

ARENA PHARMACEUTICALS INC

Form 10-Q

November 09, 2010

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

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

For the quarterly period ended September 30, 2010

or

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

For the transition period from _____ to _____

Commission File Number: 000-31161

ARENA PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

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<p>Delaware (State or other jurisdiction of incorporation or organization)</p> <p>6166 Nancy Ridge Drive, San Diego, CA (Address of principal executive offices)</p>	<p>23-2908305 (I.R.S. Employer Identification No.)</p> <p>92121 (Zip Code)</p>
<p>858.453.7200 (Registrant's telephone number, including area code)</p>	

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company.

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

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

The number of shares of common stock outstanding as of the close of business on November 5, 2010:

Class	Number of Shares Outstanding
Common Stock, \$0.0001 par value	121,411,502

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ARENA PHARMACEUTICALS, INC.

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In this report, Arena Pharmaceuticals, Arena, we, us and our refer to Arena Pharmaceuticals, Inc., and our wholly owned subsidiaries, unless context otherwise provides.

Arena Pharmaceuticals®, Arena® and our corporate logo are registered service marks of Arena. CART and BRL Screening are unregistered service marks of Arena. Any other brand names or trademarks appearing in this Quarterly Report on Form 10-Q are the property of their respective holders.

Table of Contents**PART I. FINANCIAL INFORMATION****Item 1. Financial Statements.****Arena Pharmaceuticals, Inc.****Condensed Consolidated Balance Sheets****(In thousands)**

	September 30, 2010 (Unaudited)	December 31, 2009 *
Assets		
Current assets:		
Cash and cash equivalents	\$ 166,007	\$ 94,733
Short-term investments, available-for-sale	10,529	20,716
Accounts receivable	1,972	1,415
Prepaid expenses and other current assets	3,274	4,409
Total current assets	181,782	121,273
Land, property and equipment, net	93,081	95,445
Acquired technology and other intangibles, net	12,126	13,123
Other non-current assets	6,051	6,437
Total assets	\$ 293,040	\$ 236,278
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable and other accrued liabilities	\$ 5,368	\$ 9,677
Accrued compensation	3,743	3,928
Accrued clinical and preclinical study fees	4,651	2,279
Current portion of deferred revenues	3,854	4,086
Current portion of derivative liabilities	280	
Current portion of note payable to Siegfried	3,399	
Current portion of note payable to Deerfield**	15,976	
Current portion of lease financing obligations	925	717
Total current liabilities	38,196	20,687
Deferred rent	448	564
Deferred revenues, less current portion	45,192	
Derivative liabilities, less current portion	1,505	6,642
Note payable to Siegfried, less current portion	6,489	9,143
Note payable to Deerfield, less current portion**	19,458	47,906
Lease financing obligations, less current portion	76,046	76,769
Commitments and subsequent events		
Stockholders' equity:		

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Common stock	12	10
Additional paid-in capital	1,085,918	961,269
Treasury stock, at cost	(23,070)	(23,070)
Accumulated other comprehensive income	3,726	945
Accumulated deficit	(960,880)	(864,587)
Total stockholders' equity	105,706	74,567
Total liabilities and stockholders' equity	\$ 293,040	\$ 236,278

* The balance sheet data at December 31, 2009 has been derived from audited financial statements at that date. It does not include, however, all of the information and notes required by US generally accepted accounting principles for complete financial statements.

** The outstanding principal balance of the note payable to Deerfield was \$60.0 million and \$90.0 million at September 30, 2010 and December 31, 2009, respectively. See Note 5.

See accompanying notes to unaudited condensed consolidated financial statements.

Table of Contents**Arena Pharmaceuticals, Inc.****Condensed Consolidated Statements of Operations****(In thousands, except per share data)****(Unaudited)**

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Revenues:				
Manufacturing services	\$ 1,846	\$ 1,737	\$ 5,258	\$ 4,663
Collaborative agreements	5,783	882	7,343	3,042
Total revenues	7,629	2,619	12,601	7,705
Operating Expenses:				
Cost of manufacturing services	1,814	1,705	5,309	4,702
Research and development	20,155	22,147	58,971	88,972
General and administrative	6,862	5,423	20,636	18,725
Restructuring charges				3,324
Amortization of acquired technology and other intangibles	541	582	1,609	1,721
Total operating expenses	29,372	29,857	86,525	117,444
Loss from operations	(21,743)	(27,238)	(73,924)	(109,739)
Interest and Other Income (Expense):				
Interest income	107	75	338	291
Interest expense	(6,267)	(7,339)	(16,198)	(10,991)
Gain from valuation of derivative liabilities	3,023	2,472	4,857	345
Loss on extinguishment of debt	(12,354)	(2,479)	(12,354)	(2,479)
Other	968	(326)	988	(859)
Total interest and other expense, net	(14,523)	(7,597)	(22,369)	(13,693)
Net loss	\$ (36,266)	\$ (34,835)	\$ (96,293)	\$ (123,432)
Net loss per share, basic and diluted	\$ (0.31)	\$ (0.38)	\$ (0.91)	\$ (1.51)
Shares used in calculating net loss per share, basic and diluted	117,409	90,995	105,582	81,518

See accompanying notes to unaudited condensed consolidated financial statements.

Table of Contents**Arena Pharmaceuticals, Inc.****Condensed Consolidated Cash Flow Statements****(In thousands)****(Unaudited)**

	Nine months ended September 30,	
	2010	2009
Operating Activities		
Net loss	\$ (96,293)	\$ (123,432)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	7,807	8,310
Amortization of acquired technology and other intangibles	1,609	1,721
Share-based compensation	4,320	5,366
Deferred income tax provision		401
Gain from valuation of derivative liabilities	(4,857)	(345)
Amortization of short-term investment premium		69
Amortization of prepaid financing costs	462	278
Accretion of note payable to Deerfield	5,175	3,546
Loss on extinguishment of debt	12,354	2,479
Accretion of note payable to Siegfried	197	184
(Gain) Loss on disposal of equipment	(2)	284
Changes in assets and liabilities:		
Accounts receivable	(495)	221
Prepaid expenses and other assets	973	(584)
Accounts payable and accrued liabilities	(2,945)	(27,960)
Deferred revenue	44,960	
Deferred rent	(116)	(95)
Net cash used in operating activities	(26,851)	(129,557)
Investing Activities		
Purchases of short-term investments, available-for-sale	(1,195)	(20,038)
Proceeds from sales/maturities of short-term investments, available-for-sale	11,207	35,696
Purchases of land, property and equipment	(3,711)	(3,744)
Proceeds from sale of equipment	30	261
Other non-current assets	58	167
Net cash provided by investing activities	6,389	12,342
Financing Activities		
Principal payments on lease financing obligations	(515)	(445)
Proceeds from issuance of note payable and related financial instruments to Deerfield		96,865
Principal payments on note payable to Deerfield	(30,000)	(10,000)
Proceeds from lease financing		15,000
Proceeds from issuance of common stock	120,331	65,121
Net cash provided by financing activities	89,816	166,541
Effect of exchange rate changes on cash	1,920	(680)
Net increase in cash and cash equivalents	71,274	48,646

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Cash and cash equivalents at beginning of period	94,733	73,329
Cash and cash equivalents at end of period	\$ 166,007	\$ 121,975

See accompanying notes to unaudited condensed consolidated financial statements.

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Notes to Unaudited Condensed Consolidated Financial Statements

1. Basis of Presentation and Recent Events

The accompanying unaudited condensed consolidated financial statements of Arena Pharmaceuticals, Inc., which include our wholly owned subsidiaries, should be read in conjunction with the audited consolidated financial statements and notes thereto included in our annual report on Form 10-K for the year ended December 31, 2009, as filed with the Securities and Exchange Commission, or SEC, from which we derived our balance sheet as of December 31, 2009. The accompanying financial statements have been prepared in accordance with US generally accepted accounting principles, or GAAP, for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, since they are interim statements, the accompanying financial statements do not include all of the information and notes required by GAAP for complete financial statements. The accompanying financial statements reflect all adjustments, consisting of normal recurring adjustments, that are, in the opinion of our management, necessary to a fair statement of the results for the interim periods presented. Interim results are not necessarily indicative of results for a full year.

The preparation of financial statements in accordance with GAAP requires our management to make estimates and assumptions that affect amounts reported in the financial statements and notes thereto. The amounts reported could differ under different estimates and assumptions.

During the second quarter of 2010, we identified an error in our consolidated financial statements as of and for the year ended December 31, 2009 and the three months ended March 31, 2010, which error was incorrectly applying the effective interest method to the accretion component of the debt discount on our note payable to Deerfield. As a result of the error, we overstated interest expense by \$3.0 million and \$1.3 million for the year ended December 31, 2009 and the three months ended March 31, 2010, respectively. The total interest expense on this note is comprised of such accretion and the 7.75% coupon rate applied to the outstanding and undiscounted principal balance. In accordance with relevant guidance, we evaluated the materiality of the error from a qualitative and quantitative perspective. Based on such evaluation, we concluded that correcting the cumulative error would be immaterial to the expected full year results for 2010 and correcting the error would not have had a material impact on any individual prior period financial statements or affect the trend of financial results. Accordingly, we recorded a non-cash adjustment during the second quarter of 2010 to reduce both the cumulative interest expense and the note payable to Deerfield by \$4.3 million.

We have accumulated a large deficit since inception, and we expect that our losses will continue to be substantial for at least the short term. As of September 30, 2010, we had \$176.5 million in cash and cash equivalents and short-term investments, which we believe will be sufficient to fund our operations for at least the next 12 months.

New Accounting Guidance

In April 2010, the Financial Accounting Standards Board, or FASB, issued Accounting Standards Update, or ASU, No. 2010-17, Revenue Recognition Milestone Method, which provides guidance on defining a milestone and determining when it may be appropriate to apply the milestone method of revenue recognition for research or development transactions in which one or more payments are contingent upon achieving uncertain future events. Under this guidance, we may recognize revenue contingent upon the achievement of a milestone in its entirety in the period in which the milestone is achieved, provided that the milestone meets all the criteria within the guidance to be considered substantive. However, under this guidance, we can elect to apply another appropriate accounting policy that results in the deferral of some portion of the arrangement consideration. This guidance is effective prospectively for milestones achieved in fiscal years, and interim periods within those years, beginning on or after June 15, 2010. Early adoption is permitted. If we elect to adopt this standard, we do not expect the adoption of ASU 2010-17 to have a material impact on our consolidated financial statements.

In October 2009, the FASB issued ASU No. 2009-13, Multiple-Deliverable Revenue Arrangements, which provides guidance on recognizing revenue in arrangements with multiple deliverables. ASU 2009-13 addresses how to determine whether an arrangement involving multiple deliverables contains more than one unit of accounting, how such deliverables should be separated and how the consideration should be allocated to one or more units of accounting. ASU 2009-13 is effective prospectively for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010. Early adoption is permitted. We do not expect the adoption of ASU 2009-13 to have a material impact on our consolidated financial statements.

Recent Events

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In October 2010, the US Food and Drug Administration, or FDA, issued a Complete Response Letter, or CRL, regarding our New Drug Application, or NDA, for lorcaserin. In the CRL, the FDA stated that it has completed its review of the NDA and determined that it cannot approve the application in its present form. The FDA also outlined non-clinical and clinical reasons for its decision and provided recommendations relating to addressing such issues. In September 2010, the FDA's Endocrinologic and Metabolic Drugs Advisory Committee voted nine to five that the available data do not demonstrate that the potential benefits of lorcaserin outweigh the potential risks when used long term in a population of overweight and obese individuals to allow marketing approval.

Table of Contents**2. Short-term Investments, Available-for-Sale**

We define short-term investments as income-yielding securities that can be readily converted to cash, and classify such investments as available-for-sale. We carry these securities at fair value, and report unrealized gains and losses as a separate component of accumulated other comprehensive income or loss. Debt securities, if any, are adjusted for amortization of premiums and accretion of discounts to maturity. Such amortization and accretion, if any, is included in interest income. Realized gains and losses and declines in securities judged to be other than temporary are included in other income or expense. Securities sold are based on the specific identification method. Interest and dividends on available-for-sale securities are included in interest income.

The following table summarizes the investment categories comprising our available-for-sale securities at September 30, 2010 and December 31, 2009, in thousands:

	Maturity in Years	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
<u>September 30, 2010</u>					
US government and agency obligations	Less than 1	\$ 10,421	\$ 108	\$	\$ 10,529
Total available-for-sale securities		\$ 10,421	\$ 108	\$	\$ 10,529
<u>December 31, 2009</u>					
US government and agency obligations	Less than 1	\$ 20,433	\$ 404	\$ (121)	\$ 20,716
Total available-for-sale securities		\$ 20,433	\$ 404	\$ (121)	\$ 20,716

3. Fair Value Disclosures

We measure our financial assets and liabilities at fair value, which is defined as the exit price, or the amount that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

We use the following three-level valuation hierarchy that maximizes the use of observable inputs and minimizes the use of unobservable inputs to value our financial assets and liabilities:

Level 1 - Observable inputs such as unadjusted quoted prices in active markets for identical instruments.

Level 2 - Quoted prices for similar instruments in active markets or inputs that are observable for the asset or liability, either directly or indirectly.

Level 3 - Unobservable inputs based on our assumptions.

The following table presents our valuation hierarchy for our financial assets and liabilities that are measured at fair value on a recurring basis as of September 30, 2010, in thousands:

Fair Value Measurements at September 30, 2010			
Balance at September 30, 2010	Quoted Prices in Active Markets	Significant Other Observable Inputs	Significant Unobservable Inputs (Level 3)

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		(Level 1)	(Level 2)		
<i>Assets:</i>					
Money market funds and cash equivalents (1)	\$ 145,669	\$ 145,669	\$	\$	
US government and agency obligations (2)	10,529	10,529			
<i>Liabilities:</i>					
Warrants and other derivative instruments	\$ 1,785	\$	\$	\$	1,785

- (1) Included in cash and cash equivalents on our condensed consolidated balance sheet.
- (2) Included in short-term investments, available-for-sale on our condensed consolidated balance sheet.

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The following table presents our valuation hierarchy for our financial assets and liabilities that are measured at fair value on a recurring basis as of December 31, 2009, in thousands:

	Fair Value Measurements at December 31, 2009			
	Balance at December 31, 2009	Quoted Prices in Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
<i>Assets:</i>				
Money market funds and cash equivalents (1)	\$ 86,857	\$ 86,857	\$	\$
US government and agency obligations (2)	20,716	20,716		
<i>Liabilities:</i>				
Warrants and other derivative instruments	\$ 6,642	\$	\$	\$ 6,642

(1) Included in cash and cash equivalents on our condensed consolidated balance sheet.

(2) Included in short-term investments, available-for-sale on our condensed consolidated balance sheet.

The following table presents the activity for our derivative liabilities, which are classified as Level 3 in our valuation hierarchy, during the three and nine months ended September 30, 2010, in thousands:

	Three months ended September 30, 2010	Nine months ended September 30, 2010
Beginning balance	\$ 4,808	\$ 6,642
Gain from change in valuation of derivative liabilities	(3,023)	(4,857)
Balance at September 30, 2010	\$ 1,785	\$ 1,785

4. Acquired Technology and Other Intangibles

In February 2001, we acquired Bunsen Rush Laboratories, Inc., for \$15.0 million in cash and assumed \$0.4 million in liabilities. We allocated \$15.4 million to the patented Melanophore technology, our primary screening technology, acquired in such transaction. We are amortizing the Melanophore screening technology over its estimated useful life of 10 years, which we determined based on an analysis, as of the acquisition date, of the conditions in, and the economic outlook for, the pharmaceutical and biotechnology industries and the patent life of the technology.

In January 2008, we acquired from Siegfried Ltd, or Siegfried, certain assets, including manufacturing facility production licenses and an assembled workforce originally valued at \$12.1 million and \$1.6 million, respectively. We are amortizing the manufacturing facility production licenses, which are necessary for us to produce and package tablets and other dosage forms in such facility, over their estimated useful life of 20 years as of the acquisition date. We amortized the acquired workforce over its estimated benefit of two years, which was determined based on an analysis as of the acquisition date.

Acquired technology and other intangibles, net, consisted of the following at September 30, 2010, in thousands:

Gross Carrying	Accumulated Amortization	Net Carrying
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	Amount		Amount
Acquired Melanophore screening technology	\$ 15,378	\$ (14,729)	\$ 649
Acquired manufacturing facility production licenses	13,307	(1,830)	11,477
Acquired workforce	1,723	(1,723)	
Total acquired technology and other intangibles, net	\$ 30,408	\$ (18,282)	\$ 12,126

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5. Note Payable to Deerfield

In July 2009, pursuant to a Facility Agreement we entered into in June 2009 with Deerfield Private Design Fund, L.P., Deerfield Private Design International, L.P., Deerfield Partners, L.P., Deerfield International Limited, Deerfield Special Situations Fund, L.P., and Deerfield Special Situations Fund International Limited, or collectively Deerfield, Deerfield provided us with a \$100.0 million secured loan and we issued Deerfield warrants to purchase an aggregate of 28,000,000 shares of our common stock at an exercise price of \$5.42 per share. We refer to these warrants as the 2009 Warrants. We received net proceeds of \$95.6 million from this loan.

On or before June 17, 2011, Deerfield may make a one-time election, which we refer to as the Deerfield Additional Loan Election, to loan us up to an additional \$20.0 million under the Facility Agreement, with the additional loan maturing on the same date as the original loan, June 17, 2013. For each additional \$1.0 million that Deerfield loans us under the Facility Agreement, we will issue Deerfield warrants for 280,000 shares of common stock at an exercise price of \$5.42 per share. All of the warrants issued or issuable in connection with the Facility Agreement are exercisable until June 17, 2013.

Under certain circumstances, Deerfield also has the right to require us to accelerate principal payments under the loan. At any time we may prepay any or all of the outstanding principal at par, and we may be required to make the scheduled repayments earlier in connection with certain equity issuances.

In accordance with relevant guidance, we separately valued four components under the Facility Agreement at the July 2009 issuance date as follows:

- (1) The \$100.0 million loan was valued at \$47.9 million on a relative fair value basis, and was recorded as a long-term liability on our condensed consolidated balance sheet.
- (2) The 2009 Warrants to purchase an aggregate of 28,000,000 shares of our common stock, net of issuance costs, were valued at \$39.1 million on a relative fair value basis. The relative fair value of these warrants was recorded as additional paid-in capital on our condensed consolidated balance sheet, and the resulting debt discount is being accreted to interest expense over the term of the loan or until paid using the effective interest rate method. These warrants were valued at the date of issuance using an option pricing model and the following assumptions: expected life of 3.95 years, risk-free interest rate of 2.0%, expected volatility of 66% and no dividend yield. Because these warrants are eligible for equity classification, no adjustments to the recorded value will be made on an ongoing basis.
- (3) The Deerfield Additional Loan Election, including the 5,600,000 contingently issuable warrants to purchase up to 5,600,000 shares of our common stock, was valued at \$9.5 million. The Deerfield Additional Loan Election was classified as a liability on our condensed consolidated balance sheet and, accordingly, will be revalued on each subsequent balance sheet date until it is exercised or expires, with any changes in the fair value between reporting periods recorded in the interest and other income (expense) section of our condensed consolidated statements of operations (see Note 6). This allocation of proceeds under the Facility Agreement resulted in additional debt discount that is being accreted to interest expense over the term of the loan or until paid using the effective interest rate method.
- (4) Deerfield's ability to accelerate principal payments under the loan was valued at \$0.5 million. The acceleration right was classified as a liability on our condensed consolidated balance sheet and, accordingly, will be revalued on each subsequent balance sheet date until it is exercised or expires, with any changes in the fair value between reporting periods recorded in the interest and other income (expense) section of our condensed consolidated statements of operations (see Note 6). This allocation of proceeds under the Facility Agreement resulted in additional debt discount that is being accreted to interest expense over the term of the loan or until paid using the effective interest rate method.

The difference between the total recorded value of the note payable to Deerfield of \$35.4 million and the \$60.0 million outstanding principal balance of the loan as of September 30, 2010 represents the remaining debt discount, which will be accreted to interest expense over the term of

the loan or until paid.

The loan matures on June 17, 2013, and the outstanding principal accrues interest at a rate of 7.75% per annum on the stated principal balance, payable quarterly in arrears. Total interest expense of \$4.3 million and \$10.4 million, including accretion of the debt discount attributable to the warrants and the other derivative financial instruments and amortization of capitalized issuance costs, was recognized in connection with this loan for the three and nine months ended September 30, 2010, respectively. The non-cash correction of prior period errors described in Note 1 resulted in a \$3.0 million decrease to interest expense for the nine months ended September 30, 2010. At September 30, 2010, we expected interest expense of \$9.8 million to be paid in cash over the remaining term of the loan. The effective annual interest rate on the loan is 38.4%.

As a result of the closing of our public offering of common stock in July 2009, we were required to repay Deerfield \$10.0 million that was originally scheduled to be repaid in July 2010. In connection with this \$10.0 million repayment, we retired a proportional share of the debt discount and issuance costs directly related to the repaid debt and recognized a non-cash loss on extinguishment of debt of \$2.5 million in 2009.

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In June 2010, we entered into a Purchase and Exchange Agreement, or Purchase Agreement, with Deerfield, pursuant to which we sold Deerfield 11,000,000 shares of our common stock at a price of \$3.23 per share, resulting in net proceeds to us of \$35.5 million. Also pursuant to the Purchase Agreement, we exchanged 2009 Warrants to purchase an aggregate of 16,200,000 shares of our common stock at an exercise price of \$5.42 per share for new warrants, which we refer to as the New Warrants, to purchase a like number of shares of our common stock at an exercise price of \$3.45 per share. The New Warrants are exercisable beginning on December 7, 2010 and will remain exercisable until June 17, 2013, which is the same date the 2009 Warrants expire. Other than the exercise price and certain provisions related to cashless exercise and early termination of the warrants, the New Warrants contain substantially the same terms as the 2009 Warrants.

We valued the New Warrants at their June 7, 2010 issuance date using an option pricing model and the following assumptions: expected life of 3.03 years, risk-free interest rate of 1.2%, expected volatility of 72% and no dividend yield. We determined that the incremental value of the New Warrants was \$5.5 million, which was recorded as a component of the stock issuance and warrant exchange under the Purchase Agreement in the stockholders' equity section of our condensed consolidated balance sheet. Because the New Warrants are eligible for equity classification, no adjustments to the recorded value will be made on an ongoing basis.

In August 2010, we sold 8,955,224 shares of our common stock at a price of \$6.70 per share in a registered direct public offering to Deerfield. As part of this transaction, we entered into an amendment to the Facility Agreement, pursuant to which (i) \$30.0 million of the proceeds from this transaction was used to prepay the portion of the principal amount that we otherwise would have been required to repay in July 2012, and (ii) the \$20.0 million principal repayment that we are currently required to make in July 2011 will be deferred until June 17, 2013 if the FDA approves our NDA for lorcaserin before the July 2011 repayment date. Net proceeds to us from this transaction, after prepayment of the \$30.0 million, were approximately \$30.0 million. In connection with this \$30.0 million prepayment, we retired a proportional share of the debt discount and issuance costs directly related to the repaid debt and recognized a non-cash loss on extinguishment of debt of \$12.4 million for the three and nine months ended September 30, 2010. In accordance with relevant guidance, we also evaluated whether this amendment constituted an extinguishment of debt resulting in extinguishment accounting or modification accounting. Based on our analysis, we determined that this amendment was not a substantial modification and, accordingly, we accounted for this amendment under modification accounting. Had extinguishment accounting been required, we would have recognized a gain or loss based on the difference between the carrying value of our note payable to Deerfield and its fair value.

Of the total \$60.0 million of principal outstanding on the Deerfield loan at September 30, 2010, we are required to pay \$20.0 million in July 2011 (unless such payment is deferred as discussed in the immediately preceding paragraph) and the remaining \$40.0 million in June 2013.

6. Derivative Liabilities

In June 2006 and August 2008, we issued seven-year warrants, which we refer to as the Series B Warrants, to purchase 829,856 and 1,106,344 shares of our common stock, respectively, at an exercise price of \$15.49 and \$7.71 per share, respectively. The Series B Warrants are related to our Series B Convertible Preferred Stock, which we redeemed in 2008 and is no longer outstanding. The warrants contain an anti-dilution provision and, as a result of subsequent equity issuances at prices below the adjustment price of \$6.72 defined in the warrants, as of September 30, 2010, the number of shares issuable upon exercise of the outstanding June 2006 and August 2008 Series B Warrants was increased to 1,046,781 and 1,398,346, respectively, and the exercise price was reduced to \$12.28 and \$6.10 per share, respectively.

In January 2009, we adopted amendments to the authoritative guidance related to contracts in an entity's own equity. These amendments provide a two-step model to be applied in determining whether a financial instrument or an embedded feature in a financial instrument is indexed to an entity's own stock that would qualify such financial instruments or embedded features for a scope exception. This scope exception specifies that a contract that would otherwise meet the definition of a derivative financial instrument would not be considered as such if the contract is both (i) indexed to the entity's own stock and (ii) classified in the stockholders' equity section of the balance sheet. Our adoption of these amendments resulted in the determination that our Series B Warrants are ineligible for equity classification as a result of provisions in the Series B Warrants that may result in an adjustment to the warrant exercise price. As such, upon adoption of these amendments, we recorded a \$9.7 million adjustment to equity, a \$2.1 million liability for the fair value of the Series B Warrants and a \$7.6 million adjustment to the opening accumulated deficit balance as a cumulative effect of a change in accounting principle. We have revalued these warrants on each subsequent balance sheet date, and will continue to do so until they are exercised or expire, with any changes in the fair value between reporting periods recorded as other income or expense. The June 2006 Series B Warrants were valued at September 30, 2010 using an option pricing model and the following assumptions: expected life of 2.75 years, risk-free interest rate of 0.7%, expected volatility of 92% and no dividend yield. The August 2008 Series B Warrants were valued at September 30, 2010 using an option pricing model and the following assumptions: expected life of 4.87 years, risk-free interest rate of 1.3%, expected volatility of 77% and no dividend yield.

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We separately valued the Deerfield Additional Loan Election, including the 5,600,000 contingently issuable warrants to purchase up to 5,600,000 shares of our common stock, as of the July 2009 issuance date of the Deerfield loan (see Note 5). The value of the Deerfield Additional Loan Election is classified as a liability on our condensed consolidated balance sheet and, accordingly, will be revalued on each subsequent balance sheet date until it is exercised or expires, with any changes in the fair value between reporting

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periods recorded as other income or expense. In July 2009, the Deerfield Additional Loan Election was valued using an option pricing model and the following assumptions: expected life of 1.45 to 1.95 years, risk-free interest rate of 2.0%, expected volatility of 66% and no dividend yield. At September 30, 2010, the Deerfield Additional Loan Election was revalued using an option pricing model and the following assumptions: expected life of 0.21 to 0.71 years, risk-free interest rate of 0.6%, expected volatility of 93% and no dividend yield.

We also separately valued Deerfield's right to require us to accelerate principal payments on the Deerfield loan under certain circumstances at \$0.5 million as of the July 2009 issuance date of the loan (see Note 5). The value of this acceleration right is classified as a liability on our condensed consolidated balance sheet and, accordingly, will be revalued on each subsequent balance sheet date until it is exercised or expires, with any changes in the fair value between reporting periods recorded as other income or expense. At the issuance date and at September 30, 2010, this acceleration right was valued using a discounted cash flow model.

Our derivative liabilities consisted of the following as of September 30, 2010 and December 31, 2009, in thousands:

	September 30, 2010	December 31, 2009
Deerfield Additional Loan Election	\$ 280	
Total current derivative liabilities	280	
Deerfield Additional Loan Election		\$ 3,831
Series B Warrants	978	2,386
Deerfield acceleration right	527	425
Total long-term derivative liabilities	1,505	6,642
Total derivative liabilities	\$ 1,785	\$ 6,642

The change in the fair value of our derivative liabilities is recorded in the interest and other income (expense) section of our condensed consolidated statements of operations. The following table presents the gain (loss) we recognized for the three and nine months ended September 30, 2010 and 2009, in thousands:

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Series B Warrants	\$ 1,175	\$ 771	\$ 1,408	\$ (1,356)
Deerfield Additional Loan Election	1,915	1,687	3,551	1,687
Deerfield acceleration right	(67)	14	(102)	14
Total gain due to revaluation of derivative liabilities	\$ 3,023	\$ 2,472	\$ 4,857	\$ 345

7. Marketing and Supply Agreement with Eisai, Inc.

In July 2010, our wholly owned subsidiary, Arena Pharmaceuticals GmbH, or Arena GmbH, entered into a marketing and supply agreement with Eisai Inc., or Eisai. Under this agreement, Arena GmbH granted Eisai exclusive rights to commercialize lorcaserin in the United States and its territories and possessions following the FDA's approval of our NDA for lorcaserin. As part of the agreement, Arena GmbH will manufacture lorcaserin at our facility in Switzerland, and Eisai will purchase all of its requirements of lorcaserin from Arena GmbH.

We received a non-refundable, upfront payment of \$50.0 million from Eisai, and, following regulatory approval of lorcaserin and upon the delivery of product supply for launch, may receive up to an additional \$90.0 million depending on the label and timing of approval. We recorded the \$50.0 million upfront payment as deferred revenues and will recognize it as revenue ratably over 13 years, which represents the period in which we expect to have significant involvement. Accordingly, at September 30, 2010, our condensed consolidated balance sheet included \$3.8

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million and \$45.2 million for the current and non-current portion, respectively, of such deferred revenues. We recognized \$1.0 million of revenue for the three and nine months ended September 30, 2010 related to the marketing and supply agreement with Eisai.

We will sell lorcaserin to Eisai for a purchase price starting at 31.5% of Eisai's annual net product sales, and the purchase price will increase on a tiered basis to 36.5% on the portion of annual net product sales exceeding \$750.0 million, subject to reduction in the event of generic competition and certain other circumstances. We are also eligible to receive up to an aggregate of \$1.16 billion in purchase price adjustment payments based on Eisai's annual net sales of lorcaserin, with the first and last amounts payable with

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annual net sales of \$250.0 million and \$2.5 billion, respectively. Of these purchase price adjustment payments, Eisai will pay us a total of \$300.0 million for annual net sales of up to \$1.0 billion. In addition, we are eligible to receive up to an additional \$70.0 million in regulatory and development milestone payments.

Eisai and we will share equally the development expenses for any additional development work required by the FDA prior to approval of our NDA for lorcaserin. If the FDA requires development work following approval of lorcaserin, Eisai will bear 90% and we will bear 10% of the expenses for such work, except that Eisai and we will share equally the costs of certain pediatric or adolescent studies.

In determining the appropriate method of revenue recognition for the multiple elements comprising the marketing and supply agreement with Eisai, we considered a variety of factors, such as whether the elements are separable, whether there are determinable fair values and whether there is a unique earnings process associated with each element. We determined that the right to commercialize lorcaserin and the product development elements are required to be accounted for as a single bundled element, and, accordingly, the non-refundable, upfront payment will be recognized over the period in which we expect to have significant involvement in the arrangement, which we currently estimate to be 13 years. Revenue from milestones achieved, if any, will be recognized when earned, as long as (i) the milestone event is substantive and its achievability was not reasonably assured at the inception of this agreement, (ii) the milestone represents the culmination of an earnings process, (iii) the milestone payment is non-refundable and (iv) our performance obligations after the milestone achievement will continue to be funded at a level comparable to the level before the milestone achievement.

Eisai and we have agreed to not commercialize outside of our marketing and supply agreement any product that competes with lorcaserin in the United States. Our marketing and supply agreement includes a stand-still provision limiting Eisai's ability to acquire our securities and assets.

Unless terminated earlier, our marketing and supply agreement will continue in effect until terminated by Eisai following the later of the expiration of all issued lorcaserin patents for the United States and 12 years after the first commercial sale of lorcaserin in the United States. Either party has the right to terminate this agreement early in certain circumstances, including (i) if the other party is in material breach, (ii) for certain commercialization concerns and (iii) for certain intellectual property infringement. Eisai also has the right to terminate this agreement early in certain circumstances, including (a) if sales of generic equivalents of lorcaserin in the United States exceed sales of lorcaserin in the United States (based on volume) and (b) if Eisai is acquired by a company that has a product that competes with lorcaserin.

8. Warrants

As part of our June 2010 sale of common stock to Deerfield that resulted in net proceeds to us of \$35.5 million (see Note 5), we exchanged 16,200,000 of the 2009 Warrants to purchase shares of our common stock at an exercise price of \$5.42 per share for New Warrants to purchase a like number of shares of our common stock at an exercise price of \$3.45 per share.

The following table summarizes our outstanding warrants as of September 30, 2010:

	Balance Sheet Classification	Number of Warrants	Exercise Price	Expiration Date
Deerfield New Warrants	Equity	16,200,000	\$ 3.45	June 17, 2013
Deerfield 2009 Warrants	Equity	11,800,000	\$ 5.42	June 17, 2013
August 2008 Series B Warrants	Liability	1,398,346	\$ 6.10	August 14, 2015
June 2006 Series B Warrants	Liability	1,046,781	\$ 12.28	June 30, 2013
Total number of warrants outstanding		30,445,127		

9. Share-based Activity***Share-based Compensation***

We use the Black-Scholes option pricing model to estimate the grant-date fair value of share-based awards in determining our share-based compensation expense. In June 2009, our stockholders approved our 2009 Long-Term Incentive Plan and, concurrently, our 2006 Long-Term Incentive Plan, as amended, was terminated. The table below sets forth the weighted-average assumptions and estimated fair value of stock options we granted under these plans during the three and nine months ended September 30, 2010 and 2009:

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	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Risk-free interest rate	2.1%	2.8%	2.4%	2.0%
Dividend yield	0%	0%	0%	0%
Expected volatility	80%	80%	72%	86%
Expected life (years)	5.76	5.72	5.76	5.72
Weighted-average estimated fair value per share of stock options granted	\$ 2.71	\$ 3.06	\$ 2.07	\$ 2.87

In June 2009, our stockholders also approved our 2009 Employee Stock Purchase Plan and, concurrently, our 2001 Employee Stock Purchase Plan, as amended, was terminated. The table below sets forth the weighted-average assumptions and estimated fair value of the options to purchase stock granted under these plans for multiple offering periods during the three and nine months ended September 30, 2010 and 2009:

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Risk-free interest rate	0.1% - 1.9%	0.1% - 4.2%	0.1% - 2.8%	0.1% - 5.1%
Dividend yield	0%	0%	0%	0%
Expected volatility	63% - 83%	53% - 82%	57% - 83%	53% - 82%
Expected life (years)	0.25 - 2.0	0.25 - 2.0	0.25 - 2.0	0.25 - 2.0
Weighted-average estimated fair value per share of options granted under our employee stock purchase plans	\$ 1.41 - 2.28	\$ 1.45 - 4.70	\$ 1.41 - 2.64	\$ 1.45 - 4.70

Expected volatility is based on a combination of 75% historical volatility of our common stock and 25% market-based implied volatilities from traded options on our common stock, with historical volatility being more heavily weighted due to the historically low volume of traded options on our common stock. The expected life of options is determined based on historical experience of similar awards, giving consideration to the contractual terms of the share-based awards, vesting schedules and post-vesting terminations. The risk-free interest rates are based on the US Treasury yield curve, with a remaining term approximately equal to the expected term used in the option pricing model.

Forfeitures are estimated at the time of option grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Based on historical experience, forfeitures of unvested options were estimated to be 7.0% at September 30, 2010 and 8.5% at September 30, 2009. If actual forfeitures vary from estimates, we will recognize the difference in compensation expense in the period the actual forfeitures occur or when stock options vest.

We recognized share-based compensation expense as follows, in thousands, except per share data:

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Research and development	\$ 826	\$ 1,054	\$ 2,611	\$ 2,878
General and administrative	364	571	1,709	2,182
Restructuring charges				306
Total share-based compensation expense and impact on net loss	\$ 1,190	\$ 1,625	\$ 4,320	\$ 5,366
Impact on net loss per share, basic and diluted	\$ 0.01	\$ 0.02	\$ 0.04	\$ 0.06

Table of Contents***Share-based Award Activity***

The following table summarizes our stock option activity during the nine months ended September 30, 2010:

	Options	Weighted-Average Exercise Price
Outstanding at January 1, 2010	7,226,824	\$ 8.94
Granted	1,641,337	3.25
Exercised	(51,655)	1.05
Forfeited/cancelled/expired	(552,927)	10.63
Outstanding at September 30, 2010	8,263,579	\$ 7.74

The following table summarizes activity with respect to our performance-based restricted stock unit awards during the nine months ended September 30, 2010:

	Performance Units	Weighted-Average Grant-Date Fair Value
Outstanding at January 1, 2010	1,714,350	\$ 12.44
Granted		
Vested		
Forfeited/cancelled	(24,700)	7.94
Outstanding at September 30, 2010	1,689,650	\$ 12.50

10. Concentration of Credit Risk and Major Customers

Financial instruments, which potentially subject us to concentrations of credit risk, consist primarily of cash, cash equivalents and short-term investments. We limit our exposure to credit loss by placing our cash and investments in US government, agency and government-sponsored enterprise obligations and in corporate debt instruments that are rated investment grade, in accordance with our board-approved investment policy.

We manufacture drug products for Siegfried under a manufacturing services agreement, and all of our manufacturing services revenues are attributable to Siegfried.

Percentages of our total revenues derived from our manufacturing services agreement and from our most significant collaborators for the periods presented are as follows:

Source of revenue	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Collaboration with TaiGen Biotechnology Co., Ltd.	53.1%		32.1%	
Manufacturing services agreement with Siegfried	24.2%	66.3%	41.7%	60.5%
Collaboration with Eisai	12.6%		7.6%	

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Collaboration with Ortho-McNeil-Janssen Pharmaceuticals, Inc.	10.0%	33.1%	15.3%	39.0%
11. Net Loss Per Share				

We compute basic and diluted net loss per share using the weighted-average number of shares of common stock outstanding during the period, less any shares subject to repurchase or forfeiture. There were no shares of our common stock subject to repurchase or forfeiture for the three and nine months ended September 30, 2010 or 2009.

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Because we are in a net loss position, we have excluded outstanding unvested performance-based restricted stock unit awards, which are subject to forfeiture, warrants and stock options, as well as unvested restricted stock in our deferred compensation plan, from our calculation of diluted net loss per share for the three and nine months ended September 30, 2010 and 2009 because these securities are antidilutive. The table below presents our securities that would otherwise be included in our diluted net loss per share at September 30, 2010 and 2009.

	September 30,	
	2010	2009
Warrants	30,445,127	30,138,263
Stock options	8,263,579	7,249,561
Performance-based restricted stock unit awards	1,689,650	1,717,850
Unvested restricted stock	84,169	101,669
Total	40,482,525	39,207,343

Had they been dilutive, these securities would have been included in our computation of diluted net loss per share.

12. Comprehensive Income (Loss)

We report all components of comprehensive income (loss), including foreign currency translation gain and loss and unrealized gains and losses on investment securities, in the financial statements in the period in which they are recognized. Comprehensive income (loss) is defined as the change in equity during a period from transactions and other events and circumstances from non-owner sources. Below is a reconciliation, in thousands, of our net loss to comprehensive loss for all periods presented.

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Net loss	\$ (36,266)	\$ (34,835)	\$ (96,293)	\$ (123,432)
Foreign currency translation gain	3,677	1,348	2,956	507
Unrealized gain (loss) on available-for-sale securities and other investments, net of taxes	(679)	462	(176)	433
Comprehensive loss	\$ (33,268)	\$ (33,025)	\$ (93,513)	\$ (122,492)

13. Legal Proceedings

Beginning September 20, 2010, a number of complaints were filed in the US District Court for the Southern District of California against us and certain of our current and former employees and directors on behalf of certain purchasers of our common stock. The complaints have been brought as purported stockholder class actions, and, in general, include allegations that we and certain of our current and former employees and directors violated federal securities laws by making materially false and misleading statements regarding our lorcaserin trials, thereby artificially inflating the price of our common stock. The plaintiffs are seeking unspecified monetary damages and other relief. We expect that all class action complaints filed to date will be transferred to a single court. We then expect the court to consolidate the actions, appoint a lead plaintiff and order the lead plaintiff to file a consolidated complaint. We intend to vigorously defend against the claims advanced, and intend to file a motion to dismiss the consolidated complaint.

On September 24, 2010, a stockholder derivative complaint was filed in the Superior Court of California for the County of San Diego against certain of our current and former employees and directors, and other stockholder derivative complaints were subsequently filed in state court. On October 19, 2010, the Superior Court ordered the pending state derivative complaints be consolidated. The Superior Court also ordered that later filed, related derivative complaints be consolidated as well. On October 6, 2010, a stockholder derivative suit was filed in the US District Court for the Southern District of California. Thereafter, a number of other stockholder derivative actions were filed in federal court. Plaintiffs in the

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first two federal stockholder derivative actions filed a motion to consolidate the two actions and appoint lead counsel. A hearing on the motion to consolidate has been scheduled for December 17, 2010. The state and federal stockholder derivative actions are hereinafter collectively referred to as the Derivative Actions. The complaints in the Derivative Actions allege breaches of fiduciary duties by the defendants and other violations of law. In general, the complaints allege that certain of our current and former employees and directors caused or allowed for the dissemination of materially false and misleading statements regarding our lorcaserin trials, thereby artificially inflating the price of our common stock. The plaintiffs are seeking unspecified monetary damages and other relief, including reforms and improvements to our corporate governance and internal procedures. We have not yet responded to the Derivative Actions, but intend to vigorously defend against the claims advanced and to seek dismissal of the Derivative Actions.

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14. Subsequent Events

We have evaluated subsequent events after the balance sheet date of September 30, 2010 and up to the date we filed this report.

On October 22, 2010, the FDA issued a CRL regarding our NDA for lorcaserin. In the CRL, the FDA stated that it has completed its review of the NDA and determined that it cannot approve the application in its present form. The FDA also outlined non-clinical and clinical reasons for its decision and provided recommendations relating to addressing such issues.

On November 4, 2010, we announced that following the completion of a Phase 1 clinical trial program for APD597, Ortho-McNeil-Janssen Pharmaceuticals, Inc., decided not to advance APD597 and notified us that it is terminating our collaboration, effective December 28, 2010. APD597 is a GPR119 agonist intended for the treatment of type 2 diabetes, which, along with other compounds and intellectual property, will revert to us upon termination of the collaboration. The Phase 1 program provided evidence for incretin stimulation (GLP-1, GIP and PYY) and reductions in post-meal glucose increases with APD597 alone and in combination with sitagliptin, a DPP-4 inhibitor.

On November 9, 2010, we announced top-line results from the lorcaserin BLOOM-DM (Behavioral modification and Lorcaserin for Overweight and Obesity Management in Diabetes Mellitus) trial that demonstrate statistically significant weight loss and improved HbA1c in obese and overweight patients with type 2 diabetes. In this trial, lorcaserin met all three primary efficacy endpoints.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

This discussion and analysis should be read in conjunction with our financial statements and notes thereto included in this quarterly report on Form 10-Q, or Quarterly Report, and the audited consolidated financial statements and notes thereto included in our annual report on Form 10-K for the year ended December 31, 2009, or 2009 Annual Report, as filed with the Securities and Exchange Commission, or SEC. Operating results are not necessarily indicative of results that may occur in future periods.

This Quarterly Report includes forward-looking statements, which involve a number of risks and uncertainties. These forward-looking statements can generally be identified as such because the context of the statement will include words such as may, will, intend, plan, believe, anticipate, expect, estimate, predict, potential, continue, likely, or opportunity, the negative of these words or other similar words. Statements that describe our future plans, strategies, intentions, expectations, objectives, goals or prospects and other statements that are not historical facts are also forward-looking statements. For such statements, we claim the protection of the Private Securities Litigation Reform Act of 1995. Readers of this Quarterly Report are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the time this Quarterly Report was filed with the SEC. These forward-looking statements are based largely on our expectations and projections about future events and future trends affecting our business, and are subject to risks and uncertainties that could cause actual results to differ materially from those anticipated in the forward-looking statements. These risks and uncertainties include, without limitation, the risk factors identified in our SEC reports, including this Quarterly Report. In addition, past financial or operating performance is not necessarily a reliable indicator of future performance, and you should not use our historical performance to anticipate results or future period trends. We can give no assurances that any of the events anticipated by the forward-looking statements will occur or, if any of them do, what impact they will have on our results of operations and financial condition. Except as required by law, we undertake no obligation to update publicly or revise our forward-looking statements.

OVERVIEW AND RECENT DEVELOPMENTS

We are a clinical-stage biopharmaceutical company focused on discovering, developing and commercializing oral drugs that target G protein-coupled receptors, or GPCRs, an important class of validated drug targets, in four major therapeutic areas: cardiovascular, central nervous system, inflammatory and metabolic diseases. Our most advanced drug candidate, lorcaserin hydrochloride or lorcaserin, is intended for weight management. Arena Pharmaceuticals GmbH, or Arena GmbH, our wholly owned subsidiary, has granted Eisai Inc., or Eisai, exclusive rights to market and distribute lorcaserin in the United States following the US Food and Drug Administration, or FDA, approval of our New Drug Application, or NDA, for lorcaserin.

Our recent developments include:

Lorcaserin

Announced top-line results from the lorcaserin BLOOM-DM (Behavioral modification and Lorcaserin for Overweight and Obesity Management in Diabetes Mellitus) trial that demonstrate statistically significant weight loss and improved HbA1c in obese and overweight patients with type 2 diabetes. In this trial, lorcaserin met all three primary efficacy endpoints.

The FDA issued a Complete Response Letter, or CRL, regarding our NDA for lorcaserin. In the CRL, the FDA stated that it has completed its review of the NDA and determined that it cannot approve the application in its present form. The FDA also outlined non-clinical and clinical reasons for its decision and provided recommendations relating to addressing such issues. Prior to issuance of the CRL, the FDA Endocrinologic and Metabolic Drugs Advisory Committee voted nine to five that the

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available data do not demonstrate that the potential benefits of lorcaserin outweigh the potential risks when used long term in a population of overweight and obese individuals to allow marketing approval.

Results from a lorcaserin mechanism of action study conducted at the Pennington Biomedical Research Center were presented at Obesity 2010, the 28th Annual Scientific Meeting of The Obesity Society. The data presented showed that lorcaserin reduces energy intake and appetite, and causes weight loss without stimulating energy expenditure.

The FDA completed the Pre-Approval Inspection of our drug product manufacturing facility in Switzerland and classified the inspection as No Action Indicated.

Results from our two-year, pivotal Phase 3 BLOOM (Behavioral modification and Lorcaserin for Overweight and Obesity Management) trial were published in the July 15, 2010, issue of the *New England Journal of Medicine*. The data presented in the article show that lorcaserin used in conjunction with behavioral modification caused significantly greater weight loss and improved maintenance of weight loss compared to placebo. The data also indicated that lorcaserin improved values for biomarkers that may be predictive of future cardiovascular events, including lipid levels, insulin resistance, levels of inflammatory markers and blood pressure.

Arena GmbH entered into a marketing and supply agreement with Eisai for the commercialization of lorcaserin in the United States following FDA approval of our NDA for lorcaserin. Under the terms of the agreement, we received a non-refundable, upfront payment of \$50.0 million from Eisai.

Other

Announced that following the completion of a Phase 1 clinical trial program for APD597, Ortho-McNeil-Janssen Pharmaceuticals, Inc., decided not to advance APD597 and notified us that it is terminating our collaboration, effective December 28, 2010. APD597 is a GPR119 agonist intended for the treatment of type 2 diabetes, which, along with other compounds and intellectual property, will revert to us upon termination of the collaboration. The Phase 1 program provided evidence for incretin stimulation (GLP-1, GIP and PYY) and reductions in post-meal glucose increases with APD597 alone and in combination with sitagliptin, a DPP-4 inhibitor.

Announced results from a Phase 1 clinical trial of APD916, a novel drug candidate we discovered that targets the histamine H3 receptor for the treatment of narcolepsy with cataplexy. In this randomized, double-blind, placebo-controlled trial in 24 healthy volunteers, APD916 demonstrated dose-proportional pharmacokinetic exposure over the tested dose range.

Received gross proceeds of approximately \$60.0 million from the sale of 8,955,224 shares of our common stock to certain Deerfield entities at a price of \$6.70 per share. As part of the transaction, we amended our June 2009 Facility Agreement with Deerfield pursuant to which \$30.0 million of the proceeds from this transaction was used to prepay the portion of the principal amount that we otherwise would have been required to repay in July 2012.

We refer you to our previously filed Current Reports on Form 8-K for a more complete discussion of these developments.

RESULTS OF OPERATIONS

We are providing the following summary of our revenues, research and development expenses and general and administrative expenses to supplement the more detailed discussion below. The dollar values in the following tables are in millions.

Revenues

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Source of revenue	Three months ended		Nine months ended	
	September 30,		September 30,	
	2010	2009	2010	2009
Manufacturing services	\$ 1.8	\$ 1.7	\$ 5.3	\$ 4.7
Collaborative agreements	5.8	0.9	7.3	3.0
Total revenues	\$ 7.6	\$ 2.6	\$ 12.6	\$ 7.7

Research and development expenses

Type of expense	Three months ended		Nine months ended	
	September 30,		September 30,	
	2010	2009	2010	2009
Salary and other personnel costs (excluding non-cash share-based compensation)	\$ 8.1	\$ 7.7	\$ 25.1	\$ 27.3
External clinical and preclinical study fees and expenses	5.7	7.7	14.0	39.8
Facility and equipment costs	3.5	3.8	10.9	11.7

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Type of expense	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Research supplies	1.0	0.8	2.9	3.7
Non-cash share-based compensation	0.9	1.0	2.6	2.9
Other	1.0	1.1	3.5	3.6
Total research and development expenses	\$ 20.2	\$ 22.1	\$ 59.0	\$ 89.0

General and administrative expenses

Type of expense	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Legal, accounting and other professional fees	\$ 2.7	\$ 1.7	\$ 7.0	\$ 6.0
Salary and other personnel costs (excluding non-cash share-based compensation)	2.3	1.9	7.0	6.5
Facility and equipment costs	1.0	0.8	2.8	2.7
Non-cash share-based compensation	0.4	0.6	1.7	2.2
Other	0.5	0.4	2.1	1.3
Total general and administrative expenses	\$ 6.9	\$ 5.4	\$ 20.6	\$ 18.7

THREE MONTHS ENDED SEPTEMBER 30, 2010 AND 2009

Revenues. We recognized total revenues of \$7.6 million for the three months ended September 30, 2010, compared to \$2.6 million for the three months ended September 30, 2009. Our revenues for the three months ended September 30, 2010 included (i) \$4.0 million of previously deferred non-cash revenues recognized from our license agreement with TaiGen Biotechnology Co., Ltd., or TaiGen, (ii) \$1.8 million recognized under our manufacturing services agreement with Siegfried, (iii) \$1.0 million recognized from amortization of the \$50.0 million non-refundable, upfront payment we received in July 2010 under our marketing and supply agreement with Eisai and (iv) \$0.8 million recognized for patent activities from our collaboration with Ortho-McNeil-Janssen Pharmaceuticals, Inc., or Ortho-McNeil-Janssen. Our revenues for the three months ended September 30, 2009 included \$1.7 million recognized under our manufacturing services agreement with Siegfried and \$0.9 million recognized for patent activities, primarily related to the Ortho-McNeil-Janssen collaboration. On October 29, 2010, Ortho-McNeil-Janssen notified us that, effective December 28, 2010, it is terminating our collaboration.

We expect that our 2010 revenues will primarily consist of amortization of the \$50.0 million non-refundable, upfront payment we received from Eisai, reimbursement for patent activities from Ortho-McNeil-Janssen, recognition of non-cash deferred revenues from our license agreement with TaiGen and revenue under our manufacturing services agreement with Siegfried. Under such Siegfried agreement, until at least December 31, 2010, Siegfried may sub-contract to us the manufacture of certain drug products it previously manufactured for its customers, and we agreed to perform such manufacturing up to certain specified amounts. Under such agreement, Siegfried guarantees a minimum level of cost absorption through the end of 2010, which we will record as revenues, of CHF 6.6 million, or approximately \$6.8 million, for the full year ending December 31, 2010. We expect to exceed this minimum for 2010. After December 31, 2010, Siegfried can request under such agreement for us to manufacture drug products, but we will no longer be obligated to perform such manufacturing. In the fourth quarter of 2010, we expect to recognize \$1.0 million from amortization of the \$50.0 million non-refundable, upfront payment we received from Eisai and recorded as deferred revenues. Following the termination of our collaboration with Ortho-McNeil-Janssen, they will no longer reimburse us for patent activities, and, accordingly, we will no longer recognize such revenues.

Revenues from collaborators for milestones that may be achieved in the future are difficult to predict, and, in the case of our marketing and supply agreement with Eisai, depend in large part on whether we receive US marketing approval for lorcaserin. We may recognize in the short term up to an additional \$90.0 million in revenues from Eisai following regulatory approval of our NDA for lorcaserin and upon the delivery of product supply for launch, depending on the label and timing of approval. Our revenues may vary significantly from quarter to quarter and year to year. We expect that any significant revenues for at least the short term will depend on whether and when we receive US marketing approval for lorcaserin, enter into any agreements to commercialize lorcaserin outside of the United States and collaborate on any of our other current or

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future drug candidates. Ultimately, we expect our revenues in the long term to primarily depend upon the regulatory approval and commercialization of our drug candidates.

Cost of manufacturing services. Cost of manufacturing services is comprised of direct costs associated with manufacturing drug products for Siegfried under our manufacturing services agreement, including related salaries, other personnel costs and machinery

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depreciation costs. We recognized cost of manufacturing services of \$1.8 million for the three months ended September 30, 2010, compared to \$1.7 million for the three months ended September 30, 2009.

Research and development expenses. Research and development expenses, which account for the majority of our expenses, consist primarily of salaries and other personnel costs, clinical trial costs (including payments to contract research organizations, or CROs), preclinical study fees, manufacturing costs for non-commercial products, costs for the development of our earlier-stage programs and technologies, research supply costs and facility and equipment costs. We expense research and development costs to operations as they are incurred when these expenditures relate to our research and development efforts and have no alternative future uses. Other than external expenses for our clinical and preclinical programs, we generally do not track our research and development expenses by project; rather, we track such expenses by the type of cost incurred.

Research and development expenses decreased by \$1.9 million to \$20.2 million for the three months ended September 30, 2010, from \$22.1 million for the three months ended September 30, 2009. This was primarily due to a \$2.0 million decrease in external clinical and preclinical study fees and expenses due to completing our lorcaserin pivotal Phase 3 clinical trials. We expect that our 2010 research and development expenses will be significantly lower than the 2009 level due to completion of our lorcaserin pivotal Phase 3 trials.

We expect to incur manufacturing costs for lorcaserin in the short term as we prepare for the launch of lorcaserin following FDA approval and that such costs will be substantial if the FDA approves our NDA for lorcaserin. However, if the NDA for lorcaserin is approved, we will begin to record our lorcaserin manufacturing costs as cost of goods sold as the related inventory is sold, instead of as part of our research and development expenses. Pre-launch inventory manufactured is being charged to expense until we believe that the likelihood of approval is such that we should begin recording the production costs related to the inventory produced as an asset.

Substantially all of the \$5.7 million of total external clinical and preclinical study fees and expenses noted in the table above for the three months ended September 30, 2010 related to our lorcaserin program. Included in the \$7.7 million total external clinical and preclinical study fees and expenses noted in the table above for the three months ended September 30, 2009 was \$7.4 million related to our lorcaserin program.

General and administrative expenses. General and administrative expenses increased by \$1.5 million to \$6.9 million for the three months ended September 30, 2010, from \$5.4 million for the three months ended September 30, 2009. This increase was primarily due to an increase of \$1.0 million in legal fees, primarily patent legal fees. We expect that our 2010 general and administrative expenses will be higher than the 2009 level as a result of market research expenses related to lorcaserin and increased legal fees. We expect our expenses for legal fees to increase in the short term due to ongoing litigation, but we expect that any costs exceeding our deductible for defending against these claims will largely be covered by insurance.

Amortization of acquired technology and other intangibles. We recognized \$0.5 million for amortization of acquired technology and other intangibles for the three months ended September 30, 2010, compared to \$0.6 million for the three months ended September 30, 2009. The amortization expense recognized for the three months ended September 30, 2010 relates to the manufacturing facility production licenses we acquired in January 2008, which are being amortized over their estimated useful life of 20 years, and the Melanophore screening technology, our primary screening technology, which is being amortized over its estimated useful life of 10 years. Using the exchange rate in effect on September 30, 2010, we expect to record amortization expense of \$0.2 million in the remaining quarter of 2010 and \$0.7 million per year through 2027 for the manufacturing facility production licenses. We also expect to record amortization expense related to our Melanophore screening technology of \$0.4 million in the remaining quarter of 2010 and the remaining amount of \$0.3 million in the first quarter of 2011. We amortized the workforce we acquired from Siegfried in January 2008 through the end of 2009 over its estimated benefit of two years.

Interest and other income (expense), net. Total interest and other expense, net, increased by \$6.9 million to \$14.5 million for the three months ended September 30, 2010, from \$7.6 million for the three months ended September 30, 2009. This increase was primarily due to an increase of \$9.9 million in our non-cash loss on extinguishment of debt, which was partially offset by (i) a \$1.1 million decrease in interest expense, primarily due to the lower outstanding principal balance on the Deerfield loan, (ii) a \$0.9 million gain on investments and (iii) a \$0.6 million non-cash gain due to the revaluation of our derivative liabilities. The interest expense recognized for the three months ended September 30, 2010 includes interest of \$1.5 million paid to Deerfield in cash. We expect that our interest expense will continue to be substantial as a result of the Deerfield loan and, to a lesser degree, payments on our lease financing obligations.

NINE MONTHS ENDED SEPTEMBER 30, 2010 AND 2009

Revenues. We recognized revenues of \$12.6 million during the nine months ended September 30, 2010, compared to \$7.7 million during the nine months ended September 30, 2009. Our revenues for the nine months ended September 30, 2010 included (i) \$5.3 million recognized under our manufacturing services agreement with Siegfried, (ii) \$4.0 million of previously deferred revenues recognized from our license agreement

with TaiGen, (iii) \$1.9 million recognized for patent activities, primarily related to our

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collaboration with Ortho-McNeil-Janssen, (iv) \$1.0 million recognized from amortization of the \$50.0 million non-refundable, upfront payment we received from Eisai in July 2010 and (v) \$0.4 million recognized related to a license agreement with GlaxoSmithKline LLC and GlaxoSmithKline Research & Development Limited, or collectively GSK, for their use of our Melanophore screening technology. Our revenues for the nine months ended September 30, 2009 included \$4.7 million recognized under our manufacturing services agreement with Siegfried and \$3.0 million recognized for patent activities, primarily related to the Ortho-McNeil-Janssen collaboration.

Cost of contract manufacturing. We recognized cost of manufacturing services of \$5.3 million and \$4.7 million for the nine months ended September 30, 2010 and 2009, respectively.

Research and development expenses. Research and development expenses decreased \$30.0 million to \$59.0 million for the nine months ended September 30, 2010, from \$89.0 million for the nine months ended September 30, 2009. This was primarily due to decreases of (i) \$25.8 million in external clinical and preclinical study fees and expenses primarily due to completing our pivotal Phase 3 clinical trials for lorcaserin, (ii) \$2.2 million in salary and personnel costs as a result of our June 2009 workforce reduction and (iii) \$0.8 million in both facility and equipment costs and research supplies. Included in the \$14.0 million of total external clinical and preclinical study fees and expenses for the nine months ended September 30, 2010 was \$12.8 million related to our lorcaserin program, \$0.5 million related to our APD916 program for the treatment of narcolepsy with cataplexy, and \$0.4 million related to our APD811 program for the treatment of pulmonary arterial hypertension. Included in the \$39.8 million of total external clinical and preclinical study fees and expenses for the nine months ended September 30, 2009 was \$38.4 million related to lorcaserin, \$0.6 million related to APD811 and \$0.4 million related to APD125, which we previously studied for insomnia.

General and administrative expenses. General and administrative expenses increased \$1.9 million to \$20.6 million for the nine months ended September 30, 2010, from \$18.7 million for the nine months ended September 30, 2009. This was primarily due to increases of \$0.9 million in legal fees, primarily corporate legal fees, and \$0.8 million in marketing research expenses.

Amortization of acquired technology and other intangibles. We recognized \$1.6 million for amortization of acquired technology and other intangibles for the nine months ended September 30, 2010, compared to \$1.7 million for the nine months ended September 30, 2009.

Interest and other income (expense), net. Total interest and other expense, net, increased by \$8.7 million to \$22.4 million for the nine months ended September 30, 2010, from \$13.7 million for the nine months ended September 30, 2009. This increase was primarily due to an increase of \$9.9 million in our loss on extinguishment of debt and a \$5.2 million increase in interest expense related to our Deerfield loan. These increases were partially offset by a \$4.5 million gain due to the revaluation of our derivative liabilities and a \$0.9 million gain on investments. The interest expense recognized for the nine months ended September 30, 2010 includes interest of \$5.0 million we paid Deerfield in cash and the non-cash correction of prior period errors described in the notes to our financial statements herein, which resulted in a \$3.0 million decrease to interest expense in the second quarter of 2010.

LIQUIDITY AND CAPITAL RESOURCES

Short term

Our sources of liquidity include our cash balances and short-term investments. As of September 30, 2010, we had \$176.5 million in cash and cash equivalents and short-term investments, which we believe will be sufficient to fund our operations for at least the next 12 months. Other potential sources of liquidity in the short term include (i) entering into additional commercialization agreements for lorcaserin or a collaborative agreement for one of our other drug candidates or programs, (ii) equity, debt or other financing, (iii) the sale of facilities we own, (iv) payments from our collaborators and (v) revenues based on Eisai's annual net sales of lorcaserin if we receive marketing approval. In addition, on or before June 17, 2011, Deerfield can make a one-time election to loan us up to an additional \$20.0 million under similar terms as the initial \$100.0 million loan.

To date, we have obtained cash and funded our operations primarily through the sale of common and preferred stock, the issuance of a note and related financial instruments, payments from collaborators and sale leaseback transactions. Although we will continue to be opportunistic in our efforts to obtain cash, there is no guarantee that additional funding will be available or that, if available, such funding will be adequate or available on terms that we or our stockholders view as favorable. In addition, as a result of our outstanding loan with Deerfield, our ability to engage in financing transactions is subject to certain limitations and certain financing transactions, if consummated, may accelerate our repayment obligations to Deerfield.

In October 2010, the FDA issued a CRL regarding our NDA for lorcaserin. In the CRL, the FDA stated that it has completed its review of the NDA and determined that it cannot approve the application in its present form. The FDA also outlined non-clinical and clinical reasons for its decision and provided recommendations relating to addressing such issues. Our marketing and supply agreement with Eisai provides that Eisai

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and we will share equally the development expenses for any additional development work required by the FDA prior to approval of lorcaserin, and we intend to work with Eisai in responding to the CRL. We expect that the cost of any additional external development expenses that we incur in connection with such response will be substantially less than the external development expenses we have incurred for lorcaserin thus far in 2010.

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In January 2008, we entered into strategic cooperation agreements with Siegfried that are primarily related to the manufacturing of lorcaserin, and which are necessary for lorcaserin's commercialization. We paid CHF 21.8 million, or \$19.6 million, of the cash purchase price in January 2008, and are scheduled to pay the remaining cash portion of the purchase price of CHF 10.0 million in three equal installments, with the first payment of CHF 3.3 million scheduled to be paid in January 2011.

Although our September 30, 2010 consolidated balance sheet reflects a total balance of \$35.4 million for our note payable to Deerfield due to the requirement to separately value the components of the note, warrants and related financial instruments, the principal balance outstanding on this loan was \$60.0 million at September 30, 2010. The earlier of the two remaining principal repayments on the Deerfield loan of \$20.0 million is scheduled to be repaid in July 2011. As part of our August 2010 sale of common stock to Deerfield, we amended the Facility Agreement we entered into in June 2009, pursuant to which this \$20.0 million principal repayment currently required to be made in July 2011 will be deferred until June 17, 2013, provided that we receive FDA approval of our NDA for lorcaserin before the July 2011 repayment date.

We are continuing to fund activities in support of the further development, approval and commercialization of lorcaserin, and, at the same time, selectively advancing other drug candidates and programs in our research and development pipeline, which may include clinical development. We expect that our research and development expenditures will continue to be high in 2010, but substantially less than they were in 2009. We expect to incur manufacturing costs for lorcaserin as we prepare for the potential launch of lorcaserin and that such costs will be substantial if the FDA approves our NDA for lorcaserin.

We will continue to monitor and evaluate the level of our research, development and manufacturing expenditures, and may further adjust such expenditures based upon a variety of factors, such as our available cash, our ability to obtain additional cash, the results and progress in our lorcaserin and earlier-stage programs, the time and costs related to clinical trials and regulatory decisions, as well as the global economic environment.

Long term

We will need substantial cash to achieve our objectives of discovering, developing and commercializing drugs, which typically take many years and potentially several hundreds of millions of dollars to develop. We do not have adequate internal liquidity to meet these objectives in the long term. To do so, we will need to obtain significant funds under our current collaborative agreements, continue seeking collaborators for our drug candidates and programs and look to other external sources of liquidity, which may include the public and private financial markets.

With respect to lorcaserin, we expect to continue to incur substantial costs, including manufacturing costs, prior to and after receiving marketing approval for lorcaserin, if ever. If lorcaserin is approved for marketing in the United States, we expect Eisai to commercialize lorcaserin under our marketing and supply agreement. With respect to commercializing lorcaserin outside of the United States, we will need additional funds or a collaborative or other agreement with one or more pharmaceutical companies.

In addition to the public and private financial markets, potential sources of liquidity in the long term include revenues based on Eisai's annual net sales of lorcaserin and milestone and other payments under our marketing and supply agreement, milestone and royalty payments from other existing and future collaborators and revenues from sales of any drugs we commercialize on our own. The length of time that our current cash and cash equivalents, short-term investments and any available borrowings will sustain our operations will be based on, among other things, our prioritization decisions regarding funding for our programs, progress in our clinical and earlier-stage programs, the time and costs related to current and future clinical trials and regulatory decisions, our research, development, manufacturing and commercialization costs (including personnel costs), our progress in any programs under collaborations, costs associated with intellectual property, our capital expenditures, and costs associated with securing any in-licensing opportunities. Any significant shortfall in funding may result in us reducing our development and/or research activities, which, in turn, would affect our development pipeline and ability to obtain cash in the future. If we determine it is advisable to raise additional funds, we do not know whether adequate funding will be available to us or, if available, that such funding will be available on acceptable terms.

The final principal repayment on the Deerfield loan of \$40.0 million is scheduled to be repaid in June 2013. At any time we may prepay any or all of the outstanding principal of the Deerfield loan at par, and we may be required to make the scheduled repayments earlier in connection with certain equity issuances. In addition, we are required to make mandatory prepayments of the loan under certain circumstances.

We evaluate from time to time potential acquisitions and in-licensing and other opportunities. Any such transaction may impact our liquidity as well as affect our expenses if, for example, our operating expenses increase as a result of such license or acquisition or we use our cash to finance the license or acquisition. In each of January 2012 and January 2013, we are scheduled to pay Siegfried CHF 3.3 million for the final

two installments for the drug product facility assets we acquired in January 2008.

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Sources and Uses of Our Cash

Net cash used in operating activities decreased by \$102.7 million to \$26.9 million comparing the nine months ended September 30, 2010 and 2009. This decrease resulted from our lower net loss comparing these periods, primarily due to completing our lorcaserin pivotal Phase 3 trials in 2009, as well as changes in our operating assets and liabilities, primarily receipt of a \$50.0 million non-refundable, upfront payment from Eisai.

Net cash of \$6.4 million was provided by investing activities during the nine months ended September 30, 2010, and was primarily attributable to net proceeds of \$10.0 million from our short-term investments, which were partially offset by \$3.7 million used for equipment and improvements to our facilities. Net cash of \$12.3 million was provided by investing activities during the nine months ended September 30, 2009, and was primarily attributable to net proceeds of \$15.7 million from our short-term investments, which were partially offset by \$3.7 million used for equipment and improvements to our facilities. We expect that our capital expenditures in 2010 will be lower than in 2009 primarily as a result of lower capital expenditures for our manufacturing facility in Switzerland.

Net cash of \$89.8 million was provided by financing activities during the nine months ended September 30, 2010, primarily due to net proceeds of \$35.5 million from the sale of 11.0 million shares of common stock and the exchange of warrants to Deerfield, net proceeds of \$30.0 million, after the \$30.0 million principal prepayment, from the sale of approximately 9.0 million shares of common stock to Deerfield and net proceeds of \$24.2 million from the sale of approximately 8.3 million shares of common stock under an equity financing commitment we had with Azimuth Opportunity Ltd, or Azimuth. Net cash provided by financing activities was \$166.5 million during the nine months ended September 30, 2009, and was primarily attributable to net financing proceeds of \$96.9 million from the issuance of a note and related financial instruments to Deerfield, net proceeds of \$49.7 million from the sale of 12.5 million shares of common stock, \$15.0 million in proceeds related to a lease financing and net proceeds of \$14.7 million from the sale of approximately 5.7 million shares of common stock under the equity financing commitment with Azimuth.

CRITICAL ACCOUNTING POLICIES AND MANAGEMENT ESTIMATES

The SEC defines critical accounting policies as those that are, in management's view, important to the portrayal of our financial condition and results of operations and demanding of management's judgment. Our discussion and analysis of financial condition and results of operations is based on our consolidated financial statements, which have been prepared in accordance with US generally accepted accounting principles, or GAAP. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses and related disclosures. We base our estimates on historical experience and on various assumptions that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ significantly from those estimates.

Our critical accounting policies include:

Revenue recognition. Our revenues to date have been generated primarily through collaborative agreements and a manufacturing services agreement. Our collaborative agreements have included upfront payments, research funding and milestone achievements. We defer non-refundable upfront payments under our collaborations and recognize them over the period in which we have significant involvement or perform services, using various factors specific to each collaboration. Amounts we receive for research funding for a specified number of full-time researchers are recognized as revenue as the services are performed. Revenue from a milestone achievement is recognized when earned, as evidenced by acknowledgment from our collaborator, provided that (i) the milestone event is substantive and its achievability was not reasonably assured at the inception of the agreement, (ii) the milestone represents the culmination of an earnings process, (iii) the milestone payment is non-refundable and (iv) our performance obligations after the milestone achievement will continue to be funded by our collaborator at a level comparable to the level before the milestone achievement. If all of these criteria are not met, the milestone achievement is recognized over the remaining minimum period of our performance obligations under the agreement. Any advance payments we receive in excess of amounts earned are classified as deferred revenues until earned.

We manufacture drug products under a manufacturing services agreement for a single customer, Siegfried. Upon Siegfried's acceptance of drug products manufactured by us, we recognize manufacturing services revenues at agreed upon prices for such drug products. We have also contracted with Siegfried for them to provide us with administrative and other services in exchange for a fee paid to Siegfried. We determined that we are receiving an identifiable benefit for these services from Siegfried, and are recording such fees in the operating expense section of our consolidated statement of operations.

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Clinical trial expenses. We accrue clinical trial expenses based on work performed. In determining the amount to accrue, we rely on estimates of total costs incurred based on the enrollment of subjects, the completion of trials and other events. We follow this method because we believe reasonably dependable estimates of the costs applicable to various stages of a clinical trial can be made. However, the actual costs and timing of clinical trials are highly uncertain, subject to risks and may change depending on a number of factors. Differences between the actual clinical trial costs and the estimated clinical trial costs that we have accrued in any prior period are

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recorded in the subsequent period in which the actual costs become known. Historically, these differences have not been material; however, material differences could occur in the future.

Derivative liabilities. We account for our warrants and other derivative financial instruments as either equity or liabilities based upon the characteristics and provisions of each instrument. Warrants classified as equity are recorded as additional paid-in capital on our consolidated balance sheet and no further adjustments to their valuation are made. Some of our warrants were determined to be ineligible for equity classification because of provisions that may result in an adjustment to their exercise price. Warrants classified as derivative liabilities and other derivative financial instruments that require separate accounting as liabilities are recorded on our consolidated balance sheet at their fair value on the date of issuance and will be revalued on each subsequent balance sheet date until such instruments are exercised or expire, with any changes in the fair value between reporting periods recorded as other income or expense. We estimate the fair value of these liabilities using option pricing models that are based on the individual characteristics of the warrants or instruments on the valuation date, as well as assumptions for expected volatility, expected life and risk-free interest rate. Changes in the assumptions used could have a material impact on the resulting fair value.

Share-based compensation. We recognize compensation expense for all of our share-based awards based on the grant-date fair value. We determine the grant-date fair value of share-based awards by using the Black-Scholes option pricing model, which is affected by our stock price on the date of grant, as well as assumptions regarding other subjective variables. These assumptions include, but are not limited to, our expected stock price volatility over the term of the awards, the risk-free interest rate and the expected term of awards. Changes in the assumptions used could have a material impact on the compensation expense we recognize.

As compensation expense recognized is based on awards ultimately expected to vest, we reduce the expense recognized based on an estimated forfeiture rate at the time of grant. If actual forfeitures vary from estimates, we will recognize the difference in compensation expense in the period the actual forfeitures occur or when options vest.

Accounting for lease financing obligations. We account for our sale and leaseback transactions using the financing method because our options to repurchase these properties in the future are considered continued involvement requiring such method. Under the financing method, the book value of the properties and related accumulated depreciation remain on our balance sheet and no sale is recognized. Instead, the sales price of the properties is recorded as a financing obligation, and a portion of each lease payment is recorded as interest expense. We estimated the borrowing rate that we use to impute interest expense on our lease payments.

The above listing is not intended to be a comprehensive list of all of our accounting policies. In many cases, the accounting treatment of a particular transaction is specifically dictated by GAAP. See our audited consolidated financial statements and notes thereto included in our 2009 Annual Report, which contain additional accounting policies and other disclosures required by GAAP.

New Accounting Guidance

In April 2010, the Financial Accounting Standards Board, or FASB, issued Accounting Standards Update, or ASU, No. 2010-17, Revenue Recognition Milestone Method, which provides guidance on defining a milestone and determining when it may be appropriate to apply the milestone method of revenue recognition for research or development transactions in which one or more payments are contingent upon achieving uncertain future events. Under this guidance, we may recognize revenue contingent upon the achievement of a milestone in its entirety in the period in which the milestone is achieved, provided that the milestone meets all the criteria within the guidance to be considered substantive. However, under this guidance, we can make an accounting policy election to apply another appropriate accounting policy that results in the deferral of some portion of the arrangement consideration. This guidance is effective prospectively for milestones achieved in fiscal years, and interim periods within those years, beginning on or after June 15, 2010. Early adoption is permitted. If we elect to adopt this standard, we do not expect the adoption of ASU 2010-17 to have a material impact on our consolidated financial statements.

In October 2009, the FASB issued ASU No. 2009-13, Multiple-Deliverable Revenue Arrangements, which provides guidance on recognizing revenue in arrangements with multiple deliverables. ASU 2009-13 addresses how to determine whether an arrangement involving multiple deliverables contains more than one unit of accounting, how such deliverables should be separated and how the consideration should be allocated to one or more units of accounting. ASU 2009-13 is effective prospectively for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010. Early adoption is permitted. We do not expect the adoption of ASU 2009-13 to have a material impact on our consolidated financial statements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

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There have been no material changes from the information we included in this section of our annual report on Form 10-K for the year ended December 31, 2009.

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Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures. Based on an evaluation carried out as of the end of the period covered by this quarterly report, under the supervision and with the participation of our management, including our President and Chief Executive Officer and Vice President, Finance and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures, our President and Chief Executive Officer and Vice President, Finance and Chief Financial Officer have concluded that, as of the end of such period, our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934) were effective at the reasonable assurance level.

Changes in Internal Control over Financial Reporting. During the third quarter of 2010, we completed the implementation of the financial and purchasing modules of an Enterprise Resource Planning, or ERP, system. As a result of this implementation, certain controls were modified to supplement and complement our existing internal control over financial reporting.

Except as described above, there was no change in our internal control over financial reporting that occurred during the quarter covered by this quarterly report that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings.

Beginning September 20, 2010, a number of complaints were filed in the US District Court for the Southern District of California against us and certain of our current and former employees and directors on behalf of certain purchasers of our common stock. The complaints have been brought as purported stockholder class actions, and, in general, include allegations that we and certain of our current and former employees and directors violated federal securities laws by making materially false and misleading statements regarding our lorcasearin trials, thereby artificially inflating the price of our common stock. The plaintiffs are seeking unspecified monetary damages and other relief. We expect that all class action complaints filed to date will be transferred to a single court. We then expect the court to consolidate the actions, appoint a lead plaintiff and order the lead plaintiff to file a consolidated complaint. We intend to vigorously defend against the claims advanced, and intend to file a motion to dismiss the consolidated complaint.

On September 24, 2010, a stockholder derivative complaint was filed in the Superior Court of California for the County of San Diego against certain of our current and former employees and directors, and other stockholder derivative complaints were subsequently filed in state court. On October 19, 2010, the Superior Court ordered the pending state derivative complaints be consolidated. The Superior Court also ordered that later filed, related derivative complaints be consolidated as well. On October 6, 2010, a stockholder derivative suit was filed in the US District Court for the Southern District of California. Thereafter, a number of other stockholder derivative actions were filed in federal court. Plaintiffs in the first two federal stockholder derivative actions filed a motion to consolidate the two actions and appoint lead counsel. A hearing on the motion to consolidate has been scheduled for December 17, 2010. The state and federal stockholder derivative actions are hereinafter collectively referred to as the Derivative Actions. The complaints in the Derivative Actions allege breaches of fiduciary duties by the defendants and other violations of law. In general, the complaints allege that certain of our current and former employees and directors caused or allowed for the dissemination of materially false and misleading statements regarding our lorcasearin trials, thereby artificially inflating the price of our common stock. The plaintiffs are seeking unspecified monetary damages and other relief, including reforms and improvements to our corporate governance and internal procedures. We have not yet responded to the Derivative Actions, but intend to vigorously defend against the claims advanced and to seek dismissal of the Derivative Actions.

Item 1A. Risk Factors. **RISK FACTORS**

Investment in our stock involves a high degree of risk. You should consider carefully the risks described below, together with other information in this quarterly report on Form 10-Q and our other public filings, before making investment decisions regarding our stock. If any of the following events actually occur, our business, operating results, prospects or financial condition could be materially and adversely affected. This could cause the trading price of our common stock to decline and you may lose all or part of your investment. Moreover, the risks described below are not the only ones that we face. Additional risks not presently known to us or that we currently deem immaterial may also affect our business, operating results, prospects or financial condition.

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The risk factors set forth below with an asterisk () before the title are new risk factors or risk factors containing substantive changes, including any material changes, from the risk factors previously disclosed in Item 1A to Part I of our annual report on Form 10-K for the year ended December 31, 2009, as filed with the Securities and Exchange Commission.*

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Risks Relating to Our Business

***We will need additional funds to conduct our planned research, development and commercialization efforts, we may not be able to obtain such funds and we may never become profitable.**

We have accumulated a large deficit since inception that has primarily resulted from the significant research and development expenditures we have made in seeking to identify and validate new drug targets and develop compounds that could become marketed drugs. We expect that our losses will continue to be substantial for at least the short term and that our operating expenses will also continue to be substantial, even if we are successful in advancing lorcaserin, including under our marketing and supply agreement with Eisai Inc., or Eisai, or our other compounds and drug candidates, independently or with another company.

We do not have any commercially available drugs, and may not have adequate funds to develop our compounds into marketed drugs. It takes many years and potentially hundreds of millions of dollars to successfully develop a preclinical or early clinical compound into a marketed drug, and our efforts may not result in any marketed drugs.

Our wholly owned subsidiary, Arena Pharmaceuticals GmbH, or Arena GmbH, has entered into a marketing and supply agreement with Eisai for the commercialization of our most advanced drug candidate, lorcaserin, in the United States and its territories and possessions following approval by the US Food and Drug Administration, or FDA, of our lorcaserin New Drug Application, or NDA. We will need additional funds or a collaborative or other agreement with a pharmaceutical company or companies to commercialize lorcaserin outside of the United States, and we may not be able to secure adequate funding or find a pharmaceutical company to commercialize lorcaserin outside the United States at all or on terms you or we believe are favorable. Even if we receive approval of our lorcaserin NDA and commence commercialization of lorcaserin under our marketing and supply agreement with Eisai, we cannot assure you that any additional payments we receive under such agreement will be sufficient to conduct our planned research and development and other activities or to result in profitability. We also believe that it may be difficult for us to obtain additional financing or enter into strategic relationships on terms that we or third parties, including investors, analysts, or potential collaborators, view as acceptable, if at all. We may need additional funding even if we enter into such a relationship. If adequate funding is not available, we may eliminate or postpone or scale back some or all of our research or development programs or delay the advancement of one or more of such programs. Any such reductions may adversely impact our lorcaserin development and commercialization timeline or narrow or slow the development of our pipeline, which we believe would reduce our opportunities for success and result in a decline in the market price of our common stock.

***The current global economic environment poses severe challenges to our business strategy, which relies on access to capital from the markets or collaborators, and creates other financial risks for us.**

The global economy, including credit markets and the financial services industry, has been experiencing a period of substantial turmoil and uncertainty. These conditions have generally made equity and debt financing more difficult to obtain, and may negatively impact our ability to complete financing transactions. The duration and severity of these conditions is uncertain, as is the extent to which they may adversely affect our business and the business of current and prospective vendors or our distributors, licensees and collaborators, which we sometimes refer to generally as our collaborators. If the global economy does not improve or worsens, we may be unable to secure additional funding to sustain our operations or to find suitable collaborators to advance our internal programs, even if we achieve positive results from our research and development or business development efforts.

From time to time, we may maintain a portfolio of investments in marketable debt securities, which are recorded at fair value. Although we have established investment guidelines relative to diversification and maturity with the objectives of maintaining safety of principal and liquidity, we rely on credit rating agencies to help evaluate the riskiness of investments, and such agencies may not accurately predict such risk. In addition, such agencies may reduce the credit quality of our individual holdings, which could adversely affect their value. Lower credit quality and other market events, such as changes in interest rates and further deterioration in the credit markets, may have an adverse effect on the fair value of our investment holdings and cash position.

***We are focusing a significant portion of our activities and resources on lorcaserin and depend on its marketing approval and commercial success.**

We are focusing a significant portion of our near-term activities and resources on lorcaserin, and we believe a significant portion of the value of our company relates to our ability to obtain marketing approval for and commercialize this drug candidate. The marketing approval and successful commercialization of lorcaserin is subject to many risks, including the risks discussed in other risk factors. If the results of clinical

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trials and preclinical studies of lorcaserin, our and regulatory authorities' actions and decisions affecting lorcaserin, the anticipated or actual timing and plan for commercializing lorcaserin, or, ultimately, the market acceptance of lorcaserin do not meet our, your, analysts' or others' expectations, the market price of our common stock could decline significantly.

In September 2010, the FDA's Endocrinologic and Metabolic Drugs Advisory Committee voted nine to five that the available data do not demonstrate that the potential benefits of lorcaserin outweigh the potential risks when used long term in a population of overweight and obese individuals to allow marketing approval. In addition, in October 2010, the FDA issued a Complete Response Letter, or CRL, regarding our NDA for lorcaserin. In the CRL, the FDA stated that it has completed its review of the NDA and

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determined that it cannot approve the application in its present form. The FDA also outlined non-clinical and clinical reasons for its decision and provided recommendations relating to addressing such issues.

The non-clinical issues identified by the FDA included diagnostic uncertainty in the classification of mammary masses in female rats, unresolved exposure-response relationship for lorcaserin-emergent mammary adenocarcinoma, and unidentified mode of action and unclear safety margin for lorcaserin-emergent brain astrocytoma. The CRL included the following requests related to the non-clinical issues: provide a detailed accounting of all slides prepared from female rats that contributed to mammary tumor incidence data in each update to the FDA and to the final study report; in consultation with the FDA, identify an independent pathologist or group of pathologists to re-adjudicate all mammary and lung tissues (neoplastic and nonneoplastic lesions) from all female rats; demonstrate that the apparent increase in aggressiveness of adenocarcinoma in rats administered lorcaserin is reasonably irrelevant to human risk assessment; and provide additional data/information regarding the distribution of lorcaserin to the CNS in animals and human subjects that would clarify or provide a better estimate of astrocytoma exposure margins. With respect to the clinical reasons, the FDA stated in the CRL that the weight-loss efficacy of lorcaserin in overweight and obese individuals without type 2 diabetes is marginal and recommended that we submit the final study report of our BLOOM-DM trial. The FDA also stated in the CRL that in the event evidence cannot be provided to alleviate concern regarding clinical relevance of the tumor findings in rats, additional clinical studies may be required to obtain a more robust assessment of lorcaserin's benefit-to-risk profile. In addition, the FDA requested in the CRL that we include a safety update in our response that includes data from all non-clinical and clinical studies/trials of lorcaserin.

Our response to the CRL may require additional preclinical studies or clinical trials, may not be submitted in a timely manner or the data and other information provided or learned in connection with such response may not be satisfactory to the FDA. The FDA may request additional information or have additional recommendations prior to approval of our NDA for lorcaserin and lorcaserin may never receive marketing approval from the FDA or any other regulatory agency.

***Our ability to generate significant revenues, for at least the short term, depends upon the regulatory approval of lorcaserin, the commercialization of lorcaserin, activities and payments under the marketing and supply agreement with Eisai and our entry into new collaborations.**

We expect that, for at least the short term, our ability to generate significant revenues will depend on the regulatory approval of lorcaserin, the success of Eisai in commercializing lorcaserin, if approved, in the United States, and our ability to enter into new collaborations. Future revenues under our marketing and supply agreement with Eisai will depend on the achievement of milestones under the agreement and Eisai's commercialization of lorcaserin, and we may receive no additional revenues from Eisai if our NDA for lorcaserin is not approved by the FDA or further development of lorcaserin is unfavorable. In addition, we intend to commercialize lorcaserin outside of the United States with one or more pharmaceutical companies or independently. Lorcaserin may not be approved for sale outside of the United States, and, even if it is approved, we or our collaborators may not be successful in commercializing lorcaserin outside of the United States.

We cannot guarantee that any development, approval or sales milestones in our existing or future collaborations will be achieved in the future, or that we will receive any payments for the achievement of any milestones or product sales. In addition, our marketing and supply agreement with Eisai may be terminated early in certain circumstances, in which case we may not receive milestone or other payments under the agreement.

Moreover, our ability to enter into new collaborations may depend on the outcomes of our preclinical and clinical testing. We do not control these outcomes. In addition, even if our testing is successful, pharmaceutical companies may not enter into agreements with us on terms that we believe are acceptable until we have advanced our drug candidates into the clinic and, possibly, through later-stage clinical trials, approval or successful commercialization, if at all. With respect to lorcaserin, our ability to enter into additional collaborative agreements may also depend on the FDA's approval of our NDA for lorcaserin as well as our interactions with, and decisions by, regulatory agencies outside of the United States.

***We are dependent on the marketing and supply agreement with Eisai to commercialize lorcaserin in the United States and, if applicable, to further develop lorcaserin, and the failure to maintain such agreement, or poor performance under such agreement, could negatively impact our business.**

Pursuant to the terms of our marketing and supply agreement with Eisai, Arena GmbH granted Eisai exclusive rights to commercialize lorcaserin in the United States and its territories and possessions following approval by the FDA of our lorcaserin NDA.

Our ability to generate payments from Eisai substantially depends on the regulatory approval and market acceptance of lorcaserin in the United States. Eisai has primary responsibility for the marketing and sale of lorcaserin in the United States and responsibility for compliance with certain US regulatory requirements, and we have limited control over the amount and timing of resources that Eisai will dedicate to the

commercialization of lorcaserin.

We are subject to a number of other risks associated with our dependence on our marketing and supply agreement, including:

Eisai may not comply with applicable regulatory guidelines with respect to commercializing lorcaserin, which could adversely impact sales or any development of lorcaserin;

there could be disagreements regarding the agreement that delay or terminate the commercialization or development of lorcaserin, delay or eliminate potential payments under the agreement or increase our costs under the agreement; or

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Eisai may not perform as expected, including with regard to making payments under the agreement, and such agreement may not provide adequate protection or may not be effectively enforced.

Eisai and we each have the right to terminate the agreement in certain circumstances. Eisai and we could also agree to amend the terms of the agreement, and we or others, including investors and analysts, may not view the amendments as favorable. If the agreement is terminated early, we may not be able to find another company for the commercialization of lorcaserin in the United States and further development of lorcaserin on acceptable terms, if at all, and even if we elected to pursue continued commercialization or further development of lorcaserin on our own, we might not have the funds, or otherwise be able, to do so successfully.

We may enter into additional agreements for the commercialization of lorcaserin or other of our drug candidates, and may be similarly dependent on the performance of third parties with similar risk.

***We and certain of our current and former employees and directors have been named as defendants in litigation that could result in substantial costs and divert management's attention.**

Beginning September 20, 2010, a number of complaints were filed in the US District Court for the Southern District of California against us and certain of our current and former employees and directors on behalf of certain purchasers of our common stock. The complaints have been brought as purported stockholder class actions, and in general include allegations that we and certain of our current and former employees and directors violated federal securities laws by making materially false and misleading statements regarding our lorcaserin trials, thereby artificially inflating the price of our common stock. The plaintiffs are seeking unspecified monetary damages and other relief. Several derivative lawsuits also have been filed in federal and state courts.

We intend to vigorously defend these lawsuits. There is, however, no guarantee that we will be successful. Also, our insurance coverage may be insufficient, our assets may be insufficient to cover any amounts that exceed our insurance coverage, and we may have to pay damage awards or otherwise may enter into settlement arrangements in connection with such claims. Any such payments or settlement arrangements could have material adverse effects on our business, operating results or financial condition. Even if the plaintiffs' claims are not successful, this litigation could result in substantial costs and significantly and adversely impact our reputation and divert management's attention and resources, which could have a material adverse effect on our business, operating results or financial condition. In addition, such lawsuits may make it more difficult to finance our operations.

***Our stock price could decline significantly based on the results and timing of clinical trials and preclinical studies of, and decisions affecting, our most advanced drug candidates.**

The results and timing of clinical trials and preclinical studies can affect our stock price. Preclinical studies include experiments performed in test tubes, in animals, or in cells or tissues from humans or animals. These studies, which are sometimes referred to as non-clinical studies, include all drug studies except those conducted in human subjects, and may occur before or after initiation of clinical trials for a particular compound. Results of clinical trials and preclinical studies of lorcaserin or our other drug candidates may not be viewed favorably by us or third parties, including investors, analysts, current or potential collaborators, the academic and medical communities, and regulators. The same may be true of how we design the development programs of our most advanced drug candidates and regulatory decisions (including by us or regulatory authorities) affecting those development programs. Stock prices of companies in our industry have declined significantly when such results and decisions were unfavorable or perceived negatively or when a drug candidate did not otherwise meet expectations.

From time to time we have drug programs in clinical trials. In addition to successfully completing clinical trials, to conduct long-term clinical trials and gain regulatory approval to commercialize drug candidates, regulatory authorities require that all drug candidates complete short- and long-term preclinical toxicity and carcinogenicity studies. These preclinical, animal studies are required to help us and regulatory authorities assess the potential risk that drug candidates may be toxic or cause cancer in humans. The results of clinical trials and preclinical studies are uncertain and subject to different interpretations, and the design of these trials and studies (which may change significantly and be more expensive than anticipated depending on results and regulatory decisions) may also be viewed negatively by us, regulatory authorities or other third parties and adversely impact the development and opportunities for regulatory approval and commercialization of our drug candidates and those under collaborative agreements.

For example, we conducted long-term carcinogenicity preclinical studies of lorcaserin. The FDA identified in the CRL for lorcaserin issues related to such studies. We intend to provide in our response to the CRL data and other information to support our view related to such issues, but the FDA may disagree with our view or impose conditions that could delay or preclude approval of our lorcaserin NDA.

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We may not be successful in advancing our programs on our projected timetable, if at all. Failure to initiate or delays in the development programs for any of our drug candidates, or unfavorable results or decisions or negative perceptions regarding any of such programs, could cause our stock price to decline significantly. This is particularly the case with respect to lorcaserin.

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We may report top-line data from time to time, which is based on a preliminary analysis of then available efficacy and safety data, and such findings and conclusions are subject to change following a more comprehensive review of the data related to the particular study or trial.

***We have significant indebtedness and debt service obligations as a result of our Deerfield secured loan, which may adversely affect our cash flow, cash position and stock price.**

In July 2009, we received under a facility agreement, or the Facility Agreement, a \$100.0 million loan from Deerfield Private Design Fund, L.P., Deerfield Private Design International, L.P., Deerfield Partners, L.P., Deerfield International Limited, Deerfield Special Situations Fund, L.P., and Deerfield Special Situations Fund International Limited, or collectively Deerfield, which substantially increased our total debt and debt service obligations. This loan matures on June 17, 2013, and the outstanding principal accrues interest at a rate of 7.75% per annum on the stated principal balance, payable quarterly in arrears. Our remaining required principal repayments are \$20.0 million in July 2011 and \$40 million at maturity. In August 2010, Deerfield and we amended the Facility Agreement such that the \$20 million principal repayment required to be made in July 2011 will be deferred until June 17, 2013 if we receive FDA approval to market and sell lorcaserin before such July 2011 repayment date.

We may be required to make the scheduled repayments earlier in connection with certain equity issuances. For example, we were required to repay \$10.0 million, which was initially required to be repaid in July 2010, in connection with the closing of our July 2009 public offering. In addition, we are required to make mandatory prepayments on the loan upon certain changes of control and in the event we issue equity securities (other than certain exempted issuances) at a price of less than \$2.00 per share. The Facility Agreement also places certain restrictions on our business, including our ability to incur additional indebtedness and to undertake certain business transactions.

On or before June 17, 2011, Deerfield may elect to provide us with an additional loan in a principal amount of up to \$20.0 million under similar terms as the \$100.0 million loan, with the additional loan also maturing on June 17, 2013.

In the future, if we are unable to generate cash from operations sufficient to meet these debt obligations, we will need to obtain additional funds from other sources, which may include one or more financings. However, we may be unable to obtain sufficient additional funds when we need them on favorable terms or at all. The sale of equity or convertible debt securities in the future may be dilutive to our stockholders, and debt-financing arrangements may require us to enter into covenants that would further restrict certain business activities or our ability to incur additional indebtedness, and may contain other terms that are not favorable to our stockholders or us.

Also, if we are unable to generate cash from operations or obtain additional funds from other sources sufficient to meet these debt obligations, or we need to use existing cash to fund these debt obligations, we may have to delay or curtail some or all of our research, development and commercialization programs or sell or license some or all of our assets. Our indebtedness could have significant additional negative consequences, including, without limitation:

increasing our vulnerability to general adverse economic conditions;

limiting our ability to obtain additional funds; and

placing us at a possible competitive disadvantage to less leveraged competitors and competitors that have better access to capital resources.

If an event of default occurs under our loan documents, including in certain circumstances under the warrants issued in connection with the loan transaction, the lenders may declare the outstanding principal balance and accrued but unpaid interest owed to them immediately due and payable, which would have a material adverse affect on our financial position. We may not have sufficient cash to satisfy this obligation. Also, if a default occurs under our secured loan, and we are unable to repay the lenders, the lenders could seek to enforce their rights under their security interests in our assets. If this were to happen, we may lose or be forced to sell some or all of our assets to satisfy our debt, which could cause our business to fail.

***If we do not commercialize lorcaserin outside of the United States with one or more pharmaceutical companies or raise additional funds, we may have to commercialize lorcaserin outside of the United States on our own and curtail certain of our activities.**

We expect to commercialize lorcaserin outside of the United States, following regulatory approval, with one or more pharmaceutical companies or independently. We may not be able to enter into agreements to commercialize lorcaserin outside of the United States on acceptable terms, if at all. If we are unable to enter into such agreements, and we develop our own capabilities to commercialize lorcaserin outside of the United States, we may require additional capital to develop such capabilities and the marketing and sale of lorcaserin outside of the United States may be delayed or limited. Even if we were able to develop our own commercialization capabilities, we have not previously commercialized a drug, and our limited experience may make us less effective at marketing and

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selling lorcaserin than a pharmaceutical company. Our lack of corporate experience and adequate resources may impede our efforts to successfully commercialize lorcaserin.

We face competition in our search for pharmaceutical companies to commercialize lorcaserin outside of the United States. In addition, if our competitors are able to establish commercialization arrangements with companies who have substantially greater resources than we have (or, with respect to commercializing lorcaserin in the United States, Eisai has), our competitors may be more successful in marketing and selling their drugs, and our ability to successfully commercialize our drug candidates will be limited.

***Our drug candidates are subject to extensive regulation, and we may not receive required regulatory approvals, or timely approvals, for any of our drug candidates.**

The preclinical, clinical development, manufacturing, labeling, packaging, storage, recordkeeping, advertising, promotion, export, marketing and distribution, and other possible activities relating to our drug candidates are, and any resulting drugs will be, subject to extensive regulation by the FDA and other regulatory agencies in the United States. Failure to comply with FDA and other applicable regulatory requirements may, either before or after product approval, if any, subject our company to administrative or judicially imposed sanctions.

Neither collaborators nor we are permitted to market a drug candidate in the United States until the particular drug candidate is approved for marketing by the FDA. Specific preclinical data, chemistry, manufacturing and controls data, a proposed clinical trial protocol and other information must be submitted to the FDA as part of an investigational new drug, or IND, application, and clinical trials may commence only after the IND application becomes effective. None of our drug candidates has received marketing approval. To market a new drug in the United States, we must submit to the FDA and obtain FDA approval of an NDA. An NDA must be supported by extensive clinical and preclinical data, as well as extensive information regarding chemistry, manufacturing and controls to demonstrate the safety and effectiveness of the drug candidate. Following its review of an NDA, the FDA may approve the NDA or issue a CRL.

Obtaining approval of an NDA can be a lengthy, expensive and uncertain process. As part of the Prescription Drug User Fee Act, or PDUFA, the FDA has a goal to review and act on a percentage of all submissions in a given time frame. The FDA's review goals are subject to change, and it is unknown whether any particular FDA review will be completed within the FDA's review goals or will be delayed. Moreover, the duration of the FDA's review may depend on the number and types of other submissions with the FDA around the same time period. The review of such other submissions may impact the regulatory review of our submissions related to lorcaserin. Furthermore, any drug that acts on the central nervous system, or CNS, such as lorcaserin, has the potential to be scheduled as a controlled substance by the Drug Enforcement Administration of the US Department of Justice, or DEA. DEA scheduling is an independent process that can delay drug launch beyond an NDA approval date. The FDA stated in the CRL for lorcaserin that it would recommend placement of lorcaserin in Schedule IV of the Controlled Substance Act based on its review of the materials submitted in the NDA. The CRL provided the opportunity to complete additional preclinical studies that may lead to a different recommendation. If lorcaserin were to be scheduled in a more tightly controlled category, such scheduling could negatively impact the ability or willingness to prescribe or dispense lorcaserin, the likelihood that a patient will use it and other aspects of our ability to commercialize it.

Regulatory approval of an NDA or NDA supplement is not guaranteed. The number and types of preclinical studies and clinical trials that will be required for FDA approval varies depending on the drug candidate, the disease or condition that the drug candidate is designed to target and the regulations applicable to any particular drug candidate. Despite the time and expense exerted in preclinical and clinical studies, failure can occur at any stage, and we could encounter problems that cause us to abandon clinical trials or to repeat or perform additional preclinical studies and clinical trials. The FDA can delay, limit or deny approval of a drug candidate for many reasons, including:

- a drug candidate may not be deemed adequately safe and effective;

- FDA officials may not find the data from preclinical studies and clinical trials sufficient. For example, the FDA in the CRL for lorcaserin identified issues that indicate that the FDA may not find the data from preclinical studies and clinical trials for lorcaserin sufficient to approve our NDA for lorcaserin;

- the FDA's interpretation and our interpretation of data from preclinical studies and clinical trials may differ significantly. For example, the FDA in the CRL for lorcaserin identified issues that indicate that the FDA may disagree with our interpretation of certain preclinical studies;

our or our collaborators' failure to comply with applicable FDA and other regulatory requirements, including those identified in other risk factors;

the FDA may not approve the manufacturing processes or facilities;

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the FDA may change its approval policies or adopt new regulations; or

the FDA may not accept an NDA or other submission due to, among other reasons, the content or formatting of the submission. With respect to lorcaserin, the FDA draft guidance document "Developing Products for Weight Management" dated February 2007 provides two alternate benchmarks for the development of drugs for the indication of weight management. The guidance provides that, in general, a product can be considered effective for weight management if after one year of treatment either of the following occurs: (1) the difference in mean weight loss between the active-product and placebo-treated groups is at least 5% and the difference is statistically significant, or (2) the proportion of patients who lose at least 5% of baseline body weight in the active-product group is at least 35%, is approximately double the proportion in the placebo-treated group, and the difference between groups is statistically significant. While we believe the results of our pivotal Phase 3 clinical trials of lorcaserin satisfy the latter of the two alternate efficacy benchmarks, the FDA may disagree with our view, not follow its draft guidance or impose other approval conditions that could delay or preclude approval of our lorcaserin NDA. For example, the FDA stated in the CRL for lorcaserin that the weight loss efficacy of lorcaserin in overweight and obese individuals without type 2 diabetes is marginal and recommended that we submit the final study report of our BLOOM-DM trial. The FDA also stated in the CRL that in the event evidence cannot be provided to alleviate the FDA's concern regarding the clinical relevance of certain tumor findings in rats, additional clinical studies may be required to obtain a more robust assessment of lorcaserin's benefit-to-risk profile.

With the exception of the NDA we submitted for lorcaserin in December 2009, we have not previously submitted NDAs to the FDA. We have also not previously submitted a response to a CRL. This lack of corporate experience may impede our ability to obtain FDA approval in a timely manner, if at all, for lorcaserin or our other drug candidates for which development and commercialization are our responsibility. Even if we believe that data collected from our preclinical studies and clinical trials of our drug candidates are promising and that our information and procedures regarding chemistry, manufacturing and controls are sufficient, our data may not be sufficient to support approval by the FDA or any other US or foreign regulatory authority, or regulatory interpretation of these data and procedures may be unfavorable. In addition, we believe that the regulatory review of NDAs for drug candidates intended for widespread use by a large proportion of the general population is becoming increasingly focused on safety. In this regard, it is possible that some of our drug candidates, including lorcaserin, will be subject to increased scrutiny to show adequate safety than would drug candidates for more acute or life-threatening diseases such as cancer. Even if approved, drug candidates may not be approved for all indications requested and such approval may be subject to limitations on the indicated uses for which the drug may be marketed, restricted distribution methods or other limitations, such as those required by a Risk Evaluation and Mitigation Strategies, or REMS. Our business and reputation may be harmed by any failure or significant delay in receiving regulatory approval for the sale of any drugs resulting from our drug candidates. As a result, we cannot predict when or whether regulatory approval will be obtained for any drug we develop.

To market any drugs outside of the United States, we and current or future collaborators must comply with numerous and varying regulatory requirements of other countries. Approval procedures vary among countries and can involve additional product testing and additional administrative review periods. The time required to obtain approval in other countries might differ from that required to obtain FDA approval. The regulatory approval process in other countries may include all of the risks associated with FDA approval as well as additional risks, some of which may be unanticipated. Regulatory approval in one country does not ensure regulatory approval in another, but a failure or delay in obtaining regulatory approval in one country may negatively impact the regulatory process in others. Failure to obtain regulatory approval in other countries or any delay or setback in obtaining such approval could have the same adverse effects associated with regulatory approval in the United States, including the risk that our drug candidates may not be approved for all indications requested and that such approval may be subject to limitations on the indicated uses for which the drug may be marketed.

***Even if any of our drug candidates receives regulatory approval, our drug candidates will still be subject to extensive post-marketing regulation.**

If we or collaborators receive regulatory approval for our drug candidates in the United States or other jurisdictions, we and our collaborators will also be subject to ongoing obligations and continued regulatory review from the FDA and other applicable regulatory agencies, such as continued adverse event reporting requirements. There may also be additional FDA post-marketing obligations, all of which may result in significant expense and limit the ability to commercialize such drugs in the United States or other jurisdictions.

If any of our drug candidates receive US regulatory approval or approval in other jurisdictions, the FDA or other regulatory agencies may also require that the sponsor of the NDA conduct additional clinical trials to further assess the drug after NDA approval under a post-approval commitment. Such additional studies may be costly and may impact the commercialization of the drug. The FDA or other regulatory agencies may also impose significant restrictions on the indicated uses for which such drug may be marketed.

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If the FDA or other regulatory agencies approve any of our drug candidates, the labeling, packaging, adverse event reporting, storage, advertising and promotion for the drug will be subject to extensive regulatory requirements. We and the manufacturers of our products

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are also required to comply with Current Good Manufacturing Practices, or CGMPs, regulations, which include requirements relating to quality control and quality assurance as well as the corresponding maintenance of records and documentation. Further, regulatory agencies must approve these manufacturing facilities before they can be used to manufacture our products, and these facilities are subject to ongoing regulatory inspections. In addition, regulatory agencies subject a drug, its manufacturer and the manufacturer's facilities to continual review and inspections. The subsequent discovery of previously unknown problems with a drug, including adverse events of unanticipated severity or frequency, or problems with the facility where the drug is manufactured, may result in restrictions on the marketing of that drug, up to and including withdrawal of the drug from the market. In the United States, the DEA and comparable state-level agencies also heavily regulate the manufacturing, holding, processing, security, recordkeeping and distribution of drugs that are considered controlled substances. If any of our drug candidates are scheduled by the DEA as controlled substances (due to abuse potential), we will become subject to the DEA's regulations. The FDA stated in the CRL for lorcaserin that it would recommend placement of lorcaserin in Schedule IV of the Controlled Substance Act based on its review of the materials submitted in the NDA. The CRL provided the opportunity to complete additional preclinical studies that may lead to a different recommendation. The DEA periodically inspects facilities for compliance with its rules and regulations. If our manufacturing facilities or those of our suppliers fail to comply with applicable regulatory requirements, it could result in regulatory action and additional costs to us. Failure to comply with applicable FDA and other regulatory requirements may, either before or after product approval, if any, subject our company to administrative or judicially imposed sanctions, including:

issuance of Form 483 notices or Warning Letters by the FDA or other regulatory agencies;

imposition of fines and other civil penalties;

criminal prosecutions;

injunctions, suspensions or revocations of regulatory approvals;

suspension of any ongoing clinical trials;

total or partial suspension of manufacturing;

delays in commercialization;

refusal by the FDA to approve pending applications or supplements to approved applications filed by us or collaborators;

refusals to permit drugs to be imported into or exported from the United States;

restrictions on operations, including costly new manufacturing requirements; and

product recalls or seizures.

The FDA's and other regulatory agencies' policies may change and additional government regulations may be enacted that could prevent or delay regulatory approval of our drug candidates or further restrict or regulate post-approval activities. We cannot predict the likelihood, nature or extent of adverse government regulation that may arise from future legislation or administrative action, either in the United States or abroad. If we are not able to maintain regulatory compliance, we or our collaborators might not be permitted to market our drugs and our business could

suffer.

***Even if we receive regulatory approval to commercialize our drug candidates, our ability to generate revenues from any resulting products will be subject to a variety of risks, many of which are out of our control.**

Even if our drug candidates obtain regulatory approval, resulting products may not gain market acceptance among physicians, patients, healthcare payers or the medical community. We believe that the degree of market acceptance and our ability to generate revenues from such products will depend on a number of factors, including:

timing of market introduction of our drugs and competitive drugs;

actual and perceived efficacy and safety of our drug candidates;

prevalence and severity of any side effects;

potential or perceived advantages or disadvantages over alternative treatments;

strength of sales, marketing and distribution support;

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price of our future products, both in absolute terms and relative to alternative treatments;

Nomura Securities Int 1 (#)	2,000,000	*	59,730	58,930	800	Simon Pharr
Northwestern Mutual Life Insurance Company	4,000,000	1.62	117,861	117,861	0	(22)
Polaris Vega Fund L.P.	300,000	*	8,840	8,840	0	Gregory Levinson
Quest Global Convertible Master Fund Ltd.	600,000	*	17,679	17,679	0	Frank Compana and James Doolin
Radcliffe SPC Ltd. for and on behalf of the Class A Convertible Crossover Segregated Portfolio	9,000,000	3.64	324,117	265,186	58,931	(23)
Retail Clerks Pension Trust	1,000,000	*	29,465	29,465	0	Alex Lach
Silverback Master Ltd.	5,000,000	2.02	147,326	147,326	0	Elliot Bassen

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Name of Selling Securityholder Singlehedge US Convertible Arbitrage Fund	Principal Amount of Notes Beneficially Owned and Offered (USD)	Percentage of Notes Outstanding (%)	Number of Shares of Common Stock Beneficially Owned(1)(2)	Number of Shares of Common Stock Offered (1)	Number of Shares of Common Stock Beneficially Owned after the Offering(2)(8)	Natural Person(s) with Voting or Investment Power
	1,950,000	*	57,457	57,457	0	Christian Menestrier
Sphinx Convertible Arbitrage Fund SPC c/o SSI Investment Mgt.	2,129,000	*	62,731	62,731	0	(26)
Sphinx Convertible Arbitrage SPC	1,160,000	*	34,180	34,180	0	Michael A. Boyd
SSI Blended Market Neutral L.P.	875,000	*	25,782	25,782	0	(26)
SSI Hedged Convertible Market Neutral L.P.	1,283,000	*	37,804	37,804	0	(26)
St. Albans Partners Ltd.	3,500,000	1.41	103,128	103,128	0	Alex Lach
Sturgeon Limited	158,000	*	4,656	4,656	0	(25)

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Name of Selling Securityholder	Principal Amount of Notes Beneficially Owned and Offered (USD)	Percentage of Notes Outstanding (%)	Number of Shares of Common Stock Beneficially Owned(1)(2)	Number of Shares of Common Stock Offered (1)	Number of Shares of Common Stock Beneficially Owned after the Offering(2)(8)	Natural Person(s) with Voting or Investment Power
Xavex Convertible Arbitrage Fund	340,000	*	10,018	10,018	0	Michael A. Boyd
Yield Strategies Fund I, LP	2,000,000	*	58,930	58,930	0	Alex Lach
Yield Strategies Fund II, LP	2,000,000	*	58,930	58,930	0	Alex Lach
Zurich Institutional Benchmarks Master Fund Ltd.	1,720,000	*	50,680	50,680	0	Michael A. Boyd
Total (6)(7):	247,427,000	100	7,309,077	7,290,486	18,591	n/a

* Less than one percent (1%).

The selling securityholder is a registered broker-dealer.

+ The selling securityholder is an affiliate of a registered broker-dealer.

(1) Assumes conversion of all of the holder's notes at a conversion rate of 29.4652 shares of common stock per \$1,000 principal amount at maturity of the notes. This conversion rate is subject to adjustment as described under Description of Notes Conversion Rights. As a result, the number of shares of common stock issuable upon conversion of the notes may increase or decrease in the future. Excludes shares of common stock that may be issued by us upon the repurchase of the notes as described under Description of Notes Repurchase of the Notes by Us at the Option of Holders Upon a Fundamental Change and fractional shares. Holders will receive a cash adjustment for any fractional share amount resulting from conversion of the notes, as described under Description of Notes Conversion Rights.

(2) Except as set forth below in footnotes (4) (5), and (7), the number of shares of common stock beneficially owned by each holder named above is less than 1% of our outstanding common stock, calculated based on 48,975,575 shares of common stock outstanding as of May 26, 2005. In calculating this amount for each holder, we treated as outstanding the number of shares of common stock issuable upon conversion of all of that holder's notes, but we did not assume conversion of any other holder's notes.

(3) The selling securityholder has informed us that there are no natural persons with voting or investment power over the notes and common stock issuable upon conversion of the notes.

(4) The number of shares of common stock beneficially owned by this holder is 1.05% of our outstanding common stock, calculated as described in (2).

(5) The number of shares of common stock beneficially owned by this holder is 1.09% of our outstanding common stock, calculated as described in (2).

(6) Information concerning named selling securityholders or future transferees, pledgees or donees of or from any such securityholder will be set forth in supplements to this prospectus, absent circumstances indicating the change is

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material. In addition, post-effective amendments to the registration statement, of which this prospectus is a part, will be filed to disclose any material changes to the plan of distribution from the description in the final prospectus, or additions or changes with respect to unnamed selling securityholders or future transferees, pledgees or donees from such unnamed holders.

(7) The sum of the listed principal amounts of notes beneficially owned by the selling securityholders named in the table above exceeds \$247,427,000 because certain selling securityholders may have transferred notes or otherwise reduced their position prior to selling pursuant to this prospectus, and as a result we received beneficial ownership information from additional selling securityholders. However, the maximum principal amount of notes that may be sold under this prospectus will not exceed \$247,427,000.

(8) For the purposes of computing the number and percentage of notes and shares to be held by the selling securityholders after the conclusion of the offering, we have assumed for purposes of the table above that the selling securityholders named above will sell all of the notes and all of the common stock issuable upon conversion of the notes offered by this prospectus, and that any other shares of our common stock beneficially owned by these selling securityholders will continue to be beneficially owned. We also assume that unnamed holders of notes, or any future transferees, pledgees, donees or successors of or from any such holder, do not beneficially own any common stock other than that issuable upon conversion of the notes.

(9) Alexandra Investment Management LLC serves as investment adviser to the Selling Securityholder. By reason of such relationship, Alexandra may be deemed to share dispositive power or investment control over the shares of common stock stated as beneficially owned by the Selling Securityholder. Alexandra disclaims beneficial ownership of such shares of common stock. Messrs. Mikhail A. Filimonov and Dmitri Sogoloff are managing members of Alexandra. By reason of such relationships, Filimonov and Sogoloff may be deemed to share dispositive power or investment control over the shares of common stock stated as beneficially owned by the Selling Securityholder. Filimonov and Sololoff disclaim beneficial ownership of such shares of common stock.

(10) Controlling entity with voting and investment power: Canyon Capital Advisors LLC. Canyon Capital Advisors LLC is the investment advisor for Canyon Capital Arbitrage Master Fund, Ltd. and has the power to direct investments by Canyon Capital Arbitrage Master Fund, Ltd. The managing partners of Canyon Capital Advisors LLC are Joshua S. Friedman, Mitchell R. Julis, R. Christian B. Evensen and K. Robert Turner. Canyon Capital Arbitrage Master Fund Ltd., is a Cayman Islands Exempted company.

(11) Controlling entities with voting and investment power: Canpartners Investments III, L.P. and Canyon Capital Advisors LLC. The general partners for Canyon Value Realization Fund, L.P. are Canpartners Investments III, L.P. Canyon Capital Advisors LLC is the General Partner of Canpartners Investments III. The managing partners of Canyon Capital Advisors LLC are Joshua S. Friedman, Mitchell R. Julis, R. Christian B. Evensen and K. Robert Turner.

(12) Controlling entity with voting and investment power: Canyon Capital Advisors LLC is the investment advisor. The managing partners of Canyon Capital Advisors LLC are Joshua S. Friedman, Mitchell R. Julis, R. Christian B. Evensen and K. Robert Turner. In addition, Joshua S. Friedman, Mitchell R. Julis and R. Christian B. Evensen own all the ordinary shares of Canyon Value Realization Fund (Cayman), Ltd., carrying full voting rights on all matters.

(13) Controlling entity with Voting and Investment Power: RMF MAC Ltd. Managed Accounts Limited is the parent company of Canyon Value Realization Mac 18, Ltd. Canyon Capital Advisors is the Investment Advisor for Canyon Value Realization MAC Ltd. and has the power to direct investments. The managing partners of Canyon Capital Advisors LLC are Joshua S. Friedman, Mitchell R. Julis, R. Christian B. Evensen and K. Robert Turner. Canyon Value Realization MAC Ltd. is a Limited Liability Cayman Islands Company.

(14) DKR Saturn Management LP is a registered investment adviser with the Securities and Exchange Commission and as such, is the investment Manager to DKR Saturn Event Driven Holding Fund Ltd. DKR Saturn has retained certain individuals to act as the portfolio manager to the Fund managed by DKR Saturn. As such, DKR Saturn and certain portfolio managers have shares dispositive and voting power over the securities. For shares included in this

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questionnaire, DKR Saturn Management Company LP has been retained to act as the portfolio manager to the fund. Ron Phillips has trading authority over the Fund.

(15) DKR Saturn Management LP is a registered investment adviser with the Securities and Exchange Commission and as such, is the investment Manager to DKR Saturn Multi-Strategy Fund Ltd. DKR Saturn has retained certain individuals to act as the portfolio manager to the Fund managed by DKR Saturn. As such, DKR Saturn and certain portfolio managers have shares dispositive and voting power over the securities. For shares included in this questionnaire, DKR Saturn Management Company LP has been retained to act as the portfolio manager to the fund. Mike Cotton has trading authority over the Fund.

(16) DKR Capital Partners LP is a registered investment adviser with the Securities and Exchange Commission and as such, serves as the managing general partner to DKR Oasis Management Company LP, the investment manager to DKR Soundshore Oasis Holding Fund. Seth Fisher has trading authority over the Fund.

(17) DKR Capital Partners LP is a registered investment adviser with the Securities and Exchange Commission and as such, is the investment manager to DKR SoundShore Strategic Holding Fund Ltd. DKR has retained certain individuals to act as the portfolio manager to the Fund managed by DKR. As such, DKR LP and certain portfolio managers have shares dispositive and voting power over the securities. For shares included in this questionnaire, Seth Fisher has trading authority over the Fund.

(18) Frontpoint Convertible Arbitrage Fund GP LLC is the general partner of FrontPoint Convertible Arbitrage Fund L.P. FrontPoint Partners LLC is the managing member of FrontPoint Convertible Arbitrage Fund GP, LLC and as such has voting and dispositive power over the securities held by the fund. Phillip Duff, W. Gillespie Caffray and Paul Ghaffari are members of the board of managers of FrontPoint Partners LLC and are the sole members of its management committee. Messrs. Duff, Caffray and Ghaffari and FrontPoint Partners LLC and FrontPoint Convertible Arbitrage Fund GP, LLC each disclaim beneficial ownership of the securities held by the fund except for their pecuniary interest herein.

(19) JMG Triton Offshore Fund, Ltd. Is an international business company under the laws of the British Virgin Islands. The Fund's investment manager is Pacific Assets Management LLC. The Manager is an investment adviser registered with the SEC and has voting and dispositive power over the Fund's investments, including the Registerable Securities. The Equity interests of the Manager are owned by Pacific Capital Management, Inc. and Asset Alliance Holding Corp. The equity interests of Pacific are owned by Messrs. Roger Richter, Jonathan M. Glaser and Daniel A. David and Messrs. Glaser and Richter have sole investment discretion over the Fund's portfolio holdings.

(20) KBC Financial Products USA, Inc. exercises voting and investment control over any shares of common stock issuable upon conversion of the notes owned by this selling holder. Mr. Luke Edwards, Managing Director, exercises voting and investment control on behalf of KBC Financial Products USA, Inc.

(21) Forest Investment Management LP has sole voting control and shared investment control. Forest is wholly owned by Forest Partners II, the sole General Partner of which is Michael A. Boyd Inc., which is solely owned by Michael A. Boyd.

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(22) Northwestern Investment Management Company LLC (NIMC), a wholly-owned company of the Selling Securityholder is one of the investment advisors of the Selling Securityholder, and is the investment advisor for the Selling Securityholder with respect to the Restricted Securities. NIMC therefore may be deemed to be an indirect beneficial owner with shared voting/investment power with respect to such securities. Jerome R. Baier is a portfolio manager for NIMC and manages the portfolio which holds the Restricted Securities.

(23) Pursuant to an investment management agreement, RG Capital Management, L.P. (RG Capital) serves as the investment manager of Radcliffe SPC, Ltd. s Class A Convertible Crossover Segregated Portfolio. RGC Management Company, LLC (Management) is the general partner of RG Capital. Steve Katznelson and Gerald Stahlecker serve as the managing members of Management. Each of RG Capital, Management and Messr. Katznelson and Stahlecker disclaims beneficial ownership of the securities owned by Radcliffe SPC, Ltd. for and on behalf of the Class A Convertible Crossover Segregated Portfolio.

(24) CooperNeff Advisors, Inc. has sole investment control and shared voting control. Christian Menestrier is the CEO of CooperNeff Advisors, Inc.

(25) SSI Investment Management has voting and investment control over the securities. Mr. John Gottfurcht, Mr. George Douglas and Mrs. Amy Jo Gottfurcht are the principal shareholders of SSI Investment Management.

(26) The selling securityholder has informed us that it is required to file, or is a wholly-owned subsidiary of a company that is required to file, periodic and other reports with the Securities and Exchange Commission pursuant to Section 13(a) or 15(d) of the Exchange Act.

(27) GLG Market Neutral Fund is a publicly owned company listed on the Irish Stock Exchange. GLG Partners LP, an English limited partnership, acts as the investment manager of GLG Market Neutral Fund and has voting and dispositive power over the securities held by GLG Market Neutral Fund. The general partner of GLG Partners LP is GLG Partners Limited, an English limited company. The shareholders of GLG Partners Limited are Noam Gottesman, Pierre Lagrange, Jonathan Green, Philippe Jabre and Lehman (Cayman) Limited, a subsidiary of Lehman Brothers, Inc., a publicly-held entity. GLG Partners LP, GLG Partners Limited, Noam Gottesman, Pierre Lagrange, Jonathan Green, Philippe Jabre and Lehman (Cayman) Limited disclaim beneficial ownership of the securities held by GLG Market Neutral Fund, except for their pecuniary interest therein.

This prospectus may be used only by the selling securityholders identified above to sell the securities set forth opposite each such selling securityholder s name in the foregoing table. This prospectus may not be used by any selling securityholder not named in this prospectus, including transferees, pledgees or donees of the selling securityholders named above, prior to the effectiveness of the registration statement of which this prospectus is a part. Prior to any use of this prospectus in connection with an offering of the notes and/or the common stock issuable upon conversion of the notes by any unnamed securityholder or future transferees, pledgees or donees from such unnamed securityholders, the registration statement, of which this prospectus is a part, will be amended, as required, to set forth the name and other information about such selling securityholder. Additional information for the named securityholders and the information for transferees, pledgees or donees of the named securityholders will be provided by supplements to this prospectus, absent circumstances indicating the change is material. The supplement or amendment will also disclose whether any securityholder selling in connection with such supplement or amendment has held any position or office with, been employed by or otherwise had a material relationship with, us or any of our affiliates during the three years prior to the date of the supplement or amendment if such information has not been previously disclosed.

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PLAN OF DISTRIBUTION

The selling securityholders and their successors, which include their transferees, pledgees or donees and their successors, may, from time to time, sell the notes and the underlying common stock directly to purchasers or through underwriters, broker/dealers or agents who may receive compensation in the form of underwriting discounts, concessions or commissions from the selling securityholders and/or the purchasers of the securities. These discounts, concessions or commissions may be in excess of those customary in the types of transactions involved.

The selling securityholders may sell the notes and the underlying common stock, from time to time, in one or more transactions at:

- fixed prices;
- prevailing market prices at the time of sale;
- prices related to such prevailing market prices;
- varying prices determined at the time of sale; or
- negotiated prices.

These sales may be effected in transactions (which may involve block transactions) in the following manner:

- on any national securities exchange or quotation service on which the notes or the underlying common stock may be listed or quoted at the time of sale;
- in the over-the-counter market;
- in transactions otherwise than on such exchanges or services or in the over-the-counter market; or
- through the writing of options, whether such options are listed on option exchanges or otherwise through the settlement of short sales.

These sales may include crosses. Crosses are transactions in which the same broker acts as an agent on both sides of the transaction.

The selling securityholders may also enter into hedging transactions with broker/dealers or other financial institutions in connection with the sales of the notes or the underlying common stock. These broker/dealers or other financial institutions may, in turn, engage in short sales of these securities in the course of hedging their positions. The selling securityholders may sell short these securities to close out short positions, or loan or pledge these securities to broker/dealers that, in turn, may sell such securities.

A short sale of the notes or the underlying common stock by a broker-dealer, financial institution or selling securityholder would involve the sale of such notes or underlying common stock that are not owned, and therefore must be borrowed, in order to make delivery of the security in connection with such sale. In connection with a short sale of the notes or the underlying common stock, a broker-dealer, financial institution or selling securityholder may purchase the notes or our common stock in the open market to cover positions created by short sales. In determining the source of the notes or shares of common stock to close out these short positions, the broker-dealer, financial institution or selling securityholders may consider, among other things, the price of notes or shares of common stock available for purchase in the open market.

The aggregate proceeds to the selling securityholders from the sale of the notes or underlying common stock will be the purchase price of the notes or common stock less any discounts or commissions. A selling securityholder

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reserves the right to accept, and together with its agents, to reject (except when we decide to redeem the notes in accordance with the terms of the indenture) any proposed purchase of notes or common stock to be made directly or through agents. We will not receive any of the proceeds from this offering.

To comply with certain states' securities laws, if applicable, the selling securityholders will offer or sell the notes and the common stock into which the notes are convertible in such jurisdictions only through registered or licensed brokers/dealers. In addition, in some states the selling securityholders may not sell the notes and the common stock into which the notes are convertible unless such securities have been registered or qualified for sale in the applicable state or an exemption from registration or qualification is available and the conditions of which have been satisfied.

Our outstanding common stock is quoted on the NASDAQ National Market. Since their initial issuance, the notes have been eligible for trading on the PORTAL Market of the National Association of Securities Dealers, Inc. However, notes sold by means of this prospectus will no longer be eligible for trading of the PORTAL Market. We do not intend to list the notes for trading on any other automated quotation system or any securities exchange.

The selling securityholders and any underwriters, broker/dealers or agents that participate in the distribution of the notes and underlying common stock may, in connection with these sales, be deemed to be underwriters within the meaning of the Securities Act of 1933. Any selling securityholder that is a broker-dealer or an affiliate of a broker-dealer will be deemed to be an underwriter within the meaning of the Securities Act of 1933, unless such selling securityholder purchased its notes in the ordinary course of business, and at the time of its purchase of the notes to be resold, did not have any agreements or understandings, directly or indirectly, with any person to distribute the notes. As a result, any discounts, commissions, concessions or profit they earn on any resale of the notes or the shares of the underlying common stock may be underwriting discounts and commissions under the Securities Act of 1933. Selling securityholders who are deemed to be underwriters within the meaning of the Securities Act of 1933 will be subject to the prospectus delivery requirements of the Securities Act of 1933 and to certain statutory liabilities, including but not limited to those relating to Sections 11, 12 and 17 of the Securities Act of 1933 and Rule 10b-5 under the Securities Exchange Act of 1934. The selling securityholders have agreed to comply with the prospectus delivery requirements of the Securities Act of 1933, if any. We have been informed that the selling securityholders identified by the symbol # in the table in the section of this prospectus entitled Selling Securityholders are registered broker-dealers, and as a result they are underwriters in connection with the sale of the notes and the underlying common stock.

Each of the selling securityholders identified by the symbol + in the table in the section of this prospectus entitled Selling Securityholders has informed us that it is an affiliate of one or more registered-broker dealers. Each of these selling securityholders has also informed us that (1) such selling securityholder purchased its notes in the ordinary course of business and (2) at the time that the notes were purchased, such selling securityholder had no agreements or understandings, directly or indirectly, with any person to distribute the notes.

The selling securityholders and any other person participating in the sale of the notes or the underlying common stock will be subject to the Securities Exchange Act of 1934. The Securities Exchange Act of 1934 rules include, without limitation, Regulation M, which may limit the timing of purchases and sales of any of the notes and the underlying common stock by the selling securityholders and any other such person. In addition, Regulation M of the Securities Exchange Act of 1934 may restrict the ability of any person engaged in the distribution of the notes and the underlying common stock to engage in market-making activities with respect to the particular notes and the underlying common stock being distributed for a period of up to five business days before the commencement of such distribution. This may affect the marketability of the notes and the underlying common stock and the ability of any person or entity to engage in market-making activities with respect to the notes and the underlying common stock.

We cannot assure you that any selling securityholder will sell any or all of the notes or the underlying common stock with this prospectus. Further, we cannot assure you that any such selling securityholder will not transfer, devise or gift the notes and the underlying common stock by other means not described in this prospectus. As a result, there may be, at any time, securities outstanding that are subject to restrictions on transferability and resale. In addition, any securities covered by this prospectus which qualify for sale pursuant to Rule 144 or Rule 144A under the Securities Act of 1933 may be sold pursuant to Rule 144 or Rule 144A rather than pursuant to this prospectus. Each

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selling securityholder has represented that it will not sell any notes or common stock pursuant to this prospectus except as described in this prospectus.

At the time a particular offering of the notes or underlying common stock is made, if required, a prospectus supplement, or, if appropriate, a post-effective amendment to the registration statement of which this prospectus is a part, will be distributed setting forth the names of the selling securityholders, the aggregate amount and type of securities being offered, and, to the extent required, the terms of the offering, including the name or names of any underwriters, broker/dealers or agents, any discounts, commissions and other terms constituting compensation from the selling securityholders and any discounts, commission or concessions allowed or reallocated or paid to the broker/dealers.

To our knowledge, there are currently no plans, arrangements or understandings between any selling securityholder and any underwriter, broker-dealer or agent regarding the sale of notes and the underlying common stock by the selling securityholders.

Pursuant to the registration rights agreement relating to the notes, all expenses of the registration of notes and underlying common stock will be paid by us, except that the selling securityholders will pay all underwriting discounts and selling commissions. The selling securityholders and we have agreed to indemnify each other and our respective directors, officers and controlling persons against, and in certain circumstances to provide contribution with respect to, specific liabilities in connection with the offer and sale of the notes and the common stock, including liabilities under the Securities Act of 1933.

The registration rights agreement requires that we use our reasonable best efforts to keep the shelf registration statement continuously effective until the earliest of such time as all of the notes and the common stock issuable upon conversion thereof (i) cease to be outstanding, (ii) have been sold or otherwise transferred pursuant to an effective registration statement, (iii) have been sold pursuant to Rule 144 under circumstances in which any legend borne by the notes or common stock relating to restrictions on transferability thereof is removed or (iv) are eligible to be sold pursuant to Rule 144(k) or any successor provision. Notwithstanding the foregoing obligations, we may, under certain circumstances, postpone or suspend the filing or the effectiveness of the shelf registration statement, or any amendments or supplement thereto, or the sale of the notes or underlying common stock hereunder. See Description of Notes Registration Rights.

LEGAL MATTERS

The validity of the securities offered by this prospectus will be passed upon for us by Gibson, Dunn & Crutcher LLP, San Francisco, California.

EXPERTS

The financial statements and the related financial statement schedule and management's report on the effectiveness of internal control over financial reporting incorporated in this prospectus by reference from Thoratec's Annual Report on Form 10-K for the year ended January 1, 2005 have been audited by Deloitte & Touche LLP, an Independent Registered Public Accounting Firm, as stated in their reports which are incorporated herein by reference, and have been so incorporated reliance upon the reports of such firm given upon their authority as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We are subject to the information requirements of the Securities Exchange Act of 1934 and file reports, proxy statements and other information with the SEC. We are required to file electronic versions of these documents with the SEC. Our reports, proxy statements and other information can be inspected and copied at prescribed rates at the public reference facilities maintained by the SEC at Judiciary Plaza, 450 Fifth Street, N.W., Washington D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. The SEC also maintains a website that contains reports, proxy and information statements and other information, including electronic versions of our filings. The website address is <http://www.sec.gov>.

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INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

This prospectus incorporates by reference some of the reports, proxy and information statements and other information that we have filed with the SEC under the Securities Exchange Act of 1934. This means that we are disclosing important business and financial information to you by referring you to those documents. The information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future filings made with the SEC under sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 until all of the securities offered by this prospectus are sold; provided, however, that we are not incorporating any information furnished under either Item 9 or Item 12 of any current report on Form 8-K. These documents may include annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, as well as the portions of our proxy statements incorporated by reference into our Annual Reports on Form 10-K.

Annual Report on Form 10-K and Annual Report on Form 10-K/A for the year ended January 1, 2005 (including the portions of our Proxy Statement for our 2005 Annual Meeting of Shareholders incorporated by reference therein);

Quarterly Report on Form 10-Q for the period ended April 2, 2005;

The description of Thoratec's Common Stock contained in the Registration Statement on Form 8-A filed with the SEC on May 18, 1981, including any amendments or reports filed for the purpose of updating such information; and

The description of Thoratec's Preferred Stock Purchase Rights contained in the Registration Statement on Form 8-A filed with the SEC on May 3, 2002, including any amendments or reports filed for the purpose of updating such information.

Any statement made in a document incorporated by reference into this prospectus is deemed to be modified or superseded for purposes of this prospectus to the extent that a statement in this prospectus or in any other subsequently filed document, which is also incorporated by reference, modifies or supersedes the statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

In addition, for so long as any of the notes remain outstanding and during any period in which we are not subject to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, we will make available to any prospective purchaser or beneficial owner of the securities in connection with the sale thereof the information required by Rule 144A(d)(4) under the Securities Act of 1933. The information relating to us contained in this prospectus should be read together with the information in the documents incorporated by reference into this prospectus. In addition, certain information, including financial information, contained in this prospectus or incorporated by reference in this prospectus should be read in conjunction with documents we have filed with the SEC.

You may request, and we will provide at no cost, a copy of our filings with the SEC incorporated by reference into this prospectus. Requests for documents should be directed to Investor Relations Thoratec Corporation, 6035 Stoneridge Drive, Pleasanton, California 94588, (925) 897-8600. Exhibits to these filings will not be sent unless those exhibits have been specifically incorporated by reference in this document.

Table of Contents**PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. Other Expenses of Issuance and Distribution.**

The following table sets forth the estimated fees and expenses in connection with the issuance and distribution of the securities registered hereby, all of which will be borne by the Registrant:

Securities and Exchange Commission registration fee	\$ 31,350
Printing, duplicating and engraving expenses	\$ 4,500
Legal fees and expenses	\$ 35,000
Accounting fees and expenses	\$ 13,800
Miscellaneous	\$ 2,000
Total	\$ 86,650

Item 15. Indemnification of Directors and Officers.

Pursuant to Section 204(a) and 317 of the California Corporations Code, Thoratec has included in its articles of incorporation and by-laws provisions regarding the indemnification of officers and directors of Thoratec.

Article Fourth of Thoratec's Articles of Incorporation, as amended, provides as follows:

Fourth: The liability of the directors of this corporation for monetary damages shall be eliminated to the fullest extent permissible under California law. This corporation is also authorized, to the fullest extent permissible under California law, to indemnify its agents (as defined in Section 317 of the California Corporations Code), whether by-law, agreement or otherwise, in excess of the indemnification expressly permitted by Section 317 and to advance defense expenses to its agents in connection with such matters as they are incurred. If, after the effective date of this Article, California law is amended in a manner which permits a corporation to limit the monetary or other liability of its directors or to authorize indemnification of, or advancement of such defense expense to, its directors or other persons, in any such case to a greater extent than is permitted on such effective date, the references in this Article to California law shall to that extent be deemed to refer to California law as so amended. Section 29 of Thoratec's By-laws, as amended, provides as follows:

29. Indemnification of Directors and Officers.

(a)Indemnification. To the fullest extent permissible under California law, the corporation shall indemnify its directors and officers against all expenses, judgment, fines settlement and other amounts actually and reasonably incurred by them in connection with any proceeding, including an action by or in the right of the corporation, by reason of the fact that such person is or was a director or officer of the corporation, or is or was serving at the request of the corporation as a director, officer, trustee, employee or agent of another corporation, or of a partnership, joint venture, trust or other enterprise (including service with respect to employee benefit plans). To the fullest extent permissible under California law, expenses incurred by a director or officer seeking indemnification under this By-law in defending any proceeding shall be advanced by the corporation as they are incurred upon receipt by the corporation of an undertaking by or on behalf of the director or officer to repay such amount if it shall ultimately be determined that the director or officer is not entitled to be indemnified by the corporation for those expenses. If, after the effective date of this By-law, California law is amended in a manner

which permits the corporation to authorize indemnification of or advancement of expense to its directors or officers, in any such case to a greater extent than is permitted on such effective date, the references in this By-law to California law shall to that extent be deemed to refer to California law as so amended. The rights granted by this By-law are contractual in nature and, as such, may not be altered with respect to any present or former director or officer without the written consent of that person.

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(b)Procedure. Upon written request to the Board of Directors by a person seeking indemnification under this By-law, the Board shall promptly determine in accordance with Section 317(e) of the California Corporations Code whether the applicable standard of conduct has been met and, if so, the Board shall authorize indemnification. If the Board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to the proceeding, then, upon written request by the person seeking indemnification, independent legal counsel (by means of a written opinion obtained at the corporation's expense) or the corporation's shareholders shall determine whether the applicable standard of conduct has been met and, if so, shall authorize indemnification.

(c)Definitions. The term proceeding means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative. The term expenses includes, without limitation, attorney's fees and any expenses of establishing a right to indemnification.

Thoratec has also entered into agreements with certain of its officers and directors to indemnify such persons within the limits set forth by California law and Thoratec's By-laws, as amended and its Articles of Incorporation, as amended. The Registrant also maintains a limited amount of director and officer insurance. The indemnification provision in the Articles of Incorporation, Bylaws, and the indemnity agreements entered into between the Registrant and its officers or directors, may be sufficiently broad to permit indemnification of the Registrant's officers and directors for liability arising under the Securities Act of 1933, as amended.

Item 16. Exhibits.

See Exhibit Index attached hereto and incorporated by reference.

Item 17. Undertakings.

(a) The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
 - (ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement;
 - (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in the periodic reports filed with or furnished to the Commission by the

Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

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- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Post-Effective Amendment No. 3 to the registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Pleasanton, State of California, on June 3, 2005.

THORATEC CORPORATION

By: /s/ D. Keith Grossman
D. Keith Grossman
President and Chief Executive Officer

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Pursuant to the requirements of the Securities Act of 1933, this Post-Effective Amendment No. 3 to the registration statement has been signed below by the following persons in the capacities and on the dates indicated below.

Signature	Title	Date
/s/ D. Keith Grossman D. Keith Grossman	President, Chief Executive Officer and Director (Principal Executive Officer)	June 3, 2005
*	Corporate Controller (principal financial officer	June 3, 2005
Jeffrey M. McCormick	and accounting officer)	
*	Chairman of the Board of Directors	June 3, 2005
J. Donald Hill		
*	Director	June 3, 2005
Howard E. Chase		
*	Director	June 3, 2005
J. Daniel Cole		
*	Director	June 3, 2005
Neil F. Dimick		
*	Director	June 3, 2005
William M. Hitchcock		
*	Director	June 3, 2005
George W. Holbrook, Jr		
*	Director	June 3, 2005
Daniel M. Mulvena		
*By: /s/ D. Keith Grossman		June 3, 2005
D. Keith Grossman Attorney-In-Fact		

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EXHIBIT INDEX

Exhibit Number	Description
4.1	Registrant's Articles of Incorporation, as amended (incorporated by reference to Exhibit 3.1 to the Registrant's Form 10-K for the year ended December 28, 2002).
4.2	Registrant's Bylaws, as amended (incorporated by reference to Exhibit 3.2 to the Registrant's Form 8-K filed with the SEC on March 3, 2005).
4.3	Rights Agreement between the Registrant and Computershare Trust Company, Inc., as rights agent, dated as of May 2, 2002 (incorporated by reference to the Registrant's 8-A12G filed with the SEC on May 3, 2002 (Registration No. 000-49798)).
4.4	Indenture, dated as of May 24, 2004, by and between the Registrant and U.S. Bank, National Association, as Trustee (Incorporated by reference to Exhibit 4.1 to the Registrant's Form 10-Q for the quarter ended July 3, 2004 (the 2004 Second Quarter Form 10-Q)).
4.5	Form of Senior Subordinated Convertible Note due 2034 (Included in Exhibit 4.4).
4.6	Pledge Agreement, dated as of May 24, 2004, between the Registrant and U.S. Bank, National Association and Pledge Agreement Supplement dated as of June 7, 2004 (Incorporated by reference to Exhibit 4.2 to the 2004 Second Quarter Form 10-Q).
4.7	Control Agreement, dated as of May 24, 2004, between the Registrant and U.S. Bank, National Association and Control Agreement Amendment dated as of June 7, 2004 (Incorporated by reference to Exhibit 4.3 to the 2004 Second Quarter Form 10-Q).
4.8	Registration Rights Agreement, dated May 24, 2004, by and among the Registrant and Merrill Lynch Pierce Fenner & Smith Incorporated as Initial Purchaser of the Senior Subordinated Convertible Notes due 2034 (Incorporated by reference to Exhibit 4.4 of the Registrant's 2004 Second Quarter Form 10-Q).
5.1*	Opinion of Gibson, Dunn & Crutcher LLP.
8.1*	Tax Opinion of Gibson, Dunn & Crutcher LLP.
12.1	Computation of Ratio of Earnings to Fixed Charges.
23.1*	Consent of Gibson, Dunn & Crutcher LLP (Included in Exhibit 5.1).
23.2	Consent of Deloitte & Touche LLP, independent registered public accounting firm.
24.1*	Powers of Attorney. (Included on signature page of this registration statement).
25.1*	Form T-1 Statement of Eligibility of Trustee of Indenture under the Trust Indenture Act of 1939, as amended, of U.S. Bank, National Association, as Trustee.

* Previously filed

Filed herewith

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