Exhibit 10.12  
  
  
 AMENDED AND RESTATED DISTRIBUTION AGREEMENT  
  
  
 This Amended and Restated Distribution Agreement (the "Agreement") is  
entered into as of the 1st day of May, 1998 (the "Execution Date") by and among  
SANO Corporation, a Florida corporation ("SANO"), Pharmaceutical Resources,  
Inc., a New Jersey corporation ("PRI"), and Par Pharmaceutical, Inc., a New  
Jersey corporation ("Par").  
  
 WHEREAS, SANO, PRI and Par have previously entered into that certain  
Amended and Restated Distribution Agreement as of the 28th day of July, 1997  
(the "Prior Agreement");  
  
 WHEREAS, SANO, PRI and Par wish to amend and restate their agreement  
with respect to the subject matter of the Prior Agreement, and supersede the  
Prior Agreement in its entirety;  
  
 NOW, THEREFORE, for good and valuable consideration, the receipt and  
sufficiency of which are hereby acknowledged, the parties hereto agree as  
follows:  
  
  
  
  
  
 CONFIDENTIAL INFORMATION OMITTED AND FILED SEPARATELY WITH THE  
 SECURITIES AND EXCHANGE COMMISSION  
 ASTERISKS DENOTE SUCH OMISSION  
  
 ARTICLE I  
  
 TERMS AND CONDITIONS  
  
 1.1 Definitions. As used in this Agreement, the following terms shall  
have the meaning ascribed to them below:  
  
 (a) "Affiliate," as to any Person, shall have the meaning set forth in  
Rule 405 under the Securities Act of 1933.  
  
 (b) "Costs" shall mean, with respect to production of a Licensed  
Product, the cost of goods incurred by SANO in the production thereof determined  
in accordance with generally accepted accounting principles applied on a  
consistent basis, as determined by SANO's independent certified public  
accountants; provided, however, that notwithstanding the foregoing, it being the  
intent of the parties that Costs make SANO whole with respect to all reasonable  
expenditures related to the Licensed Product, Costs shall include, without  
limitation, (i) the delivered cost of all ingredients and other raw materials  
used therein, (ii) a percentage of SANO's overall labor cost equal to the  
portion which labor hours devoted to the Licensed Product's production bears to  
total labor hours devoted to all SANO product production, (iii) packaging and  
other direct manufacturing and quality control costs and (iv) ratably allocated  
costs of marketing and promotion (if any), product liability insurance and  
general overhead; provided, further, that, notwithstanding the foregoing, Costs  
shall not include (i) any cost incurred by SANO in completing the Development  
Program, (ii) any royalties or similar payments paid or payable by SANO with  
respect to any Licensed Product, or (iii) any cost specifically related to the  
distribution of the Licensed Product outside the United States; additionally,  
(x) with respect to the transdermal nicotine Licensed Product (generic of  
Habitrol(R)) described herein as Product B, Costs shall be reduced on a one-time  
basis by [\*\*\*\*], and (y) with respect to the transdermal nitroglycerin product  
(generic of Nitro Dur(R)) described herein as Product A, Costs shall be reduced  
on a one-time basis by the sum of the amount set forth as an additional Licensed  
Product Fee for that Licensed Product pursuant to Section 7.4 hereof.  
  
 (c) "Development Program" shall mean all actions, including, without  
limitation, research conducted as a part of SANO's pre-clinical and clinical  
activities, which is required or reasonably necessary to obtain all requisite  
governmental approvals for the testing, manufacture and sale of Licensed  
Products during the term of this Agreement.  
  
 (d) "Exclusive" shall mean, with respect to any right herein granted,  
that no other party shall have such right, directly or indirectly.  
  
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 (e) "Generic" shall mean, with respect to any drug or product, that  
such drug or product does not comprise a substance or compound that is covered  
by a claim under any unexpired U.S. Patent and/or which is not entitled to any  
period of market exclusivity under the Orphan Drug Act or the Drug Price  
Competition and Patent Term Restoration Act of 1984 according to 21 U.S.C.A.  
355(j)(4)(D)(i)or (ii).  
  
 (f) "Licensed Product" shall mean the Transdermal Generic Drug  
Delivery Systems listed on Exhibit A hereto. Notwithstanding any references to  
Product A herein, Licensed Product shall not include the transdermal  
nitroglycerin product(generic of NitroDur(R)) described as Product A, unless and  
until (i) SANO obtains approval of its abbreviated new drug application ("ANDA")  
by the United States Food and Drug Administration ("FDA") covering Product A and  
(ii) PRI elects, by written notice, to include Product A as a Licensed Product.  
  
 (g) "Net Sales" shall have the meaning set forth in Exhibit B hereto.  
  
 (h) "Person" shall include any individual, corporation, partnership,  
association, cooperative, joint venture, or any other form of business entity  
recognized under the law.  
  
 (i) "Sale" shall mean any action involving selling.  
  
 (j) "SANO's Technology" shall mean any and all data, information,  
technology, know-how, process, technique, method, skill, proprietary  
information, trade secret, development, discovery, and inventions, owned or  
controlled by SANO and specifically related to a Transdermal Generic Drug  
Delivery System for the Licensed Products now existing or developed in the  
future under and during the course of the Development Program or otherwise, as  
well as information related to the manufacture of Licensed Product(s) and  
specifications and procedures related thereto.  
  
 (k) "Sell" shall mean to, directly or indirectly, sell, distribute,  
supply, solicit or accept orders for, negotiate for the sale or distribution of,  
or take any other action that is in furtherance of any of the foregoing.  
  
 (l) "Specifications" shall mean the terms and conditions applicable to  
the Licensed Product(s) as described in the ANDA approved by the FDA covering  
the Licensed Product(s), as the same may be supplemented from time to time.  
  
 (m) "Standard Packaging" shall mean a Licensed Product packaged in  
individual pouches and in individual folding cartons consisting of pouch units  
per carton reasonably specified by Par and containing any labels and labeling  
required therefor by the FDA and provided in packages that are appropriate for  
regulatory and marketing purposes, and produced at a SANO facility in the United  
States, the grade and quality of the labels, labeling and packaging materials  
being as specified in the ANDA therefor.  
  
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 (n) "Transdermal Generic Drug Delivery System" shall mean a generic  
version of a branded transdermal adhesive patch.  
  
 (o) "United States" shall mean the 50 states of the United States of  
America, plus the District of Columbia, the Commonwealth of Puerto Rico, the  
U.S. Virgin Islands, Guam, Samoa and any other territory which, on the Execution  
Date, is a United States government protectorate wherein an ANDA approved by the  
FDA is required to sell the Licensed Products in such territory.  
  
 ARTICLE II  
  
 REPRESENTATIONS OF SANO  
  
 2.1 SANO represents and warrants as follows:  
  
 2.1.1 Organization, etc. It is duly organized and validly existing  
under the laws of the State of Florida, has all requisite power and authority to  
conduct its business as now, and as proposed to be, conducted and to execute,  
deliver and perform its obligations under this Agreement. This Agreement has  
been duly authorized, executed and delivered by SANO and represents a valid and  
binding obligation enforceable against SANO in accordance with its terms.  
  
 2.1.2 No Conflicts; Consents. Execution and delivery hereof, or  
performance by SANO hereunder, will not (a) violate or create a default under  
(i) SANO's Articles of Incorporation or by-laws (true and correct copies of  
which have been delivered to Par), (ii) any mortgage, indenture, agreement, note  
or other instrument to which it is a party or to which its assets are subject or  
(iii) any court order or decree or other governmental directive or (b) result in  
the action of any lien, charge or encumbrance on any material portion of SANO's  
assets, except as contemplated hereby.  
  
 2.1.3 SANO's Technology. SANO's Technology is, to the best knowledge  
of SANO, sufficient to enable SANO to complete the Development Program as  
contemplated hereby. Except as set forth in Schedule 2.1.3, SANO has received no  
notice, and is not aware, that any portion of SANO's Technology infringes upon  
the rights of any other Person.  
  
 2.1.4 Development Program. SANO has filed an ANDA with respect to each  
of the Licensed Products and has no knowledge of any fact or circumstance which  
is reasonably likely to prevent approval by the FDA, other than general  
conditions related to the approval process; SANO does not hereby represent or  
warrant that any Licensed Product will be approved for commercial sale, or will  
ultimately be marketed.  
  
 2.1.5 Information. All data and other information relating to SANO  
and/or the Licensed Products provided by SANO, or its agents, to Par was derived  
from SANO's records (which have been diligently, and to the best of SANO's  
knowledge, accurately maintained in all material respects) and is an accurate  
copy or summary thereof in all material respects.  
  
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 2.1.6 Employees. All key employees of SANO have executed appropriate  
confidentiality agreements with SANO and assignments of intellectual property  
rights in favor of SANO. All key employees of SANO have executed appropriate  
non-compete agreements which, by their terms, extended at least until December  
31, 2000.  
  
 2.1.7 Status. SANO represents and warrants to Par that, to the best of  
its knowledge, information and belief, it is not prohibited by any federal,  
state or local law, rule or regulation or by any order, directive or policy of  
the United States government or any state or local government thereof or any  
federal, state or local regulatory agency or authority having jurisdiction with  
respect to the distribution of pharmaceutical products within its territorial  
jurisdiction from selling the Licensed Products within the territorial  
jurisdiction of such government, regulatory agency or authority (on the  
assumption that it holds whatever licenses are required for a foreign  
corporation to carry on business generally within such jurisdiction) and that  
SANO is not an Ineligible Person or Person from whom any United States federal,  
state or local government, regulatory authority or agency which purchases  
pharmaceutical products (including, without limitation, the federal Defense  
Logistics Agency) will or may not purchase any products manufactured by it or  
with whom it will or may not otherwise conduct business as a result its being  
publicly listed or otherwise (except for the fact that it is a foreign  
corporation).  
  
 ARTICLE III  
  
 OBLIGATIONS OF SANO  
  
 3.1 Level of Effort. SANO shall use its reasonable efforts, including,  
without limitation, the employment of a sufficient number of technically  
qualified officers and employees, to attempt to complete the Development Program  
for each Licensed Product.  
  
 3.2 Progress Reports. SANO shall, on a monthly basis, by the tenth day  
of each month, inform Par in writing of the progress of the Development Program  
and the commencement of any project within the Development Program.  
  
 3.3 Program Updates. On a date which shall be approximately three (3)  
months after the date hereof, and at three-month intervals thereafter,  
representatives of SANO and of Par shall meet to review the progress and status  
of the Development Program then underway. At such meetings, Par shall have the  
right to request the allocation of priorities to the various projects comprising  
the Development Program and to suggest procedures for their implementation,  
which requests shall be reasonably considered by SANO.  
  
 3.4 Supply and Use of Information. The parties shall, as promptly as  
possible, provide to each other any information that comes to the knowledge of a  
responsible officer of any party relating to any adverse reaction or other  
adverse event occasioned during research on, development or use of a Licensed  
Product. Any provision of information to Par shall be subject to the  
confidentiality obligations of Section 14.4.  
  
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 3.5 Clinical Testing. All pre-clinical, clinical and post-clinical  
testing and stability testing and other actions, including but not limited to  
completion of the Development Program, required to obtain all requisite  
government approvals in the United States for the manufacture and sale of each  
Licensed Product shall be conducted by SANO, at its expense unless otherwise set  
forth herein.  
  
 3.6 Governmental Approvals. SANO shall file all appropriate requests  
and other filings with the appropriate government agencies within the United  
States in order to seek to obtain all requisite approvals for the testing,  
manufacture, sale and use of the Licensed Product(s). The decision regarding the  
timing of said filings shall be in SANO's sole discretion. SANO shall have full  
and complete ownership of all governmental approvals relating to Licensed  
Products. SANO shall provide Par with appropriate sections of and a right of  
reference to any application for registration in the United States except with  
respect to those aspects of any formulation or manufacturing process that is  
reasonably deemed proprietary by SANO.  
  
 3.7 Other Products. SANO shall reasonably apportion or allocate its  
resources among its products to accommodate the Development Programs for  
Licensed Products.  
  
 3.8 Title. SANO will protect and defend its rights to all Licensed  
Products and SANO's Technology, and will indemnify and hold Par, PRI and their  
Affiliates, harmless, from and against any claims of infringement or other claim  
that SANO is not the owner thereof.  
  
 3.9 Subsidiaries and Affiliates. SANO will cause its subsidiaries and  
affiliates to comply with the restrictions and limitations imposed on SANO  
hereunder with respect to Licensed Products.  
  
 ARTICLE IV  
  
 EXCLUSIVE DISTRIBUTOR  
  
 4.1 Subject to the provisions of this Agreement, SANO hereby appoints  
Par as the exclusive distributor of the Licensed Products for the United States  
and Par hereby accepts such appointment and agrees to act as such exclusive  
distributor. The rights and licenses granted to Par under this Agreement shall  
henceforth be referred to as "the Right." Par acknowledges that it has no rights  
with respect to SANO's Technology or the Licensed Products, except for the  
distribution rights with respect to the Licensed Products as herein described.  
  
 4.2 SANO, or Par, as applicable, covenants and agrees that, during the  
term of this Agreement or until the Right (or its exclusive nature) is  
terminated in accordance with the provisions hereof:  
  
 4.2.1 SANO will refer to Par all inquiries concerning potential  
purchases of Licensed Products received by it from Persons located in the United  
  
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States or from Persons outside the United States if SANO knows or reasonably  
suspects that such Person intends to resell or export the Licensed Product to  
the United States;  
  
 4.2.2 SANO will not, directly or indirectly, knowingly sell any  
Licensed Product in the United States nor to any Person outside of the United  
States if SANO reasonably expects that such Person intends to resell or export  
the Licensed Product to the United States and, if notified by Par that one of  
SANO's customers is selling the Licensed Product in the United States in any  
material respect, SANO shall either cease to supply such customer or obtain (and  
enforce, if necessary) an undertaking from such customer not to sell the  
Licensed Product in the United States (unless SANO is precluded from taking such  
action under applicable law). Par acknowledges that SANO will use reasonable  
efforts to prevent the sale of Licensed Products in United States by Persons  
other than Par, but shall not be held responsible if, despite such efforts, it  
is unsuccessful in so doing (subject to its obligations above to cease to supply  
or to obtain and enforce the undertaking as and to the extent contemplated  
above).  
  
 4.2.3 Par shall not, and shall not authorize, permit or suffer any of  
its Affiliates to, purchase any Transdermal Generic Drug Delivery System which  
has the same strength, contains the same active ingredient and is for the same  
indication as, and is competitive with, any of the Licensed Products (a  
"Competitive Product") for distribution, sale or use in the United States from  
any Person other than SANO. Par shall not, and shall not authorize, permit or  
suffer any of its Affiliates to, seek regulatory approval in the United States  
for any Competitive Product or to, directly or indirectly, manufacture, sell,  
handle, distribute or be financially interested (except as a stockholder with  
not greater than a 5% interest in a public company) in the sales of such  
products within the United States for its own account or for the account of any  
other Person as agent, distributor or otherwise.  
  
 Notwithstanding the foregoing, if Par or PRI becomes an Affiliate of  
an entity (the "Merger Partner") as a result of a merger, acquisition, or other  
similar extraordinary corporate transaction, and such Merger Partner is engaged  
in the manufacture or distribution of a Competitive Product, Par shall so notify  
SANO and shall offer (the "Offer") to sell, assign and transfer to SANO the  
Right with respect to the Licensed Product with which such Competitive Product  
is competitive in exchange for an amount equal to the Licensed Product Fee (as  
hereinafter defined) for such Licensed Product. If, within thirty (30) days  
after its receipt of the Offer, SANO accepts the Offer, SANO shall, within  
fifteen (15) days of such acceptance, deliver to Par, against delivery of  
appropriate instruments of release and transfer, its promissory note in form and  
substance reasonably acceptable to Par, payable to the order of Par, in the  
principal amount of the Licensed Product Fee, bearing interest at the prime rate  
of Citibank, N.A., as announced from time to time at its offices in New York  
City (the "Prime Rate"), with interest and principal payable on the first  
anniversary of the date of delivery of such note. From and after the date of  
delivery of such note, Par shall have no rights with respect to the relevant  
Licensed Product and SANO shall be free to grant any rights related thereto to a  
third party or to retain such rights for itself. If SANO declines to accept the  
Offer or fails to accept the Offer within the aforesaid 30-day period, this  
Agreement shall remain in full force and effect, except that the provisions of  
this Section 4.2.3 shall not apply to that Competitive Product. Par shall notify  
SANO promptly if any Merger Partner has a Competitive Product.  
  
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 4.2.4 Par shall not, and shall not authorize, permit or suffer any of  
its Affiliates to, directly or indirectly, sell any Licensed Product to any  
Person outside of the United States, nor to any Person in the United States if  
Par or any of its Affiliates reasonably expects that such Person intends,  
directly or indirectly, to sell or export the Licensed Product outside of the  
United States. If Par is notified by SANO that one of its customers or a  
customer of Par or any of its Affiliates is exporting the Licensed Product from  
the United States in any material respect Par shall (or shall cause its  
Affiliates to) either cease to supply such customer or obtain (and enforce, if  
necessary) an undertaking from such customer not to sell the Product outside of  
the United States (unless Par or any such Affiliate is precluded from taking  
such action under applicable law). SANO acknowledges that Par will use (and will  
cause its Affiliates to use) reasonable efforts to prevent its customers from  
exporting any Licensed Product out of the United States but shall not be held  
responsible if, despite such efforts, it is unsuccessful in so doing (subject to  
its obligations above to cease to supply or to obtain and enforce the  
undertaking as and to the extent contemplated above).  
  
 4.2.5 Par shall refer to SANO any inquiry or order for Licensed  
Products which Par or any of its Affiliates may receive from any Person located  
outside of the United States and from any Person located in the United States  
where Par or any of its Affiliates knows or has reason to suspect that such  
Person intends to export the Licensed Products outside of the United States.  
  
 4.2.6 The parties acknowledge, agree and declare that the relationship  
hereby established between Par and SANO is solely that of buyer and seller, that  
each is an independent contractor engaged in the operation of its own respective  
business, that neither party shall be considered to be the agent of the other  
party for any purpose whatsoever, except as otherwise expressly indicated in  
this Agreement, and that, except as otherwise expressly indicated in this  
Agreement, neither party has any authority to enter into any contract, assume  
any obligations or make any warranties or representations on behalf of the other  
party. Nothing in this Agreement shall be construed to establish a partnership  
or joint venture relationship between or among the parties.  
  
 4.2.7 SANO shall not engage in marketing and promotion of the Licensed  
Products in the United States unless reasonably requested to do so by Par.  
  
 ARTICLE V  
  
 REPRESENTATIONS OF PAR AND PRI; OBLIGATIONS  
  
 5.1 Par and PRI jointly and severally represent, warrant and covenant  
as follows:  
  
 5.1.1 Organization, etc. They are duly organized and validly existing  
under the laws of the State of New Jersey, have all requisite power and  
authority to conduct their business as now and as proposed to be conducted and  
  
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to execute, deliver and perform their obligations under this Agreement. This  
Agreement has been duly authorized, executed and delivered by Par and PRI and  
represents a valid and binding obligation enforceable against Par and PRI in  
accordance with its terms.  
  
 5.1.2 No Conflicts; Consents. Execution and delivery hereof, or  
performance by either Par or PRI hereunder, will not (a) violate or create a  
default under (i) Par's and PRI's Certificates of Incorporation or by-laws (true  
and correct copies of which have been delivered to SANO), (ii) any mortgage,  
indenture, agreement, note or other instruments to which either is a party or by  
which either's assets are subject or (iii) any court order or decree or other  
governmental direction or (b) result in the action of any lien, charge or  
encumbrance on any material portion of Par's and PRI's assets.  
  
 5.1.3 Information. All data and other information relating to Par and  
PRI provided to SANO by Par and PRI, or their agents, was derived from Par's and  
PRI's records (which have been diligently maintained) and is an accurate copy or  
summary thereof in all material respects.  
  
 5.1.4 Sufficiency. Par maintains and agrees that it will continue to  
maintain those places of business and equipment to be used in storing and  
shipping the Licensed Products in accordance with Current Good Manufacturing  
Practices of the FDA and all other applicable requirements of the FDA (as the  
same may be modified from time to time). Par hereby further represents and  
warrants that it currently has and/or has available to it and maintains and  
agrees to continue to have and/or to have available to it and maintain an  
adequate marketing organization and qualified sales persons to promote the sale  
of the Licensed Products in the United States.  
  
 5.2 Par shall purchase the Licensed Products from SANO as contemplated  
in Article VI hereof.  
  
 5.3 Par will use its reasonable efforts (utilizing its marketing,  
distribution and management systems and those of its Affiliates) to develop a  
market for and sell the Licensed Products in the United States, such efforts to  
be not less rigorous than those efforts used by Par in relation to its leading  
or principal products. Par shall devote particular attention to the marketing  
and sale of the Licensed Products and shall use its resources in a way it deems  
most effective in promoting the Licensed Products given market conditions.  
  
 5.4 Par shall have sole discretion in setting the sales price for the  
sale of the Licensed Products, provided that Par shall not specifically discount  
the price of the Licensed Products for the benefit of Par or any of its  
Affiliates' other products or to otherwise use the Licensed Products as a loss  
leader or incentive to procure the sale of Par's or any of its Affiliates' other  
products. Rebate and other discount programs (excluding any program where the  
price of the Licensed Products are discounted primarily for the benefit of  
enhancing the sale of Par's or any of its Affiliates' other products) generally  
available to Par's customers on the purchase of pharmaceutical products shall  
not be prohibited by this Section 5.4, provided that such programs shall be in  
accordance with industry standards for comparable products and shall be designed  
to promote the sale of the Licensed Products and not other products.  
  
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 5.5 Par shall comply with all applicable laws, rules and regulations  
relating to transporting, storing, advertising, promoting and selling of the  
Licensed Products within the United States and shall assume sole responsibility  
for all credit risks and collection of receivables with respect to Licensed  
Products sold by it and its Affiliates, and, except as expressly provided  
herein, in respect of all dealings between itself (and its Affiliates) and its  
(and their) customers.  
  
 5.6 Par shall notify SANO promptly upon becoming aware of any adverse  
information relating to the safety or effectiveness of a Licensed Product and  
shall consult from time to time with regard to competition or potentially  
competitive products.  
  
 5.7 Par hereby further represents and warrants to SANO that, to the  
best of its knowledge, information and belief, neither it nor any of its  
Affiliates is prohibited by any federal, state or local law, rule or regulation  
or by any order, directive or policy of the United States government or any  
state or local government thereof or any federal, state or local regulatory  
agency or authority having jurisdiction with respect to the distribution of  
pharmaceutical products within its territorial jurisdiction from selling the  
Licensed Products within the territorial jurisdiction of such government,  
regulatory agency or authority and that neither Par nor any of its Affiliates is  
a Person who, by public notice, is listed by a United States federal agency as  
debarred, suspended, proposed for debarment or otherwise ineligible for federal  
programs in the United States (an "Ineligible Person") or Person from whom any  
United States federal, state or local government, regulatory authority or agency  
which purchases pharmaceutical products (including, without limitation, the  
federal Defense Logistics Agency) will or may not purchase any products or with  
whom it will or may not otherwise conduct business as a result of any of its  
Affiliates or Par being publicly listed or otherwise.  
  
 ARTICLE VI  
  
 DELIVERY  
  
 6.1 Licensed Products shall be made available to PRI for pickup ready  
for shipment in Standard Packaging, or as otherwise permitted by the FDA, at  
SANO's facilities located in Plantation, Florida, or such other facilities in  
the continental United States as SANO may utilize with the consent of Par, which  
consent shall not be unreasonably withheld or delayed, and SANO shall use its  
reasonable efforts to make available to Par sufficient quantities of the  
Licensed Products to satisfy orders for the Licensed Products. SANO shall be  
solely responsible for the contents of the labels and artwork on all finished  
labeled products sold by PRI and its Affiliates. SANO shall provide all Standard  
Packaging for the Licensed Products.  
  
 6.2 To assist SANO in scheduling production for the manufacture of the  
Licensed Products, Par shall provide to SANO, quarterly, a nine month rolling  
forecast of its requirements for a Licensed Product. The first forecast shall be  
provided by Par to SANO approximately six months prior to the anticipated market  
launch of a Licensed Product, as reasonably estimated by the parties, and  
thereafter shall be provided to SANO on or before the 20th day of the first  
  
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month of each successive quarterly period (to forecast the requirements for the  
next nine succeeding calendar months). It is understood and agreed that all  
forecasts are estimates only and Par shall only be bound to purchase the  
Licensed Products pursuant to purchase orders submitted by it to SANO. All  
purchase orders shall be for minimum batch size quantities reasonably agreed by  
the parties and shall anticipate an order/production/availability cycle of  
approximately twelve weeks during the first two contract years (as defined  
below) of this Agreement and an order/production/availability cycle of  
approximately sixteen weeks thereafter.  
  
 6.3 Par shall arrange for shipping and/or transportation of the  
Licensed Products from SANO's facility to Par's Spring Valley, New York facility  
and pay all shipping and related costs. Risk of loss and title to the Licensed  
Product(s) shall pass to Par upon pick-up of the Licensed Products by, on behalf  
of or for the account of Par at SANO's facility.  
  
 6.3.1 SANO shall promptly notify Par by both fax and telephone that  
any order (or part thereof acceptable to Par) is available for pick-up at SANO  
(this notice shall hereafter be referred to as the "Availability Notice").  
  
 6.3.2 Par shall use reasonable and good faith efforts to pick up the  
Licensed Products that are the subject of an Availability Notice within ten (10)  
business days of receipt of the Availability Notice; provided that, if such  
pickup has not occurred on or prior to the expiry of such ten day period, Par  
shall, for purposes of its payment obligations to SANO pursuant to Section 7.2  
below, be deemed to have picked up the Licensed Products which are the subject  
of the Availability Notice on the last business day of such ten-day period. If  
the Licensed Products in question have not been picked up by or on behalf of Par  
within twenty (20) business days of an Availability Notice, SANO may, but shall  
not be obligated to, cause the Licensed Products to be delivered to Par's Spring  
Valley, New York, facility by truck or other overland delivery at Par's sole  
cost and expense and risk of loss and title to the Products shall pass to Par  
upon pickup of the Products at SANO's facility in the same manner as if the  
pickup had been effected by Par itself, provided that SANO shall provide for the  
Licensed Products to be insured during transit in a commercially reasonable  
manner at Par's sole cost and expense.  
  
 ARTICLE VII  
  
 PAYMENTS AND PAYMENT TERMS  
  
 7.1 [INTENTIONALLY OMITTED]  
  
 7.2 Price. The price to PRI for each order, or part thereof reasonably  
acceptable to PRI as contemplated in Section 8.2(d), of Licensed Products made  
available to PRI hereunder shall be SANO's Costs related to such order or part  
thereof. Par shall also pay to SANO any applicable federal or state sales or  
excise tax payable on the purchase of such Licensed Products, which payment  
shall be remitted with the payment of the price as contemplated in Section 7.3  
below and upon payment thereof by Par to SANO, SANO shall be solely responsible  
for remitting the amount so paid on account of such taxes to the relevant  
  
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 CONFIDENTIAL INFORMATION OMITTED AND FILED SEPARATELY WITH THE  
 SECURITIES AND EXCHANGE COMMISSION  
 ASTERISKS DENOTE SUCH OMISSION  
  
  
  
governmental collecting authorities. Promptly upon Par's request, SANO shall  
provide Par with reasonable evidence of such direct costs and applicable taxes  
and payment of such taxes.  
  
 7.3 Payment Terms. Payment for each order of Licensed Products made  
available by SANO for pick-up by Par shall be due within 35 days of pick-up  
(whether actual or deemed pursuant to Section 6.3.2) by Par at SANO's facility.  
  
 7.4 Additional Licensed Product Fee. Upon request by SANO, Par will  
remit up to an aggregate of [\*\*\*\*] to fund skin irritation studies required by  
the FDA for any of the Licensed Products. Such request shall specify the amount  
to be paid for the specific Licensed Product which is the subject of such study  
or studies, and the amount so paid by Par shall be deemed an addition to and  
part of the Licensed Product Fee for such Licensed Product.  
  
 7.5 Additional Consideration. Par shall pay to SANO the Additional  
Consideration described in Section 11.1 and Schedule B hereto, in accordance  
with the provisions of said Section 11.1.  
  
 ARTICLE VIII  
  
 PRODUCT ACCEPTANCE  
  
 8.1 SANO shall manufacture the Licensed Products and make them  
available for pickup by Par in accordance with all applicable laws, rules and  
regulations including, without limitation, the Specifications applicable to the  
Licensed Product in question, Current Good Manufacturing Practices of the FDA  
(as the same may change from time to time) and all other applicable requirements  
of the FDA and other governmental authorities having jurisdiction.  
  
 8.2 All Licensed Products made available for pick up by Par shall be  
accompanied by quality control certificates of analysis signed by a duly  
authorized laboratory official of SANO confirming that each batch of Licensed  
Product covered by such certificate meets its release Specifications and shall  
be deemed accepted by it unless Par, acting reasonably and in good faith, shall  
give written notice of rejection (hereafter referred to as a "Rejection Notice")  
to SANO within 35 days after pick up of the Licensed Products by, on behalf of  
or for the account of Par at SANO's facility.  
  
 (a) The Rejection Notice shall state in reasonable detail (sufficient  
to enable SANO to identify the nature of the problem and the tests or studies to  
be conducted by or on its behalf to confirm or dispute same) the reason why the  
Licensed Products are not acceptable to Par. If the Licensed Products meet the  
applicable provisions of Section 8.1 and are in quantities specified in a  
  
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purchase order, Par shall not be entitled to reject them. Any Rejection Notice  
shall be accompanied by copies of all written reports relating to tests, studies  
or investigations performed to that date by or for Par on the Licensed Product  
batch rejected.   
  
 (b) Upon receipt of such Rejection Notice, SANO may require Par to  
return the rejected Licensed Products or samples thereof to SANO for further  
testing, in which event such Licensed Products or samples thereof, as the case  
may be, shall be returned by Par to SANO or, at SANO's direction, at SANO's  
expense. If it is later determined by the parties or by an independent  
laboratory or consultant that Par was not justified in rejecting the Licensed  
Products or that Par or its Affiliates were the cause of or were responsible for  
the problem, Par shall reimburse SANO for the costs of the return, as well as  
any other costs or expenses incurred by SANO as a result of the rejection or  
return.   
  
 (c) Par's test results or basis for rejection shall be conclusive  
unless SANO notifies Par, within 30 days of receipt by SANO of the rejected  
Licensed Products or samples or such longer periods of time as may be reasonable  
in the circumstances to enable SANO to conduct (and receive the results of) the  
appropriate tests, studies or investigations which SANO should reasonably  
conduct to confirm the problem in question and to identify the source thereof,  
that it disagrees with such test results or its responsibility for the problem  
in question. In the event of such a notice by SANO, representative samples of  
the batch of the Licensed Product in question shall be submitted to a mutually  
acceptable independent laboratory or consultant (if not a laboratory analysis  
issue) for analysis or review, the costs of which shall be paid by the party  
that is determined by the independent laboratory or consultant to have been  
responsible for the rejection.   
  
 (d) If a Licensed Product is rejected by Par, Par's duty to pay the  
amount payable to SANO pursuant to Section 7.2 hereof in respect of the rejected  
Licensed Product shall be suspended until such time as it is determined (i) by  
an independent laboratory or consultant that the Licensed Product in question  
should not have been rejected by Par or (ii) by the parties or by any  
arbitration conducted pursuant hereto or by a final order of a court of  
competent jurisdiction (which is not subject to further appeal) that any act or  
omission of, on behalf of or for which Par or its Affiliates is responsible was  
the cause of the problem that was the basis for the rejection. If only a portion  
of an order is rejected, only the duty to pay the amount allocable to such  
portion shall be suspended.   
  
 8.3 In the event any Licensed Products are appropriately rejected by Par  
(being Licensed Products that do not meet the applicable provisions of Section  
8.1 other than as a result of any act or omission by Par or its Affiliates),  
SANO shall replace such Licensed Products with conforming goods or, if requested  
by Par, shall provide a credit to Par for the amount, if any, previously paid by  
Par to SANO on account of the Licensed Products in question. The credit shall be  
provided by SANO to Par immediately following the expiry of the period during  
which SANO may dispute a Rejection Notice as contemplated in Section 8.2(c)  
above (unless the Rejection Notice is disputed by SANO, in which event such  
credit shall be given only if the dispute is resolved in favor of Par).  
Replacement Licensed Products, as aforesaid, shall be delivered to Par at no  
cost to Par if Par has already paid for the rejected Licensed Products and not  
received a credit therefor, as aforesaid. All delivery costs, including  
  
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insurance, incident to the return of Licensed Products to SANO and delivery of  
the replacement Licensed Products to Par's Spring Valley facility shall be paid  
by SANO, unless the rejection is determined not to have been appropriately  
rejected, in which case the last sentence of Section 8.2(a) shall apply.   
  
  
 ARTICLE IX  
  
 RETURNS AND ALLOWANCES  
  
 9.1 Returns. If Par, acting reasonably and in good faith, accepts from a  
customer a return of a Licensed Product and issues to such customer a credit for  
the invoice price thereof, Par may debit against the amount of Additional  
Consideration, as hereinafter defined, due to SANO with respect to Net Sales, as  
hereinafter defined, in the month in which such return occurs, any Gross Profit,  
as hereinafter defined, previously paid, credited or due to SANO in respect of  
the sale of such returned Licensed Product.  
  
 9.2 Handling of Returns.  
  
 (a) In the event any Licensed Product is returned to Par by its  
customers because the Licensed Product is alleged to be defective and Par  
reasonably believes that such defect is due to the fault of SANO, Par shall  
notify SANO within ten (10) working days of any such return and provide or make  
available to SANO such samples (if available) and other information concerning  
the returned Licensed Product so as to allow SANO to test and evaluate the  
allegedly defective Licensed Product. Par shall retain a sufficient number of  
samples of the allegedly defective Licensed Product so that additional samples  
are available at a later date should additional testing be required by an  
independent testing laboratory as described in Section 9.3(b) below, or by Par  
or SANO for their own purposes. If not enough samples exist to be so divided,  
then the parties shall confer and reach agreement as to the handling of any  
available samples.  
  
 (b) SANO shall complete its review and evaluation of the returned  
Licensed Product within twenty (20) business days of receiving the returned  
Licensed Product from Par or such longer period of time as may be reasonable in  
the circumstances to enable SANO to conduct or cause to be conducted such tests,  
studies or investigations (and to receive the results therefrom) as may be  
required to confirm or dispute the existence of the problem or to identify the  
cause or source thereof.  
  
 9.3 Costs and Credits.  
  
 (a) If SANO concludes or it is otherwise determined pursuant to  
Section 9.3(b) hereof that the returned Licensed Product is defective due to the  
fault of SANO:  
  
 (i) any replacement Licensed Product to be provided by SANO in  
 respect of the returned Licensed Product shall be made available to Par  
 without charge or appropriate credit shall be given therefor (giving  
 account to any adjustment made pursuant to Section 9.1 hereof);  
  
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 (ii) all delivery costs, including insurance, incident to the  
 delivery of the replacement Licensed Products to Par's Spring Valley  
 facility shall be paid by SANO or appropriate credit shall be given  
 therefor; and  
  
 (iii) SANO shall provide a credit to Par for the reasonable costs  
 incurred by Par (or where the duty has been performed by an Affiliate,  
 pursuant to the provisions of this Agreement, for the reasonable costs  
 incurred by such Affiliate) in respect of the defective Licensed  
 Product.  
  
 (b) If SANO asserts that the returned Licensed Product is  
defective due primarily to any act or omission of Par or its Affiliates or any  
agents or other persons acting on their behalf as aforesaid, then representative  
samples of the Licensed Products shall be submitted to a mutually acceptable  
independent laboratory or consultant (if not a laboratory analysis issue) for  
analysis or review, the costs of which shall be paid by the party determined by  
the independent laboratory or consultant to have been responsible.  
  
 (c) If it is determined in accordance with Section 9.3(b) above  
that any such defect is primarily due to any act or omission by Par, then no  
credit or other payment of costs shall be due from SANO, and Par shall reimburse  
SANO for all costs and expenses it incurred in connection with the return and  
investigation.  
  
 (d) If it is determined in accordance with Section 9.3(b) above  
that no such defect exists or, if existing, cannot be attributable primarily to  
an act or omission of either party, then any replacement Licensed Product in  
respect of the returned Licensed Product shall be made available to Par without  
additional charge or appropriate credit, if any, shall be given therefor, but no  
other credits or payments of costs shall be due from SANO.  
  
 9.4 Par acknowledges that the Licensed Products may be of a  
perishable nature and that the Licensed Product must be stored and shipped in  
accordance with the Specifications applicable thereto (to the extent disclosed  
in writing to Par or its Affiliates) or the conditions, if any, set forth on its  
package label.  
  
 9.5 Par agrees to notify SANO of any customer complaints with respect  
to the quality, nature or integrity of a Licensed Product or alleged  
adverse-drug experiences ("ADE") within five (5) working days of their receipt  
by Par and of any Par or FDA complaints within 24 hours, except on weekends and  
holidays. SANO shall have the sole and primary obligation to file any required  
adverse experience report with FDA. SANO shall also be responsible for  
maintaining complaint files as required by FDA regulations. SANO agrees to  
investigate and respond in writing to any complaint or ADE forwarded to it by  
Par promptly and in no event later than 30 days after receipt of the ADE or  
complaint from Par (or such longer period as may be required in the  
circumstances to enable SANO to conduct such tests, studies or investigations as  
may be reasonably required [and to receive the results therefrom] to enable SANO  
to appropriately respond). SANO shall provide Par with a copy of any  
correspondence, reports, or other documents relating to a complaint or ADE  
within a reasonable period following generation of such document by SANO.  
  
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 9.6 The provisions of this Article 9 shall survive the termination or  
expiration of this Agreement.  
  
 ARTICLE X  
  
 DAMAGES, INDEMNIFICATION AND INSURANCE  
  
 10.1 Subject to the limitations set forth in this Article X and to the  
other provisions of this Agreement, SANO, on the one hand, and Par, on the other  
hand, covenant and agree to indemnify and save harmless the other of them from  
and against any and all claims, demands, actions, causes of action, suits,  
proceedings, judgments, damages, expenses (including reasonable attorney fees  
and expenses), losses, fines, penalties and other similar assessments (the  
"Damages") relating to or arising out of a breach by any such party of any of  
its representations, warranties, covenants or agreements contained herein;  
provided that, except where the breach arises out of a representation or  
warranty made by a party in this Agreement being intentionally false or  
inaccurate, or constitutes a willful material breach by a party of any of its  
duties or obligations hereunder, the claim of an aggrieved party for Damages  
arising out of the breach shall be limited to claiming the amounts owing or  
payable to it in accordance with the provisions of this Agreement and any  
out-of-pocket costs and expenses (including amounts paid or payable by it to  
third parties, other than re-procurement costs [except to the extent  
contemplated in Section 14.3 hereof] which it has incurred and the aggrieved  
party shall not be entitled to recover from the defaulting or breaching party  
any lost profits or consequential or punitive damages, including loss or damage  
to its goodwill or reputation. For purposes of this Agreement where Par is in  
breach of its duties or obligations hereunder and such duties or obligations, if  
delegated by Par to any of its Affiliates, could reasonably be performed by such  
Affiliate and Par has either not delegated such duty or obligation to such  
Affiliate or such Affiliate has either refused to perform or willfully breached  
such duty or obligation then Par shall be deemed to have willfully breached such  
duty or obligation hereunder. Similarly, whenever in this Agreement Par is  
required to cause any of its respective Affiliates to do or to refrain from  
doing any thing herein provided and such Affiliate refuses to do or refrain from  
doing such thing or otherwise willfully breaches the provision herein  
contemplated (on the assumption that such Affiliate were bound by the provision  
herein contemplated as if a signatory hereto) then Par will be deemed to have  
willfully breached the provision of this Agreement in question.  
  
 10.2 In the event that the release of a Licensed Product by Par or  
its Affiliates in the United States results in a third party claim:  
  
 (a) to the extent that the Damages awarded or incurred relate to  
or arise out of the safety or effectiveness of the Licensed Product or the  
manufacturing, packaging, labeling, storage or handling of the Product by SANO,  
SANO shall be responsible therefor and shall indemnify and hold Par harmless  
from and against all such damages; and  
  
 (b) to the extent that the Damages awarded or incurred relate to  
or arise out of the transportation, storage, handling or selling of the Licensed  
  
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Product by Par or its Affiliates, then Par shall be responsible therefor and  
shall indemnify and hold SANO harmless from and against all such damages.  
  
 Upon the assertion of any third party claim against a party hereto that  
may give rise to a right of indemnification under this Agreement, the party  
claiming a right to indemnification (the "Indemnified Party") shall give prompt  
notice to the party alleged to have the duty to indemnify (the "Indemnifying  
Party") of the existence of such claim and shall give the Indemnifying Party  
reasonable opportunity to control, defend and/or settle such claim at its own  
expense and with counsel of its own selection; provided, however, that the  
Indemnified Party shall, at all times, have the right fully to participate in  
such defense at its own expense and with separate counsel and, provided,  
further, that both parties, to the extent they are not contractually or legally  
excluded therefrom or otherwise prejudiced in their legal position by so doing,  
shall cooperate with each other and their respective insurers in relation to the  
defense of such third party claims. In the event the Indemnifying Party elects  
to defend such claim, the Indemnified Party may not settle the claim without the  
prior written consent of the Indemnifying Party. The Indemnifying Party may not  
settle the claim without the prior written consent of the Indemnified Party  
unless, as part of such settlement, the Indemnified Party shall be  
unconditionally released therefrom or the Indemnified Party otherwise consents  
thereto in writing. If the Indemnifying Party shall, within a reasonable time  
after such notice has been given, fail to defend, compromise or settle such  
claim, then the Indemnified Party shall have the right to defend, compromise or  
settle such claim without prejudice to its rights of indemnification hereunder.  
Notwithstanding the foregoing, in the event of any dispute with respect to  
indemnity hereunder, each party shall be entitled to participate in the defense  
of such claim and to join and implead the other in any such action.  
  
 In addition to the foregoing, SANO will defend, at its sole cost and  
expense, its rights with respect to the Licensed Products and Par's rights to  
distribute the Licensed Products hereunder against any claim, action, suit or  
proceeding ("Action") by any third party asserting prior or superior rights with  
respect to the Licensed Product, product infringement or similar claims (other  
than as may be based on acts of Par not contemplated herein or authorized  
hereby) and shall indemnify and hold Par and its affiliates harmless from the  
cost of the defense thereof. Par shall, at all times, have the right fully to  
participate in such defense at its own expense. SANO shall control such defense  
and shall, in its reasonable discretion, defend or settle such Action; provided  
that, notwithstanding the foregoing SANO shall not enter into any settlement or  
compromise of any such Action which requires Par or any of its Affiliates to  
make payments of any kind without the prior written consent of Par or an  
unconditional release of Par and its Affiliates with respect to the subject  
matter of such Action. The provisions of this paragraph should not be construed  
as requiring SANO to bear any damages, judgments or other liabilities entered  
against Par in any such Action, provided that the foregoing shall not be  
construed as or deemed a waiver of any rights Par may have against SANO as a  
result of such Action hereunder, at law or otherwise, and all of such rights, if  
any, are expressly reserved.  
  
 10.3 Insurance. Each of SANO and Par shall carry product liability  
insurance in an amount at least equal to Ten Million Dollars ($10,000,000) with  
an insurance carrier reasonably acceptable to the other party, such insurance to  
  
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be in place at times reasonably acceptable to the parties, but not later than  
the date of the first commercial sale of a Licensed Product. Each party shall  
promptly furnish to the other evidence of the maintenance of the insurance  
required by this Section 10.3 and shall name the other as an "additional  
insured" under such insurance policy. Each party's coverage shall (i) include  
broad form vendor coverage and such other provisions as are typical in the  
industry and (ii) name the other party as an additional insured thereunder. SANO  
shall carry clinical testing insurance in an amount and at times reasonably  
acceptable to the parties.  
  
 10.4 Survival. The provisions of this Article X shall survive the  
termination or expiration of this Agreement, provided that the requirement to  
maintain the insurance contemplated in Section 10.3 above shall only survive for  
a period of 36 months from the effective date of termination or expiration of  
this Agreement.  
  
 ARTICLE XI  
  
 ADDITIONAL CONSIDERATION, REPORTING AND VERIFICATION  
  
 11.1 Additional Consideration. As additional consideration for SANO  
entering into this Agreement and permitting Par to sell the Licensed Products in  
the United States in accordance with the provisions hereof, Par agrees to pay to  
SANO the additional amounts more particularly described in Exhibit B to this  
Agreement in respect of the aggregate Gross Profit (as that term is defined in  
Exhibit B) of the Licensed Products. The amount payable to SANO determined in  
accordance with Exhibit B is herein and in Exhibit B annexed hereto referred to  
as the "Additional Consideration." Par shall pay to SANO, monthly, on the  
seventh day of each month, commencing on the seventh day of the third month  
after the month in which sales of the Licensed Products commence, the Additional  
Consideration payable to SANO in respect of the Net Sales of the Licensed  
Products made by Par and its Affiliates during the third preceding month. For  
greater certainty, examples of what constitutes the "third preceding calendar  
month" are contained in Exhibit B annexed hereto. The consideration payable to  
SANO pursuant to this Article XI shall be paid to it as part of the sale price  
of the Licensed Product from SANO to Par and shall not be treated as a royalty  
or similar payment.  
  
 11.2 Reporting and Information Obligations of Par.  
  
 (a) Approved Contracts. Par shall provide to SANO, monthly, within  
seven days of the expiry of each calendar month during the term hereof, a copy  
of each Approved Contract (as hereinafter defined), entered into by Par with its  
customers during the immediately preceding month irrespective of whether a copy  
of such contract had previously been forwarded to SANO. If the Approved Contract  
has a term of less than 18 months, Par may delete (e.g., by blacking out) any  
information in the Approved Contract that tends to indicate the identity or  
location of the Par customer; provided, however, that Par marks each such  
Approved Contract with a unique customer code relative to the customer that is  
the party to that Approved Contract.  
  
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 (b) Net Sales and Gross Profits. Par shall report to SANO monthly,  
on the 7th day of each calendar month during the term hereof and for 12 months  
after the termination hereof:  
  
 (i) a sales summary, in the form annexed hereto as Exhibit C,  
 showing all sales of the Licensed Products made by Par and its  
 Affiliates during the immediately preceding calendar month;  
  
 (ii) a detailed statement showing all returns and all  
 credits, rebates, allowances and other debit and credits relevant  
 to the calculation of Net Sales and Gross Profits (as those terms  
 are defined in Exhibit B annexed hereto) for the immediately  
 preceding calendar month together with copies of all documentation  
 to support allowable adjustments used in computing Net Sales  
 during the period in question;  
  
 (iii) a certificate signed by the Chief Financial Officer of  
 Par certifying that, to the best of his knowledge, information and  
 belief, after reasonable investigation, the foregoing statements  
 contemplated in (i) and (ii) above are true and correct and do not  
 omit any material information required to be provided pursuant to  
 this Section 11.2(b) and  
  
 (iv) a summary of the calculation of the Additional  
 Consideration payable to SANO on such date.  
  
 For purposes of this Agreement a sale shall be considered to have been  
 made at the time the Product(s) are shipped to the customer.  
  
 11.3 Par shall make available for inspection by SANO at Par's  
facilities and shall cause its Affiliates to make available for inspection by  
SANO at their respective facilities, promptly following a reasonable request  
therefor, such additional information concerning any sales (including, without  
limitation, in respect of any sale, the date of the shipment, the code number of  
the customer [or the name of the customer in the case of a customer disclosed to  
SANO pursuant to Section 11.2(a) hereof and an Approved Contract], the number of  
units of each Licensed Product in each dosage involved (broken down by container  
size per Product, and the invoice price charged by Par or its Affiliates),  
credits, returns, allowances and other credits and debits previously reported to  
SANO pursuant to Section 11.2(b)(ii) hereof or with respect to Approved  
Contracts previously reported to SANO pursuant to Section 11.2(a) hereof as SANO  
may reasonably require from time to time (except information concerning the  
identity or location of a customer where Par is not already required to disclose  
that information to SANO pursuant to Section 11.2(a) hereof) to enable SANO to  
confirm or reconcile the amounts which are or were to have been paid to it  
pursuant to this Agreement (without the need to audit the books and records of  
Par or its Affiliates pursuant to Section 11.4 hereof).  
  
 11.4 Par shall keep and shall cause its Affiliates to keep complete and  
accurate records and books of account containing all information required for  
   
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the computation and verification of the amounts to be paid to SANO hereunder.  
Par further agrees that at the request of SANO, it will permit and will cause  
its Affiliates to permit one or more accountants selected by SANO, except any to  
whom Par or such Affiliate has some reasonable objection, at any time and from  
time to time, to have access during ordinary working hours to such records as  
may be necessary to audit, with respect to any payment report period ending  
prior to such request, the correctness of any report or payment made under this  
Agreement, or to obtain information as to the payments due for any such period  
in the case of failure of Par to report or make payment pursuant to the terms of  
this Agreement. Such accountant shall not disclose to SANO any information  
relating to the business of PRI except that which is reasonably necessary to  
inform SANO of:  
  
 (i) the accuracy or inaccuracy of Par's reports and payments;  
  
 (ii) compliance or non-compliance by Par with the terms and  
 conditions of this Agreement; and  
  
 (iii) the extent of any such inaccuracy or non-compliance;  
 provided, that if it is not reasonably possible to separate  
 information relating to the business of Par from that which is  
 reasonably necessary to so inform SANO, the accountant may  
 disclose any information necessary to so inform SANO and SANO  
 shall retain all other information disclosed as confidential.  
  
 Par shall provide and shall cause its Affiliates to provide full and  
complete access to the accountant to Par's and such Affiliates' pertinent books  
and records and the accountant shall have the right to make and retain copies  
(including photocopies). Should any such accountant discover information  
indicating inaccuracy in any of Par's payments or non-compliance by Par or its  
Affiliates with any of such terms and conditions, and should Par fail to  
acknowledge in writing to SANO the deficiency or non-compliance discovered by  
such accountant within ten (10) business days of being advised of same in  
writing by the accountant, the accountant shall have the right to deliver to  
SANO copies (including photocopies) of any pertinent portions of the records and  
books of account which relate to or disclose the deficiency or non-compliance  
(to the extent not acknowledged by Par). In the event that the accountant shall  
have questions which are not in its judgment answered by the books and records  
provided to it, the accountant shall have the right to confer with officers of  
Par or such Affiliate, including Par's or such Affiliate's Chief Financial  
Officer. If any audit under this Section shall reveal an underpayment or  
understatement of the amount payable to SANO by more than $10,000.00 for any  
period in question, Par shall reimburse SANO for all costs and expenses relating  
to such investigational audit. SANO shall only have the right to audit such  
books and records of Par and its Affiliates pursuant to this Section 11.4 no  
more often than twice in any contract year unless earlier in such contract year  
or in any of the prior three contract years such investigation revealed a  
discrepancy of more than $10,000.00, as aforesaid, in which case SANO shall have  
the right to audit such books and records three times in such contract year. For  
purposes of this Agreement, a contract year shall be a period of twelve months  
commencing on either the date of this Agreement or on an anniversary thereof.  
Unless the disclosure of same is reasonably required by SANO in connection with  
any litigation or arbitration arising out of such audit, the accountant shall  
  
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not reveal to SANO the name or address (or other information reasonably tending  
to identify the location of a customer) of any customer of Par or its Affiliates  
[other than one whose name has been disclosed to SANO pursuant to Section 11.2  
hereof], but shall identify such customer to SANO, if necessary, by the customer  
code number used by Par in its reporting obligations to SANO [and Par and its  
Affiliates shall make such information known to the accountant]. Par may, as a  
condition to providing any accountant access to its books and records (or those  
of its Affiliates), require SANO to execute a reasonable confidentiality  
agreement consistent with the terms of this Section 11.4.  
  
 11.5 Except as specifically set forth to the contrary, all payments to  
be made under this Agreement shall bear interest equal to two percent above the  
prime rate as quoted by Citibank N.A., New York, New York, calculated daily (as  
at the close of business on each such day) and compounded monthly, from the day  
following the day the payment is due until the date on which it is paid. Any  
adjustment to the prime rate as quoted by Citibank N.A. from time to time shall  
result in a corresponding adjustment to the rate of interest payable hereunder,  
the rate of interest quoted by Citibank N.A. at the close of business on each  
day to be the rate applicable for such day.  
  
 11.6 The obligation of Par to make the payments contemplated in Section  
11.1 and to provide the reports and information contemplated in Sections 11.2  
and 11.3 and the right of SANO to conduct its audits or investigations pursuant  
to Section 11.4 hereof shall survive the termination or expiration of this  
Agreement and shall apply to all Licensed Products made available to Par by SANO  
prior to the effective date of the termination or expiration of this Agreement  
(or made available to Par after such date pursuant to any provision of this  
Agreement) notwithstanding that such Licensed Products may have been resold by  
Par or its Affiliates to its or their customers after the effective date of  
termination or expiration. For greater certainty, the parties acknowledge and  
agree that it is their intention that Par pay to SANO the Additional  
Consideration applicable to Net Sales of all Licensed Products supplied by SANO  
to Par pursuant to this Agreement (in respect of which the purchase price  
charged by SANO to Par therefor [whether paid or owing] was determined in  
accordance with the provisions of Section 7.2 hereof or was provided to Par free  
of such charge pursuant to any other provision of this Agreement) irrespective  
of whether such Licensed Product is resold by Par or its Affiliates prior to or  
subsequent to the effective date of termination or expiration of this Agreement  
and that SANO's rights pursuant to Section 11.4 hereof shall continue for a  
period of twelve (12) months following the final sale of all such Licensed  
Products.  
  
 11.7 Par shall have the right, upon reasonable advance written notice  
to SANO, to inspect SANO's facilities at which the Licensed Products are being  
manufactured to monitor compliance by SANO with FDA Good Manufacturing Practices  
and to otherwise confirm that the Licensed Products are being manufactured in  
accordance with their respective Specifications. Similarly, SANO shall have the  
right, upon reasonable advance written notice to Par to inspect those facilities  
of Par and any of its Affiliates which are used in the storage of any of the  
Licensed Products to ensure compliance by Par or such Affiliate with FDA Good  
Manufacturing Practices and to otherwise ensure that the Licensed Products do  
not cease to meet their Specifications as a result of any storage or shipping  
conducted by Par or its Affiliates. SANO shall cooperate with Par in providing  
access to its facilities and Par shall cooperate and shall cause its Affiliates  
  
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to cooperate in providing access to SANO to its facilities and those of its  
Affiliates used as aforesaid.  
  
 11.8 SANO shall keep complete and accurate records and books of account  
containing all information required for the computation and verification of  
SANO's Costs as contemplated in Section 7.2 hereof with respect to the Licensed  
Product(s) made available to Par by SANO pursuant hereto. SANO further agrees  
that at the request of Par it will permit one or more accountants selected by  
Par except any to whom SANO has some reasonable objection, to have access during  
ordinary working hours to such books and records as may be necessary to audit  
the amounts previously charged by SANO to Par pursuant to Section 7.2 hereof.  
Such accountant shall not disclose to Par any information relating to the  
business of SANO except the accuracy or inaccuracy of SANO's previously reported  
charges and the amount, if any, that Par may have been overcharged or  
undercharged with respect to Licensed Products made available to it. Should any  
such accountant discover information indicating that Par has been overcharged  
for Products made available to it, and should SANO fail to acknowledge in  
writing to Par the inaccuracy discovered by such accountant within ten (10)  
business days of being advised of same in writing by the accountant, the  
accountant shall have the right to make and retain copies (including  
photocopies) of any pertinent portions of the records and books of account which  
relate to or disclose the inaccuracy (to the extent not acknowledged by SANO).  
SANO shall provide full and complete access to the accountant to SANO's  
pertinent books and records. In the event that the accountant shall have  
questions which are not in its judgment answered by such books and records, the  
accountant shall have the right to confer with officers of SANO, including  
SANO's Chief Financial Officer. If any audit under this Section shall reveal an  
overstatement of the amount payable to SANO by more than $10,000.00 for the  
Licensed Products in question, SANO shall reimburse Par for all costs and  
expenses relating to such investigation/audit. It is understood and agreed that  
Par shall only have the right to audit such books ad records of SANO pursuant to  
this Section 11.8 no more often than twice in any contract year unless earlier  
in such contract year or in any of the prior three contract years such  
investigation revealed a discrepancy of more than $10,000.00, as aforesaid, in  
which case Par shall have the right to audit such books and records three times  
in such contract year. Unless the disclosure of same is reasonably required by  
Par in connection with any litigation or arbitration arising out of such audit,  
the accountant shall not reveal to Par the name or address (or other information  
reasonably tending to identify the location of a supplier) of any supplier of  
materials to SANO in the manufacturing or packaging of the Licensed Products  
(but shall identify such supplier to Par if necessary, by a code name or number  
supplied by such accountant) or the name of or financial information relating to  
any employee of SANO. SANO may, as a condition to providing any accountant  
access to its books and records, require Par to execute a reasonable  
confidentiality agreement consistent with the terms of this Section 11.8. The  
rights of Par pursuant to this Section 11.8 shall survive the termination or  
expiration of this Agreement for a period of one year.  
  
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 ARTICLE XII  
  
 RIGHT OF FIRST REFUSAL  
  
 12.1 Right of First Refusal. During the term hereof, Par shall have the  
right of first refusal to distribute the Licensed Products in the State of  
Israel, on a product by product basis, in accordance with the following  
procedures.  
  
 12.2 Procedures. For each Licensed Product with respect to which SANO  
proposes to enter into a distribution agreement in Israel with a third party,  
SANO shall communicate to Par in writing a reasonably detailed description of  
the provisions of such agreement (a "Proposed Israeli Distribution Agreement").  
Within 30 days of its receipt of a Proposed Israeli Distribution Agreement (the  
"Acceptance Period"), Par shall notify SANO whether it wishes to enter into an  
agreement with SANO on such terms. If Par notifies SANO within the Acceptance  
Period that it wishes to do so, Par and SANO will enter into a distribution  
agreement on such terms. If Par fails to notify SANO of its election to enter  
into such an agreement within the Acceptance Period, SANO may enter into a  
license or distribution agreement with respect to such Licensed Product with a  
third party on substantially the same terms as set forth in the Proposed Israeli  
Distribution Agreement and Par's rights under this Article XII will terminate.  
SANO may not enter into such an agreement with a third party on terms  
substantially different from those set forth in the relevant Proposed Israeli  
Distribution Agreement without first offering such terms to Par for a period of  
thirty days. If SANO shall not enter into the Proposed Israeli Distribution  
Agreement within 30 days following the expiration of the Acceptance Period or  
any extension thereof as set forth in the preceding sentence, SANO's execution  
of any such Agreement or any other Proposed Israeli Distribution Agreement shall  
again be subject to Par's rights under this Article XII. Each Proposed Israeli  
Distribution Agreement for each Licensed Product shall be subject to Par's  
rights of first refusal in accordance with the procedures set forth in this  
Section 12.2.  
  
 ARTICLE XIII  
  
 TERMS AND TERMINATION  
  
 13.1 This Agreement shall become effective on the date hereof and shall  
remain in effect for a period of ten years per Licensed Product starting on the  
date such Licensed Product becomes available for sale in commercial quantities,  
unless earlier terminated in accordance with the provisions of this Agreement.  
Thereafter, this Agreement shall automatically be renewed as to each Licensed  
Product from year to year unless either party gives notice of termination to the  
other party at least one hundred and twenty days prior to the expiry of the  
initial term or of any renewal term.  
  
 13.2 Either party may, by notice in writing to the other party,  
terminate this Agreement if such other party shall have breached any of its  
material duties or obligations under this Agreement (other than the obligations  
of Par to pay to SANO any amount due to SANO hereunder [whether on account of  
  
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Additional Consideration, the price for the Licensed Products or otherwise] or  
to provide SANO with the reports or information contemplated in Section 11.2 or  
11.3 hereof) and such breach shall remain uncured for at least sixty days after  
the aggrieved party shall have given notice of the breach to the other party.  
  
 13.3 SANO may, by notice in writing to Par, terminate this Agreement if  
Par fails to pay to SANO any amount payable by Par to SANO hereunder, whether on  
account of the Additional Consideration, the purchase price for the Licensed  
Products, interest or otherwise, as and when the same shall have become due and  
payable or Par shall have failed to deliver (or caused to be delivered, as the  
case may be), in timely fashion, the reports or information contemplated in  
Section 11.2 or 11.3 hereof, and in either case, such breach shall have  
continued unremedied for a period of twelve business days after written notice  
of such breach has been given by SANO to Par; provided that Par shall not have  
the right to such twelve-day grace period within which to cure such default and  
SANO shall have the immediate right to terminate the Agreement for such breach  
if Par shall have previously breached Section 11.2 or 11.3, or failed to remit  
any sums of at least $10,000.00 to SANO, when due, in the aggregate, one time in  
the twelve month period immediately preceding the default in question.  
  
 13.4 Either party may terminate this Agreement on thirty days prior  
written notice to the other party if such party or the other party is legally  
prohibited from performing its obligations hereunder (other than by reason of a  
breach of its obligations hereunder) or becomes (or, in the case of Par, its  
Affiliate becomes) an Ineligible Person (and, where the party purporting to  
terminate the Agreement is also the party prohibited from performing or it or  
its Affiliate is the Ineligible Person, it [or its Affiliate, as the case may  
be] has made diligent good faith best efforts to remove the prohibition or its  
status as an Ineligible Person) and such prohibition or status as an Ineligible  
Person shall have continued uninterrupted for a period of 120 days.  
  
 13.5 Either party may terminate this Agreement in respect of a  
particular Licensed Product (the "Specific Product"), but this Agreement shall  
continue in respect of any other Licensed Product, on thirty (30) days prior  
written notice to the other party (which notice must be delivered within 90 days  
of the expiration of the applicable contract year) if the aggregate Net Sales of  
the Specific Product made by PRI and its Affiliates for any complete contract  
year after the second anniversary of the date on which such Specified Product  
became available for sale shall be less than the amounts stated in or determined  
pursuant to Section 13.8; provided, however, SANO may not terminate with respect  
to any Specific Product pursuant to this Section 13.5 without the consent of Par  
in the event that SANO shall have previously terminated the exclusive nature of  
the Right pursuant to Section 13.8 and shall be selling, directly or indirectly,  
such Licensed Product in the United States.  
  
 13.6 Either party may terminate this Agreement in accordance with the  
provisions of Section 15.1 hereof.  
  
 13.7 Par or SANO shall have the right to terminate this Agreement upon  
written notice to the other in the event that any one or more of the following  
events shall become applicable to such other party (herein referred to as the  
"Party"):  
  
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 (a) an order is made or a resolution or other action of such Party  
is taken for the dissolution, liquidation, winding up or other termination of  
its corporate existence;  
  
 (b) the Party commits a voluntary act of bankruptcy, becomes  
insolvent, makes an assignment for the benefit of its creditors or proposes to  
its creditors a reorganization, arrangement, composition or readjustment of its  
debts or obligations or otherwise proposes to take advantage of or shelter under  
any statute in force in the United States for the protection of debtors;  
  
 (c) if any proceeding is taken with respect to a compromise or  
arrangement, or to have such Party declared bankrupt or to have a receiver  
appointed in respect of such Party or a substantial portion of its property and  
such proceeding is instituted by such Party or is not opposed by such Party or  
if such proceeding is instituted by a Person other than such Party, such Party  
does not proceed diligently and in good faith to have such proceeding withdrawn  
forthwith;  
  
 (d) a receiver or a receiver and manager of any of the assets of  
such Party is appointed and such receiver or receiver and manager is not removed  
within ninety days of such appointment;  
  
 (e) such Party ceases or takes steps to cease to carry on its  
business.  
  
SANO shall similarly have the right to terminate this Agreement upon written  
notice to PRI if any of the foregoing events becomes applicable to any Affiliate  
of PRI that has been expressly assigned obligations under this Agreement.  
  
 13.8 (a) If  
  
 (i) in the twenty-four (24) month period (such period being  
 herein referred to as the "A Period") beginning on the date (the  
 "A Commencement Date") the first of any shipments of Licensed  
 Product "A" is made available to Par hereunder, the aggregate Net  
 Sales of Licensed Product "A" for such A Period is less than the  
 Product Sales Threshold (as hereinafter defined);  
  
 (ii) in the twenty-four (24) month period (such period being  
 herein referred to as the "B Period") beginning on the date (the  
 "B Commencement Date") the first of any shipments of Licensed  
 Product "B" is made available to Par hereunder, the aggregate Net  
 Sales of Licensed Product "B" for such B Period is less than the  
 Product Sales Threshold; or  
  
 (iii) in any twelve month period commencing on the second and  
 each subsequent anniversary of the A Commencement Date or the B  
 Commencement Date the Net Sales of the relevant Licensed Product  
 sold by Par and its Affiliates in such period is less than the  
 Product Sales Threshold;  
  
and the shortfall in sales cannot be attributable primarily to the fault of  
SANO, SANO shall have the right to convert Par's Right hereunder from an  
exclusive to a non-exclusive right to  
  
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 CONFIDENTIAL INFORMATION OMITTED AND FILED SEPARATELY WITH THE  
 SECURITIES AND EXCHANGE COMMISSION  
 ASTERISKS DENOTE SUCH OMISSION  
  
distribute such Licensed Product upon ninety days prior written notice to Par.  
As used herein, as to any Licensed Product, the Product Sales Threshold shall  
mean an amount reasonably agreed upon by Par and SANO after consideration of  
relevant market factors and conditions, provided that if Par and SANO shall fail  
or be unable to agree as to any Licensed Product for any period in question, the  
Product Sales Threshold for such period and Licensed Product shall be [\*\*\*\*].  
  
 (b) Notwithstanding the exercise by SANO of its right pursuant to  
Section 13.8(a) hereof, and the resultant conversion of Par to a non-exclusive  
distributor hereunder, Par shall have the right to sell the Licensed Products on  
a non-exclusive basis on the terms and conditions as set forth herein, except as  
provided otherwise in this Paragraph 13.8, during the balance of the term of the  
Agreement (subject to earlier termination as herein provided) and SANO shall  
continue to supply the Licensed Products to Par in accordance with the  
provisions hereof, provided that the obligation of SANO to use its reasonable  
best efforts to supply Par with its requirements of the Licensed Products shall  
take into account Par's requirements as well as the requirements of SANO and any  
other third party distributor or distributors appointed by SANO to sell the  
Licensed Products in the United States.  
  
 (c) In the event that SANO exercises its rights under Section  
13.8(a) and contemporaneously therewith or subsequent thereto enters into an  
agreement with any Person (herein referred to as a "Third Party Licensee"),  
authorizing or licensing such Third Party Licensee to sell any of the Licensed  
Products in the United States on royalty, payment or other cash equivalent or  
otherwise readily economically measured terms more favorable to the Third Party  
Licensee (such more favorable terms being herein referred to as the "MFP") then:  
  
 (i) SANO shall promptly notify Par of such agreement and  
 shall describe in the notice both the MFP and any obligations,  
 duties, undertakings or other consideration to be provided by the  
 Third Party Licensee; and  
  
 (ii) Par shall have thirty days from the date of receipt of  
 such notice to notify SANO whether Par desires to have the benefit  
 of the MFP, which can be accepted only if Par shall agree (to the  
 extent not already assumed in this Agreement) to any additional  
 obligations, duties, or undertakings, and to provide any  
 consideration to be provided by the Third Party Licensee.  
  
Par's entitlement to seek the benefit of the MFP shall be conditioned upon and  
subject to Par assuming and being capable of fully performing all the non-cash  
obligations assumed by the Third Party Licensee in a manner substantially as  
valuable to SANO. If Par shall dispute such assessment, Par shall so notify  
SANO, whereupon the issue shall be deemed to be a dispute between the parties  
and subject to resolution pursuant to Section 15.2 hereof.  
  
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 13.9 Notwithstanding the termination or expiration of this Agreement  
pursuant to this Article XIII or any other provision of this Agreement, all  
rights and obligations which were incurred or which matured prior to the  
effective date of termination or expiration, including accrued Additional  
Consideration and any cause of action for breach of contract, shall survive  
termination and be subject to enforcement under the terms of this Agreement.  
Termination of this Agreement shall not affect any duty of Par or SANO existing  
prior to the effective date of termination or expiration and which is, whether  
or not by expressed terms, intended to survive termination. Without limiting the  
generality of the foregoing, termination shall not affect any duty to keep  
confidential any Confidential Information (within the meaning of Section 14.4  
hereof) disclosed by one party to the other (or its Affiliate) as contemplated  
in Section 14.4 hereof, but rather such Confidential Information shall be held  
by the receiving party subject to such restrictions on use and disclosure as  
provided in the said Section.  
  
 13.10 Upon termination of this Agreement by Par pursuant to Section  
13.2 or 13.7 or pursuant to Section 13.4 as a result of SANO's inability to  
perform its obligations hereunder or becoming an Ineligible Person or the  
termination of this Agreement by SANO pursuant to Section 13.5 hereof, SANO  
shall, at the request of Par, repurchase all Licensed Products then in the  
possession, custody or control of Par and available for sale (and which have not  
been adulterated since they were made available for pick up by Par) and all  
packaging material in the possession, custody or control of Par which were  
specifically acquired by Par for these Licensed Products and which cannot be  
used by Par or its Affiliates for any other products sold by any of them, at the  
price originally paid by Par therefor plus all transportation costs previously  
incurred (even if not yet paid) by Par payable in cash on delivery by Par to  
SANO. SANO shall pay all transportation costs associated with shipping the  
repurchased Licensed Product to SANO or to such other places SANO may require.  
  
 13.11 In the event that this Agreement is terminated pursuant to the  
provisions of Section 13.4 hereof as a result of a party (herein referred to as  
the "Prohibited Party") being unable to perform its obligations hereunder as  
therein contemplated or having become (or its Affiliate having become) an  
Ineligible Person and within twelve (12) months of the effective date of  
termination of this Agreement the Prohibited Party is again able to perform its  
obligations hereunder or has ceased (or its Affiliate has ceased) to be an  
Ineligible Person, then the Prohibited Party shall, by notice in writing, advise  
the other party (herein referred to as the "Receiving Party") that it is no  
longer legally prohibited from performing its duties and obligations hereunder  
or that it has ceased (or that its Affiliate has ceased) to be an Ineligible  
Person and the Receiving Party shall have the right, to be exercised by notice  
in writing given to the Prohibited Party within thirty (30) days of receipt of  
the aforesaid notice from Prohibited Party, to reinstate this Agreement;  
provided, however, that if the Prohibited Party is Par then SANO shall have the  
right to reinstate this Agreement as if a proper notice had been given pursuant  
to Section 13.8 of this Agreement and Par shall be reinstated on a non-exclusive  
basis, but only to the extent that such reinstatement will not violate the  
provisions of any agreement SANO shall have entered into during the period Par  
was a Prohibited Party.  
  
  
  
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 CONFIDENTIAL INFORMATION OMITTED AND FILED SEPARATELY WITH THE  
 SECURITIES AND EXCHANGE COMMISSION  
 ASTERISKS DENOTE SUCH OMISSION  
  
 13.12 If SANO terminates this Agreement pursuant to Section 13.2, 13.3  
and 13.7 hereof then Par shall not and shall cause its Affiliates not to, for a  
period of twelve (12) months following the effective date of termination, sell  
in the United States any Competitive Product.  
  
 13.13 In the event that SANO terminates this Agreement in respect of a  
Specific Product pursuant to Section 13.5 hereof, SANO shall, at the request of  
Par, make available to Par within a reasonable period of time of such  
termination, such number of units of such Specific Product as shall be equal to  
the net number of units of such Specific Product sold by Par during the entire  
contract year immediately preceding the year in which this Agreement is so  
terminated or such lesser number of units of each such Specific Product as Par  
shall advise SANO in writing within ten business days of such termination. Such  
Specific Product shall be made available to Par in accordance with the  
provisions of this Agreement and the provisions of this Agreement shall apply to  
all such Specific Product as if such Specific Product had been supplied by SANO  
during the term of this Agreement.  
  
 (a) If SANO has not received an approval of an ANDA for Licensed  
Product B prior to the later of [\*\*\*\*] for Par may terminate this Agreement with  
respect to Licensed Product B by providing SANO with written notice of such  
termination and neither party shall have any obligation hereunder with respect  
to Licensed Product B other than applicable confidentiality provisions and the  
payment by SANO described in the following sentence. In the event of such  
termination, SANO shall pay Par the sum of (i) [\*\*\*\*] and (ii) the amount paid  
by Par in respect of Licensed Product B pursuant to Section 7.4 hereof, with  
half of such sum payable three (3) months after SANO's receipt of notice of such  
termination and half of such sum payable fifteen (15) months after SANO's  
receipt of notice of such termination.  
  
 (b) For the purposes of this Section 13.14, the dates on which  
ANDAs were filed for the respective Licensed Products shall be as set forth on  
Exhibit A attached hereto.  
  
 ARTICLE XIV  
  
 RECALLS, ADMINISTRATIVE MATTERS AND CONFIDENTIALITY  
  
 14.1 Recalls. In the event that it becomes necessary to conduct a  
recall, market withdrawal or field correction (hereafter collectively referred  
to as "recall") of any Licensed Product manufactured by SANO and sold by Par or  
its Affiliates the following provisions shall govern such a recall:  
  
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 (a) After consulting with SANO, and on terms and conditions  
reasonably satisfactory to SANO, Par shall conduct (and shall cause its  
Affiliate to conduct) the recall and shall have primary responsibility therefore  
and SANO and Par shall each cooperate with the other in recalling any affected  
Licensed Product(s). Par covenants and agrees to maintain and to cause its  
Affiliates to maintain such records of all sales of the Licensed Products made  
by Par or its Affiliates as are required by the FDA or as are reasonably  
appropriate for a distributor of pharmaceutical products to maintain so as to  
enable a recall to be properly completed.  
  
 (b) Irrespective of whether the recall is initiated by Par or by  
SANO:  
  
 (i) If it is later demonstrated that the reason for the  
 recall was due primarily to acts or omissions of SANO (or the  
 safety or efficacy of the Licensed Product other than as a result  
 of acts or omissions of Par or its Affiliates), then SANO shall  
 pay or reimburse, as the case may be, all reasonable direct  
 out-of-pocket expenses, including but not limited to reasonable  
 attorney's fees and expenses and credits and recall expenses  
 claimed by and paid to customers, incurred by Par or SANO in  
 connection with performing any such recall, provided that expenses  
 incurred by Par shall be in accordance with the terms and  
 conditions of the recall approved by SANO; or  
  
 (ii) If it is later determined that the reason for the recall  
 was due primarily to the acts or omissions of Par or its  
 Affiliates, then Par shall pay or reimburse, as the case may be,  
 all direct out-of-pocket expenses, including but not limited to  
 reasonable attorney's fees and expenses and credits and recall  
 expenses claimed by and paid to customers, incurred by Par or SANO  
 in connection with performing any such recall; or  
  
 (iii) If the parties are unable to agree that the cause of  
 the recall was due primarily to the act or omission of one of the  
 parties (or its Affiliates, as the case may be) within sixty days  
 of the initiation of the recall and have not commenced arbitration  
 proceedings to resolve such dispute within such sixty day period  
 then all direct out-of-pocket costs incurred by Par and SANO,  
 including but not limited to reasonable attorney's fees and  
 expenses and credits and recall expenses claimed by and paid to  
 customers, shall be shared by the parties in proportion to their  
 sharing of Gross Profits in respect of the Licensed Products  
 recalled.  
  
Each of the parties shall use its reasonable best efforts to minimize the  
expenses of recall which it incurs. It is understood and agreed that the direct  
out-of-pocket costs and expenses of the recall contemplated in Paragraphs (i),  
(ii) and (iii) above shall not include the invoice price charged by PRI or its  
Affiliates to the customers for the Products recalled, which amount shall be  
dealt with in accordance with the provisions of Section 9 hereof and shall also  
not include any excess re-procurement costs (within the meaning of Paragraph  
14.3 hereof) and related penalties and assessments, which costs, penalties and  
assessments shall be an expense of Par except to the extent that it is an  
expense of SANO pursuant to Section 14.3 hereof (provided that where the  
provisions of Paragraph (iii) above apply, the excess reprocurement costs and  
  
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related penalties and assessments incurred pursuant to Approved Contracts [as  
that term is defined in Section 14.3 hereof] shall be shared by the parties in  
the proportion in which Gross Profits are shared in respect of the recalled  
Products sold pursuant to such Approved Contracts).  
  
 (c) All Licensed Products recalled pursuant to this Section 14.1  
shall be treated as Licensed Products returned to Par by its customers and the  
provisions of Section 9 shall apply thereto.  
  
 (d) The party initiating the recall shall inform FDA of the  
proposed recall; however, nothing contained herein shall preclude either party  
from informing FDA of any proposed or actual recall by either party should the  
recalling party fail to inform FDA of that recall within ten (10) days of a  
written request by the non-recalling party to so inform FDA.  
  
 (e) For greater certainty, in the event of a recall, neither party  
or its Affiliates shall profit from any out-of-pocket expenses incurred by it in  
connection with the recall and for which it is reimbursed by the other party  
and, except where the recall relates directly to an intentional breach of a  
representation or warranty contained in this Agreement or arises directly out of  
a willful material breach by a party of any of its duties or obligations  
hereunder (in each case, as contemplated in Section 10.1 hereof), neither party  
shall have a claim against the other party for any damages, losses or expenses  
which it suffers or incurs as a result thereof except to the extent permitted or  
contemplated in this Section 14.  
  
 (f) Each party shall provide reasonable evidence to the other of  
the out-of-pocket expenses being claimed by it and the rights of SANO pursuant  
to Section 11.4 and the rights of Par pursuant to Section 11.8 shall apply  
thereto.  
  
 14.2 ANDA-Related FDA Correspondence. Each of the parties shall provide  
the other with a copy of any correspondence or notices received by such party  
from FDA relating or referring to the Licensed Product(s) within ten (10) days  
of receipt. Each party shall also provide the other with copies of any responses  
to any such correspondence or notices within ten (10) days of making the  
response.  
  
 14.3 Excess Re-procurement Costs.  
  
 (a) In the event that a recall occurs which recall was  
necessitated primarily by any act or omission of SANO and SANO does not supply  
Par with replacement Licensed Product on a timely basis or if SANO, in breach of  
its obligations under this Agreement, fails to make Licensed Product(s)  
available to Par, SANO shall, in addition to any reimbursement required under  
Section 14.1, pay any excess re-procurement costs and/or related penalties or  
assessments incurred by, or assessed on, Par by a customer of Par pursuant to an  
Approved Contract (as that term is defined below) due to Par's inability to  
supply Licensed Product(s) to such customer due to the aforesaid acts, omissions  
or breaches of SANO.  
  
 (b) SANO shall cooperate with Par with respect to any legal or  
administrative proceedings that arise pursuant to the Approved Contracts as a  
  
  
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result of Par's inability to supply Licensed Product(s) to such customer due to  
the aforesaid acts, omissions or breaches by SANO. The foregoing shall be  
without prejudice to any other damages, expense or costs that Par may have  
suffered in connection with SANO's inability to supply the Licensed Product as  
aforesaid, subject to the limitations and other provisions set forth in this  
Agreement.  
  
 (c) For purposes hereof the term "Approved Contract" shall  
mean a contract entered into by Par on or after the Execution Date with one of  
its customers:  
  
 (i) pursuant to which Par agrees to supply such customer with  
 pharmaceutical products which include the Licensed Products (or  
 any of them), and which provides that if Par fails to supply such  
 customer with the Licensed Product in accordance with specified  
 terms and conditions therein set forth then such customer shall  
 have the right to procure a comparable replacement product for the  
 Licensed Product in substitution for the Licensed Products that  
 Par has failed to supply to such customer in accordance with the  
 provisions of its agreement and to charge back to Par any costs  
 and expenses incurred by such customer to acquire such comparable  
 replacement product in excess of the price which was to have been  
 charged by Par to the customer for the Licensed Products which it  
 failed to provide (such excess costs and expenses being the excess  
 re-procurement costs contemplated in Section 14.1 and in this  
 Section 14.3);  
  
 (ii) which has a term of twelve (12) months or less; and  
  
 (iii) which provides for the supply of the relevant Licensed  
 Product in an amount not greater than the amount forecast by Par  
 pursuant to Section 6.2 hereof, taking into account all other  
 sales of the Licensed Product in the relevant period; or  
  
 (iv) where the contract has a term of more than 12 months, or  
 provides for an amount greater than that contemplated by Paragraph  
 (iii) above, SANO has approved or has been deemed to have approved  
 such contract in accordance with the provisions of Section 14.3(v)  
 hereof; or  
  
 (v) if the approval of SANO as contemplated in Paragraph (iv)  
 above is requested, Par shall have provided to SANO, in accordance  
 with the provisions of this paragraph, a complete copy of the  
 proposed final agreement between Par and its customer prior to  
 entering into such contract. A copy of any contract to be provided  
 to SANO as contemplated in this Paragraph (v) shall be forwarded  
 to SANO in the manner contemplated in Section 15.4 hereof. SANO  
 shall have a period of ten business days from the date upon which  
 copies of such contract are actually received by it as aforesaid  
 to notify Par in writing that it does not approve of the contract  
 and failing such notice from SANO within such ten business day  
 period SANO shall be deemed to have approved of such contract.  
  
  
  
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 14.4 Confidentiality.  
  
 (a) The parties agree that, without the prior written consent of  
the other party (such consent not to be unreasonably withheld) or except as may  
be required under law or court order, the provisions of the Agreement shall  
remain confidential and shall not be disclosed to any Person not affiliated with  
any of the parties.   
  
 (b) Par and SANO hereby agree not to reveal or disclose any  
Confidential Information (as defined below) to any Person without first  
obtaining the written consent of the disclosing party, except as may be  
necessary in regulatory proceedings or litigation. For purposes hereof  
Confidential Information shall mean all information, in whatever form, which is  
or was disclosed by one party to another or to an Affiliate of the other prior  
to or during the term of this Agreement and which relates in any way to the  
Products or to the business of the disclosing party, including, without  
limitation information relating to customers and pricing. Confidential  
Information shall not include information that a party can demonstrate by  
written evidence:   
  
 (i) is in the public domain (provided that information in the  
 public domain has not and does not come into the public domain as  
 a result of the disclosure by the receiving party or any of its  
 Affiliates);  
  
 (ii) is known to the receiving party or any of its Affiliates  
 prior to the disclosure by the other party: or  
  
 (iii) becomes available to the party on a non-confidential  
 basis from a source other than an Affiliate of that party or the  
 disclosing party and Par covenants and agrees to cause its  
 Affiliates to comply with the provisions of this Section 14.4.  
  
 ARTICLE XV  
  
 GENERAL TERMS AND CONDITIONS  
  
 15.1 Force Majeure Clauses. Neither party shall be considered to be in  
default in respect of any obligation hereunder, other than the obligation of a  
party to make payment of amounts due to the other party under or pursuant to  
this Agreement, if failure of performance shall be due to Force Majeure. If  
either party is affected by a Force Majeure event, such party shall, within 20  
days of its occurrence, give notice to the other party stating the nature of the  
event, its anticipated duration and any action being taken to avoid or minimize  
its effect. The suspension of performance shall be of no greater scope and not  
longer duration than is required and the non-performing party shall use its  
reasonable best efforts to remedy its inability to perform. The obligation to  
pay money in a timely manner is absolute and shall not be subject to the Force  
Majeure provisions, except to the extent prohibited by governmental rule or  
regulations other than rules or regulations incident to bankruptcy or insolvency  
proceedings of a party. Force Majeure shall mean an unforeseeable or unavoidable  
cause beyond the control and without the fault or negligence of a party (and,  
where the party is Par, beyond the control and without the fault or negligence  
of any of its Affiliates) including, but not limited to, explosion, flood, war  
  
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(whether declared or otherwise), accident, labor strike, or other labor  
disturbance, sabotage, acts of God, newly enacted legislation, newly issued  
orders or decrees of any Court or of any governmental agency. Notwithstanding  
anything in this Section to the contrary, the party to whom performance is owed  
but to whom it is not rendered because of any event of Force Majeure as  
contemplated in this Section 15.1 shall, after the passage of one hundred and  
twenty days, have the option to terminate this Agreement on thirty days prior  
written notice to the other party hereto. For greater certainty, the inability  
or failure of Par to cause any of its respective Affiliates to comply with any  
of the provisions of this Agreement expressed o be applicable to its Affiliates  
or which require such party to cause the Affiliate to do or not to do something  
shall not be considered Force Majeure unless the Affiliate in question is unable  
to comply by reason of unforeseeable or unavoidable causes beyond the control  
and without the fault or negligence of such Affiliate.  
  
 15.2 Arbitration. All disputes arising out of, or in relation to, this  
Agreement (other than disputes arising out of any claim by a third party in an  
action commenced against a party), shall be referred for decision forthwith to a  
senior executive of each party not involved in the dispute. If no agreement can  
be reached through this process within thirty days of request by one party to  
the other to nominate a senior executive for dispute resolution, then either  
party hereto shall be entitled to refer such dispute to a single arbitrator for  
arbitration under Florida law, such arbitration to be held in Miami, Florida on  
an expedited basis in accordance with the rules and regulations of the American  
Arbitration Association. Any party demanding arbitration shall with service of  
its demand for arbitration propose a neutral arbitrator selected by it. In the  
event that the parties cannot agree upon a neutral arbitrator within thirty (30)  
days after the demand for arbitration, an arbitrator shall be appointed by the  
American Arbitration Association who shall be a partner in a Miami, Florida law  
firm having at least ten (10) partners.  
  
 15.3 Assignment. This Agreement may not be assigned nor can the  
performance of any duties hereunder be delegated by Par or by SANO without the  
prior written consent of the other parties, which consent shall not be  
unreasonably withheld; provided that any such assignment shall not relieve the  
assignor from any of its obligations hereunder or under any other document or  
agreement delivered by such party pursuant to, or delivered (or acknowledged to  
have been delivered) contemporaneously with or in connection with the execution  
of, this Agreement, which shall continue to be binding upon such party  
notwithstanding such assignment. Notwithstanding the foregoing, Par may delegate  
from time to time some of its duties hereunder to any of its Affiliates provided  
that, prior to any such delegation, it gives written notice thereof to SANO  
(indicating the duties being so delegated and the duration of such delegation);  
provided that no such delegation shall relieve Par from any of its obligations  
hereunder in respect of the duties being delegated or otherwise.  
  
  
 15.4 Notices. Any notice required or permitted to be given under this  
Agreement shall be sufficiently given if in writing and delivered by registered  
or certified mail (return receipt requested), facsimile (with confirmation of  
transmittal), overnight courier (with confirmation of delivery), or hand  
  
  
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delivery to the appropriate party at the address set forth below, or to such  
other address as such party may from time to time specify for that purpose in a  
notice similarly given:  
  
 If to SANO:  
  
 SANO Corporation  
 0000 Xxxxxxxx Xxxxxxx  
 Xxxxxxx, Xxxxxxx 00000  
 Attn: President  
 Fax: (000) 000-0000  
  
 with a copy to (other than regularly prepared notices, reports, etc.  
 required to be delivered hereunder):  
  
 Greenberg, Traurig, Hoffman,  
 Lipoff, Xxxxx & Xxxxxxx, P.A.  
 0000 Xxxxxxxx Xxxxxx  
 Xxxxx, Xxxxxxx 00000  
 Attn: Xxxx Xxxxxxx, Esq.  
 Fax: 000-000-0000  
  
 If to PRI  
  
 c/o PRI Distributors, Ltd.  
 Xxx Xxx Xxxxx Xxxx  
 Xxxxxx Xxxxxx, XX 00000  
 Attn: President  
 Fax: 000-000-0000  
  
 with a copy to (other than regularly prepared notices, reports, etc.  
 required to be delivered hereunder):  
  
 Xxxxxxx, Calamari & Xxxxxxx  
 000 Xxxx Xxxxxx  
 Xxx Xxxx, Xxx Xxxx 00000  
 Attn: Xxxxxxx X. Xxxxxxxxxx, Esq. and  
 Xxxxxxx X. Xxxxxxx, Esq.  
 Fax: (000) 000-0000  
  
Any such notice shall be effective (i) if sent by mail, as aforesaid, five  
business days after mailing, (ii) if sent by facsimile, as aforesaid, when sent,  
and (iii) if sent by courier or hand delivered, as aforesaid, when received.  
Provided that if any such notice shall have been sent by mail and if on the date  
of mailing thereof or during the period prior to the expiry of the third  
business day following the date of mailing there shall be a general postal  
disruption (whether as a result of rotating strikes or otherwise) in the United  
  
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States then such notice shall not become effective until the fifth business day  
following the date of resumption of normal mail service.  
  
 15.5 Governing Law and Consent to Jurisdiction.  
  
 (a) Except as otherwise provided herein, this Agreement shall be  
deemed to have been made under, and shall be governed by, the laws of the State  
of Florida in all respects including matters of construction, validity and  
performance, but without giving effect to Florida's choice of law provisions.  
  
 (b) In connection with any action commenced hereunder, each of the  
undersigned consent to the exclusive jurisdiction of the state and federal  
courts located in Miami, Florida. Notwithstanding the foregoing, each party also  
agrees to the jurisdiction of any court which a third party claim has been  
brought.  
  
 15.6 Binding Agreement. This Agreement shall be binding upon the   
parties hereto, and their respective successors and permitted assigns.  
  
 15.7 Entire Agreement. This Agreement and all other documents and  
instruments delivered by any of the parties or their Affiliates pursuant hereto  
or in connection with the execution and delivery of this Agreement contain the  
entire agreement and understanding of the parties with respect to the subject  
matter hereof and thereof and supersedes all negotiations, prior discussions and  
agreements relating to the Licensed Products or the Right. This Agreement may  
not be amended or modified except by a written instrument signed by all of the  
parties hereto.  
  
 15.8 Headings. The headings to the various articles and paragraphs of  
this Agreement have been inserted for convenience only and shall not affect the  
meaning of the language contained in this Agreement.  
  
 15.9 Waiver. The waiver by any party of any breach by another party of  
any term or condition of this Agreement shall not constitute a waiver of any  
subsequent breach or nullify the effectiveness of that term or condition.  
  
 15.10 Counterparts. This Agreement may be executed in identical  
duplicate copies. The parties agree to execute at least two identical original  
copies of the Agreement. Each identical counterpart shall be deemed an original,  
but all of which together shall constitute one and the same instrument.  
  
 15.11 Severability of Provisions. If, for any reason whatsoever, any  
term, covenant or condition of this Agreement or of any other document or  
instrument executed and delivered by either Par or SANO pursuant hereto or in  
connection with the completion of the transaction contemplated herein, or the  
application thereof to any party or circumstance is to any extent held or  
rendered invalid, unenforceable or illegal, then such term, covenant or  
condition:  
  
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 (i) is deemed to be independent of the remainder of such  
 document and to be severable and divisible therefrom and its  
 validity, unenforceability or illegality does not affect, impair  
 or invalidate the remainder of such document or any part thereof;  
 and  
  
 (ii) continue to be applicable and enforceable to the fullest  
 extent permitted by law against any party and circumstances other  
 than those as to which it has been held or rendered invalid,  
 unenforceable or illegal.  
  
 15.12 Publicity. Neither party shall issue any press release or other  
public statement regarding, or disclosing the existence of, this Agreement  
without the prior written consent of the other party; provided, however, that  
neither party shall be prevented from complying with any disclosure obligation  
it may have under applicable law. The parties shall use their best efforts to  
agree on the form and content of any such public statement.  
  
 ARTICLE XVI  
  
 GUARANTEE OF PRI  
  
 16.1 Guarantee. PRI does hereby unconditionally guarantee to SANO the  
full and prompt payment and performance by Par of all of the obligations of  
every nature whatsoever to be performed by Par under this Agreement (the  
"Guaranteed Obligations") as and when required to be paid or performed under  
this Agreement. The guarantee set forth in the preceding sentence (this  
"Guarantee") is an absolute, unconditional and continuing guarantee of the full  
and punctual payment and performance of the Guaranteed Obligations and is in no  
way conditioned upon any requirement that SANO first attempt to enforce any of  
the Guaranteed Obligations against Par, any other guarantor of the Guaranteed  
Obligations or any other Person or resort to any other means of obtaining  
performance of any of the Guaranteed Obligations. This Guarantee shall continue  
in full force and effect until Par shall have satisfactorily performed or fully  
discharged all of the Guaranteed Obligations. No performance or payment made by  
Par, PRI, any other guarantor or any other Person, or received or collected by  
SANO from Par, PRI, any other guarantor or any other Person in performance of or  
in payment of the Guaranteed Obligations shall be deemed to modify, reduce  
(except to the extent that any such performance or payment shall reduce the  
Guaranteed Obligations), release or otherwise affect the liability of PRI under  
this Guarantee which shall, notwithstanding any such payment or performance  
other than those made by PRI in respect of the Guaranteed Obligations or those  
received or collected from PRI in respect of the Guaranteed Obligations, remain  
liable for the amount of the Guaranteed Obligations, until the Guaranteed  
Obligations are paid and performed in full.  
  
 16.2 No Subrogation. Notwithstanding any payment or performance by PRI,  
PRI shall not be entitled to be subrogated to any of the rights of SANO or any  
other guarantor or any collateral security held by SANO against Par or any other  
guarantor or any collateral security for the payment of the Guaranteed  
Obligations, nor shall PRI seek or be entitled to seek any contribution or  
reimbursement from Par or any other guarantor in respect of payments made by PRI  
under this Guarantee. PRI HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY AND  
ALL RIGHTS AND CLAIMS WHICH PRI MAY NOW HAVE OR HEREAFTER ACQUIRE TO BE  
SUBROGATED TO ANY SUCH RIGHTS OF SANO AND TO SEEK OR BE ENTITLED TO SEEK ANY  
SUCH CONTRIBUTION OR REIMBURSEMENT FROM Par OR ANY OTHER GUARANTOR. THE  
  
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OBLIGATIONS OF AND WAIVERS BY PRI SET FORTH IN THIS SECTION 16.2 SHALL SURVIVE  
THE TERMINATION OF THIS GUARANTEE AND THE PAYMENT, PERFORMANCE AND SATISFACTION  
IN FULL OF ALL OF THE GUARANTEED OBLIGATIONS.  
  
 16.3 Amendments, etc. with Respect to Guaranteed Obligations; Waiver of  
Rights. PRI shall remain obligated under this Guarantee notwithstanding that,  
without any reservation of rights against PRI and without notice to or further  
assent by PRI, any demand for payment or performance of any of the Guaranteed  
Obligations made by SANO may be rescinded by SANO and any of the Guaranteed  
Obligations continued, and the Guaranteed Obligations, or the liability of any  
other Person upon or for any part thereof, or any collateral security (or  
guarantee therefor may, from time to time, in whole or in part, be renewed,  
extended, amended, modified, accelerated, compromised, waived, surrendered or  
released by SANO and this Agreement, any collateral security document or other  
guarantee or document in connection herewith may be amended, modified,  
supplemented or terminated, in whole or in part, as SANO may deem advisable from  
time to time, and any collateral security or guarantee at any time held by SANO  
for the payment or performance of the Guaranteed Obligations may be sold,  
exchanged, waived, surrendered or released. SANO shall not have any obligation  
to protect, secure, perfect or insure any lien at any time held by it as  
security for the Guaranteed Obligations or for this Guarantee or any property  
subject thereto. When making any demand hereunder against PRI, SANO may, but  
shall be under no obligation to, make a similar demand on Par or any other  
guarantor, and any failure by SANO to make any such demand or to collect any  
payments from Par or any such other guarantor or any release of Par or such  
other guarantor shall not relieve PRI of its obligations or liabilities under  
this Guarantee, and shall not impair or affect the rights and remedies, express  
or implied, or as a matter of law, of SANO against PRI.  
  
 16.4 Extent of Liability and Waivers. PRI understands and agrees that  
the obligation of guarantee of PRI pursuant to Section 16.1 are intended to  
render PRI liable hereunder in each instance where Par would be liable under  
this Agreement, and no more, and except that the obligations of PRI hereunder  
shall not be discharged by any bankruptcy or similar proceeding which may  
discharge Par herefrom. Accordingly, PRI acknowledges that it will not assert,  
and hereby waives to the fullest extent permitted by law, any rights to avoid  
performance hereunder available to it as guarantor which are not also available  
to Par. PRI waives any and all notice of the creation, renewal, extension or  
accrual of any of the Guaranteed Obligations and notice of or proof of reliance  
by SANO upon this Guarantee or acceptance of this Guarantee; the Guaranteed  
Obligations, and any of them, shall conclusively be deemed to have been created,  
contracted or incurred, or renewed, extended, amended or waived, in reliance  
upon this Guarantee; and all dealings between Par or PRI, on the one hand, and  
SANO on the other, pursuant to this Agreement shall likewise be conclusively  
presumed to have been had or consummated in reliance upon this Guarantee. PRI  
waives diligence, presentment, protest, demand for payment and notice of default  
or nonpayment or nonperformance to or upon Par or any other guarantors with  
respect to the Guaranteed Obligations. When pursuing its rights and remedies  
hereunder against PRI, SANO may, but shall be under no obligation to, pursue  
  
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such rights and remedies as it may have against Par or any other Person or  
against any collateral security or guarantee for the Guaranteed Obligations, and  
any failure by PRI to pursue such other rights or remedies or to collect any  
payments from Par or any such other Person or to realize upon any such  
collateral security or guarantee, or any release of Par or any such other Person  
or any such collateral security or guarantee, shall not relieve PRI of any  
liability hereunder and shall not impair or affect the rights and remedies,  
whether express, implied or available as a matter of law, of SANO against PRI.  
This Guarantee shall remain in full force and effect and be binding upon PRI and  
its successors and assigns and shall inure to the benefit of SANO and its  
successors and assigns, until all the Guaranteed Obligations shall have been  
satisfied by payment and performance in full.  
  
 16.5 Reinstatement. This Guarantee shall continue to be effective, or  
be reinstated, as the case may be, if at any time payment or performance, or any  
part thereof, of any of the Guaranteed Obligations is rescinded or must  
otherwise be restored or returned by SANO upon the insolvency, bankruptcy,  
dissolution, liquidation or reorganization of Par or PRI, or upon or as a result  
of the appointment of a receiver, intervenor or conservator of, or trustee or  
similar officer for, Par or PRI, or any substantial part of its or their  
property, or otherwise, all as though such payments had not been made.  
  
 16.6 No Waiver; Cumulative Remedies. SANO shall not by any act (except  
by a written instrument pursuant to Section 15.7), delay, indulgence, omission  
or otherwise be deemed to have waived any right or remedy hereunder or to have  
acquiesced in any breach of any of the terms and conditions of this Agreement.  
No failure to exercise, nor any delay in exercising, on the part of SANO, any  
right, power or privilege hereunder shall operate as a waiver thereof. No single  
or partial exercise of any right, power or privilege hereunder shall preclude  
any other or further exercise thereof or the exercise of any other right, power  
or privilege. A waiver by SANO of any right or remedy hereunder on any one  
occasion shall not be construed as a bar to any right or remedy which the SANO  
would otherwise have on any future occasion. The rights and remedies herein  
provided are cumulative, may be exercised singly or concurrently and are not  
exclusive of any rights or remedies provided by law.  
  
 16.7 Affiliates. To the extent that Par or PRI is obligated hereunder  
to cause its Affiliates to do or refrain from doing anything, PRI will do all  
things that it may lawfully and reasonably do to cause such Affiliate to comply.  
  
  
  
  
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 IN WITNESS WHEREOF, the parties have duly executed this Agreement as of  
the Execution Date.  
  
 SANO CORPORATION  
  
 By: /s/Xxxxxxxx Xxxxx  
 -----------------------------------  
 (Signature)  
 Name: Xxxxxxxx Xxxxx  
 Title: President  
  
  
 PHARMACEUTICAL RESOURCES, INC.  
  
 By: /s/Xxxxxxx X. Xxxxxx  
 -----------------------------------   
 (Signature)  
 Name: Xxxxxxx X. Xxxxxx  
 Title:President and Chief Executive Officer  
  
  
 PAR PHARMACEUTICAL, INC.  
  
  
 By: /s/Xxxxxxx X. Xxxxxx  
 -----------------------------------   
 (Signature)  
 Name: Xxxxxxx X. Xxxxxx  
 Title:President and Chief Executive Officer  
  
  
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 CONFIDENTIAL INFORMATION OMITTED AND FILED SEPARATELY WITH THE  
 SECURITIES AND EXCHANGE COMMISSION  
 ASTERISKS DENOTE SUCH OMISSION  
  
 EXHIBIT A  
  
  
 LICENSED PRODUCTS  
  
Product A Sano FDA  
Drug Name ANDA# Filing Date Accepted Date  
  
Nitroglycerin Transdermal System [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
[\*\*\*\*]\*  
Nitroglycerin Transdermal System [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
[\*\*\*\*]\*  
Nitroglycerin Transdermal System [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
[\*\*\*\*]\*  
Nitroglycerin Transdermal System [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
[\*\*\*\*]\*  
Nitroglycerin Transdermal System [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
[\*\*\*\*]\*  
Nitroglycerin Transdermal System [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
[\*\*\*\*]\*  
\*Generically equivalent to such strengths in Nitro Dur(R).  
  
Product B Sano FDA  
Drug Name ANDA# Filing Date Accepted Date  
  
Nicotine Transdermal System 74-645 03/09/95 04/06/95  
7 mg/day\*  
Nicotine Transdermal System 74-611 01/20/95 04/06/95  
14 mg/day\*  
Nicotine Transdermal System 74-612 01/20/95 04/06/95  
21 mg/day\*  
\*Generically equivalent to such strengths in Habitrol(R).  
  
  
  
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 CONFIDENTIAL INFORMATION OMITTED AND FILED SEPARATELY WITH THE  
 SECURITIES AND EXCHANGE COMMISSION  
 ASTERISKS DENOTE SUCH OMISSION  
  
 EXHIBIT B  
  
 As used herein, the term "Net Sales" shall mean the gross amount  
invoiced for sales of Licensed Product(s) made by PRI or its Affiliates to  
independent third parties, reduced by the following to the extent that they are  
properly allocable to the quantity of Licensed Product(s) so sold: all trade,  
quantity and cash discounts allowed; credits or allowances actually granted on  
account of rejections; returns, billing errors and retroactive price reductions  
(including, without limitation, shelf stock adjustments); credits, rebates,  
chargeback rebates, fees, reimbursements or similar payments granted or given to  
wholesalers and other distributors, buying groups, health care insurance  
carriers, governmental agencies and other institutions in respect of the  
purchase price; freight, transportation, insurance or other delivery charges;  
and all taxes (except income taxes), tariffs, duties and other similar  
governmental charges paid by the seller on sales of the Licensed Product(s) and  
not reimbursed by the purchaser. "Gross Profit" shall mean (i) with respect to  
Product A, the difference between Net Sales for any amount of Product A and the  
price paid to SANO pursuant to Section 7.2 hereof with a good faith effort by  
SANO to reduce costs and (ii) with respect to Product B, the difference between  
Net Sales for any amount of Product B and the lesser of (a) the price paid to  
SANO pursuant to Section 7.2 hereof with a good faith effort by SANO to reduce  
the costs thereof or (b) [\*\*\*\*] per transdermal patch.  
  
 Product A. During the term of the Agreement, the Additional  
Consideration payable to SANO with respect to Product A shall be [\*\*\*\*] of Gross  
Profit. Payment of Additional Consideration is to be made in respect of the  
third preceding month, as set forth in Section 11.1.  
  
 The following illustrates payments to SANO under the foregoing formula,  
assuming that sales of Product A commenced in January 1998:  
  
  
  
 JAN. FEB. MARCH APRIL MAY JUNE JULY AUGUST SEPT. OCT. NOV. DEC.  
 1998 1998 1998 1998 1998 1998 1998 1998 1998 1998 1998 1998  
  
   
NET SALES [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
  
PRICE TO  
 PRI [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
 ------ ------ ------ ------ ------ ------ ------ ------ ------  
GROSS  
PROFIT [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
 ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------   
  
PAYMENT  
TO SANO [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
 ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------  
  
RETAINED  
BY Par [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
 ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------  
  
  
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 CONFIDENTIAL INFORMATION OMITTED AND FILED SEPARATELY WITH THE  
 SECURITIES AND EXCHANGE COMMISSION  
 ASTERISKS DENOTE SUCH OMISSION  
  
  
  
 Product B. During the term of the Agreement, the Additional  
Consideration payable to SANO with respect to Product B shall be[\*\*\*\*] of all  
Gross Profit commencing retroactively to January 1, 1998. Payment of Additional  
Consideration is to be made in respect of the third preceding month, as set  
forth in Section 11.1. The following illustrates payments to SANO under the  
foregoing formula, assuming that sales of Product B commenced in January 1998:  
  
  
  
 JAN. FEB. MARCH APRIL MAY JUNE JULY AUGUST SEPT. OCT. NOV. DEC.  
 1998 1998 1998 1998 1998 1998 1998 1998 1998 1998 1998 1998  
  
   
NET SALES [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
  
PRICE TO  
 PRI [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
 ------ ------ ------ ------ ------ ------ ------ ------ ------  
GROSS  
PROFIT [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
 ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------   
  
PAYMENT  
TO SANO [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
 ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------  
  
RETAINED  
BY Par [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*] [\*\*\*\*]  
 ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------ ------  
  
  
  
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 EXHIBIT C  
  
 [SALES SUMMARY FORM]  
  
  
  
  
  
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