Access to Drug Master Files. CyDex hereby grants Hospira reference rights to all DMF/CEPs necessary to support Hospira's applications for marketing authorizations of Finished Products (but not for any other purpose). To effect this, CyDex shall execute certain documentation ("**Authorization Letters**") which shall be delivered to the appropriate Regulatory Authorities permitting such Regulatory Authorities to consult CyDex's DMF/CEPs in their review of Hospira's Finished Products marketing applications. CyDex shall send copies of such Authorization Letters to Hospira. CyDex shall provide Hospira appropriate copies of the Open/Applicant's part of the DMF/CEP to use for Hospira's Finished Products Regulatory Filings.

7. CONFIDENTIALITY.

7.1 Definition. Hospira and CyDex each recognizes that, during the Term, it may be necessary for a party (the "**Disclosing Party**") to provide Confidential Information (as defined herein) to the other party (the "**Receiving Party**") that is highly valuable, the disclosure of which would be highly prejudicial to such party. The disclosure and use of Confidential Information will be governed by the provisions of this **Section 7**. Neither Hospira nor CyDex shall use the other's Confidential Information except as expressly permitted in this Agreement. For purposes of this Agreement, "**Confidential Information**" means all information disclosed by the Disclosing Party to the Receiving Party in any form whatsoever, including but not limited to product specifications, data, know-how, formulations, product concepts, sample materials, business and technical information, financial data, batch records, trade secrets, processes, techniques, algorithms, programs, designs, drawings, and any other information related to a party's present or future products, sales, suppliers, customers, employees, investors or business. Without limiting the generality of the foregoing, CyDex's Confidential Information includes all materials provided as part of the Captisol Data Package.

7.2 Obligation. CyDex and Hospira agree that they will disclose the other's Confidential Information to its (or its respective Affiliates') own officers, employees, consultants and agents only if and to the extent reasonably necessary to carry out their respective responsibilities under this Agreement or in accordance with the exercise of their rights under this Agreement, and such disclosure shall be limited to the extent reasonably possible consistent with such responsibilities and rights. Except as provided in the previous sentence, neither party shall disclose Confidential Information of the other to any Third Party without the other's prior written consent. Any disclosure to a Third Party shall be pursuant to the terms of a non-disclosure agreement substantially similar to the requirements of this **Section 7**. The party which disclosed Confidential Information of the other to any Third Party shall be responsible and liable for any disclosure or use by such Third Party (or its disclosees) which would have violated this Agreement if committed by the party itself. Neither party shall use Confidential Information of the other except as expressly allowed by and for the purposes of this Agreement. Each party shall take such action to preserve the confidentiality of each other's Confidential Information as it would customarily take to preserve the confidentiality of its own

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Confidential Information (but in no event less than a reasonable standard of care). Unless otherwise specified in this Agreement and subject to terms and conditions in this Agreement, if so requested by the other party a party shall promptly return all relevant records and materials in its possession or control containing or embodying the other party's Confidential Information (including all copies and extracts of documents); provided, however, that each party may retain one archival copy (and such electronic copies that exist as part of the party's computer systems, network storage systems and electronic backup systems) of such records and materials solely to be able to monitor its obligations that survive under this Agreement.

7.3 Exceptions. The use and non-disclosure obligations set forth in this **Section 7** shall not apply to any Confidential Information, or portion thereof, that the Receiving Party can demonstrate by appropriate documentation:

(a) at the time of disclosure is in the public domain;

(b) after disclosure, becomes part of the public domain, by publication or otherwise, through no fault of the Receiving Party or its disclosees;

(c) is independently developed by Receiving Party personnel with no reference or access to the Confidential Information; or

(d) is made available to the Receiving Party by an independent third party without obligation of confidentiality, provided, however, that to the Receiving Party's knowledge, such information was not obtained by said third party, directly or indirectly, from the Disclosing Party hereunder.

In addition, the Receiving Party may disclose information to a court or ADR forum in the process of seeking to enforce through such court or ADR forum its own rights under this Agreement, and also may disclose information that is required to be disclosed by law, by a valid order of a court or by order or regulation of a governmental agency including but not limited to, regulations of the Securities and Exchange Commission, or in the course of litigation, *provided* that in all cases the Receiving Party shall give the other party prompt notice of the pending disclosure and make a reasonable effort to obtain, or to assist the Disclosing Party in obtaining, a protective order or confidential-treatment order preventing or limiting (to the greatest possible extent and for the longest possible period) the disclosure and/or requiring that the Confidential Information so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

7.4 Injunction. Each party agrees that should it breach or threaten to breach any provisions of this **Section 7**, the Disclosing Party will suffer irreparable damages and its remedy at law will be inadequate. Upon any breach or threatened breach by the Receiving Party of this **Section 7**, the Disclosing Party shall be entitled to seek from any court of competent jurisdiction temporary, preliminary and/or permanent injunctive relief in addition to any other remedy which it may have, without need to post any bond or security, in addition to any and all other legal and equitable rights and remedies available to the Disclosing Party.

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7.5 Public Announcements. If a press release is required by law or the applicable rules of a national securities exchange to be issued upon execution of this Agreement or reasonably soon thereafter, the parties will mutually agree on such a press release. Neither party shall make any subsequent public announcement concerning this Agreement or the terms hereof not previously made public without the prior written approval of the other party with regard to the form, content, and precise timing of such announcement, except as may be required to be made by either party in order to comply with applicable law, regulations, court orders, or tax or securities filings. Such consent shall not be unreasonably withheld or delayed by such other party. Before any such public announcement, the party wishing to make the announcement will submit a draft of the proposed announcement to the other party in sufficient time to enable such other party to consider and comment thereon. The parties agree that a party may disclose this Agreement's existence and terms, and material developments or material information generated under this Agreement, in (i) securities filings with the Securities and Exchange Commission (or equivalent foreign agency) to the extent required by law, or (ii) under conditions of confidentiality/nonuse in connection with investment and similar corporate transactions. Notwithstanding the above, once a public announcement has been made, either party shall be free to disclose to third parties any information contained in said public announcement.

7.6 [***].

8. REPRESENTATIONS AND WARRANTIES.

8.1 Mutual Representations and Warranties. Each party represents and warrants to the other (as of the Effective Date) as follows:

(a) it is a corporation duly organized and validly existing under the laws of the state or country of its incorporation;

(b) it has the complete and unrestricted power and right to enter into this Agreement and to perform its obligations hereunder;

(c) this Agreement has been duly authorized, executed and delivered by such party and constitutes a legal, valid and binding obligation of such party enforceable against such party in accordance with its terms except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, receivership, moratorium, fraudulent transfer, or other similar laws affecting the rights and remedies of creditors generally and by general principles of equity;

(d) the execution, delivery and performance of this Agreement by such party does not conflict with any agreement, instrument or understanding, oral or written, to which such party is a party or by which such party may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having authority over such party; without limiting the warranties in this Section,

(e) all consents, approvals and authorizations from all governmental authorities or other third parties required to be obtained by such party in connection with the execution and delivery of this Agreement have been obtained;

(f) no person or entity has or will have, as a result of the transactions contemplated by this Agreement, any right, interest or valid claim against or upon such party for any commission, fee or other compensation as a finder or broker because of any act by such party or its agents; and

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(g) it has not entered into any agreement with any Third Party that is in conflict with the rights granted to the other party pursuant to this Agreement;

(h) there are no suits, claims, or proceedings pending, or to its best knowledge and belief, after due inquiry, threatened against it or any of its Affiliates in any court or by or before any governmental body or agency which would affect its ability to perform its obligations under this Agreement.

8.2 Captisol Warranties. CyDex warrants that the Captisol delivered hereunder shall:

(a) at the time of delivery and until the applicable Captisol expiration date be in compliance with and meet any and all specifications as set out in the DMF/CEP as referenced in the Regulatory Filings and Regulatory Approvals and in compliance with Good Manufacturing Practices.

(b) at the time of delivery and until the applicable Captisol expiration date be free from defects in materials and manufacture and shall continue to conform to the Specifications.

(c) have been manufactured in accordance with the DMF/CEP and in accordance with all applicable statutes, ordinances and regulations of the FDA and any other then applicable Major-Market national, supra-national and United States Regulatory Authorities, including without limitation, the Act and Good Manufacturing Practices.

(d) not, when delivered, be adulterated or misbranded within the meaning of the Act or any similar laws or regulations of applicable Major-Market national, supra-national and United States Regulatory Authorities or be an article which may not, under provisions of any applicable Major-Market national, supra-national or United States law, be sold by CyDex to Hospira.

(e) at the time of delivery have at least **[***]**% of its original shelf life.

(f) at the time of delivery be free and clear of all liens, claims, charges and encumbrances and that CyDex shall have title to the Captisol.

8.3 [***]

8.4 Reference Standard Warranty. CyDex further warrants that any reference standard material delivered to Hospira pursuant to this Agreement shall meet the specifications outlined in the applicable Certificate of Analysis provided pursuant to **Section 3.7**.

8.5 [***]

8.6 No Debarred Service Providers. CyDex represents and warrants that to neither CyDex, nor any of its Affiliates, employees or agents working on Hospira's behalf, has ever been, is currently, or is the subject of a proceeding that could lead to that party becoming, as

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applicable, a Debarred Entity or Individual. CyDex further covenants, represents and warrants that if, during the Term of this Agreement, it, or any of its Affiliates, employees or agents working on Hospira's behalf, becomes or is the subject of any FDA investigation or debarment proceeding that could lead to that party becoming, as applicable, a Debarred Entity or Individual, CyDex shall immediately notify Hospira, and Hospira shall have the right to immediately terminate this Agreement. This provision shall survive termination or expiration of this Agreement. For purposes of this provision, the following definitions shall apply:

(a) A "**Debarred Individual**" is an individual who has been debarred by the FDA pursuant to 21 U.S.C. §335a (a) or (b) from providing services in any capacity to a person that has an approved or pending drug Captisol application.

(b) A "**Debarred Entity**" is a corporation, partnership or association that has been debarred by the FDA pursuant to 21 U.S.C. §335a (a) or (b) from submitting or assisting in the submission of any abbreviated drug application, or a subsidiary or Affiliate of a Debarred Entity.

8.7 No-Conflict by CyDex. CyDex also represents and warrants that the execution, delivery and performance of this Agreement does not conflict with any of the **[***]**; and that CyDex has the right to grant Hospira the licenses set forth herein to all CyDex Intellectual Property, including, without limitation, the Licensed Patents.

8.8 Disclaimer. THE WARRANTIES SET FORTH IN THIS **SECTION 8** ARE PROVIDED IN LIEU OF, AND EACH PARTY HEREBY DISCLAIMS, ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT, CAPTISOL, THE LICENSED PATENTS OR THE CAPTISOL DATA PACKAGE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

9. INDEMNIFICATION; INSURANCE; LIMITATION OF LIABILITY.

9.1 General Indemnification by CyDex. CyDex shall defend, indemnify and hold Hospira and its Affiliates and Sublicensees, and each of their respective directors, officers, agents and employees, harmless from and against any and all losses, judgments, damages, liabilities, settlements, penalties, fines, costs and expenses (including the reasonable costs and expenses of attorneys and other professionals) (collectively "**Losses**") incurred as a result of any claim, demand, action or other proceeding (each, a "**Claim**") by a Third Party, to the extent such Losses arise out of: (a) the manufacture, use, handling, promotion, marketing, distribution, importation, sale or offering for sale of Captisol by CyDex, its Affiliates or any of their agents, or (b) CyDex's breach of this Agreement, including without limitation any of its representations and warranties set forth in **Section 8**, or (c) any negligent or willful misconduct by CyDex or its Affiliates or any of their respective distributors, officers, directors employees or agents, in each case to the extent that such Losses are not due to Hospira's or any of its Affiliates' or Sublicensees', or any of their respective directors', officers', agents' or employees' breach of this Agreement or negligence or willful misconduct.

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9.2 General Indemnification by Hospira. Hospira shall defend, indemnify and hold CyDex and its Affiliates, and each of their respective directors, officers, agents and employees, harmless from and against any and all Losses incurred as a result of any Claim by a Third Party, to the extent such Losses arise out of: (a) the manufacture, use, handling, promotion, marketing, distribution, importation, sale or offering for sale of the Finished Product by Hospira, its Affiliates and Sublicensees, or (b) Hospira's breach of this Agreement, including without limitation any of its representations and warranties set forth in **Section 8**, or (c) any negligent or willful misconduct by Hospira or its Affiliates or any of their respective distributors, officers, directors employees or agents, in each case to the extent that such Losses are not due to CyDex's or any of its Affiliates' or any of their respective directors', officers', agents' or employees' breach of this Agreement or negligence or willful misconduct.

9.3 [***]

9.4 Procedure.

(a) The person intending to claim indemnification under **Section 9** (an "**Indemnified Party**") shall promptly notify the other party (the "**Indemnifying Party**") of any Claim in respect of which the Indemnified Party intends to claim such indemnification, and a reasonable explanation of the basis for the Claim and the amount of alleged Losses to the extent of the facts then known by the Indemnified Party. (Notwithstanding the foregoing, no delay or deficiency on the part of the Indemnified Party in so notifying the Indemnifying Party will relieve the Indemnifying Party of any liability or obligation under this Agreement except to the extent the Indemnifying Party has suffered actual prejudice directly caused by the delay or other deficiency.) The Indemnifying Party shall assume the defense thereof; provided, however, that if the Indemnifying Party assumes the defense, the Indemnified Party shall have the right to employ counsel separate from counsel employed by the Indemnifying Party in any such action and to participate in the defense thereof, but the fees and expenses of such counsel employed by the Indemnified Party shall be at the sole cost and expense of the Indemnified Party unless the Indemnifying Party consents to the retention of such counsel or unless the named parties to any action or proceeding include both the Indemnifying Party and the Indemnified Party and a representation of both the Indemnifying Party and the Indemnified Party by the same counsel would be inappropriate due to the actual or potential differing interests between them. And provided further that, if the Indemnifying Party shall fail to assume the defense of and reasonably defend such Claim, the Indemnified Party shall have the right to retain or assume control of such defense and the Indemnifying Party shall pay (as incurred and on demand) the fees and expenses of counsel retained by the Indemnified Party.

(b) The Indemnifying Party shall not be liable for the indemnification of any Claim settled (or resolved by consent to the entry of judgment) without the written consent of the Indemnifying Party (which shall not be unreasonably withheld or delayed). Also, if the Indemnifying Party shall control the defense of any such Claim, the Indemnifying Party shall have the right to settle such Claim; provided, that the Indemnifying Party shall obtain the prior written consent (which shall not be unreasonably withheld or delayed) of the Indemnified Party before entering into any settlement of (or resolving by consent to the entry of judgment upon) such Claim unless (A) there is no finding or admission of any violation of law or any violation of the rights of any Third Party by an Indemnified Party, no requirement that the Indemnified Party admit fault or culpability, and no adverse effect on any other claims that may be made by or against the Indemnified Party and (B) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party and such settlement does not require the Indemnified Party to take (or refrain from taking) any action.

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(c) Regardless of who controls the defense, the other party hereto shall reasonably cooperate in the defense as may be requested. Without limitation, the Indemnified Party, and its directors, officers, advisers, agents and employees, shall reasonably cooperate with the Indemnifying Party and its legal representatives in the investigations of any Claim.

9.5 Insurance. CyDex will procure and maintain, at its own expense, for the duration of the Agreement, and for **[***]** thereafter if written on a claims made or occurrence reported form, the types of insurance specified below with carriers rated **[***]**. Best or like rating agencies:

a. Workers' Compensation accordance with applicable statutory requirements and shall provide a waiver of subrogation in favor of Hospira;

b. Employer's Liability with a limit of liability in an amount of not less than $**[***]**;

c. Commercial General Liability including premises operations, products & completed operations, blanket contractual liability, personal injury including fire legal liability for bodily injury and property damage in an amount not less than $**[***]**;

d. Commercial Automobile Liability for owned, hired and non-owned motor vehicles with a combined single limit in an amount not less than $**[***]**;

e. Excess Liability including product liability with a combined single limit in an amount of not less than $**[***]**;

f. Commercial Crime or Fidelity Bond in an amount of not less than $**[***]** including an endorsement for Third Party liability without the requirement of a conviction.

g. Cargo Legal Liability insurance covering all risks of physical loss or damage to cargo handled by CyDex. The limit of liability shall not be less than $**[***]**.

Hospira and its Affiliates, and their respective directors, officers, employees and agents shall be additional insureds with respect to Commercial General Liability, Commercial Automobile Liability and Excess Liability. Prior to shipment of any Captisol to Hospira, and annually thereafter, CyDex shall furnish Hospira with certificates of insurance evidencing the insurance coverages stated above and shall require at least **[***]** days written notice to Hospira prior to any cancellation, non-renewal or material change in said coverage. In the case of cancellation, non-renewal or material change in said coverage, CyDex shall promptly provide Hospira with a new certificate of insurance evidencing that the coverage meets the requirements in this Section. CyDex agrees that its insurance shall act as primary and noncontributory from any other valid and collectible insurance maintained by Hospira.

9.6 Limitation of Liability. EXCEPT FOR (1) PERSONAL INJURY, INCLUDING DEATH, (2) TANGIBLE PROPERTY DAMAGE, (3) EACH PARTY'S INDEMNIFICATION OBLIGATIONS, (4) DAMAGES ARISING OUT OF AN INTENTIONAL BREACH OF THE CONFIDENTIALITY OBLIGATIONS HEREIN, (5) DAMAGES ARISING OUT OF CYDEX'S BREACH OF **SECTION 2.4**, AND (6) DAMAGES FOR WHICH CYDEX IS RESPONSIBLE PURSUANT **SECTION 3.6**, **3.7** OR **6.4**, **[***]**.

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10. MANAGEMENT OF LICENSED PATENTS.

10.1 Patent Prosecution, Maintenance and Enforcement.

(a) Information and Communication. CyDex shall be responsible for the prosecution and maintenance of Licensed Patents in the Territory and shall keep Hospira reasonably informed as to all material matters concerning the prosecution and maintenance of Licensed Patents in the Territory by making itself available for periodic meetings to update Hospira regarding such matters.

(b) Prosecution and Maintenance. **[***]**, CyDex shall give prompt advance written notice thereof to Hospira, whereupon Hospira, in addition to any other rights and remedies Hospira may have under this Agreement, in equity, or at law, shall have the right in its sole discretion, but not the duty, **[***]**; and if Hospira does so, then Hospira shall be entitled to offset any costs incurred as a result of **[***]** or paying such necessary **[***]** against any payments that may thereafter become owing from Hospira to CyDex under this Agreement.

(c) [***].

(d) [***].

(e) [***].

(f) [***].

11. TERM AND TERMINATION.

11.1 Term. The term of this Agreement (the "**Term**") shall commence on the Effective Date and shall (unless earlier terminated as set forth herein) continue in effect until the eighth anniversary of the First Commercial Sale in the United States; provided that if Hospira has not given CyDex written notice of nonrenewal of this Agreement at least six months before the eighth anniversary of the First Commercial Sale in the United States, this Agreement shall (subject to any termination as set forth herein) automatically renew for an additional one year period, and for additional one year periods thereafter (each a "**Renewal Term**") unless Hospira has given CyDex written notice of nonrenewal of this Agreement at least six months before the last day of the current Renewal Term. The Renewal Term(s) shall be deemed to be within the Term.

11.2 Termination for Breach.

(a) Notice. If either party believes that the other is in material breach of this Agreement, then the party holding such belief (the **"Non-breaching Party"**) may deliver notice of such breach to the other party (the **"Notified Party"**). The Notified Party shall have 30 days to cure such breach to the extent involving non-payment of amounts due hereunder, and 60 days to either cure such breach for all other material breaches, or, if cure of such breach other than non-payment cannot reasonably be effected within such 60 day period, to deliver to the Non-breaching Party a plan reasonably calculated to cure such breach within a timeframe that is reasonably prompt in light of the circumstances then prevailing but in no event in excess of an additional 60 day period. Following delivery of such a plan, the Notified Party shall diligently carry out the plan and cure the breach and the cure period shall be extended by the time period provided in such plan but in no event to exceed 120 days from the date of any initial breach notice delivered under this **Section 11.2**.

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(b) Failure to Cure. If the Notified Party fails to cure a material breach of this Agreement as provided for in **Section 11.2**, then the Non-breaching Party may terminate this Agreement upon written notice to the Notified Party.

11.3 Other Termination. This Agreement may also be terminated by:

(a) a party immediately upon the giving of notice if the other party files a petition for bankruptcy, is adjudicated bankrupt, takes advantage of the insolvency laws of any state, territory or country, or has a receiver, trustee, or other court officer appointed for its property.

(b) a party if an event of Force Majeure (as described in Section 12.5 of this Agreement) with respect to the other party shall have continued for [***] days or is reasonably expected to continue for more than [***] days.

(c) Hospira in its sole discretion at any time upon [***] days prior written notice to CyDex, if such notice is given on or before the first anniversary of the Effective Date, or upon [***] days prior written notice to CyDex, if such notice is given after the first anniversary of the Effective Date.

(d) Hospira in accordance with Section 3.6, Section 6.9 or Section 8.6.

(e) Hospira if (i) any claim of an issued and unexpired Licensed Patent in a Major-Market country (A) has been held permanently revoked, unenforceable or invalid (other than by virtue of expiration) by a decision of a court or governmental agency of competent jurisdiction, which decision is unappealable or unappealed within the time allowed for appeal, or (B) has been abandoned, disclaimed, denied or admitted to be invalid or unenforceable through reissue or disclaimer or otherwise without Hospira's prior written consent; or (ii) any claim of a pending Licensed Patent in a Major-Market country is, without Hospira's prior written consent, no longer being prosecuted in good faith or has been abandoned or finally disallowed without the possibility of appeal or re-filing of the application.

11.4 Refund of Unused Prepayment. In the event that this Agreement is terminated for any reason other than by CyDex pursuant to Section 11.2, then in addition to any other rights or remedies Hospira may have under this Agreement, at law, or in equity, CyDex shall immediately make a payment to Hospira in the amount of any remaining Section 4.1(a) credit.

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11.5 Nonexclusive Rights and Remedies. Termination is not an election of remedies. Except as otherwise specifically provided herein, all rights and remedies of the parties provided under this Agreement are not exclusive and are in addition to any other rights and remedies provided by law, in equity or under this Agreement. Termination of this Agreement shall not relieve either party of any liability which has accrued prior to the effective date of such termination, nor prejudice either party's right to obtain performance of any obligation provided for in this Agreement, which by its express terms or context survives termination. Upon termination or expiration of this Agreement, all covenants and agreements contained in this Agreement which, by their terms or context, are intended to survive will continue in full force and effect for a period of **[***]** unless a different time period is indicated.

12. GENERAL PROVISIONS.

12.1 Relationship of Parties. Each of the parties hereto is an independent contractor and nothing in this Agreement is intended or shall be deemed to constitute a partnership, agency, employer-employee or joint venture relationship between the parties. No party shall have the right to, and each party agrees not to purport to, incur any debts or make any commitments or contracts for the other.

12.2 Compliance with Law. Each of the parties shall comply with all applicable international, federal, state and local laws, rules and regulations, including, but not limited to, import/export restrictions, laws, rules and regulations governing product quality and safety and patent, copyright and trade secret protection.

12.3 Arbitration.

(a) Procedure. The parties recognize that bona fide disputes may arise which relate to the parties' rights and obligations under this Agreement. The parties agree that except as provided in **Section 7.4**, any such dispute shall be resolved by alternative dispute resolution in accordance with the procedure set forth in ***Exhibit F***.

(b) Confidentiality of Proceedings. All arbitration proceedings hereunder shall be confidential and the arbitrator(s) shall issue appropriate protective orders to safeguard each party's Confidential Information. Except as required by law, no party shall make (or instruct the arbitrator(s) to make) any public announcement with respect to the proceedings or decision of the arbitrator(s) without prior written consent of the other party.

(c) Binding Effect. The provisions of this **Section 12.3** shall survive any expiration or termination of this Agreement, and shall be severable and binding on the parties hereto, notwithstanding that any other provision of this Agreement may be held or declared to be invalid, illegal or unenforceable.

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12.4 Costs and Expenses. Except as otherwise expressly provided in this Agreement, each party shall bear **[***]**.

12.5 Force Majeure. Neither party shall be liable for failure to perform, or delay in the performance of, its obligations under this Agreement (other than payment obligations) when such failure or delay is caused by an event of force majeure. For purposes of this Agreement, an event of force majeure means any event or circumstance beyond the reasonable control of the affected party, including but not limited to, war, insurrection, riot, fire, flood or other unusual weather condition, explosion, act of God, peril of the sea, strike, lockout or other industrial disturbance, sabotage, embargo, act of governmental authority, compliance with governmental order or national defense requirements, or inability to obtain fuel, power, raw materials, labor or transportation facilities. A failure of supply by CyDex's supplier shall only be deemed an event of force majeure affecting CyDex if caused by a force majeure event affecting such supplier. If, due to any event of force majeure, either party shall be unable to fulfill its obligations under this Agreement (other than payment obligations), the affected party shall immediately notify the other party of such inability and of the period during which such inability is expected to continue and the time for performance **[***]**.

12.6 Notices. Any notice, request, or communication under this Agreement shall be effective only if it is in writing and personally delivered; sent by certified mail, postage pre-paid; facsimile with receipt confirmed; or by nationally recognized overnight courier with signature required, addressed to the parties at the addresses stated below or such other persons and/or addresses as shall be furnished in writing by any party in accordance with this **Section 12.6**. Unless otherwise provided, all notices shall be sent:

If to CyDex, to:

CyDex Pharmaceuticals, Inc.
10513 W. 84th Terrace
Lenexa, KS 66214
Attention: President
Fax: (913) 685-8856

With a copy to:
General Counsel
Ligand Pharmaceuticals Incorporated
11085 North Torrey Pines Road
Suite 300
La Jolla, CA 92037
Fax: 858-550-7272

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If to Hospira, to:

Hospira, Inc.
275 N. Field Drive
Lake Forest, IL 60045
USA
Attn: Director of Purchasing
Telephone: 224-212-2613
Facsimile: 224-212-2840

With a copy to:

Hospira, Inc.
275 N. Field Drive
Lake Forest, IL 60045
Attn: General Counsel
Telephone: 224-212-2851
Facsimile: 224-212-2088

If sent by facsimile transmission, **[***]** shall be deemed to be the date on which such notice, request or communication was given. If sent by overnight courier, **[***]** after the date of deposit with such courier shall be deemed to be the date on which such notice, request or communication was given. If sent by certified mail, the **[***]** after the date of mailing shall be deemed the date on which such notice, request or communication was given.

12.8 **Use of Name; Publicity**. No party shall use the name, trademark, trade name or logo of the other party, its Affiliates or their respective employee(s) in any publicity, promotion, news release or public disclosure relating to this Agreement or its subject matter, without the prior express written permission of the other party, except as may be required by law or the rules of NASDAQ or the New York Stock Exchange. In the event of a required public announcement, the party making such announcement shall provide the other party with a copy of the proposed text before such announcement sufficiently in advance of the scheduled release of such announcement to afford such other party a reasonable opportunity to review and comment upon the proposed text and the timing of such disclosure.

12.9 **Governing Law**. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York (without giving effect to any conflicts of law principles that require the application of the law of a different state). The United Nations Convention on the International Sale of Goods is hereby expressly excluded.

12.10 **Entire Agreement; Amendment**. This Agreement, together with the Quality Agreement, constitutes the entire agreement of the parties relating to the subject matter hereof and thereof and supersedes any and all prior or contemporaneous agreements, written or oral, between CyDex (and/or any of its Affiliates) and Hospira (and/or any of its Affiliates) relating to the subject matter hereof and thereof; provided, that any confidentiality/nonuse provisions of any prior agreement are not superseded and will remain in effect solely with respect to information provided under the terms of such prior agreement that is not subsequently provided to a Party under the terms of this Agreement. If the Quality Agreement contains terms or conditions

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inconsistent with the terms of this Agreement, the terms of the Quality Agreement will control and prevail solely with respect to quality issues, and the terms of this Agreement shall control and prevail for all other matters. This Agreement can not be amended except by way of an express writing signed by both parties.

12.11 **Binding Effect**. This Agreement shall be binding upon, and the rights and obligations hereof shall apply to, CyDex and Hospira and any successor(s) and permitted assigns. The name of a party appearing herein shall be deemed to include the names of such party's successors and permitted assigns to the extent necessary to carry out the intent of this Agreement.

12.12 **Waiver**. The rights of either party under this Agreement may be exercised from time to time, singularly or in combination, and the exercise of one or more such rights shall not be deemed to be a waiver of any one or more of the others. No waiver of any breach of a term, provision or condition of this Agreement shall be deemed to have been made by either party unless such waiver is addressed in writing and signed by an authorized representative of that party. The failure of either party to insist upon the strict performance of any of the terms, provisions or conditions of this Agreement, or to exercise any option contained in this Agreement, shall not be construed as a waiver or relinquishment for the future of any such term, provision, condition or option or the waiver or relinquishment of any other term, provision, condition or option.

12.13 **Severability**. If any provision of this Agreement is determined by a final and binding court or arbitration judgment to be invalid, illegal or unenforceable to any extent, such provision shall not be not affected or impaired up to the limits of such invalidity, illegality or unenforceability; the validity, legality and enforceability of the remaining provisions of this Agreement shall not be affected or impaired in any way; and the parties agree to negotiate in good faith to replace such invalid, illegal and unenforceable provision (or portion of provision) with a valid, legal and enforceable provision that achieves, to the greatest lawful extent under this Agreement, the economic, business and other purposes of such invalid, illegal or unenforceable provision (or portion of provision).

12.14 **Assignment**. Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party; provided, however, that either party may assign this Agreement, in whole or in part, without such consent, to an Affiliate of such party or to any Third Party successor by merger or acquisition or by divestiture or spin-off of substantially all of the business to which this Agreement relates, upon written notice to the other party of any such assignment and, in the case of an assignment to an Affiliate, such party hereby guarantees the performance of any such Affiliate, and, in the case of a Third Party assignment, such Third Party shall assume the obligations of the assigning party under this Agreement. No assignment shall relieve any party of responsibility for the performance of any obligation, which such party may have or incur hereunder.

12.15 **Third Party Beneficiaries**. The terms and provisions of this Agreement are intended solely for the benefit of each party hereto and their respective Affiliates, related Indemnified Parties (as set forth in **Section 9**), successors or permitted assigns and it is not the intention of the parties to confer third-party beneficiary rights upon any other person, including without limitation Sublicensees.

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12.17 **Headings**. The descriptive headings of this Agreement are for convenience only, and shall be of no force or effect in construing or interpreting any of the provisions of this Agreement.

12.18 **Interpretation**. The language used in this Agreement is the language chosen by the parties to express their mutual intent, and no provision of this Agreement will be interpreted for or against any party because that party or its attorney drafted the provision.

12.19 **Counterparts**. This Agreement may be executed in counterparts, each of which shall constitute an original document, but both of which shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the parties have executed this License and Supply Agreement as of the Effective Date.

CYDEX PHARMACEUTICALS, INC.

By: /s/ Matthew W. Foehr
Name: Matthew W. Foehr
Title: COO

HOSPIRA, INC.

By: /s/ Leonard J. Decant
Name: Leonard J. Decant for Sumant Ramachandra
Title: VP Consumabes R&D

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EXHIBIT A: LICENSED PATENTS

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EXHIBIT B: SPECIFICATIONS

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EXHIBIT C: LICENSES UNDER WHICH HOSPIRA IS GRANTED A SUB-LICENSE

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EXHIBIT D: QUALITY AGREEMENT

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EXHIBIT E: PURCHASE PRICES FOR CAPTISOL

CLINICAL GRADE CAPTISOL: $**[***]**.

COMMERCIAL GRADE CAPTISOL: $**[***]**

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

EXHIBIT F: ALTERNATIVE DISPUTE RESOLUTION

The parties recognize that bona fide disputes as to certain matters may arise from time to time during the term of this Agreement which relate to either party's rights and/or obligations. To have such a dispute resolved by this Alternative Dispute Resolution ("ADR") provision, a party **[***]**.

If the matter has not been resolved within **[***]**, either party may initiate an ADR proceeding as provided herein. The parties shall have the right to be represented by counsel in such a proceeding.

1. To begin an ADR proceeding, a party shall provide written notice to the other party of the issues to be resolved by ADR. Within **[***]** after its receipt of such notice, the other party may, by written notice to the party initiating the ADR, add additional issues to be resolved within the same ADR.

2. Within **[***]** days following receipt of the original ADR notice, the parties shall select a mutually acceptable neutral to preside in the resolution of any disputes in this ADR proceeding. If the parties are unable to agree on a mutually acceptable neutral within such period, either party may request the President of the CPR Institute for Dispute Resolution ("CPR"), 366 Madison Avenue, 14th Floor, New York, New York 10017, to select a neutral pursuant to the following procedures:

(a) The CPR shall submit to the parties a list of not less than **[***]** within **[***]** after receipt of the request, along with a Curriculum Vita for each candidate. No candidate shall be an employee, director, or shareholder of either party or any of their subsidiaries or Affiliates.

(b) Such list shall include a statement of disclosure by each candidate of any circumstances likely to affect his or her impartiality.

(c) Each party shall number the candidates in order of preference (with the number one (1) signifying the greatest preference) and shall deliver the list to the CPR within **[***]** following receipt of the list of candidates. If a party believes a conflict of interest exists regarding any of the candidates, that party shall provide a written explanation of the conflict to the CPR along with its list showing its order of preference for the candidates. Any party failing to return a list of preferences on time shall be deemed to have no order of preference.

(d) If the parties collectively have identified fewer than **[***]** deemed to have conflicts, the CPR immediately shall designate as the neutral the candidate for whom the parties collectively have indicated the greatest preference. If a tie should result between **[***]**, the CPR may designate either candidate by lot. If the parties collectively have identified **[***]** or more candidates deemed to have conflicts, the CPR shall review the explanations regarding conflicts and, in its sole discretion, may either (i) immediately designate as the neutral the candidate for whom the parties collectively have indicated the greatest preference, or (ii) issue a new list of not less than **[***]**, in which case the procedures set forth in subparagraphs 2(a)-2(d) shall be repeated.

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

3. No earlier than **[***]** or later than **[***]** after selection, the neutral shall hold a hearing to resolve each of the issues identified by the parties. The ADR proceeding shall take place at a location agreed upon by the parties. If the parties cannot agree, the neutral shall designate a location other than the principal place of business of either party or any of their subsidiaries or Affiliates.

4. At least **[***]** prior to the hearing, each party shall submit the following to the other party and the neutral:

(a) a copy of all exhibits on which such party intends to rely in any oral or written presentation to the neutral;

(b) a list of any witnesses such party intends to call at the hearing, and a short summary of the anticipated testimony of each witness;

(c) a proposed ruling on each issue to be resolved, together with a request for a specific damage award or other remedy for each issue. The proposed rulings and remedies shall not contain any recitation of the facts or any legal arguments and shall not exceed one (1) page per issue.

(d) a brief in support of such party's proposed rulings and remedies, provided that the brief shall not exceed thirty (30) pages. This page limitation shall apply regardless of the number of issues raised in the ADR proceeding.

Except as expressly set forth in subparagraphs 4(a)-4(d), no discovery shall be required or permitted by any means, including depositions, interrogatories, requests for admissions, or production of documents.

5. The hearing shall be conducted on consecutive days and shall be governed by the following rules:

(a) Each party shall be entitled to **[***]** of hearing time to present its case. The neutral shall determine whether each party has had the **[***]** to which it is entitled.

(b) Each party shall be entitled, but not required, to make an opening statement, to present regular and rebuttal testimony, documents or other evidence, to cross-examine witnesses, and to make a closing argument. Cross-examination of witnesses shall occur immediately after their direct testimony, and cross-examination time shall be charged against the party conducting the cross-examination.

(c) The party initiating the ADR shall begin the hearing and, if it chooses to make an opening statement, shall address not only issues it raised but also any issues raised by the responding party. The responding party, if it chooses to make an opening statement, also shall address all issues raised in the ADR. Thereafter, the presentation of regular and rebuttal testimony and documents, other evidence, and closing arguments shall proceed in the same sequence.

(d) Except when testifying, witnesses shall be excluded from the hearing until closing arguments.

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

(e) Settlement negotiations, including any statements made therein, shall not be admissible under any circumstances. Affidavits prepared for purposes of the ADR hearing also shall not be admissible. As to all other matters, the neutral shall have sole discretion regarding the admissibility of any evidence.

6. Within **[***]** following completion of the hearing, each party may submit to the other party and the neutral a post-hearing brief in support of its proposed rulings and remedies, provided that such brief shall not contain or discuss any new evidence and shall not exceed thirty (30) pages. This page limitation shall apply regardless of the number of issues raised in the ADR proceeding.

7. The neutral shall rule on each disputed issue within **[***]** following completion of the hearing. Such ruling shall adopt in its entirety the proposed ruling and remedy of one of the parties on each disputed issue but may adopt one party's proposed rulings and remedies on some issues and the other party's proposed rulings and remedies on other issues. The neutral shall not issue any written opinion or otherwise explain the basis of the ruling.

8. The neutral shall be paid **[***]**:

(a) If the neutral rules in favor of one party on all disputed issues in the ADR, the losing party shall pay **[***]**.

(b) If the neutral rules in favor of one party on some issues and the other party on other issues, the neutral shall issue with the rulings a written determination as to how such fees and expenses shall be allocated between the parties. **[***]**.

9. The rulings of the neutral and the allocation of fees and expenses shall be binding, non-reviewable, and non-appealable, and may be entered as a final judgment in any court having jurisdiction.

10. Except as provided in paragraph 9 or as required by law, the existence of the dispute, any settlement negotiations, the ADR hearing, any submissions (including exhibits, testimony, proposed rulings, and briefs), and the rulings shall be deemed Confidential Information. The neutral shall have the authority to impose sanctions for unauthorized disclosure of Confidential Information.

11. **[***].**

12. The hearings shall be conducted in the English language.

*** Certain information on this page has been omitted and filed separately with the Commission. Confidential treatment has been requested with respect to the omitted portions.

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our report dated February 23, 2012,with respect to internal control over financial reporting included in this Form 10-K/A of Ligand Pharmaceuticals Incorporated for the year ended December 31, 2011. We hereby consent to the incorporation by reference of said report in the Registration Statements of Ligand Pharmaceuticals Incorporated on Form S-3 (File No. 333-177338, effective October 26, 2011) and on Forms S-8 (File No. 333-160132, effective June 22, 2009 and File No. 333-131029, effective June 18, 2007).

/s/ GRANT THORNTON LLP

San Diego, California
May 16, 2012

Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO EXCHANGE ACT RULE 13a-14(a)/15d-14(a)
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, John L. Higgins, certify that:

1. I have reviewed the Form 10-K, as amended by this amendment No. 1 on Form 10-K/A of Ligand Pharmaceuticals Incorporated;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such 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.

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 16, 2012

/s/ John L. Higgins
John L. Higgins
President, Chief Executive Officer and Director
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO EXCHANGE ACT RULE 13a-14(a)/15d-14(a)
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES OXLEY-ACT OF 2002

I, John P. Sharp, certify that:

1. I have reviewed the Form 10-K, as amended by this amendment No. 1 on Form 10-K/A of Ligand Pharmaceuticals Incorporated;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such 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.

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 16, 2012

/s/ John P. Sharp
John P. Sharp
Vice President, Finance and Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION BY PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 10-K, as amended by the accompanying amendment No. 1 on Form 10-K/A of Ligand Pharmaceuticals Incorporated (the "Company") for the year ended December 31, 2011, I, John L. Higgins, President, Chief Executive Officer and Director of the Company, hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge and belief, that:

(1) such Annual Report on Form 10-K, as amended by the accompanying amendment No. 1 on Form 10-K/A for the year ended December 31, 2011, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) the information contained in such Annual Report on Form 10-K, as amended by the accompanying amendment No. 1 on Form 10-K/A for the year ended December 31, 2011, fairly presents, in all material respects, the financial condition and results of operations of the Company.

The foregoing certification is being furnished solely to accompany such Annual Report on Form 10-K, as amended by the accompanying amendment No. 1 on Form 10-K/A for the year ended December 31, 2011, pursuant to 18 U.S.C. § 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

Date: May 16, 2012

/s/ John L. Higgins
John L. Higgins
President, Chief Executive Officer and Director
(Principal Executive Officer)

Exhibit 32.2

CERTIFICATION BY PRINCIPAL FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 10-K, as amended by the accompanying amendment No. 1 on Form 10-K/A of Ligand Pharmaceuticals Incorporated (the "Company") for the year ended December 31, 2011, I, John P. Sharp, Vice President, Finance and Chief Financial Officer of the Company, hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge and belief, that:

(1) such Annual Report on Form 10-K, as amended by the accompanying amendment No. 1 on Form 10-K/A for the year ended December 31, 2011, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) the information contained in such Annual Report on Form 10-K, as amended by the accompanying amendment No. 1 on Form 10-K/A for the year ended December 31, 2011, fairly presents, in all material respects, the financial condition and results of operations of the Company.

The foregoing certification is being furnished solely to accompany such Annual Report on Form 10-K, as amended by the accompanying amendment No. 1 on Form 10-K/A for the year ended December 31, 2011, pursuant to 18 U.S.C. § 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

Date: May 16, 2012

/s/ John P. Sharp
John P. Sharp
Vice President, Finance and Chief Financial Officer
(Principal Financial Officer)