UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2024

OR

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

For the transition period from to

Commission File Number: 001-35518

SUPERNUS PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

Delaware			**20-2590184**
(State or other jurisdiction of incorporation or organization)			(I.R.S. Employer Identification No.)
9715 Key West Avenue	**Rockville**	**MD**	**20850**
(Address of principal executive offices)			(Zip Code)

(301) 838-2500

(Registrant's telephone number, including area code)

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

☒ Yes No ☐

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

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. o

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

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

Title of each class	**Outstanding at July 30, 2024**	**Trading Symbol**	**Name of each exchange on which registered**
Common Stock, $0.001 par value per share	55,105,387	SUPN	The Nasdaq Global Market

SUPERNUS PHARMACEUTICALS, INC.
FORM 10-Q — QUARTERLY REPORT
FOR THE QUARTERLY PERIOD ENDED June 30, 2024

PART I — FINANCIAL INFORMATION

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Balance Sheets
(in thousands, except share data)

	June 30, 2024 (unaudited)	December 31, 2023
Assets		
Current assets		
Cash and cash equivalents	$ 52,089	$ 75,054
Marketable securities	295,098	179,820
Accounts receivable, net	152,494	144,155
Inventories, net	68,155	77,408
Prepaid expenses and other current assets	23,166	16,676
Total current assets	591,002	493,113
Long-term marketable securities	—	16,617
Property and equipment, net	12,274	13,530
Intangible assets, net	559,644	599,889
Goodwill	117,019	117,019
Other assets	35,890	37,505
Total assets	$ 1,315,829	$ 1,277,673
Liabilities and stockholders' equity		
Current liabilities		
Accounts payable and accrued liabilities	$ 82,611	$ 79,569
Accrued product returns and rebates	175,119	154,274
Contingent consideration, current portion	47,303	52,070
Other current liabilities	3,623	4,283
Total current liabilities	308,656	290,196
Contingent consideration, long-term	697	1,380
Operating lease liabilities, long-term	30,294	33,196
Deferred income tax liabilities, net	11,440	24,963
Other liabilities	7,288	6,422
Total liabilities	358,375	356,157
Commitments and contingencies (Note 15)		
Stockholders' equity		
Common stock, $ 0.001 par value; 130,000,000 shares authorized; 55,046,049 and 54,723,356 shares issued and outstanding as of June 30, 2024 and December 31, 2023, respectively	55	55
Additional paid-in capital	455,170	439,493
Accumulated other comprehensive loss, net of tax	(372)	(593)
Retained earnings	502,601	482,561
Total stockholders' equity	957,454	921,516
Total liabilities and stockholders' equity	$ 1,315,829	$ 1,277,673

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Statements of Earnings (Loss)
(in thousands, except share and per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(unaudited)		(unaudited)	
Revenues				
Net product sales	$ 162,538	$ 128,336	$ 300,999	$ 268,911
Royalty, licensing and other revenues	5,787	7,227	10,970	20,416
Total revenues	168,325	135,563	311,969	289,327
Costs and expenses				
Cost of goods sold [(a)]	17,916	21,091	34,225	44,551
Research and development	26,183	24,379	51,113	45,591
Selling, general and administrative	85,904	86,782	172,420	172,379
Amortization of intangible assets	20,108	20,108	40,245	40,074
Contingent consideration expense (gain)	(4,355)	790	(5,450)	(857)
Total costs and expenses	145,756	153,150	292,553	301,738
Operating earnings (loss)	22,569	(17,587)	19,416	(12,411)
Other income (expense)				
Interest and other income, net	3,733	1,370	7,129	6,716
Interest expense	—	(910)	—	(2,415)
Total other income (expense)	3,733	460	7,129	4,301
Earnings (loss) before income taxes	26,302	(17,127)	26,545	(8,110)
Income tax expense (benefit)	6,386	(16,296)	6,505	(24,227)
Net earnings (loss)	$ 19,916	$ (831)	$ 20,040	$ 16,117
Earnings (loss) per share				
Basic	$ 0.36	$ (0.02)	$ 0.37	$ 0.30
Diluted	$ 0.36	$ (0.02)	$ 0.36	$ 0.29
Weighted average shares outstanding				
Basic	54,978,781	54,502,993	54,890,265	54,442,463
Diluted	55,724,283	54,502,993	55,675,474	59,035,154

[(a)] Excludes amortization of acquired intangible assets

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Statements of Comprehensive Earnings (Loss)
(in thousands)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(unaudited)		(unaudited)	
Net earnings (loss)	$ 19,916	$ (831)	$ 20,040	$ 16,117
Other comprehensive gain				
Unrealized gain on marketable securities, net of tax	162	554	221	1,435
Other comprehensive gain	162	554	221	1,435
Comprehensive earnings (loss)	$ 20,078	$ (277)	$ 20,261	$ 17,552

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Statements of Changes in Stockholders' Equity
Six Months Ended June 30, 2024 and 2023
(unaudited, in thousands, except share data)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Earnings (Loss)	Retained Earnings	Total Stockholders' Equity
	Shares	Amount				
Balance, December 31, 2023	54,723,356	$ 55	$ 439,493	$ (593)	$ 482,561	$ 921,516
Share-based compensation expense related to employee stock purchase plan and share-based awards	—	—	5,897	—	—	5,897
Issuance of common stock related to employee stock purchase plan and share-based awards, net of taxes withheld	241,960	—	1,570	—	—	1,570
Net earnings	—	—	—	—	124	124
Unrealized gain on marketable securities, net of tax	—	—	—	59	—	59
Balance, March 31, 2024	54,965,316	55	446,960	(534)	482,685	929,166
Share-based compensation expense related to employee stock purchase plan and share-based awards	—	—	6,552	—	—	6,552
Issuance of common stock related to employee stock purchase plan and share-based awards, net of taxes withheld	80,733	—	1,658	—	—	1,658
Net earnings	—	—	—	—	19,916	19,916
Unrealized gain on marketable securities, net of tax	—	—	—	162	—	162
Balance, June 30, 2024	55,046,049	$ 55	$ 455,170	$ (372)	$ 502,601	$ 957,454

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Statements of Changes in Stockholders' Equity
Six Months Ended June 30, 2024 and 2023
(unaudited, in thousands, except share data)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Earnings (Loss)	Retained Earnings	Total Stockholders' Equity
	Shares	Amount				
Balance, December 31, 2022	54,253,796	$ 54	$ 408,115	$ (3,210)	$ 481,245	$ 886,204
Share-based compensation expense related to employee stock purchase plan and share-based awards	—	—	6,306	—	—	6,306
Issuance of common stock related to employee stock purchase plan and share-based awards, net of taxes withheld	216,826	—	1,811	—	—	1,811
Net earnings	—	—	—	—	16,948	16,948
Unrealized gain on marketable securities, net of tax	—	—	—	881	—	881
Balance, March 31, 2023	54,470,622	54	416,232	(2,329)	498,193	912,150
Share-based compensation expense related to employee stock purchase plan and share-based awards	—	—	6,088	—	—	6,088
Issuance of common stock related to employee stock purchase plan and share-based awards, net of taxes withheld	122,279	1	1,946	—	—	1,947
Net loss	—	—	—	—	(831)	(831)
Unrealized gain on marketable securities, net of tax	—	—	—	554	—	554
Balance, June 30, 2023	54,592,901	$ 55	$ 424,266	$ (1,775)	$ 497,362	$ 919,908

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Statements of Cash Flows
(in thousands)

	Six Months Ended June 30,	
	2024	2023
	(unaudited)	
Cash flows from operating activities		
Net earnings	$ 20,040	$ 16,117
Adjustments to reconcile net earnings to net cash provided by operating activities:		
Depreciation and amortization	41,467	41,326
Amortization of deferred financing costs and debt discount	—	532
Amortization of premium/discount on marketable securities	1,531	(917)
Change in fair value of contingent consideration	(5,450)	(857)
Other noncash adjustments, net	6,623	8,427
Share-based compensation expense	12,449	12,394
Deferred income tax benefit	(13,597)	(5,989)
Changes in operating assets and liabilities:		
Accounts receivable	(8,339)	26,364
Inventories	8,015	(5,830)
Prepaid expenses and other assets	(6,789)	(28,544)
Accrued product returns and rebates	20,845	(2,839)
Accounts payable and other liabilities	(2,770)	(29,932)
Net cash provided by operating activities	74,025	30,252
Cash flows from investing activities		
Purchases of marketable securities	(317,680)	—
Maturities of marketable securities	217,774	300,513
Purchases of property and equipment	(312)	(437)
Net cash provided by (used in) investing activities	(100,218)	300,076
Cash flows from financing activities		
Proceeds from Credit Line	—	93,000
Payments on Credit Line	—	(93,000)
Payment on convertible notes	—	(402,500)
Proceeds from issuance of common stock	4,569	4,778
Employee taxes paid related to net share settlement of equity awards	(1,341)	(1,020)
Net cash provided by (used in) financing activities	3,228	(398,742)
Net change in cash and cash equivalents	(22,965)	(68,414)
Cash and cash equivalents at beginning of year	75,054	93,120
Cash and cash equivalents at end of period	$ 52,089	$ 24,706
Supplemental cash flow information		
Cash paid for interest on debt	$ —	$ 1,946
Cash paid for income taxes	20,762	20,434
Cash paid for operating leases	8,138	8,709
Noncash operating activities		
Lease assets obtained for new operating leases	$ 3,525	$ 3,938

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Notes to Condensed Consolidated Financial Statements (unaudited)

1. Business Organization

Supernus Pharmaceuticals, Inc. (the Company, see Note 2, *Consolidation*) is a biopharmaceutical company focused on developing and commercializing products for the treatment of central nervous system (CNS) diseases. The Company's diverse neuroscience portfolio includes approved treatments for epilepsy, migraine, attention-deficit hyperactivity disorder (ADHD), hypomobility in Parkinson's Disease (PD), cervical dystonia, chronic sialorrhea, and dyskinesia in PD patients receiving levodopa-based therapy. The Company is developing a broad range of novel CNS product candidates including new potential treatments for hypomobility in PD, epilepsy, depression, and other CNS disorders.

The Company has seven commercial products that it markets: Qelbree®, GOCOVRI®, Oxtellar XR®, Trokendi XR®, APOKYN®, XADAGO®, and MYOBLOC®. In addition, SPN-830 (apomorphine infusion device) is a late-stage drug/device combination product candidate for the continuous treatment of motor fluctuations ("OFF" episodes) in PD patients that are not adequately controlled with oral levodopa and one or more adjunct PD medications.

In December 2023, the Company submitted to the U.S. Food and Drug Administration (FDA) a notification of discontinuance to withdraw Osmolex ER from distribution. Distribution of Osmolex ER ceased on April 1, 2024.

2. Summary of Significant Accounting Policies

Basis of Presentation

The Company's unaudited condensed consolidated financial statements have been prepared in accordance with the requirements of the U.S. Securities and Exchange Commission (SEC) for interim financial information. As permitted under Generally Accepted Accounting Principles in the United States (U.S. GAAP), certain notes and other information have been omitted from the interim unaudited condensed consolidated financial statements presented in this Quarterly Report on Form 10-Q. Therefore, these unaudited condensed consolidated financial statements should be read in conjunction with the Company's most recent Annual Report on Form 10-K, for the year ended December 31, 2023, filed with the SEC.

In management's opinion, the unaudited condensed consolidated financial statements include all normal and recurring adjustments necessary for a fair presentation of the Company's financial position, results of operations, and cash flows. The results of operations for any interim period are not necessarily indicative of the Company's future quarterly or annual results.

The Company, which is primarily located in the U.S., operates in one operating segment.

Reclassifications

The prior year amount related to the caption *Employee taxes paid related to net share settlement of equity awards* in the condensed consolidated statements of cash flows has been reclassified to conform to current year presentation. The reclassification did not affect the other condensed consolidated financial statements.

Consolidation

The Company's unaudited condensed consolidated financial statements include the accounts of Supernus Pharmaceuticals, Inc. and its wholly owned subsidiaries. These are collectively referred to herein as "Supernus" or "the Company." Supernus Pharmaceuticals, Inc. and each of its subsidiaries are distinct legal entities. All material intercompany transactions and balances have been eliminated in consolidation.

The unaudited condensed consolidated financial statements reflect the consolidation of entities in which the Company has a controlling financial interest. In determining whether there is a controlling financial interest, the Company considers if it has a majority of the voting interests of the entity, or if the entity is a variable interest entity (VIE) and if the Company is the primary beneficiary. In determining the primary beneficiary of a VIE, the Company evaluates whether it has both: the power to direct the activities of the VIE that most significantly impact the VIE's economic performance; and the obligation to absorb losses of, or the right to receive benefits from the VIE that could potentially be significant to that VIE. The Company's judgment with respect to its level of influence or control of an entity involves the consideration of various factors, including the form of an ownership interest; representation in the entity's governance; the size of the investment; estimates of future cash flows; the ability to participate in policymaking decisions; and the rights of the other investors to participate in the decision making process, including the right to liquidate the entity, if applicable. If the Company is not the primary beneficiary of the VIE, and an ownership interest is maintained in the entity, the interest is accounted for under the equity or cost methods of accounting, as appropriate.

The Company continuously assesses whether it is the primary beneficiary of a VIE as changes to existing relationships or future transactions may affect its conclusions.

Use of Estimates

The Company bases its estimates on: historical experience; forecasts; information received from its service providers; information from other sources, including public and proprietary sources; and other assumptions that the Company believes are reasonable under the circumstances. Actual results could differ materially from the Company's estimates. The Company periodically evaluates the methodologies employed in making its estimates.

Advertising Expense

Advertising expense includes the cost of promotional materials and activities, such as printed materials and digital marketing, marketing programs and speaker programs. The cost of the Company's advertising efforts is expensed as incurred.

The Company incurred approximately $ 23.5 million and $ 47.9 million in advertising expense for the three and six months ended June 30, 2024, respectively, and approximately $ 25.9 million and $ 51.8 million for the three and six months ended June 30, 2023. These expenses are recorded as a component of *Selling, general and administrative expenses* in the unaudited condensed consolidated statements of earnings (loss).

Recently Issued Accounting Pronouncements and Disclosure Rules

New Accounting Pronouncements Not Yet Adopted

Accounting Standards Update (ASU) 2023-07, *Improvements to Reportable Segment Disclosures (Topic 280)* - The new standard, issued in November 2023, improves reportable segment disclosure requirements, primarily through enhanced disclosures about significant segment expenses that are regularly provided to the chief operating decision maker. ASU 2023-07 also clarifies that entities with a single reportable segment are subject to both new and existing reporting requirements under Topic 280. The standard is effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024, on a retrospective basis, with early adoption permitted. The Company plans to adopt the guidance for the fiscal year ending December 31, 2024. The Company expects ASU 2023-07 to require additional disclosures in the notes to its consolidated financial statements. The Company is currently evaluating the effects the adoption of this guidance will have on the consolidated financial statements.

ASU 2023-09, *Improvements to Income Tax Disclosures* (Topic 740) - The new standard, issued in December 2023, requires entities to disclose additional information with respect to the effective tax rate reconciliation and to disclose the disaggregation by jurisdiction of income tax expense and income taxes paid. The standard is effective with annual periods beginning after December 15, 2024, with early adoption permitted. The standard is to be applied on a prospective basis, although optional retrospective application is permitted. The Company plans to adopt the guidance for the fiscal year ending December 31, 2025. The Company expects ASU 2023-09 to require additional disclosures in the notes to its consolidated financial statements. The Company is currently evaluating the effects the adoption of this guidance will have on the consolidated financial statements.

SEC Final Climate Rule

In March 2024, the U.S. Securities and Exchange Commission (SEC) adopted the final rule under SEC Release No. 33-11275, *The Enhancement and Standardization of Climate-Related Disclosures for Investors* (Final Rule). This rule will require registrants to disclose certain climate-related information in registration statements and annual reports with staggered compliance dates for large accelerated filers for the fiscal year beginning 2025 through 2033 for the various aspects of the Final Rule. On April 4, 2024, the SEC issued an order staying the Final Rule. The SEC's administrative stay is expected to remain in place until the completion of litigation filed in various federal courts challenging, among other things, the agency's authority to adopt the Final Rule. The Company is currently evaluating the final rule to determine its impact on the Company's disclosures.

3. Disaggregated Revenues

The following table summarizes the disaggregation of revenues by product (dollars in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(unaudited)		(unaudited)	
Net product sales				
Qelbree	$ 59,395	$ 30,977	$ 104,499	$ 56,759
GOCOVRI	31,703	28,751	58,265	54,761
Oxtellar XR	29,516	23,800	56,459	52,715
APOKYN	17,295	17,605	33,944	34,814
Trokendi XR	17,086	19,319	33,075	54,109
Other[1]	7,543	7,884	14,757	15,753
Total net product sales	162,538	128,336	300,999	268,911
Royalty, licensing and other revenues	5,787	7,227	10,970	20,416
Total revenues	$ 168,325	$ 135,563	$ 311,969	$ 289,327

[1] Includes net product sales of MYOBLOC, XADAGO and Osmolex ER.

The Company recognized noncash royalty revenue of $ 1.7 million and $ 4.0 million for the three and six months ended June 30, 2023, respectively. The Company no longer recognizes noncash royalty revenue as ownership of the royalty rights reverted back to the Company during the second quarter of 2023.

4. Investments

Marketable Securities

Unrestricted available-for-sale marketable securities held by the Company are as follows (dollars in thousands):

	June 30, 2024	December 31, 2023
	(unaudited)	
Corporate, U.S. government agency and municipal debt securities		
Amortized cost	$ 295,528	$ 197,153
Gross unrealized gains	1	5
Gross unrealized losses	(431)	(721)
Total fair value	$ 295,098	$ 196,437

The contractual maturities of the unrestricted available-for-sale marketable securities held by the Company are as follows (dollars in thousands):

	June 30, 2024
	(unaudited)
Less than 1 year	$ 295,098

As of June 30, 2024, there was no impairment due to credit loss on any available-for-sale marketable securities.

5. Fair Value of Financial Instruments

The fair value of an asset or liability represents the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between unrelated market participants.

The Company reports the fair value of assets and liabilities using a three level measurement hierarchy that prioritizes the inputs used to measure fair value. Fair value hierarchy consists of the following three levels:

- Level 1—Valuations based on unadjusted quoted prices in active markets that are accessible at measurement date for identical assets.
- Level 2—Valuations based on quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active and model-based valuations in which all significant inputs are observable in the market, either directly or indirectly (e.g., interest rates; yield curves).
- Level 3—Valuations using significant inputs that are unobservable in the market and inputs that reflect the Company's own assumptions. These are based on the best information available, including the Company's own data.

Financial Assets and Liabilities Recorded at Fair Value

The Company's financial assets and liabilities that are required to be measured at fair value on a recurring basis are as follows (dollars in thousands):

		Fair Value Measurements as of June 30, 2024 (unaudited)		
	Total Fair Value as of June 30, 2024	Level 1	Level 2	Level 3
Assets:				
Cash and cash equivalents				
Cash	$ 27,111	$ 27,111	$ —	$ —
Money market funds	24,978	24,978	—	—
Marketable securities				
Corporate, U.S. government agency and municipal debt securities	295,098	—	295,098	—
Other noncurrent assets				
Marketable securities - restricted (SERP)	596	17	579	—
Total assets at fair value	$ 347,783	$ 52,106	$ 295,677	$ —
Liabilities:				
Contingent consideration	$ 48,000	$ —	$ —	$ 48,000
Total liabilities at fair value	$ 48,000	$ —	$ —	$ 48,000

		Fair Value Measurements as of December 31, 2023		
	Total Fair Value as of December 31, 2023	Level 1	Level 2	Level 3
Assets:				
Cash and cash equivalents				
Cash	$ 35,957	$ 35,957	$ —	$ —
Money market funds	39,097	39,097	—	—
Marketable securities				
Corporate, U.S. government agency and municipal debt securities	179,820	—	179,820	—
Long-term marketable securities				
Corporate and municipal debt securities	16,617	—	16,617	—
Other noncurrent assets				
Marketable securities - restricted (SERP)	568	16	552	—
Total assets at fair value	$ 272,059	$ 75,070	$ 196,989	$ —
Liabilities:				
Contingent consideration	$ 53,450	$ —	$ —	$ 53,450
Total liabilities at fair value	$ 53,450	$ —	$ —	$ 53,450

The fair value of restricted marketable securities is recorded in *Other assets* on the condensed consolidated balance sheets. There have been no transfers of assets or liabilities into or out of Level 3 of the fair value hierarchy.

Other Financial Instruments

The carrying amounts of other financial instruments, including accounts receivable, accounts payable, and accrued expenses approximate fair value due to their short-term maturities.

6. Contingent Consideration

The following table provides the current and long-term portions related to the contingent consideration for the USWM Acquisition and Adamas Acquisition (as defined below) (dollars in thousands):

	June 30, 2024	December 31, 2023
Reported under the following captions in the condensed consolidated balance sheets:	(unaudited)	
Contingent consideration, current portion	$ 47,303	$ 52,070
Contingent consideration, long-term	697	1,380
Total	$ 48,000	$ 53,450

The Company's contingent consideration liabilities are related to the USWM Acquisition in 2020 and the Adamas Acquisition in 2021. The contingent consideration liabilities are measured at fair value using either a Monte Carlo simulation or the income approach. The Company classifies its contingent consideration liabilities as Level 3 fair value measurements based on the significant unobservable inputs used to estimate fair value. These reflect the inputs and assumptions the Company believes would be made by market participants. Changes in any of those inputs together or in isolation may result in significantly lower or higher fair value measurement. The change in fair value is reported on the condensed consolidated statement of earnings (loss) in *Contingent consideration expense (gain)*.

USWM Contingent Consideration

On June 9, 2020 (the USWM Closing Date), the Company completed its acquisition of all the outstanding equity of USWM Enterprises, LLC (USWM Enterprises) (USWM Acquisition). The USWM Acquisition included potential additional contingent consideration payments for regulatory and development milestones and sales-based milestones. As of June 30, 2024, the remaining potential contingent consideration payments are up to $ 55 million in regulatory and development milestones comprised of (1) $ 25 million related to the FDA's approval of the SPN-830 New Drug Application (NDA) and (2) $ 30 million related to the subsequent commercial product launch.

The key assumptions considered in estimating the fair value include the estimated probability and timing of milestone achievement, such as the probability and timing of obtaining regulatory approval, timing of projected revenues, and the discount rate.

Adamas Contingent Consideration

On November 24, 2021 (the Adamas Closing Date), the Company completed its acquisition of all the outstanding equity of Adamas (Adamas Acquisition). The Adamas Acquisition included payment of two non-tradable contingent value rights (CVRs) each of which represents the contractual right to receive a contingent payment upon the achievement of the applicable aggregate worldwide net product sales of GOCOVRI.

Each CVR represents the contractual right to receive a contingent payment of $ 0.50 per share in cash, less any applicable withholding taxes and without interest, upon the achievement of the applicable milestone (each such amount, a Milestone Payment) in accordance with the terms of a Contingent Value Rights Agreement entered into between the Company and American Stock Transfer & Trust Company, LLC, as rights agent, as further defined in the CVR agreement. One Milestone Payment is payable (subject to certain terms and conditions) upon the first occurrence of the achievement of aggregate worldwide net sales of GOCOVRI in excess of $ 150 million during any consecutive 12-month period ending on or before December 31, 2024 (Milestone 2024). Another Milestone Payment is payable (subject to certain terms and conditions) upon the first occurrence of the achievement of aggregate worldwide net sales of GOCOVRI in excess of $ 225 million during any consecutive 12-month period ending on or before December 31, 2025 (Milestone 2025 and, together with Milestone 2024, the Milestones). Each Milestone may only be achieved once. The possible outcomes for the contingent consideration range from $ 0 to $ 50.9 million on an undiscounted basis.

The key assumptions considered in estimating the fair value of the Adamas sales-based milestones include the estimated revenue projections, volatility, estimated discount rates and risk-free interest rate.

Change in the Fair Value of Contingent Consideration

The following tables provide a reconciliation of the beginning and ending balances related to the contingent consideration for the USWM Acquisition and Adamas Acquisition (dollars in thousands):

	USWM Acquisition	Adamas Acquisition	Total
Balance at December 31, 2023	$ 46,400	$ 7,050	$ 53,450
Change in fair value recognized in earnings	(1,170)	(4,280)	(5,450)
Balance at June 30, 2024 (unaudited)	$ 45,230	$ 2,770	$ 48,000

	USWM Acquisition	Adamas Acquisition	Total
Balance at December 31, 2022	$ 46,270	$ 8,697	$ 54,967
Change in fair value recognized in earnings	(1,050)	193	(857)
Balance at June 30, 2023 (unaudited)	$ 45,220	$ 8,890	$ 54,110

The Company recorded the following changes in fair value of the contingent consideration liability for the USWM milestones:

- The Company recorded a $ 1.9 million gain and a $ 1.2 million gain due to the change in fair value of contingent consideration liabilities for the USWM milestones for the three and six months ended June 30, 2024, respectively. The change in fair value of contingent consideration for the USWM milestones was primarily due to the change in timing of milestone achievement and estimated discount rate in the second quarter of 2024 and passage of time in both periods.

- The Company recorded a $ 0.7 million expense and a $ 1.1 million gain due to the change in the fair value of the contingent consideration liabilities for the USWM milestones for the three and six months ended June 30, 2023, respectively. The change in the fair value of contingent consideration for the USWM milestones was primarily driven by the change in estimated fair value of regulatory and developmental milestones due to passage of time in both periods, as well as the change in timing of milestone achievement and estimated discount rate in the first quarter of 2023.

The Company recorded the following changes in fair value of the contingent consideration liabilities for the Adamas CVRs:

- The Company recorded a $ 2.5 million gain and a $ 4.3 million gain due to the change in fair value of the contingent consideration liabilities for the Adamas CVRs for the three and six months ended June 30, 2024, respectively. The change in fair value of contingent consideration was primarily due to passage of time.

- The Company recorded a $ 0.1 million expense and a $ 0.2 million expense due to the change in fair value of the contingent consideration liabilities for the Adamas CVRs for the three and six months ended June 30, 2023, respectively. The change in fair value of contingent consideration for the Adamas milestones was primarily due to passage of time and changes in the estimated discount rate.

7. Intangibles Assets, Net

The following table sets forth the gross carrying amounts and related accumulated amortization of intangibles assets (dollars in thousands):

		June 30, 2024 (unaudited)			December 31, 2023		
	Remaining Weighted Average Life (Years)	Carrying Amount, Gross	Accumulated Amortization	Carrying Amount, Net	Carrying Amount, Gross	Accumulated Amortization	Carrying Amount, Net
Acquired in-process research and development		$ 124,000	$ —	$ 124,000	$ 124,000	$ —	$ 124,000
Intangible assets subject to amortization:							
Acquired developed technology and product rights	6.38	661,311	(226,911)	434,400	661,311	(190,395)	470,916
Capitalized patent defense costs	0.17	43,820	(42,576)	1,244	43,820	(38,847)	4,973
Total intangible assets	6.36	$ 829,131	$ (269,487)	$ 559,644	$ 829,131	$ (229,242)	$ 599,889

Amortization expense for intangible assets was $ 20.1 million and $ 40.2 million for the three and six months ended June 30, 2024, and $ 20.1 million and $ 40.1 million for the three and six months ended June 30, 2023, respectively.

U.S. patents covering Trokendi XR and Oxtellar XR will expire no earlier than 2027. The Company entered into settlement agreements that allowed third parties to enter the Trokendi XR market on January 1, 2023. The Company entered into settlement and license agreements that allows a third party to enter the Oxtellar XR market in September 2024, or sooner under certain conditions.

The Company entered into settlement and license agreements that allows third parties to enter the XADAGO market in December 2027, or sooner under certain conditions.

8. Debt

Uncommitted Demand Secured Line of Credit

On February 8, 2023, the Company entered into a credit line agreement with UBS (the Credit Line). The Credit Line provides for a revolving line of credit of up to $ 150 million, which can be drawn at any time. Any fixed rate borrowing will bear interest at a fixed interest rate, equal to the sum of (i) the UBS Fixed Funding Rate (as defined in the Credit Line) plus (ii) the applicable Percentage Spread established in the Credit Line. Any variable rate borrowing will bear interest at a variable interest rate, equal to the sum of (i) the UBS Variable Rate (as defined in the Credit Line) plus (ii) the applicable Percentage Spread established in the Credit Line.

The Credit Line is secured by a first priority lien and security interest in certain of the Company's assets, including each account of the Company at UBS Financial Services Inc. (the Collateral Account), and other such collateral (collectively, the Collateral), as further defined in the Credit Line. The Company may be required to post additional collateral if the value of the Collateral declines below the required collateral maintenance requirements.

Upon certain customary events of default, all amounts due under the Credit Line will become immediately due and payable without demand, and UBS has the right, in its discretion, to liquidate, transfer, withdraw or sell all or any part of the Collateral and apply the proceeds to repay any borrowings pursuant to the Credit Line.

The Company has the right to repay any variable rate advance under the Credit Line at any time, in whole or in part, without penalty. The Company may repay any fixed rate advance in whole, but may not repay any fixed rate advance in part. In its discretion and without cause, UBS has the right at any time to demand full or partial payment of amounts borrowed pursuant to the Credit Line and terminate the Credit Line.

On March 30, 2023, the Company borrowed $ 93.0 million under the Credit Line, which bore a variable interest rate. The funds from this borrowing were used to repay outstanding indebtedness under the 0.625 % Convertible Senior Notes Due 2023 (2023 Notes). In the second quarter of 2023, the Company repaid the total principal balance of $ 93.0 million under the Credit

Line and the interest incurred on the Credit Line of $ 0.7 million. As of June 30, 2024, there was no outstanding debt under the Credit Line.

9. Share-Based Payments

Equity Incentive Plan

On June 14, 2024, the Company's shareholders approved and the Company has adopted the Amended and Restated 2021 Equity Incentive Plan (the Amended 2021 Plan) to increase the number of shares of the Company's common stock available for issuance under the 2021 Plan by 4,000,000 .

Share-based compensation expense is as follows (dollars in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(unaudited)		(unaudited)	
Research and development	$ 1,231	$ 1,246	$ 2,596	$ 2,204
Selling, general and administrative	5,321	4,842	9,853	10,190
Total	$ 6,552	$ 6,088	$ 12,449	$ 12,394

Stock Option and Stock Appreciation Rights

The following table summarizes stock option and stock appreciation rights (SAR) activities:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (in years)
Outstanding, December 31, 2023	6,583,822	$ 29.20	5.90
Granted	1,149,012	$ 28.02	
Exercised	(176,255)	$ 19.01	
Forfeited	(146,322)	$ 29.34	
Outstanding, June 30, 2024 (unaudited)	7,410,257	$ 29.25	5.99
As of June 30, 2024 (unaudited):			
Vested and expected to vest	7,410,257	$ 29.25	5.99
Exercisable	4,725,409	$ 27.87	4.42
As of December 31, 2023:			
Vested and expected to vest	6,583,822	$ 29.20	5.90
Exercisable	4,110,537	$ 26.58	4.43

Restricted Stock Units

The following table summarizes restricted stock unit (RSU) activities:

	Number of RSUs	Weighted Average Grant Date Fair Value per Share
Nonvested, December 31, 2023	300,141	$ 36.90
Granted	198,414	$ 28.06
Vested	(100,891)	$ 36.51
Forfeited	(14,312)	$ 34.64
Nonvested, June 30, 2024 (unaudited)	383,352	$ 32.51

Performance Share Units

The following table summarizes performance share unit (PSU) activities:

	Performance-Based Units		Market-Based Units		Total PSUs	
	Number of PSUs	Weighted Average Grant Date Fair Value per Share	Number of PSUs	Weighted Average Grant Date Fair Value per Share	Number of PSUs	Weighted Average Grant Date Fair Value per Share
Nonvested, December 31, 2023	251,630	$ 32.22	20,000	$ 28.63	271,630	$ 31.96
Granted	252,700	$ 26.91	—	$ —	252,700	$ 26.91
Vested	(39,080)	$ 33.47	—	$ —	(39,080)	$ 33.47
Forfeited	(58,050)	$ 29.37	—	$ —	(58,050)	$ 29.37
Nonvested, June 30, 2024 (unaudited)	407,200	$ 29.21	20,000	$ 28.63	427,200	$ 29.19

10. Earnings (Loss) per Share

The following table sets forth the computation of basic and diluted earnings (loss) per share for the three and six months ended June 30, 2024 and 2023 (dollars in thousands, except share and per share amounts):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(unaudited)		(unaudited)	
Numerator:				
Net earnings (loss)	$ 19,916	$ (831)	$ 20,040	$ 16,117
After-tax interest expense for 2023 Notes	—	—	—	892
Numerator for dilutive earnings (loss) per share	$ 19,916	$ (831)	$ 20,040	$ 17,009
Denominator:				
Weighted average shares outstanding, basic	54,978,781	54,502,993	54,890,265	54,442,463
Effect of dilutive securities:				
Stock options, RSUs and SARs	745,502	—	785,209	1,181,983
Convertible notes	—	—	—	3,410,708
Weighted average shares outstanding, diluted	55,724,283	54,502,993	55,675,474	59,035,154
Earnings (loss) per share, basic	$ 0.36	$ (0.02)	$ 0.37	$ 0.30
Earnings (loss) per share, diluted	$ 0.36	$ (0.02)	$ 0.36	$ 0.29

The following table sets forth the common stock equivalents of outstanding stock-based awards and shares associated with the conversion of the 2023 Notes excluded in the calculation of diluted earnings (loss) per share, because their inclusion would be anti-dilutive:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(unaudited)		(unaudited)	
2023 Notes	—	74,549	—	—
Stock options, RSUs, PSUs	971,683	537,762	799,798	482,447

11. Income Tax Expense (Benefit)

The following table provides information regarding the Company's income tax expense (benefit) for the three and six months ended June 30, 2024 and 2023 (dollars in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(unaudited)		(unaudited)	
Income tax expense (benefit)	$ 6,386	$ (16,296)	$ 6,505	$ (24,227)
Effective tax rate	24.3 %	95.1 %	24.5 %	298.7 %

Income tax expense was $ 6.4 million and $ 6.5 million for the three and six months ended June 30, 2024, as compared to an income tax benefit of $ 16.3 million and $ 24.2 million for the three and six months ended June 30, 2023. The change in both periods was primarily due to increased pre-tax income for the three and six months ended June 30, 2024 as compared to the same period in 2023. The effective tax rate for the three and six months ended June 30, 2024 was lower compared to the same period in 2023 primarily due to an increase in pre-tax income forecasted for the full year 2024 and the near break-even pre-tax losses forecast in 2023. The annual forecasted earnings represent the Company's best estimate as of June 30, 2024 and 2023, are subject to change and could have a material impact on the effective tax rate in subsequent periods. Accounting Standard Codification 740, *Income Taxes* (ASC 740), requires the Company to estimate the annual effective income tax rate for the full year and apply it to pre-tax income (loss) for each interim period, taking into account year-to-date amounts and projected results for the full year.

12. Leases

Operating lease assets and lease liabilities as reported on the condensed consolidated balance sheets are as follows (dollars in thousands):

	Balance Sheet Classification	June 30, 2024	December 31, 2023
		(unaudited)	
Assets			
Operating lease assets	Other assets	$ 27,766	$ 28,994
Total lease assets		$ 27,766	$ 28,994
Liabilities			
Operating lease liabilities, current portion	Accounts payable and accrued liabilities	$ 9,683	$ 8,331
Operating lease liabilities, long-term	Operating lease liabilities, long-term	30,294	33,196
Total lease liabilities		$ 39,977	$ 41,527

13. Composition of Other Balance Sheet Items

The following details the composition of other balance sheet items (dollars in thousands for amounts in tables):

Inventories, Net

	June 30, 2024	December 31, 2023
	(unaudited)	
Raw materials	$ 15,899	$ 16,274
Work in process	23,590	31,212
Finished goods	28,666	29,922
Total	$ 68,155	$ 77,408

Property and Equipment, Net

	June 30, 2024	December 31, 2023
	(unaudited)	
Lab equipment and furniture	$ 13,035	$ 13,069
Leasehold improvements	14,023	14,023
Software	883	883
Computer equipment	960	960
	28,901	28,935
Less accumulated depreciation and amortization	(16,627)	(15,405)
Property and equipment, net	$ 12,274	$ 13,530

Depreciation and amortization expense on property and equipment was approximately $ 0.6 million and $ 1.2 million for the three and six months ended June 30, 2024, and $ 0.6 million and $ 1.3 million for the three and six months ended June 30, 2023, respectively.

Accounts Payable and Accrued Liabilities

	June 30, 2024	December 31, 2023
	(unaudited)	
Accounts payable	$ 4,628	$ 1,964
Accrued compensation, benefits, & related accruals	17,039	20,722
Accrued sales & marketing	16,444	11,666
Accrued manufacturing expenses	8,745	11,652
Accrued R&D expenses	9,847	10,530
Operating lease liabilities, current portion [1]	9,683	8,331
Accrued royalties [2]	6,861	7,918
Other accrued expenses	9,364	6,786
Total	$ 82,611	$ 79,569

[1] Refer to Note 12, *Leases*.
[2] Refer to Note 15, *Commitments and Contingencies.*

Accrued Product Returns and Rebates

	June 30, 2024	December 31, 2023
	(unaudited)	
Accrued product rebates	$ 116,582	$ 96,984
Accrued product returns	58,537	57,290
Total	$ 175,119	$ 154,274

14. Interest Expense

The following details the composition of interest expense (dollars in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(unaudited)		(unaudited)	
Interest expense	$ —	$ (665)	$ —	$ (1,321)
Interest expense on nonrecourse liability related to sale of future royalties	—	(245)	—	(562)
Noncash interest expense on debt	—	—	—	(532)
Total	$ —	$ (910)	$ —	$ (2,415)

Noncash interest expense on debt is related to amortization of deferred financing costs on the 2023 Notes. The Company fully amortized the deferred financing costs on the 2023 Notes in the first quarter of 2023.

15. Commitments and Contingencies

Product Licenses

The Company has obtained exclusive licenses from third parties for proprietary rights to support the product candidates in the Company's CNS portfolio. Under these license agreements, the Company may be required to pay certain amounts upon the achievement of defined milestones. If these products are ultimately commercialized, the Company is also obligated to pay royalties to third parties, computed as a percentage of net product sales, for each respective product under a license agreement.

Through the USWM Acquisition, the Company acquired licensing agreements with other pharmaceutical companies for APOKYN, XADAGO, and MYOBLOC. The Company is obligated to pay royalties to third parties, computed as a percentage of net product sales, for each of the products under the respective license agreements. The royalty expense incurred for these acquired products is recognized as *Cost of goods sold* in the condensed consolidated statements of earnings (loss).

Navitor Development Agreement

In April 2020, the Company entered into a development agreement (Development Agreement) with Navitor Pharmaceuticals, Inc. (Navitor Inc.). The Company can terminate the Development Agreement upon 30 days' notice. Under the terms of the Development Agreement, the Company and Navitor Inc. will jointly conduct a Phase II clinical program for NV-5138 (SPN-820) for treatment-resistant depression. The Company agreed to bear certain Phase I and Phase II development costs incurred by either party, up to a maximum of $ 50 million, which amount could be increased under the terms of the Development Agreement upon Navitor's request and the Company's consent. In 2020, the Company paid a one-time, nonrefundable, and non-creditable fee of $ 10 million for the option to acquire or license NV-5138 (SPN-820) and made a $ 15 million equity investment representing approximately 13 % ownership in Navitor Inc. There are also certain additional payments which could be incurred by the Company that are contingent upon Navitor Inc. achieving defined milestones. These payments include an additional license or acquisition fee depending on whether the Company ultimately licenses or acquires NV-5138 (SPN-820), and subsequent clinical, regulatory and sales milestone payments. The total payments, exclusive of the royalty payments on net sales of NV-5138 (SPN-820) and development costs paid by the Company under the agreement, have the potential to reach $ 410 million to $ 475 million, which includes an aggregate upfront payment of $ 25 million paid in 2020 for the option to acquire or license NV-5138 (SPN-820) and the equity investment, an additional license or acquisition fee depending on whether the Company ultimately licenses or acquires NV-5138 (SPN-820), and subsequent clinical, regulatory and sales based milestone payments. The Company also will have the first right of refusal for any compound with a similar mechanism of action to NV-5138 (SPN-820) on mTORC1 in the central nervous system.

In addition to entering into the Development Agreement in April 2020, as above mentioned, the Company acquired Series D Preferred Shares of Navitor Inc. (the Navitor Shares), an equity investment representing an approximately 13 % ownership position in Navitor Inc. As part of a legal restructuring in March 2021, the Company's Navitor Inc. Shares were exchanged for membership interests in Navitor Pharmaceutics LLC (Navitor LLC), which became the sole shareholder of Navitor Inc. The Company has determined that although Navitor LLC is a VIE, the Company does not consolidate the results of this VIE into its financial results because the Company lacks the power to direct the activities that most significantly impact Navitor's economic performance.

In the second quarter of 2024, the Company consented to payment of additional Phase II development costs for NV-5138 (SPN-820) as they are incurred, but reserves the right to terminate payment of future development costs at its discretion.

The maximum exposure to losses related to Navitor LLC includes the approximately $ 50 million for Phase I and Phase II development of NV-5138 (SPN-820) already paid by the Company, plus the cost of other development and formulation activities provided by the Company and additional Phase II development costs the Company agreed to pay pursuant to the Development Agreement.

Subsequent to the Development Agreement entered into in 2020, no additional equity investment has been made or financing has been provided to Navitor Inc. or Navitor LLC.

USWM Enterprise Commitments Assumed

As part of the USWM Acquisition, the Company assumed the remaining commitments of USWM Enterprises and its subsidiaries, which are discussed below.

The Company assumed the annual minimum purchase requirement of MYOBLOC, amounting to an estimated € 3.9 million annually, under the contract manufacturing agreement with Merz for manufacture and supply.

MDD US Operations, LLC (formerly US WorldMeds, LLC) and its subsidiary, Solstice Neurosciences, LLC (US) (collectively, the MDD Subsidiaries) entered into a Corporate Integrity Agreement (CIA) with the Office of Inspector General of the U.S. Department of Health and Human Services which was effective in April 2019. Under the CIA, the MDD Subsidiaries agreed to and paid $ 17.5 million to resolve U.S. Department of Justice allegations that it violated the False Claims Act and committed to the establishment and ongoing maintenance of an effective compliance program. The fine was paid by the MDD Subsidiaries prior to closing of the USWM Acquisition. As part of the USWM Acquisition, the Company assumed the obligations of the CIA and could become liable for payment of certain stipulated monetary penalties in the event of any CIA violations. In addition, the Company continues to maintain a broad array of processes, policies and procedures necessary to comply with the CIA and submitted its final report during the second quarter of 2024.

Claims and Litigation

From time to time, the Company may be involved in various claims, litigation and legal proceedings. These matters may involve patent litigation, product liability and other product-related litigation, commercial and other matters, and government investigations, among others. On a quarterly basis, the Company reviews the status of each significant matter and assesses its potential financial exposure. If the potential loss from any claim, asserted or unasserted, or legal proceeding is considered probable and the amount can be reasonably estimated, the Company will accrue a liability for the estimated loss. Because of uncertainties related to claims, legal proceedings and litigation, accruals will be based on the Company's best estimates based on available information. The Company does not believe that any of these matters will have a material adverse effect on our financial position. The Company may reassess the potential liability related to these matters and may revise these estimates. The process of resolving matters through litigation or other means is inherently uncertain and it is possible that an unfavorable resolution of these matters will adversely affect the Company, its results of operations, financial condition and cash flows.

NAMENDA XR/Namzaric Qui Tam Litigation

On April 1, 2019, Adamas was served with a complaint filed in the United States District Court for the Northern District of California (the District Court) (Case No. 3:18-cv-03018-JCS) against it and several Allergan entities alleging violations of federal and state false claims acts (FCA) in connection with the commercialization of NAMENDA XR and Namzaric by Allergan. The lawsuit is a *qui tam* complaint brought by an individual, asserting rights of the federal government and various state governments. The lawsuit was originally filed in May 2018 under seal, and Adamas became aware of the lawsuit when it was served. The complaint alleges that patents held by Allergan and Adamas covering NAMENDA XR and Namzaric were procured through fraud on the United States Patent and Trademark Office and that these patents were asserted against potential generic manufacturers of NAMENDA XR and Namzaric to prevent the generic manufacturers from entering the market, thereby wrongfully excluding generic competition resulting in artificially high price being charged to government payors. Adamas' patents in question were licensed exclusively to Forest Laboratories Holdings Limited. The complaint includes a claim for damages of "potentially more than $ 2.5 billion dollars," treble damages and statutory penalties. To date the federal and state governments have declined to intervene in this action. This case is currently stayed pending Adamas's and Allergan's interlocutory appeal of the District Court's December 11, 2020 order denying Adamas's and Allergan's motion to dismiss the complaint. The appeal is pending in the United States Court of Appeals for the Ninth Circuit (Case No. 21-80005). Argument was held on January 10, 2022. On August 25, 2022, the Ninth Circuit sided with the defendants by reversing the District Court's public disclosure bar rulings and remanding the case back to the District Court to decide certain issues in the first instance. On October 11, 2022, the plaintiff filed a petition for rehearing with the Ninth Circuit which was denied on November 3, 2022. On December 23, 2022, the

defendants filed renewed motions to dismiss directed to the remaining unresolved issue. On March 20, 2023, the District Court entered an order and final judgement dismissing with prejudice the FCA claim while declining to exercise supplemental jurisdiction over the state false claims act claims which were dismissed without prejudice. On April 19, 2023, the plaintiff appealed the District Court's dismissal of the Federal False Claims Act claim. On February 20, 2024, the plaintiff filed a motion for an indicative ruling and to set aside the judgment in the District Court, based on the same arguments raised in his appeal. That motion was fully briefed and the District Court determined that the motion for an indicative ruling was suitable for determination without a hearing. On May 7, 2024, the District Court denied the plaintiff's motion for an indicative ruling. The plaintiff's appeal remains pending in the United States Court of Appeals for the Ninth Circuit.

APOKYN Litigation

On October 3, 2022, Sage Chemical, Inc. and TruPharma, LLC filed a lawsuit in the United States District Court for the District of Delaware (Case No.22-cv-1302) alleging that Supernus Pharmaceuticals, Inc., Britannia Pharmaceuticals Limited, and US WorldMeds Partners, LLC violated state and federal antitrust law in connection with APOKYN. On January 10, 2023, the Company filed motions to dismiss all claims and the lawsuit in its entirety. Between May 9, 2024 and June 4, 2024, the Court ruled on all motions to dismiss, declining to dismiss any claims against the Company, its subsidiaries, or Britannia Pharmaceuticals Limited and dismissing US WorldMeds Partners, LLC, USWM, LLC, and all of the individual defendants (former US WorldMeds executives) out of the case completely. On June 13, 2024, the Court issued a scheduling order that provides for a pretrial conference on September 12, 2025 and a jury trial beginning on September 22, 2025. Pre-trial discovery is ongoing as of the date of this filing. The Company intends to defend itself vigorously. However, the Company can offer no assurances that it will be successful in a litigation.

16. Subsequent Events

In August 2024, the Company resubmitted its NDA for SPN-830, apomorphine infusion device for the continuous treatment of motor fluctuations ("OFF" episodes) in Parkinson's disease.

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

Management's Discussion and Analysis of Financial Condition and Results of Operations is intended to help the reader understand the results of operations and the financial condition of Supernus Pharmaceuticals, Inc. The interim condensed consolidated financial statements included in this report and this Management's Discussion and Analysis of Financial Condition and Results of Operations should be read in conjunction with our audited consolidated financial statements and notes thereto for the year ended December 31, 2023 and the related Management's Discussion and Analysis of Financial Condition and Results of Operations, both of which are contained in our Annual Report on Form 10-K, filed with the Securities and Exchange Commission on February 27, 2024.

In addition to historical information, this Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, which are intended to be covered by the safe harbors created thereby. These forward-looking statements may include declarations regarding the Company's belief or current expectations of management, such as statements including the words "budgeted," "anticipate," "project," "forecast," "estimate," "expect," "may," "believe," "potential," and similar statements or expressions, which are intended to be among the statements that are forward-looking statements, as such statements reflect the reality of risk and uncertainty that is inherent in our business. Actual results may differ materially from those expressed or implied by such forward-looking statements. Readers are cautioned not to place undue reliance on these forward-looking statements, which are made as of the date this report was filed with the Securities and Exchange Commission. Our actual results and the timing of events could differ materially from those discussed in our forward-looking statements because of many factors, including those set forth under the "Risk Factors" section of our Annual Report on Form 10-K and elsewhere in this report as well as in other reports and documents we file with the Securities and Exchange Commission from time to time. Except as required by law, we undertake no obligation to update any forward-looking statements to reflect events or circumstances occurring after the date of this Quarterly Report on Form 10-Q.

Unless the content requires otherwise, the words "Supernus," "we," "our" and "the Company" refer to Supernus Pharmaceuticals, Inc. and/or one or more of its subsidiaries, as the case may be. These terms are used solely for the convenience of the reader. Supernus Pharmaceuticals, Inc. and each of its subsidiaries are distinct legal entities. For example, MDD US Operations, LLC, a wholly-owned indirect subsidiary of Supernus Pharmaceuticals, Inc., is the exclusive licensee and distributor of APOKYN in the United States and its territories. Adamas Operations, LLC, a wholly-owned indirect subsidiary of Supernus Pharmaceuticals, Inc., wholly owns the patents and patent applications related to GOCOVRI and Osmolex ER and has a license agreement with Supernus Pharmaceuticals, Inc., granting Supernus Pharmaceuticals, Inc. rights to market and sell GOCOVRI and Osmolex ER.

Solely for convenience, in this Quarterly Report on Form 10-Q, the trade names are referred to without the TM symbols and the trademark registrations are referred to without the circled R, but such references should not be construed as any indicator that the Company will not assert, to the fullest extent under applicable law, our rights thereto.

Overview

We are a biopharmaceutical company focused on developing and commercializing products for the treatment of central nervous system (CNS) diseases. Our diverse neuroscience portfolio includes approved treatments for epilepsy, migraine, attention-deficit hyperactivity disorder (ADHD), hypomobility in Parkinson's Disease (PD), cervical dystonia, chronic sialorrhea, and dyskinesia in PD patients receiving levodopa-based therapy. We are developing a broad range of novel CNS product candidates including new potential treatments for hypomobility in PD, epilepsy, depression, and other CNS disorders.

We have a portfolio of commercial products and product candidates.

Commercial Products

- Qelbree® (viloxazine) extended-release capsules is a novel non-stimulant product indicated for the treatment of ADHD in adults and pediatric patients 6 years and older. The United States Food and Drug Administration (FDA) approved Qelbree for the treatment of ADHD in pediatric patients 6 to 17 years of age in April 2021, and in adult patients in April 2022. The Company launched Qelbree for pediatric patients in May 2021 and for adult patients in May 2022 in the United States (U.S.).
- GOCOVRI® (amantadine) extended-release capsules is the first and only FDA approved medicine indicated for the treatment of dyskinesia in patients with PD receiving levodopa-based therapy, with or without concomitant dopaminergic medications, and as an adjunctive treatment to levodopa/carbidopa with PD experiencing "OFF" episodes.
- Oxtellar XR® (oxcarbazepine) is indicated as therapy for the treatment of partial onset seizures in patients 6 years of age and older. It is also the first once-daily extended-release oxcarbazepine product indicated for the treatment of epilepsy in the U.S. market.
- Trokendi XR® (topiramate) is the first once-daily extended-release topiramate product indicated for the treatment of epilepsy in patients 6 years of age and older in the U.S. market. It is also indicated for the prophylaxis of migraine headache in adults and adolescents 12 years and older.
- APOKYN® (apomorphine hydrochloride injection) is a product indicated for the acute, intermittent treatment of hypomobility, "OFF" episodes ("end-of-dose wearing off" and unpredictable "ON/OFF" episodes) in patients with advanced PD.
- XADAGO® (safinamide) is a once-daily product indicated as adjunctive treatment to levodopa/carbidopa in patients with PD experiencing "OFF" episodes.
- MYOBLOC® (rimabotulinumtoxinB injection) is a product indicated for the treatment of cervical dystonia and chronic sialorrhea in adults. It is the only botulinum toxin type B available on the market.

Research and Development

We are committed to the development of innovative product candidates in neurology and psychiatry, including the following:

Program	Indications	Discovery	Preclinical	Phase 1	Phase 2	Phase 3	NDA	Market
SPN-830	PD							
SPN-820	Depression							
SPN-817	Epilepsy							
SPN-443	ADHD/CNS							
SPN-446	Narcolepsy							
SPN-448	CNS							

SPN-830 (apomorphine infusion device)

SPN-830 is a late-stage drug/device combination product candidate for the continuous treatment of motor fluctuations ("OFF" episodes) in PD patients that are not adequately controlled with oral levodopa and one or more adjunct PD medications. If approved, it would be the only continuous infusion of apomorphine available in the U.S. and an important step for PD patients that would have otherwise been candidates for potentially invasive surgical procedures, such as deep brain stimulation. Continuous slow infusion may also limit some of the side effects of a bolus injection of apomorphine.

In October 2023, we resubmitted the New Drug Application (NDA) for SPN-830 to the FDA. In April 2024, the FDA issued a Complete Response Letter regarding the NDA for SPN-830. For further discussion, see *Operational Highlights* section below.

SPN-820 (NV-5138)

SPN-820 is a first-in-class, orally active small molecule that increases the brain mechanistic target of rapamycin complex 1 (mTORC1) mediated synaptic function intracellularly. SPN-820 does not bind to or modulate any cell surface receptors and therefore is unlikely to have abuse potential given lack of binding to targets implicated in drug abuse. In addition, unlike leucine, it is not incorporated into proteins during protein synthesis, and therefore, it is more available at the target site in the brain than leucine.

SPN-817 (huperzine A)

SPN-817 represents a novel mechanism of action (MOA) for an anticonvulsant. SPN-817 is a novel synthetic form of huperzine A, whose MOA includes potent acetylcholinesterase inhibition, with pharmacological activities in CNS conditions such as epilepsy. The development will initially focus on the drug's anticonvulsant activity, which has been shown in preclinical models to be effective for the treatment of partial seizures and Dravet Syndrome. SPN-817 is in clinical development and has received Orphan Drug designation for several epilepsy indications from the FDA.

Operational Highlights

- Total IQVIA prescriptions for Qelbree were 184,342 in the second quarter 2024, an increase of 26% compared to the prior year period.
- In August 2024, the Company resubmitted to the FDA the NDA for apomorphine infusion device (SPN-830) for the continuous treatment of motor fluctuations ("OFF" episodes) in Parkinson's disease.

Product Pipeline Update

SPN-820 – Novel first-in-class molecule that increases mTORC1 mediated synaptic function for depression

- Nearly three-quarters of planned patients have been enrolled in the ongoing Phase IIb multi-center randomized double-blind placebo-controlled parallel design study of SPN-820 in adults with treatment-resistant depression. The study is examining efficacy and safety of SPN-820 over a course of five weeks of treatment in approximately 268 patients in up to 50 clinical sites. The primary outcome measure is the change from baseline to end of treatment period on the Montgomery-Asberg Depression Rating Scale (MADRS) Total Score. Topline data from the Phase IIb trial is expected in the first half of 2025.
- Enrollment is ongoing in the Phase II open-label study in patients with major depressive disorder (MDD). The primary objective of the study is to assess efficacy in MDD, as well as onset of efficacy. Topline results from the study are expected by the end of 2024.

SPN-817 – Novel first-in-class highly selective AChE inhibitor for epilepsy

- In May 2024, the Company announced data from the planned interim analysis of its exploratory open-label Phase IIa clinical study of SPN-817 for treatment-resistant seizures. The interim analysis was based on 41 enrolled subjects, of which 19 completed the maintenance period. The Company continues to expect topline results for the full study in the second half of 2024.
- A Phase IIb randomized, double-blind, placebo-controlled study in patients with treatment resistant focal seizures is expected to start by the end of 2024.

SPN-443 – Novel stimulant for ADHD/CNS

- The Company plans to initiate a Phase I single dose study in healthy adults in 2024 following submission of an Investigational New Drug application. The primary objective of the study is to assess safety and tolerability.

Critical Accounting Policies and the Use of Estimates

A summary of our significant accounting policies is included in Note 2, *Summary of Significant Accounting Policies* of our audited consolidated financial statements included in the Annual Report on Form 10-K for the year ended December 31, 2023. There were no significant changes to the disclosures with respect to our critical accounting policies in our Annual Report on Form 10-K for the year ended December 31, 2023.

Results of Operations

Comparison of the Three and Six Months ended June 30, 2024 and 2023

Revenues

Revenues consist primarily of net product sales of our commercial products in the U.S., supplemented by royalty and licensing revenues from our collaborative licensing arrangements. The following table provides information regarding our revenues during the three and six months ended June 30, 2024 (dollars in thousands):

	Three Months Ended June 30,		Change		Six Months Ended June 30,		Change	
	2024	2023	Amount	Percent	2024	2023	Amount	Percent
Net product sales								
Qelbree	$ 59,395	$ 30,977	$ 28,418	92 %	$ 104,499	$ 56,759	$ 47,740	84 %
GOCOVRI	31,703	28,751	2,952	10 %	58,265	54,761	3,504	6 %
Oxtellar XR	29,516	23,800	5,716	24 %	56,459	52,715	3,744	7 %
APOKYN	17,295	17,605	(310)	(2) %	33,944	34,814	(870)	(2) %
Trokendi XR	17,086	19,319	(2,233)	(12) %	33,075	54,109	(21,034)	(39) %
Other[1]	7,543	7,884	(341)	(4) %	14,757	15,753	(996)	(6) %
Total net product sales	162,538	128,336	34,202	27 %	300,999	268,911	32,088	12 %
Royalty, licensing and other revenues	5,787	7,227	(1,440)	(20) %	10,970	20,416	(9,446)	(46) %
Total revenues	$ 168,325	$ 135,563	$ 32,762	24 %	$ 311,969	$ 289,327	$ 22,642	8 %

[1] Includes net product sales of MYOBLOC, XADAGO and Osmolex ER.

Net Product Sales

Net product sales were $162.5 million and $128.3 million for the three months ended June 30, 2024 and 2023, respectively. The increase was primarily due to increases in net product sales from Qelbree, GOCOVRI and Oxtellar XR partially offset by the decline in net product sales of Trokendi XR due to generic erosion.

Net product sales were $301.0 million and $268.9 million for the six months ended June 30, 2024 and 2023, respectively. The increase was primarily due to increases in net product sales from Qelbree, GOCOVRI and Oxtellar XR partially offset by the decline in net product sales of Trokendi XR due to generic erosion.

Sales Deductions and Related Accruals

We record accrued product returns and accrued product rebates as current liabilities in *Accrued product returns and rebates,* on our condensed consolidated balance sheets. We record sales discounts as a reduction against *Accounts receivable, net* on the unaudited condensed consolidated balance sheets. Both amounts are generally affected by changes in gross product sales, changes in the provision for net product sales deductions, and the timing of payments/credits.

The following table provides a summary of activity with respect to accrued product returns and rebates during the periods indicated (dollars in thousands):

	Accrued Product Returns and Rebates			
	Product Returns	Product Rebates	Sales Discounts	Total
Balance at December 31, 2023	$ 57,290	$ 96,984	$ 10,719	$ 164,993
Provision				
Provision for current year sales	10,774	200,930	34,119	245,823
Adjustments relating to prior year sales	(4,055)	(1,923)	(6)	(5,984)
Total provision	6,719	199,007	34,113	239,839
Less: Actual payments/credits	(5,472)	(179,409)	(31,300)	(216,181)
Balance at June 30, 2024	$ 58,537	$ 116,582	$ 13,532	$ 188,651

	Accrued Product Returns and Rebates			
	Product Returns	Product Rebates	Sales Discounts	Total
Balance at December 31, 2022	$ 45,008	$ 106,657	$ 12,995	$ 164,660
Provision				
Provision for current year sales	11,719	209,675	31,888	253,282
Adjustments relating to prior year sales	(51)	1,684	32	1,665
Total provision	11,668	211,359	31,920	254,947
Less: Actual payments/credits	(5,388)	(220,478)	(34,717)	(260,583)
Balance at June 30, 2023	$ 51,288	$ 97,538	$ 10,198	$ 159,024

Accrued Product Returns and Rebates

The accrued product returns balance increased from $51.3 million as of June 30, 2023 to $58.5 million as of June 30, 2024. This increase was primarily due to higher net product sales and timing of related return activity offset by the $4.1 million adjustment in the estimated provision for product returns related to prior year sales. The majority of this adjustment attributable to Qelbree, reflecting favorable actual returns experience in the second quarter for Qelbree. As a result, the Company changed its estimated provision for product returns based on the most recent experience.

The accrued product rebates balance increased from $97.5 million as of June 30, 2023 to $116.6 million as of June 30, 2024 due to timing of Medicaid billing from states and higher net product sales.

Provision for Product Returns and Rebates

The provision for product returns decreased from $11.7 million for the six months ended June 30, 2023 to $6.7 million for the six months ended June 30, 2024. The decrease was primarily due to the aforementioned $4.1 million adjustment in the estimated provision for product returns related to prior year sales.

The provision for product rebates decreased from $211.4 million for the six months ended June 30, 2023 to $199.0 million for six months ended June 30, 2024. The decrease was primarily attributable to lower Trokendi XR sales partially offset by higher Qelbree sales.

Royalty, Licensing and Other Revenues

Royalty, licensing and other revenues were $5.8 million and $7.2 million for the three months ended June 30, 2024 and 2023, respectively. Royalty, licensing and other revenues were $11.0 million and $20.4 million for the six months ended June 30, 2024 and 2023, respectively. The decrease in both periods was primarily due to lower royalties on generic Trokendi XR due to the increased number of generic entrants.

Cost of Goods Sold

Cost of goods sold was $17.9 million and $21.1 million for the three months ended June 30, 2024 and 2023, respectively. Cost of goods sold was $34.2 million and $44.6 million for the six months ended June 30, 2024 and 2023, respectively. The decrease in both periods was primarily driven by manufacturing efficiencies of Qelbree and decline in net product sales of Trokendi XR due to generic erosion.

Research and Development Expenses

R&D expenses were $26.2 million and $24.4 million for the three months ended June 30, 2024 and 2023, respectively. R&D expenses were $51.1 million and $45.6 million for the six months ended June 30, 2024 and 2023, respectively. The increase in both periods was primarily due to increased clinical program costs on SPN-820 and on the open-label study of Qelbree, and increased manufacturing costs of our product candidates.

Selling, General and Administrative Expenses

The following table provides information regarding our selling, general and administrative (SG&A) expenses during the periods indicated (dollars in thousands):

	Three Months Ended June 30,		Change		Six Months Ended June 30,		Change	
	2024	2023	Amount	Percent	2024	2023	Amount	Percent
Selling and marketing	$ 58,804	$ 59,894	$ (1,090)	(2)%	$ 118,371	$ 117,124	$ 1,247	1%
General and administrative	27,100	26,888	212	1%	54,049	55,255	(1,206)	(2)%
Total	$ 85,904	$ 86,782	$ (878)	(1)%	$ 172,420	$ 172,379	$ 41	—%

Amortization of Intangible Assets

Amortization of intangible assets was $20.1 million and $20.1 million for the three months ended June 30, 2024 and 2023, respectively. Amortization of intangible assets was $40.2 million and $40.1 million for the six months ended June 30, 2024 and 2023, respectively.

Contingent Consideration Expense (Gain)

Contingent consideration was a gain of $4.4 million and an expense of $0.8 million for the three months ended June 30, 2024 and 2023, respectively. Contingent consideration was a gain of $5.5 million and a gain of $0.9 million for the six months ended June 30, 2024 and 2023, respectively. The change for both periods was primarily driven by the passage of time for the sales-based milestones associated with the Adamas Acquisition and change in the estimated timeline of achievement of the regulatory and development milestones associated with the USWM Acquisition. See Item 2. *Management's Discussion and Analysis of Financial Condition and Results of Operations-Operational Highlights-Product Pipeline Update-SPN-830 (apomorphine infusion device) for treatment of Parkinson's disease (PD).*

Other Income (Expense)

Other income (expense) was an income of $3.7 million and $0.5 million for the three months ended June 30, 2024 and 2023, respectively. Other income (expense) was an income of $7.1 million and $4.3 million for the six months ended June 30, 2024 and 2023, respectively. The increase in both periods was due to higher interest income on marketable securities largely driven by an overall higher investment balance in 2024 and no debt outstanding in the 2024. The interest expense recognized in 2023 was related to the 2023 Notes which were paid off in April 2023.

Income Tax Expense (Benefit)

Income tax expense was $6.4 million and $6.5 million for the three and six months ended June 30, 2024, as compared to an income tax benefit of $16.3 million and $24.2 million for the three and six months ended June 30, 2023, respectively. The change in both periods was primarily due to increased pre-tax income for the three and six months ended June 30, 2024 as compared to the same periods in 2023. The effective tax rate was 24.3% and 24.5% for the three and six months ended June 30, 2024, as compared to 95.1% and 298.7% for the three and six months ended June 30, 2023, respectively. The effective tax rate for the three and six months ended June 30, 2024 was lower compared to the same period in 2023 primarily due to an increase in pre-tax income forecasted for the full year 2024 and the near break-even pre-tax losses forecast in 2023 . The annual forecasted earnings represent the Company's best estimate as of June 30, 2024 and 2023, are subject to change and could have a material impact on the effective tax rate in subsequent periods. ASC 740, *Income Taxes* (ASC 740), requires the Company to estimate the annual effective income tax rate for the full year and apply it to pre-tax income (loss) for each interim period, taking into account year-to-date amounts and projected results for the full year.

Financial Condition, Liquidity and Capital Resources

Cash and Cash Equivalents and Marketable Securities

Cash and cash equivalents, marketable securities, and long-term marketable securities are comprised of the following (dollars in thousands):

	June 30	December 31	Change	
	2024	2023	Amount	Percent
Cash and cash equivalents	$ 52,089	$ 75,054	$ (22,965)	(31)%
Marketable securities	295,098	179,820	115,278	64%
Long-term marketable securities	—	16,617	(16,617)	(100)%
Total	$ 347,187	$ 271,491	$ 75,696	28%

We have financed our operations primarily with cash generated from product sales, supplemented by revenues from royalty and licensing arrangements, as well as proceeds from the sale of equity and debt securities. Continued cash generation is highly dependent on the success of our commercial products, as well as the success of our product candidates if approved by the FDA. While we expect continued profitability in future years, we anticipate there may be significant variability from year to year in the level of our profits particularly due to the following: continued market and payor pressures for our commercial products; the unfavorable impact of the loss of patent exclusivity for Trokendi XR in January 2023; the potential unfavorable impact of the forthcoming loss of exclusivity of Oxtellar XR and XADAGO; funding for research and development of our product candidates; and the additional funding to launch SPN-830, if approved by the FDA.

The Company believes its balances of cash, cash equivalents, and unrestricted marketable securities, which totaled $347.2 million as of June 30, 2024, along with cash generated from ongoing operations and continued access to debt markets, will be sufficient to satisfy its cash requirements over the next 12 months and beyond.

We may, from time to time, consider raising additional capital through: new collaborative arrangements; strategic alliances; additional equity and/or financings from debt or other sources, especially in conjunction with opportunistic business development initiatives. We will continue to actively manage our capital structure and to consider all financing opportunities that could strengthen our long-term financial profile. Any such capital raises may or may not be similar to transactions in which we have engaged in the past. There can be no assurance that any such financing opportunities will be available on acceptable terms, if at all.

Cash Flows

Cash flows are comprised of the following (dollars in thousands):

	Six Months Ended June 30,		Change
	2024	2023	Amount
Net cash provided by (used in):			
Operating activities	$ 74,025	$ 30,252	$ 43,773
Investing activities	(100,218)	300,076	(400,294)
Financing activities	3,228	(398,742)	401,970
Net change in cash and cash equivalents	(22,965)	(68,414)	45,449
Cash and cash equivalents at beginning of year	75,054	93,120	(18,066)
Cash and cash equivalents at end of period	$ 52,089	$ 24,706	$ 27,383

Operating Activities

Net cash provided by operating activities was $74.0 million and $30.3 million for the six months ended June 30, 2024, and 2023, respectively. The increase in cash flows provided by operating activities is primarily due to changes in working capital which reflects the timing impacts of cash collections on receivables and settlement of payables, and higher net income for the six months ended June 30, 2024 compared to the same period in prior year.

Investing Activities

Net cash used in investing activities was $100.2 million for the six months ended June 30, 2024 compared to $300.1 million cash provided by investing activities during the same period in 2023. The change was primarily due to higher cash flows from the maturities of marketable securities in 2023. Proceeds from the maturities of marketable securities in 2023 were used to repay the 2023 Notes at maturity date of April 1, 2023.

Financing Activities

Net cash provided by financing activities was $3.2 million for the six months ended June 30, 2024 compared to $398.7 million used during the same period in 2023. The change was primarily due to the payment of the total principal amounts and remaining outstanding interest due on the 0.625% Convertible Senior Notes in April 2023.

Material Cash Requirements

Refer to "Part II, Item 7 — Management's Discussion and Analysis of Liquidity and Capital Resources", of our Annual Report on Form 10-K for the year ended December 31, 2023, and Note 15, *Commitments and Contingencies*, in the Notes to the Condensed Consolidated Financial Statements in Part I, Item 1, Unaudited Condensed Consolidated Financial Statements, of this Quarterly Report on Form 10-Q for the discussion of our contractual obligations.

Recently Issued Accounting Pronouncements

For a discussion of new accounting pronouncements, see Note 2 in the Notes to the Condensed Consolidated Financial Statements in Part I, Item 1, Unaudited Condensed Consolidated Financial Statements, of this Quarterly Report on Form 10-Q.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

The primary objective of our investment activities is to preserve our capital to fund operations and to facilitate business development activities. We also seek to maximize income from our investments without assuming significant interest rate risk, liquidity risk, or risk of default by investing in investment grade securities with maturities of four years or less. Our exposure to market risk is confined to investments in cash and cash equivalents, marketable securities, and long-term marketable securities. As of June 30, 2024, we had cash and cash equivalents, marketable securities, and long-term marketable securities of $347.2 million.

The Company has a credit line agreement with UBS (the Credit Line) which provides a revolving line of credit of up to $150 million and can be drawn at any time. As of June 30, 2024, there was no outstanding debt under the Credit Line. In the future, we may borrow funds under the Credit Line. Variable rate borrowing, which may occur under the Credit Line, exposes us to interest rate risk as increases in interest rates would increase our borrowing costs.

Any borrowed funds pursuant to our Credit Line are subject to a collateral maintenance requirement. The Credit Line is secured primarily by our portfolio of marketable securities, which is primarily comprised of corporate and U.S. government agency and municipal debt securities and may fluctuate in value. The fluctuations may be driven by, among other things, changes in interest rates, economic conditions, and other financial conditions as well as idiosyncratic factors related to a security's issuer. To the extent a fluctuation in value results in the value of the collateral decreasing below the required collateral maintenance requirements we may be required to promptly post additional collateral. Additionally, our Credit Line is an uncommitted facility that may be terminated by the lender at any time. During periods of rapidly changing interest rates, economic conditions or other financial conditions, the Credit Line may be terminated by the lender and/or the lender may declare that all borrowings thereunder are immediately due.

Our cash and cash equivalents consist primarily of cash held at banks and investments in highly liquid financial instruments with an original maturity of three months or less. Our marketable securities, which are reported at fair value, consist of investments in U.S. Treasury bills and notes; bank certificates of deposit; various U.S. governmental agency debt securities; and corporate and municipal debt securities. We place all investments with governmental, industrial, or financial institutions whose debt is rated as investment grade. We generally hold these securities to maturities of one to four years. Because of the relatively short period that we hold our investments and because we generally hold these securities to maturity, we do not believe that an increase in interest rates would have any significant impact on the realizable value of our investments.

We do not have any currency or derivative financial instruments.

We may contract with clinical research organizations (CROs) and investigational sites globally. Currently, we have ongoing clinical trials being conducted outside the U.S. We do not hedge our foreign currency exchange rate risk. Transactions

denominated in currencies other than the U.S. dollar are recorded based on exchange rates at the time such transactions arise. As of June 30, 2024 and December 31, 2023, substantially all of our liabilities were denominated in the U.S. dollar.

Inflation generally affects us by increasing our cost of labor and the cost of services provided by our vendors. We do not believe that inflation and changing prices over the year ended December 31, 2023, and the six months ended June 30, 2024 had a significant impact on our consolidated results of operations.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures required by Rule 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended, or the Exchange Act. Our disclosure controls and procedures are designed to provide reasonable assurance that the information required to be disclosed by us in the reports we file or submit under the Exchange Act has been appropriately recorded, processed, summarized, and reported within the time periods specified in the Securities and Exchange Commission's rules and forms and that such information is accumulated and communicated to our management, including our CEO and CFO, to allow timely decisions regarding required disclosure. We conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as of June 30, 2024, the end of the period covered by this report. Based on that evaluation, under the supervision and with the participation of our management, including our CEO and CFO, we concluded that our disclosure controls and procedures are effective as of June 30, 2024.

Changes in Internal Control over Financial Reporting

Our management, including our CEO and CFO, evaluated changes in our internal control over financial reporting that occurred during the quarter ended June 30, 2024.

During the quarter ended June 30, 2024, no changes occurred in our internal control over financial reporting that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II — OTHER INFORMATION

Item 1. Legal Proceedings

From time to time and in the ordinary course of business, Supernus Pharmaceuticals, Inc. (the "Company") and any of its subsidiaries may be subject to various claims, charges and litigation. The Company and any of its subsidiaries may be required to file infringement claims against third parties for the infringement of our patents.

Oxtellar XR®

I. Supernus Pharmaceuticals, Inc. v. Ajanta Pharma Limited, C.A. No. 22-cv-1431 (GBW) (D. Del.)

The Company received a Paragraph IV Notice Letter from generic drug maker Ajanta Pharma Limited (“Ajanta”) dated September 19, 2022, directed to ten of its Oxtellar XR® Orange Book patents. Supernus’s U.S. Patent Nos. 7,722,898; 7,910,131; 8,617,600; 8,821,930; 9,119,791; 9,351,975; 9,370,525; 9,855,278; 10,220,042; and 11,166,960 generally cover once-a-day oxcarbazepine formulations and methods of treating seizures using those formulations. The FDA Orange Book lists all ten of the Company’s Oxtellar XR® patents as expiring on April 13, 2027. On October 28, 2022, the Company filed a lawsuit against Ajanta alleging infringement of the Company’s ten Oxtellar XR® patents. The Complaint—filed in the U.S. District Court for the District of Delaware—alleges, inter alia, that Ajanta infringed the Company’s Oxtellar XR® patents by submitting to the FDA an Abbreviated New Drug Application (“ANDA”) seeking to market a generic version of Oxtellar XR® prior to the expiration of the Company’s patents. Filing its October 28, 2022, Complaint within 45 days of receiving Ajanta’s Paragraph IV certification notice entitles Supernus to an automatic stay preventing the FDA from approving Ajanta’s ANDA for 30 months from the date of the Company’s receipt of the Paragraph IV Notice Letter. On January 3, 2023, Ajanta answered the Complaint and denied the substantive allegations of the Complaint, asserting affirmative defenses that include non-infringement and invalidity. Ajanta also asserted Counterclaims seeking declaratory judgments of non-infringement and invalidity. On January 24, 2023, the Company filed its Reply, denying the substantive allegations of Ajanta’s Counterclaims. The Court issued a Scheduling Order on July 13, 2023, that set a trial date of February 10, 2025. The Company entered into a settlement agreement with Ajanta, and on January 18, 2024, a stipulation of dismissal without prejudice was entered by the U.S. District Court for the District of Delaware. The agreement has been submitted to the applicable governmental agencies.

Trokendi XR®

II. Supernus Pharmaceuticals, Inc. v. Ajanta Pharma Limited, et al., C.A. No. 21-cv-6964 (GC)(DEA) (D.N.J.)

The Company received a Paragraph IV Notice Letter from generic drug maker Ajanta Pharma Limited dated February 10, 2021, directed to ten of its Trokendi XR® Orange Book patents. Supernus's U.S. Patent Nos. 8,298,576; 8,298,580; 8,663,683; 8,877,248; 8,889,191; 8,992,989; 9,549,940; 9,555,004; 9,622,983; and 10,314,790 generally cover once-a-day topiramate formulations and methods of treating or preventing seizures and migraines using those formulations. The FDA Orange Book currently lists United States Patent No. 8,298,576 as expiring on April 4, 2028, and United States Patent Nos. 8,298,580; 8,663,683; 8,877,248; 8,889,191; 8,992,989; 9,549,940; 9,555,004; 9,622,983; and 10,314,790 as expiring on November 16, 2027. On March 26, 2021, the Company filed a lawsuit against Ajanta Pharma Limited and Ajanta Pharma USA Inc. (collectively "Ajanta") alleging infringement of the Company's Trokendi XR® Orange Book patents. The Complaint—filed in the U.S. District Court for the District of New Jersey—alleges, inter alia, that Ajanta infringed the Company's Trokendi XR® patents by submitting to the FDA an Abbreviated New Drug Application ("ANDA") seeking to market a generic version of Trokendi XR® prior to the expiration of the Company's patents. Filing its March 26, 2021, Complaint within 45 days of receiving Ajanta's Paragraph IV certification notice entitles Supernus to an automatic stay preventing the FDA from approving Ajanta's ANDA for 30 months from the date of the Company's receipt of the Paragraph IV Notice Letter. On June 7, 2021, Ajanta answered the Complaint and denied the substantive allegations of the Complaint, asserting affirmative defenses that include non-infringement and invalidity. Ajanta also asserted Counterclaims seeking declaratory judgments of non-infringement and invalidity for the Trokendi XR® Orange Book patents. On June 28, 2021, the Company filed its reply, denying the substantive allegations of Ajanta's Counterclaims. Following the initial Rule 16 Scheduling Conference, the Court issued a case schedule. On December 17, 2021, the Court issued an order consolidating this lawsuit with the lawsuit against Torrent, discussed in Section III, below. The consolidation order extended the 30-month stay preventing the FDA from approving Ajanta's ANDA to December 16, 2023. The Company entered into a settlement agreement with Ajanta, and on April 4, 2023, a stipulation of dismissal without prejudice was entered by the U.S. District Court for the District of New Jersey. The agreement has been submitted to the applicable governmental agencies.

III. Supernus Pharmaceuticals, Inc. v. Torrent Pharmaceuticals Ltd., et al., C.A. No. 21-cv-14268 (GC)(DEA) (D.N.J.)

The Company received a Paragraph IV Notice Letter from generic drug maker Torrent Pharmaceuticals Ltd. dated June 15, 2021, directed to ten of its Trokendi XR® Orange Book patents. Supernus's U.S. Patent Nos. 8,298,576; 8,298,580; 8,663,683; 8,877,248; 8,889,191; 8,992,989; 9,549,940; 9,555,004; 9,622,983; and 10,314,790 generally cover once-a-day topiramate formulations and methods of treating or preventing seizures and migraines using those formulations. The FDA Orange Book currently lists United States Patent No. 8,298,576 as expiring on April 4, 2028, and United States Patent Nos. 8,298,580; 8,663,683; 8,877,248; 8,889,191; 8,992,989; 9,549,940; 9,555,004; 9,622,983; and 10,314,790 as expiring on November 16, 2027. On July 28, 2021, the Company filed a lawsuit against Torrent Pharmaceuticals Ltd. and Torrent Pharma Inc. (collectively, "Torrent") alleging infringement of the Company's Trokendi XR® Orange Book patents. The Complaint—filed in the U.S. District Court for the District of New Jersey—alleges, inter alia, that Torrent infringed the Company's Trokendi XR® patents by submitting to the FDA an Abbreviated New Drug Application ("ANDA") seeking to market a generic version of Trokendi XR® prior to the expiration of the Company's patents. Filing its July 28, 2021, Complaint within 45 days of receiving Torrent's Paragraph IV certification notice entitles Supernus to an automatic stay preventing the FDA from approving Torrent's ANDA for 30 months from the date of the Company's receipt of the Paragraph IV Notice Letter. On September 29, 2021, Torrent answered the Complaint and denied the substantive allegations of the Complaint, asserting affirmative defenses that include non-infringement and invalidity. Torrent also asserted Counterclaims seeking declaratory judgments of non-infringement for the Trokendi XR® Orange Book patents. On November 3, 2021, the Company filed its reply, denying the substantive allegations of Torrent's Counterclaims. Following the initial Rule 16 Scheduling Conference, the Court issued a case schedule. On December 17, 2021, the Court issued an order consolidating this lawsuit with the lawsuit against Ajanta, discussed in Section II, above. The Court held a bench trial between July 31, 2023, and August 3, 2023. Closing arguments for the trial were held on October 4, 2023. On December 12, 2023, the Court issued an Order enjoining Torrent from launching its generic drug product through January 31, 2024, or until the Court's trial decision issues, whichever is sooner. On January 30, 2024, the Court issued a Trial Opinion and Order, deciding in Supernus's favor that the patent claims that Supernus asserted at trial against Torrent are both valid and infringed. The District Court entered a Final Judgment in Supernus's favor on February 22, 2024.

On March 4, 2024, Torrent filed a Notice of Appeal of the Final Judgment with the U.S. Court of Appeals for the Federal Circuit. The Federal Circuit docketed the appeal as *Supernus Pharmaceuticals, Inc. v. Ajanta Pharma Limited* because the lawsuit against Torrent was previously consolidated with the lawsuit against Ajanta (*see* Section II above). Briefing is ongoing as of the date of this filing. The Court has not set the date for oral argument.

IV. Supernus Pharmaceuticals, Inc. v. Ascent Pharmaceuticals Inc., et al., C.A. No. 23-cv-4015 (GC)(DEA) (D.N.J.)

The Company received a Paragraph IV Notice Letter from generic drug maker Ascent Pharmaceuticals Inc. dated June 15, 2023, directed to ten of its Trokendi XR® Orange Book patents. Supernus's U.S. Patent Nos. 8,298,576; 8,298,580; 8,663,683; 8,877,248; 8,889,191; 8,992,989; 9,549,940; 9,555,004; 9,622,983; and 10,314,790 generally cover once-a-day topiramate formulations and methods of treating or preventing seizures and migraines using those formulations. The FDA Orange Book currently lists United States Patent No. 8,298,576 as expiring on April 4, 2028, and United States Patent Nos. 8,298,580; 8,663,683; 8,877,248; 8,889,191; 8,992,989; 9,549,940; 9,555,004; 9,622,983; and 10,314,790 as expiring on November 16, 2027. On July 26, 2023, the Company filed a lawsuit against Ascent Pharmaceuticals Inc., ("Ascent Pharma") Camber Pharmaceuticals, Inc., and Hetero Labs Ltd. (collectively, "Ascent") alleging infringement of the Company's Trokendi XR® Orange Book patents. The Complaint—filed in the U.S. District Court for the District of New Jersey—alleges, inter alia, that Ascent infringed the Company's Trokendi XR® patents by submitting to the FDA an Abbreviated New Drug Application ("ANDA") seeking to market a generic version of Trokendi XR® prior to the expiration of the Company's patents. Filing its July 26, 2023, Complaint within 45 days of receiving Ascent's Paragraph IV certification notice entitles Supernus to an automatic stay preventing the FDA from approving Ascent's ANDA for 30 months from the date of the Company's receipt of the Paragraph IV Notice Letter. On September 28, 2023, the Court entered a stipulation of dismissal without prejudice as to only defendants Camber and Hetero, which included stipulations that, among other things: (i) Ascent Pharma will not contest personal jurisdiction or venue in this District for this Action; (ii) Camber and Hetero will be bound by any injunction in this Action to the extent it concerns the Ascent ANDA; and (iii) Ascent Pharma will collect and produce any relevant discovery that is in the possession, custody, or control of Camber and Hetero. On October 11, 2023, Ascent Pharma answered the Complaint and denied the substantive allegations of the Complaint, asserting affirmative defenses that include non-infringement and invalidity. The Company entered into a settlement agreement with Ascent Pharma, and on May 2, 2024, a stipulation of dismissal without prejudice was entered by the U.S. District Court for the District of New Jersey. The agreement has been submitted to the applicable governmental agencies.

APOKYN®

V. Sage Chemical, Inc., et al. v. Supernus Pharmaceuticals, Inc., et al., C.A. No. 22-cv-1302 (CJB) (D. Del.)

On October 3, 2022, Sage Chemical, Inc. and TruPharma, LLC filed a lawsuit in the United States District Court for the District of Delaware alleging that Supernus Pharmaceuticals, Inc., Britannia Pharmaceuticals Limited ("Britannia"), and US WorldMeds Partners, LLC ("US WorldMeds") violated state and federal antitrust law in connection with APOKYN® (apomorphine HCl). On October 16, 2022, Plaintiffs amended their complaint to add additional defendants MDD US Enterprises, LLC, MDD US Operations, LLC (each a subsidiary of Supernus Pharmaceuticals, Inc.), USWM, LLC ("USWM"), and individual defendants Paul Breckinridge Jones, Sr., Herbert Lee Warren, Jr., Henry Van Den Berg, and Kristin L. Gullo. On January 10, 2023, Defendants filed an Omnibus Motion to Dismiss the Amended Complaint seeking dismissal of each of Plaintiffs' claims and the lawsuit in its entirety and US WorldMeds with USWM, Britannia, and the group of individual defendants each filed separate motions to dismiss. On May 9, 2024, and May 28, 2024, respectively, the Court denied the Defendants' omnibus motion and the Britannia motion to dismiss. On May 31, 2024, and June 4, 2024, respectively, the Court granted the individuals defendants' motion to dismiss and the US WorldMeds and USWM motion to dismiss. On June 18, 2024, the Court issued a scheduling order that provides for a Pretrial Conference on September 12, 2025, and a jury trial beginning on September 22, 2025. Pretrial discovery is ongoing as of the date of this filing.

Adamas Litigation

In November 2012, Adamas Pharmaceuticals, Inc. (Adamas) granted Forest Laboratories Holdings Limited, an indirect wholly-owned subsidiary of Allergan plc (Forest), an exclusive license to certain of Adamas's intellectual property rights relating to human therapeutics containing memantine in the United States. Under the terms of that license agreement, Forest has the right to enforce such intellectual property rights which are related to its right to market and sell Namzaric and NAMENDA XR for the treatment of moderate to severe dementia related to Alzheimer's disease. Adamas has a right to participate in, but not control, such enforcement actions by Forest.

Since 2018 multiple generic companies have launched generic versions of NAMENDA XR. A number of companies have submitted ANDAs including one or more certifications to the FDA, pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(iv), requesting approval to manufacture and market generic versions of Namzaric, on which Adamas became entitled to receive royalties from Forest beginning in May 2020.

Adamas and Forest have settled with all such Namzaric ANDA filers, including all first filers on all the available dosage forms of Namzaric. Subject to those agreements, the earliest date on which any of these agreements grant a license to market a Namzaric ANDA filer's generic version of Namzaric is January 1, 2025 (or earlier in certain circumstances). Alternatively, the Namzaric ANDA filers with the earliest date have the option to launch an authorized generic version of Namzaric beginning on

January 1, 2026 instead of launching their own generic version of Namzaric on January 1, 2025. Adamas and Forest intend to continue to enforce the patents associated with Namzaric.

On April 1, 2019, Adamas was served with a complaint filed in the United States District Court for the Northern District of California (Case No. 3:18-cv-03018-JCS) against it and several Forest and Allergan entities alleging violations of federal and state false claims acts (FCA) in connection with the commercialization of NAMENDA XR and Namzaric by Allergan. The lawsuit is a qui tam complaint brought by a named individual, Zachary Silbersher, asserting rights of the Federal government and various state governments. The lawsuit was originally filed in May 2018 under seal, and Adamas became aware of the lawsuit when it was served. The complaint alleges that patents held by Allergan and Adamas covering NAMENDA XR and Namzaric were procured through fraud on the United States Patent and Trademark Office and that these patents were asserted against potential generic manufacturers of NAMENDA XR and Namzaric to prevent the generic manufacturers from entering the market, thereby wrongfully excluding generic competition resulting in artificially high prices being charged to government payors.

Adamas's patents in question were licensed exclusively to Forest. The complaint includes a claim for damages of "potentially more than $2.5 billion dollars," treble damages and statutory penalties. To date the federal and state governments have declined to intervene in this action. This case is currently stayed pending Adamas's and Allergan's interlocutory appeal of the District Court's December 11, 2020 order denying Adamas's and Allergan's motions to dismiss the complaint. The appeal was heard by the United States Court of Appeals for the Ninth Circuit (Case No. 21-80005). Argument was held on January 10, 2022. On August 25, 2022, the Ninth Circuit sided with the defendants by reversing the District Court's public disclosure bar rulings and remanding the case back to the District Court to decide certain issues in the first instance. On October 11, 2022, the plaintiff filed a petition for rehearing with the Ninth Circuit, which was denied. On December 23, 2022, defendants filed renewed motions to dismiss directed to the remaining unresolved issue. On March 20, 2023, the District Court entered an order and final judgment dismissing with prejudice the FCA claim while declining to exercise supplemental jurisdiction over the state false claims act claims which were dismissed without prejudice. On April 19, 2023, the plaintiff appealed the District Court's dismissal of the Federal False Claims Act claim. On February 20, 2024, the plaintiff filed a motion for an indicative ruling and to set aside the judgment in the District Court, based on the same arguments raised in his appeal. That motion was fully briefed and the District Court determined that the motion for an indicative ruling was suitable for determination without a hearing. On May 7, 2024, the District Court denied the plaintiff's motion for an indicative ruling. The plaintiff's appeal remains pending in the United States Court of Appeals for the Ninth Circuit.

On December 10, 2019, a putative class action lawsuit alleging violations of the federal securities laws was filed by Ali Zaidi against Adamas and certain of Adamas's former directors and officers in federal court in the Northern District of California (Case No. 4:19-cv-08051). This lawsuit alleges violations of the Securities Exchange Act of 1934 by Adamas and certain of Adamas's former directors and officers. On October 8, 2021, the presiding judge dismissed the litigation, and granted Plaintiffs leave to amend their complaint. On November 5, 2021, Plaintiffs filed their second amended class action complaint. On December 10, 2021, Adamas filed a motion to dismiss the Second Amended Complaint. Plaintiffs opposed the motion to dismiss. On January 13, 2023, the Court granted in part and denied in part Defendants' Motion to Dismiss. All claims against Adamas have been dismissed with prejudice, but claims against one of the individual defendants, who may have certain rights to indemnification, remain. On February 27, 2023, Plaintiffs advised the Court that Plaintiffs would proceed only on the remaining claim against one of the individual defendants. The individual defendant filed an answer denying the claim on April 28, 2023. On September 21, 2023, the parties reached an agreement in principle to settle the Zaidi litigation, subject to court approval. On October 31, 2023, the Court granted the parties' stipulation staying all proceedings and vacating all existing deadlines. On April 2, 2024, the Court preliminarily approved the settlement of the case, including a $4.7 million payment from insurers, subject to further consideration at a settlement hearing to be held on September 27, 2024.

Adamas believes it has strong factual and legal defenses to all actions and intends to defend itself vigorously.

Item 1A. Risk Factors

Any investment in our business involves a high degree of risk. Before making an investment decision, you should carefully consider the information we include in this Quarterly Report on Form 10-Q, including our condensed consolidated financial statements and related notes; the additional information in the other reports we file with the Securities and Exchange Commission; and the risks described in our Annual Report on Form 10-K for the year ended December 31, 2023 and quarterly report on Form 10-Q for the period ended June 30, 2024. These risks may result in material harm to our business and our financial condition and results of operations. If a material, adverse event was to occur, the market price of our common stock may decline, and you could lose part or all of your investment.

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

(a) Sales of Unregistered Securities.

None.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

None.

Item 5. Other Information

(a) None.

(b) None.

(c) Insider Trading Arrangements and Policies.

There were no insider trading arrangements adopted or terminated during the quarter.

Item 6. Exhibits

The following exhibits are filed or furnished as part of this Quarterly Report on Form 10-Q:

Exhibit Number	Description
10.1 ††	Settlement Agreement, dated as of April 30, 2024, by and between Supernus Pharmaceuticals, Inc. and Ascent Pharmaceuticals, Inc.
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a).
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a).
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101	The following financial information from the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2024, formatted in Inline XBRL: (i) Cover Page, (ii) Condensed Consolidated Statements of Earnings (Loss), (iii) Condensed Consolidated Statements of Comprehensive Earnings (Loss), (iv) Condensed Consolidated Balance Sheets, (v) Condensed Consolidated Statements of Changes in Stockholders' Equity, (vi) Condensed Consolidated Statements of Cash Flows, and (vii) the Notes to Condensed Consolidated Financial Statements, tagged in summary and detail.
104	The cover page of the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2024, formatted in Inline XBRL (included with the Exhibit 101 attachments).

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†† Certain portions of this exhibit that constitute confidential information have been omitted in accordance with Regulation S-K, Item 601(b)(10)(iv) because it (i) is not material and (ii) would be competitively harmful if publicly disclosed.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

SUPERNUS PHARMACEUTICALS, INC.

DATED: August 6, 2024

By: /s/ Jack A. Khattar
Jack A. Khattar
President and Chief Executive Officer

DATED: August 6, 2024

By: /s/ Timothy C. Dec
Timothy C. Dec
Senior Vice-President and Chief Financial Officer

CERTAIN CONFIDENTIAL INFORMATION IDENTIFIED IN THIS DOCUMENT MARKED BY [**] , HAS BEEN EXCLUDED FROM THE EXHIBIT BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

SETTLEMENT AGREEMENT

BY AND BETWEEN

SUPERNUS PHARMACEUTICALS, INC.

AND

ASCENT PHARMACEUTICALS, INC.

DATED AS OF APRIL 30, 2024

THIS SETTLEMENT AGREEMENT, ("**Settlement Agreement**") is entered into as of April 9, 2024 (the "**Effective Date**") by and between, Supernus Pharmaceuticals, Inc., a corporation organized and existing under the laws of Delaware, having offices located at 9715 Key West Avenue, Rockville, Maryland 20850 ("**Supernus**"), on the one hand, and Ascent Pharmaceuticals, Inc., a corporation organized and existing under the laws of New York, having its principal place of business at 400 South Technology Drive, Central Islip, New York 11722 ("**Ascent**"), on the other hand. Supernus and Ascent are collectively referred to herein as the "**Parties,**" or each individually as a "**Party.**"

RECITALS:

WHEREAS, Supernus is the owner of New Drug Application No. 201635, which was approved by the Food and Drug Administration for the manufacture and sale of an extended release topiramate oral capsule product, which Supernus sells under the trade name Trokendi XR®;

WHEREAS, Ascent submitted Abbreviated New Drug Application No. 217443 (as defined in the License Agreement for the Ascent Product (the "**License Agreement**," attached hereto as Exhibit A), the "**Ascent ANDA**"), to the FDA under Section 505(j) of the Federal Food, Drug, and Cosmetic Act (codified at 21 U.S.C. §355(j)) seeking approval to engage in the manufacture, use, sale, offer for sale, or importation of extended-release capsules, containing 25 mg, 50 mg, 100 mg, and 200 mg of topiramate, that are the subject of the Ascent ANDA (as defined in the License Agreement, the "**Ascent Product**");

WHEREAS, the filing of the Ascent ANDA included a "paragraph IV certification" pursuant to 21 U.S.C. § 355(j)(2)(a)(vii)(IV) seeking approval to engage in the manufacture, use and sale of the Ascent Product prior to the expiration of United States Patent Nos. 8,298,576 (the "**'576 Patent**"), 8,298,580 (the "**'580 Patent**"), 8,663,683 (the "**'683 Patent**"), 8,877,248 (the "**'248 Patent**"), 8,889,191 (the "**'191 Patent**"), 8,992,989 (the "**'989 Patent**"), 9,549,940 (the "**'940 Patent**"), 9,555,004 (the "**'004 Patent**"), 9,622,983 (the "**'983 Patent**"), 10,314,790 (the "**'790 Patent**") (collectively, the "**Litigated Patents**");

WHEREAS, Supernus has prosecuted and Ascent has defended an action for patent infringement in the United States District Court for the District of New Jersey (the "**Court**") regarding the Ascent ANDA and the Ascent Product, which action is captioned *Supernus Pharmaceuticals, Inc.* v. *Ascent Pharmaceuticals, Inc.* (Civil Action No. 3:23-cv-04015-GC- DEA) (the "**Pending Litigation**");

WHEREAS, in the Pending Litigation the Ascent ANDA has a 30-month stay of FDA approval pursuant to 35 U.S.C. § 355(j)(5)(B)(iii) expiring on December 16, 2025;

WHEREAS, Supernus and Ascent wish to settle the Pending Litigation and have reached an agreement, encompassing the terms and conditions set forth in this Settlement Agreement together with the License Agreement and an agreed Stipulation of Dismissal with regard to the Pending Litigation (the "**Dismissal**," attached hereto as Exhibit B) (with the Settlement Agreement, the License Agreement, and the Dismissal being collectively referred to as the "**Settlement Documents**");

WHEREAS, neither Supernus nor Ascent have received any consideration from the other for their entry into this Settlement Agreement other than that which is set forth in the Settlement Documents; and

WHEREAS, the Settlement Documents constitute Ascent's and Supernus's independent judgment as to the most convenient, effective and expeditious way to mutually settle all disputes that have arisen associated with the Ascent ANDA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements described herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Capitalized terms used, but not defined herein, shall have the meanings ascribed to them in the License Agreement.

2. The Parties consent to the jurisdiction of the Court for the purposes of the settlement of the Pending Litigation.

3. The Parties agree that the Court has jurisdiction over the Pending Litigation and over Supernus and Ascent for purposes of the Pending Litigation, and that venue is proper in the District of New Jersey for purposes of the Pending Litigation.

4. Ascent, on behalf of itself and its Affiliates, admits, solely with respect to the Ascent ANDA and the Ascent Product, and solely for this Pending Litigation, that the Litigated Patents, and all the claims contained therein, are valid and enforceable.

5. Ascent, on behalf of itself and its Affiliates, admits, solely with respect to the Ascent ANDA and the Ascent Product, that the claims of the Litigated Patents asserted as of the Effective Date in the Pending Litigation, were infringed by the filing of the Ascent ANDA and, absent a license from Supernus, would be infringed by the manufacture, use, sale, offer for sale, or importation of the Ascent Product in the Territory.

6. Notwithstanding the foregoing, the Parties agree that nothing prohibits Ascent from asserting any and all counterclaims or defenses of invalidity, non-infringement, and/or unenforceability in view of the Litigated Patents in any proceeding the subject matter of which is not the Ascent Product or a Generic Equivalent Product (and may file a petition for ex parte reexamination, Inter Partes Review (IPR), and Post Grant Review (PGR) of a Litigated Patent, if such Litigated Patent is asserted against Ascent in any proceeding the subject matter of which is not the Ascent Product or a Generic Equivalent Product).

7. Supernus represents, warrants, and covenants that Supernus is the sole owner of the Litigated Patents, and Supernus possesses the sole right to enforce the Litigated Patents.

8. Supernus hereby covenants not to sue Ascent or any of its shareholders, licensees, sublicensees, customers, suppliers, importers, manufacturers, distributors, marketers, insurers, or any heirs, administrators, executors, predecessors, successors, or assigns of the foregoing, or cause or authorize any Person to do any of the foregoing, claiming or otherwise asserting that the manufacture, having manufactured, use, sale, offer for sale, or importation of the Ascent Product infringes the Litigated Patents and any other U.S. patents or patent applications and foreign patents Controlled now or in the future by Supernus or any of its Affiliates that could claim or cover the making, having made, using, selling, offering for sale or importation of the Ascent Product or components therein solely for use in the Ascent Product. Supernus will impose the foregoing covenant on any Third Party to which Supernus may assign, grant a right to enforce, or otherwise transfer (by any means) any of the Litigated Patents. This Section 8 of the Settlement Agreement shall not apply in the event Supernus has terminated the License Agreement.

9. Ascent, on behalf of itself and its Affiliates, represents, warrants, and covenants that it has not granted or assigned to any Third Party, directly or indirectly, any right or license under or to the Ascent ANDA or the Ascent Product, and that it will not, except in accordance with the License Agreement, do any of the foregoing (including, selling, assigning, transferring, or divesting the Ascent ANDA to a Third Party).

10. In consideration of the mutual execution of the Settlement Documents and the mutual agreement to be legally bound by the terms hereof, each of Supernus and Ascent, with the intention of binding itself and its Affiliates and its and their respective predecessors, successors, heirs and assigns, directors, officers, employees and representatives, hereby fully, finally and irrevocably release and discharge the other Party, and its Affiliates and its and their respective directors, officers, employees, customers, importers, manufacturers, distributors, suppliers, marketers, insurers, attorneys, representatives and agents, or any heirs, administrators, executors, predecessors, successors, or assigns of the foregoing, from any and all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, liabilities, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, counterclaims, demands, costs, expenses, losses, liens and obligations, whatsoever, in law or equity, whether known or unknown, pending or future, certain or contingent, foreseeable or not foreseeable, occurring before or as of the Effective Date related to the Litigated Patents and any other U.S. patents or foreign equivalents thereof which could reasonably be asserted against the Ascent ANDA or the Ascent Product, that are owned, licensed, or controlled by Supernus, including (i) in connection with the Pending Litigation, (ii) associated with the Ascent ANDA and Ascent Product, and including Supernus's assertion of the Litigated Patents against Ascent, or (iii) all other claims that were asserted or could have been asserted in the Pending Litigation (collectively, the "**Released Claims**"). For purposes of clarity, nothing herein shall inhibit any Party's ability to enforce the terms of the Settlement Documents, or Supernus's ability to enforce any patent, including the Litigated Patents against Third Parties, or Ascent's ability to assert claims, counterclaims or defenses of non-infringement, invalidity, or unenforceability of any patents, including the Litigated Patents, in any proceeding the subject matter of which is not the Ascent Product. EACH PARTY ACKNOWLEDGES THAT IT MAY HEREAFTER DISCOVER CLAIMS OR FACTS IN ADDITION TO OR DIFFERENT FROM THOSE WHICH IT NOW KNOWS OR BELIEVES TO EXIST WITH RESPECT TO THE RELEASED CLAIMS, THE FACTS AND CIRCUMSTANCES ALLEGED IN THE ACTION, AND/OR THE SUBJECT MATTER OF THIS SETTLEMENT AGREEMENT, WHICH, IF KNOWN OR SUSPECTED AT THE TIME OF EXECUTING THIS SETTLEMENT AGREEMENT, MAY HAVE MATERIALLY AFFECTED THIS SETTLEMENT AGREEMENT. NEVERTHELESS, UPON THE EFFECTIVENESS OF THE RELEASE OF THE RELEASED CLAIMS AS SET FORTH IN THIS SECTION, EACH PARTY HEREBY ACKNOWLEDGES THAT THE RELEASED CLAIMS INCLUDE WAIVERS OF ANY RIGHTS, CLAIMS, OR CAUSES OF ACTION THAT MIGHT ARISE AS A RESULT OF SUCH DIFFERENT OR ADDITIONAL CLAIMS OR FACTS. EACH PARTY ACKNOWLEDGES THAT IT UNDERSTANDS THE SIGNIFICANCE AND POTENTIAL CONSEQUENCES OF SUCH A RELEASE OF UNKNOWN UNITED STATES JURISDICTION CLAIMS AND OF SUCH A SPECIFIC WAIVER OF RIGHTS. EACH PARTY INTENDS THAT THE CLAIMS RELEASED BY IT UNDER THIS RELEASE BE CONSTRUED AS BROADLY AS POSSIBLE TO THE EXTENT THEY RELATE TO UNITED STATES JURISDICTION CLAIMS. EACH PARTY IS AWARE OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS:

> "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

EACH PARTY AGREES TO EXPRESSLY WAIVE ANY RIGHTS IT MAY HAVE UNDER THIS CODE SECTION OR UNDER FEDERAL, STATE, OR COMMON LAW STATUTES OR JUDICIAL DECISIONS OF A SIMILAR NATURE, AND KNOWINGLY AND VOLUNTARILY WAIVES ALL SUCH UNKNOWN RELEASED CLAIMS.

11. Supernus and Ascent each represents and warrants that it has the full right, authority and power to enter into the Settlement Documents and that the Settlement Documents shall create and constitute a binding obligation on its part as of the Effective Date.

12. Supernus and Ascent agree that each will bear its own costs and legal fees for the Pending Litigation.

13. From the execution of the Settlement Documents, and unless the Settlement Documents are terminated, neither Party will actively pursue litigation activities related to the Pending Litigation, except to the extent required by court order or other Applicable Law. In consideration of the benefits of entering into the Settlement Documents, the Parties, through their respective attorneys, shall, within three (3) Business Days of the Effective Date, jointly seek that the Court enter the Dismissal. In the event that the Court should refuse to enter the Dismissal, the Parties shall work together in good faith to modify the Dismissal to meet the Court's requirements, provided that nothing contained herein shall be deemed to require a Party to agree to a modification of the Dismissal or any other Settlement Document that materially affects the economic value of the transactions contemplated hereby. If despite such good faith efforts the Court refuses within thirty (30) days of the Effective Date to enter the Dismissal, the Settlement Documents shall be null and void *ab initio.*

14. The Parties shall submit the Settlement Documents to the Federal Trade Commission Bureau of Competition (the **Commission**") and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (the "**DOJ**") as soon as practicable following the Effective Date and in no event later than ten (10) Business Days following the Effective Date. The Parties shall use all reasonable efforts to coordinate the making of such filings, and shall respond promptly to any requests for additional information made by either of such agencies. Each Party reserves the right to communicate with the Commission or the DOJ regarding such filings as it believes appropriate. Each Party shall keep the other reasonably informed of such communications and shall not disclose the Confidential Information of the other without such other Party's consent (not to be unreasonably withheld). To the extent that any legal or regulatory issues or barriers arise with respect to the Settlement Documents, or any subpart thereof, the Parties shall work together in good faith and use reasonable efforts to modify the Settlement Documents to overcome any such legal or regulatory issues (including, for example, objections by the Commission, the DOJ, or any applicable court) in a mutually acceptable fashion, but in no event shall either Party be required to agree to any modification of the Settlement Documents that materially affects the economic value of the transactions contemplated hereby. For purposes of this Settlement Agreement, "reasonable efforts" shall mean reasonable efforts and commitment of resources consistent with such Party's similarly situated products or projects in order to achieve a stated goal as expeditiously as practical.

15. This Settlement Agreement shall terminate upon the expiration of the Litigated Patents, provided that Section 10 of this Settlement Agreement shall survive any such termination. Provided that this Settlement Agreement terminates due to expiration of the Litigated Patents, Section 8 of this Settlement Agreement shall survive termination and remain in effect until all patents and patent applications covered by Section 8 of this Settlement Agreement have expired or are no longer in force.

16. The Settlement Documents are governed under the provisions of the following Sections of the License Agreement: 5 (Confidentiality); 11.1 and 11.2 (Notice); 11.3 (Assignment); 11.4 (Amendment); 11.5 (Public Announcement); 11.6 (Merger and Integration); 11.7 (Governing Law); 11.8 (Agreement Costs); 11.9 (Counterparts); 11.10 (Severability); 11.11 (Relationship of the Parties); 11.12 (Construction); 11.13 (Dispute Resolution); 11.14 (Cumulative Rights); 11.15 (No Third Party Benefit); 11.16 (Further Assurance); and 11.17 (Waiver).

[Signature Page Follows]

[Signature Page to Settlement Agreement]

IN WITNESS WHEREOF, the Parties hereto have each caused this Settlement Agreement to be executed by their authorized representatives as of the Effective Date.

SUPERNUS PHARMACEUTICALS, INC.

By: /s/ Jack Khattar

Name: Jack Khattar

Title: President & CEO

ASCENT PHARMACEUTICALS, INC.

By: /s/ Sudhakar Vidiyala

Name: Sudhakar Vidiyala

Title: President & CEO

EXHIBIT A

LICENSE AGREEMENT

BY AND BETWEEN

SUPERNUS PHARMACEUTICALS, INC.

AND

ASCENT PHARMACEUTICALS, INC.

DATED AS OF APRIL 30, 2024

THIS LICENSE AGREEMENT ("**License Agreement**") is entered into as of April 30, 2024 (the "**Effective Date**") by and between, Supernus Pharmaceuticals, Inc., a corporation organized and existing under the laws of Delaware, having offices located at 9715 Key West Avenue, Rockville, Maryland 20850 ("**Supernus**"), on the one hand, and Ascent Pharmaceuticals, Inc., a corporation organized and existing under the laws of New York, having its principal place of business at 400 South Technology Drive, Central Islip, New York 11722 (" **Ascent**"), on the other hand. Supernus and Ascent are collectively referred to herein as the "**Parties,**" or each individually as a "**Party**."

RECITALS:

WHEREAS, Supernus and Ascent are parties to a certain Settlement Agreement of even date herewith (the **Settlement Agreement**"), pursuant to which Supernus and Ascent are settling the Pending Litigation (as defined in the Settlement Agreement);

WHEREAS, in accordance with the Settlement Agreement to which this License Agreement is attached asExhibit A and is being executed contemporaneously with this License Agreement, Supernus and Ascent have agreed to enter into this License Agreement as part of the Settlement Documents (as defined in the Settlement Agreement, the " **Settlement Documents**"); and

WHEREAS, as part of such settlement of the Pending Litigation, the Parties have agreed to enter into this License Agreement upon the terms and subject to the conditions set forth below.

NOW THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements described herein and in the Settlement Agreement, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Definitions.

16.1 "**Accelerated License Date**" means the earlier of: (i) the date of one or more Final PTO Decisions or Final Court Decisions finding all the claims of the Litigated Patents then asserted and finally adjudicated against a Third Party with respect to a Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug to be invalid, unenforceable, unpatentable, and/or not infringed; (ii) the date of a First Commercial Sale of a Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug of a Third Party which had originally filed an ANDA or 505(b)(2) application after January 1, 2015, with a "Paragraph IV Certification" under 21 U.S.C. § 355(j)(2)(A)(vii)(IV) (as amended or replaced) or 21 U.S.C. § 355(b)(2)(A)(iv) (as amended or replaced) under a license or other authorization by Supernus; (iii) the date an Authorized Generic ANDA Product is Marketed; (iv) the date an AG Product is Marketed; or (v) the date all the Litigated Patents are expired, dedicated to the public, or delisted from the Orange Book for the Trokendi XR Product.

16.2 "**Affiliate**" means, with respect to a Party, a Person that controls, is controlled by, or is under common control with such Party. For the purposes of this definition, the word "Control" (including, with correlative meaning, the terms "Controlled by" or "under common control with") means the actual power, either directly or indirectly through one or more intermediaries, to direct the management and policies of such Person, whether by the ownership of fifty percent (50%) or more of the voting interest of such Person (it being understood that the direct or indirect ownership of a lesser percentage of such interest shall not necessarily preclude the existence of control), or by contract or otherwise.

16.3 "**AG Product**" means a product that is not Labeled with the Trokendi XR® trademark containing the Compound in any strength as its sole active ingredient that is Marketed or supplied under the Supernus NDA, described therein now or hereafter.

16.4 "**ANDA**" means an Abbreviated New Drug Application to the FDA for approval to Manufacture and Market a pharmaceutical product in or into the Territory.

16.5 "**Anticipated License Date**" means February 1, 2026.

16.6 "**Applicable Law**" means the applicable Laws, rules, regulations, guidelines and requirements of any Governmental Authority related to the performance of either Party's obligations under the Settlement Documents.

16.7 "**At-Risk Launch**" means the First Commercial Sale of a Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug, other than an Authorized Generic ANDA Product, by a Third Party, other than a Third Party acting pursuant to an agreement or understanding with Supernus or otherwise in privity with Ascent or its Affiliates, preceding a Final PTO Decision or Final Court Decision holding all the claims of the Litigated Patents asserted and finally adjudicated against the Third Party to be invalid, unenforceable, unpatentable, and/or not infringed by such Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug. For the avoidance of doubt, an At-Risk Launch does not include the Launch of a Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug by a Third Party acting pursuant to an agreement or understanding between Supernus and the Third Party.

16.8 "**At-Risk Launch Date**" means the date of the First Commercial Sale for an At-Risk Launch.

16.9 "**At-Risk License Date**" means (i) if Supernus files a TRO/PI, the [**] of (x) [**] after the At-Risk Launch Date, (y) if the original TRO/PI was filed in an appellate court, the date the appellate court denies the TRO/PI, and (z) if the original motion was filed in a district court and the district court denies the TRO/PI the later of (a) [**] after the date the district court denies the TRO/PI, and (b) if Supernus files a TRO/PI in an appellate court, the date the appellate court denies the TRO/PI; and (ii) if Supernus does not file with the court a TRO/PI, [**] the At-Risk Launch Date; provided, in each case, that the [**] or [**] to a [**] the

[**] as the [**] which is the subject of the [**] continues to be on the market in the [**] on such date.

16.10 "**At-Risk Period**" shall have the meaning assigned to such term in Section 4.3.5.

16.11 "**Authorized Generic ANDA Product**" means a [**] or [**] to a [**] the [**] as the [**], whether pursuant to a [**] or [**], for Marketing pursuant to an agreement between Supernus and a Third Party which had originally filed an ANDA or 505(b)(2) application with respect to a Generic Equivalent Product or [**]to a [**] the [**] as the [**]after [**], with a "Paragraph IV Certification" under 21 U.S.C. § 355(j)(2)(A)(vii)(IV) (as amended or replaced) or 21 U.S.C. § 355(b)(2)(A)(iv) (as amended or replaced). For the avoidance of doubt, if Supernus has entered or enters into an agreement with a Third Party which had [**] with respect to a [**] or [**] as the reference listed drug after [**], with a "Paragraph IV Certification" under 21 U.S.C. § 355(j)(2)(A)(vii)(IV) (as amended or replaced) or 21 U.S.C. § 355(b)(2)(A)(iv) (as amended or replaced) that [**] the [**] of a [**] or [**]to a [**] the [**] as the [**] in the Territory, and such agreement includes a [**], or the like with respect to [**] of such [**] or [**]to a [**] the [**] as the [**], such [**] or [**]to a [**] the [**] as the [**] shall not be considered an [**] by virtue of such [**], or the like, provided such [**] or [**]to a [**] the [**] as the [**]is no longer being Marketed in the Territory.

16.12 "**Business Day**" means any day other than a Saturday, Sunday, or a day on which banks in New York, New York are authorized or required by Law to close.

16.13 "**Claim**" means any Third Party claim, lawsuit, investigation, proceeding, regulatory action, or other cause of action.

16.14 "**Commercially Reasonable Efforts**" means efforts and diligence in accordance with Ascent's reasonable and sound business, legal, medical, and scientific judgment and in accordance with the efforts and resources Ascent would use in other aspects of its business that have similar commercial value and market potential, taking into account the competitiveness of the marketplace, the business life-cycle, the proprietary position of Ascent, and the profitability of the pertinent product.

16.15 "**Compound**" means topiramate.

16.16 "**Confidential Information**" means, subject to Section 5.1, any scientific, technical, formulation, process, Manufacturing, clinical, non-clinical, regulatory, Marketing, financial, or commercial information or data relating to the business, projects, employees, or products of either Party and provided by one Party to the other by written, oral, electronic, or other means in connection with the Settlement Documents.

16.17 "**[**]**" shall have the meaning assigned to such term in Section 3.5.

16.18 "**Effective Date**" shall have the meaning assigned to such term in the preamble to this License Agreement.

16.19 "**FDA**" means the United States Food and Drug Administration or any successor agency thereof.

16.20 "**Final Court Decision**" means a final decision of any Federal court from which no appeal has been taken or can be taken within the time permitted therefor (other than a petition to the United States Supreme Court for a *writ of certiorari').*

16.21 "**Final PTO Decision**" means a final judgment by the U.S. Patent Trial and Appeal Board from which no appeal has been taken or can be taken within the time permitted therefor (other than a petition to the United States Supreme Court for a *writ of certiorari).*

16.22 "**First Commercial Sale**" means the Shipment by a Third Party of commercial quantities of product for immediate commercial sale in the Territory to any of the following: retail chains, pharmaceutical wholesalers, health care providers, or managed care providers in the Territory. In the event that Ascent provides written notice to Supernus advising that Ascent has determined that a Third Party has completed the First Commercial Sale of a Generic Equivalent Product and the date of such First Commercial Sale (a "Safe Harbor Notice"), and Supernus confirms such determination or fails to deliver written notice to Ascent reasonably and in good faith objecting to such determination (and setting forth independent and reliable information gained from reliable sources in the trade) within [**] after receipt of such Safe Harbor Notice from Ascent, then a First Commercial Sale shall be conclusively deemed to have occurred on such date. In the event that Supernus delivers timely written notice to Ascent reasonably and in good faith objecting to the determination (and setting forth independent and reliable information gained from reliable sources in the trade) set forth in the Safe Harbor Notice, Supernus shall be deemed to have reserved its right to dispute the occurrence of the First Commercial Sale.

16.23 Reserved.

16.24 "**Force Majeure**" means any circumstances reasonably beyond a Party's control, including, acts of God, civil disorders or commotions, acts of aggression, terrorism, fire, explosions, floods, drought, war, sabotage, embargo, utility failures, supplier failures, material shortages, labor disturbances, a national health emergency, or appropriations of property.

16.25 "**GAAP**" means generally accepted accounting principles in effect in the United States from time to time, consistently applied.

16.26 "**Generic Equivalent Product**" means an extended release oral capsule product containing the Compound as its sole active ingredient which is submitted to the FDA for Regulatory Approval pursuant to an ANDA as a Therapeutic Equivalent to the Trokendi XR Product. For clarity. Generic Equivalent Product shall not include AG Product.

16.27 "**Governmental Authority**" means any court, tribunal, arbitrator, agency, legislative body, commission, official, or other instrumentality of: (i) any government of any country; or (ii) a federal, state, province, county, city, or other political subdivision thereof.

16.28 "**Label**" means any Package labeling designed for use with a product, including the package insert for such product that is approved by the FDA, and "**Labeled**" or "**Labeling**" shall have the correlated meaning.

16.29 "**Launch**" means the first Shipment of a Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug to a Third Party.

16.30 "**Law**" or "**Laws**" means all laws, statutes, rules, codes, regulations, orders, judgments, and ordinances of any Governmental Authority.

16.31 "**License and Authorization**" shall have the meaning assigned to such term in Section 2.5.

16.32 "**Licensed Patents**" means: (i) the Litigated Patents and any patent that issues as a result of a continuation, continuation-in-part, divisional, reexamination, or reissue thereof; and (ii) any other present or future U.S., international, or foreign patent owned or controlled by Supernus or any of its Affiliates which claims cover the Manufacturing, Marketing, Shipping, using, or importing of the Ascent Product or any component therein, including any additional patents listed now or in the future in FDA's Orange Book for the Trokendi XR Product.

16.33 "**Litigated Patents**" shall have the meaning assigned to such term in the Settlement Agreement.

16.34 "**Losses**" means any liabilities, damages, costs, or expenses, including reasonable attorneys' fees and expert fees, incurred by any Party that arises from any claim, lawsuit or other action by a Third Party.

16.35 "**Manufacture**" means all activities related to the manufacturing, development and use of a pharmaceutical product, or any ingredient thereof, including, manufacturing Compound or supplies for development, manufacturing a product for commercial sale, packaging, in-process and finished product testing, release of product or any component or ingredient thereof, quality assurance activities related to manufacturing and release of product, ongoing stability tests and regulatory activities related to any of the foregoing, and "**Manufactured**" or "**Manufacturing**" shall have the correlated meaning.

16.36 "**Market**" means to distribute, have distributed, promote, advertise, market, offer for sale, or sell, to a Third Party, and "**Marketing**" or "**Marketed**" shall have the correlated meaning.

16.37 "**Net Sales**" shall equal the gross amounts invoiced for sales of the Ascent Product to Third Parties in the Territory less all applicable deductions from such gross sales, all as determined in accordance with Ascent's standard practices for other pharmaceutical products and consistent with the customary practices in the generic pharmaceutical industry in the

Territory, consistently applied, and which, as applicable, are actually incurred, allowed, accrued, or specifically allocated, including:

1.1.1 [**];

1.1.2 [**];

1.1.3 [**];

1.1.4 [**];

1.1.5 [**];

1.1.6 [**]; and

1.1.7 [**].

For the sake of clarity, all such deductions represent reductions to the gross amount invoiced for sales of the Ascent Product by Ascent or its Affiliates to Third Parties in the Territory in accordance with GAAP.

16.38 "**NDA**" means a New Drug Application (or equivalent regulatory mechanism) filed with the FDA pursuant to and under 21 U.S.C. § 355(b) (as amended, supplemented, or replaced), together with the FDA's implementing rules and regulations.

16.39 "**Orange Book**" means the "Approved Drug Products with Therapeutic Equivalence Evaluations" published by FDA.

16.40 "**Package**" means all primary containers, including bottles, cartons, shipping cases, or any other like matter used in packaging or accompanying a product, and "**Packaged**" or "**Packaging**" shall have the correlated meaning.

16.41 "**Party**" or "**Parties**" shall have the meaning assigned to such term in the preamble to this License Agreement.

16.42 "**Pending Litigation**" shall have the meaning assigned to such term in the Settlement Agreement.

16.43 "**Person**" means any individual, partnership, association, corporation, limited liability company, trust, or other legal person or entity.

16.44 "**Regulatory Approval**" means final Marketing approval by the FDA for the Marketing of a pharmaceutical product in the Territory.

16.45 "**Settlement Agreement**" shall have the meaning assigned to such term in the Recitals.

16.46 "**Shipped**" means, with respect to a product, when a Person has delivered shipments of such product to a common earner in the Territory for shipment to other Persons for resale; in each instance, "**Shipment,**" "**Ship,**" or "**Shipping**" shall have the correlated meaning.

16.47 "**Supernus**" shall have the meaning assigned to such term in the preamble to this License Agreement.

16.48 "**Supernus NDA**" means NDA No. 201635, as amended or supplemented.

16.49 "**Supernus Party**" shall have the meaning assigned to such term in Section 7.2.

16.50 "**Supernus's External Auditor**" shall have the meaning assigned to such term in Section 4.8.

16.51 Reserved.

16.52 "**Term**" shall have the meaning assigned to such term in Section 10.1.

16.53 "**Territory**" means the United States of America, and its territories, commonwealths, districts and possessions, including the Commonwealth of Puerto Rico.

16.54 "**Therapeutic Equivalent**" shall have the meaning given to it by the FDA in the current edition of the Orange Book as may be amended from time to time during the Term.

16.55 "**Third Party**" or "**Third Parties**" means any Person or entity other than a Party or its Affiliates.

16.56 "**Third Party Agreement**" shall have the meaning assigned to such term in Section 3.8.

16.57 "**Trokendi XR Product**" means the extended release oral capsule product containing the Compound as its sole active ingredient which is approved for Marketing pursuant to the Supernus NDA and is Marketed in the Territory under the Trokendi XR® trademark (or a successor trademark adopted for such product).

16.58 "**TRO/PI**" means a motion for temporary restraining order and/or preliminary injunction, or other court filing, in each case seeking cessation or prevention of an At- Risk Launch.

16.59 "**Ascent**" shall have the meaning assigned to such term in the preamble to this License Agreement.

16.60 Reserved.

16.61 "**Ascent ANDA**" shall mean ANDA No. 217443 (together with any amendments, supplements, or other changes thereto) seeking approval to engage in the

Manufacture, use, and sale of an extended release oral capsule product containing the Compound as its sole active ingredient.

16.62 "**Ascent Launch**" means a Launch by Ascent of a Ascent Product.

16.63 "**Ascent License Date**" means the earlier of:

16.63.1 the Anticipated License Date;

16.63.2 an At-Risk License Date; or

16.63.3 an Accelerated License Date.

16.64 "**Ascent Party**" shall have the meaning assigned to such term in Section 7.1.

16.65 Reserved.

16.66 "**Ascent Product**" means extended release oral capsules containing the Compound as its sole active ingredient, which is the subject of the Ascent ANDA, including all formulations and strengths thereof, described therein now or hereafter.

16.67 "**Designated Distributor**" means a Third Party designated by Ascent in accordance with Section 2 below to Market the Ascent Product pursuant to a license and authorization agreement (in a form substantially identical to Exhibit C) executed by and among Supernus, Ascent, and the Third Party.

17. License and Authorization

17.1 Subject to the terms, conditions, and limitations hereof, including the conditions set forth in Section 3, Supernus hereby grants to Ascent a non-exclusive license, under the Licensed Patents to: (i) Manufacture, have Manufactured, import, use, and Market the Ascent Product in, into, or for the Territory, on and after the applicable Ascent License Date; and (ii) Manufacture, and have Manufactured, import, and conduct regulatory activities regarding the Ascent Product in, into, or for the Territory prior to the Ascent License Date (but not to Market or Ship the Ascent Product prior to the Ascent License Date) in sufficient quantities to permit Ascent to Market and Ship the Ascent Product in, into, or for the Territory beginning [**] prior to the Ascent License Date, and (iii) beginning [**] prior to a date in good faith anticipated by Ascent to be the date that one or more Final PTO Decisions and/or Final Court Decisions will be entered finding all the claims of the Litigated Patents asserted and finally adjudicated against a Third Party which had originally filed an ANDA or 505(b)(2) application with respect to a Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug after January 1, 2015, with a "Paragraph IV Certification" under 21 U.S.C. § 355(j)(2)(A)(vii)(IV) (as amended or replaced) or 21 U.S.C. § 355(b)(2)(A)(iv) (as amended or replaced) with respect to a Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug to be invalid, unenforceable, or not infringed by such Generic Equivalent

Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug (a**Potential Final Court Decision**"**),** Manufacture, and have Manufactured, import, and conduct regulatory activities regarding the Ascent Product in, into, or for the Territory prior to the Ascent License Date (but not to Market or Ship the Ascent Product prior to the Ascent License Date) in sufficient quantities to permit Ascent to Market and Ship the Ascent Product in, into, or for the Territory on and after the Ascent License Date; provided that all Ascent Product in the Territory shall be remain at Ascent's or its Designated Distributor's warehouse until an Ascent License Date; and further provided, that Ascent or its Designated Distributor shall impound, re-export (or, at Ascent's option, destroy) any Ascent Product which remains in the Territory at such time that Ascent in good faith determines that no such Final Court Decision will be issued with respect to a Third Party's Generic Equivalent Product and no Accelerated License Date will result from such Potential Final Court Decision. If Supernus has entered or enters into a Third Party Agreement (as defined in Section 3.8) providing such Third Party with any license or authorization to Manufacture, and have Manufactured, import, and conduct regulatory activities regarding the Third Party's Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug more than [**] prior to the date such Third Party is licensed or authorized by Supernus to Market such Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug, then this License Agreement shall automatically be amended to provide Ascent with such greater time period. Supernus will notify Ascent within [**] of entering into any such Third Party Agreement.

17.2 Subject to the terms, conditions and limitations in this License Agreement, at the request of Ascent, Supernus will enter into a license and authorization agreement (in a form substantially identical to Exhibit C) to allow a Third Party to act as a Designated Distributor to Market in the Territory, on Ascent's behalf, the Ascent Product on and after the applicable Ascent License Date. As set forth in the license and authorization agreement, the Designated Distributor shall itself have such obligations and such rights and obligations held by Ascent under this License Agreement. Supernus will not unreasonably refuse to enter into a license and authorization agreement at the request of Ascent. No Third Party which has filed and is maintaining an ANDA seeking Regulatory Approval for a Generic Equivalent Product may be a Designated Distributor. Except as expressly provided herein and under a license and authorization agreement by and among Supernus, Ascent, and a Third Party, there are no authorizations, licenses or rights granted to any Third Party or Designated Distributor under this License Agreement, by implication, estoppel or otherwise, including any right to Market or Manufacture any Generic Equivalent Product.

17.3 If a Designated Distributor subsequently becomes unqualified to be a Designated Distributor, Ascent shall provide written notice to Supernus of the disqualification within ten (10) days of Ascent's learning of the Designated Distributor's disqualification. At any time after receiving Ascent's written notice or Supernus having learned of the Designated Distributor's disqualification, Supernus may provide [**] ([**]) days written notice to Ascent and the disqualified Designated Distributor of termination of the applicable license and authorization agreement. If an applicable license and authorization agreement is terminated by

Supernus due to disqualification of a Designated Distributor, Ascent may elect to propose a new Designated Distributor in accordance with Sections 2.8 and 2.9.

17.4 As of the Effective Date, Ascent may continue to take any steps necessary to pursue and obtain regulatory approval with the FDA for the Ascent Product. To the extent Supernus owns or controls any regulatory exclusivities granted by the FDA that may prevent or hinder Regulatory Approval or Marketing of the Ascent Product, Supernus hereby waives, effective as of the date that Ascent is licensed to conduct the applicable activity hereunder, such exclusivities including any pediatric exclusivities. Supernus shall, within [**] of Ascent's request, provide the FDA, with a copy to Ascent, with (A) written confirmation of the Ascent License Date and the licenses and covenants herein, and/or (B) a waiver of any regulatory exclusivities or other regulatory rights that Supernus or its Affiliates control that apply to Trokendi XR Product, solely as necessary for Ascent to secure immediate final approval of the Ascent ANDA and Ascent Product to Launch the Ascent Product in the Territory as permitted by the License Agreement.

17.5 The license and authorization granted in Section 2.1 and Section 3.1 of this License Agreement are referred to herein as the "**License and Authorization.**" Except to the extent permitted pursuant to Section 11.3, and without derogating from Ascent's "have Manufactured" rights and/or Marketing rights set forth in Section 2.1, Ascent and a Designated Distributor shall not have the right to sublicense, assign, or transfer any of its rights under the License and Authorization.

17.6 In the event the License and Authorization becomes effective due to an At- Risk License Date and there are thereafter no longer any Generic Equivalent Products or products subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug on the market in the Territory that are not authorized, whether pursuant to a license or covenant not to sue, for Marketing pursuant to an agreement with Supernus (other than Authorized Generic ANDA Product or AG Product subject to substantially the same provisions as set forth in this Section), upon notice from Supernus, Ascent's right to Market Ascent Product under the License and Authorization shall immediately terminate, and Ascent or its Designated Distributor shall cease (no later than the end of the [**] following Ascent's receipt of such notice) the Marketing and Shipping of Ascent Product until such subsequent time as another event constituting an Ascent License Date shall have occurred.

17.7 Except as expressly set forth in this License Agreement, other Settlement Documents, or a license and authorization agreement by and among Supernus, Ascent, and a Third Party allowing the Third Party to be a Designated Distributor, there are no authorizations, licenses, or rights granted by either Party under this License Agreement, by implication, estoppel, or otherwise, including any right granted to Ascent or its Affiliates to Market or Manufacture any Generic Equivalent Product except under the Ascent ANDA. All rights not expressly granted by Supernus herein are hereby retained by Supernus. In addition, except as expressly set forth in this License Agreement or other Settlement Documents, Supernus explicitly retains the right itself or through an Affiliate to Market an AG Product, and Supernus

is free to grant a license under the Licensed Patents or supply AG Product to Ascent or any Third Party.

17.8 Upon Ascent's [**] written notice to Supernus, Ascent may propose a Third Party to be a second Designated Distributor for the exclusive right to Market the Ascent product to governmental agencies, including, but not limited to, [**]. If Ascent uses a second Designated Distributor to exclusively Market the Ascent Product to [**], neither Ascent nor the first Designated Distributor may Market the Ascent Product to [**].

17.9 Upon Ascent's [**] written notice to Supernus, Ascent may propose to change and/or add a Designated Distributor to a different, qualified Third Party or eliminate the use of a Designated Distributor or begin Marketing the Ascent Product itself to governmental agencies, including but not limited to, the [**] Upon receipt of such written notice from Ascent, the then effective license and authorization agreement shall terminate with respect to the applicable Designated Distributor upon the execution of a license and authorization agreement (in a form substantially identical to Exhibit C) by and among Supernus, Ascent, and the proposed, qualified Third Party. The obligations under this License Agreement of any terminated Designated Distributor shall survive and continue, including those set forth in Sections 3, 5,7.1-7.7, and 11, notwithstanding such termination or Ascent's election to change the Designated Distributor.

17.10 Ascent shall be responsible for ensuring a Designated Distributor's compliance with the Designated Distributor's obligations under a license and authorization agreement by and among Supernus, Ascent, and a Third Party to comply with Ascent's obligations under this License Agreement. In the event a Designated Distributor fails to comply with Ascent's obligations under this License Agreement as set forth in the license and authorization agreement, such Designated Distributor's noncompliance shall constitute both the Designated Distributor's breach of the license and authorization agreement and Ascent's breach of this License Agreement. A Designated Distributor's breach of a license and authorization agreement by failing to comply with Ascent's obligations under this License Agreement shall cause immediate termination of the license and authorization agreement.

18. Covenants

18.1 Except as expressly provided in Section 2.1, Ascent hereby agrees not to manufacture, have manufactured, import, sell, offer to sell, or use Ascent Product in the Territory prior to the applicable Ascent License Date. Notwithstanding the foregoing and in addition to Section 2.1, Supernus hereby grants Ascent and any Designated Distributor a limited license, commencing [**] prior to the Ascent License Date, to communicate to potential purchasers that Ascent and any Designated Distributor will be selling the Ascent Product in the Territory on or after the Ascent License Date (including, for example, notification to customers regarding the Ascent Product, and engaging customers in non-binding pricing/contracting activities), and shipping or delivering or distributing the Ascent Product to Third Party distributors or Affiliated distributors, in each case solely for the purpose of conducting preparations for an Ascent Launch in or into the Territory on the [**]. In addition, starting [**] prior to a reasonably anticipated [**], Supernus hereby grants Ascent and any Designated Distributor a license to engage in

premarketing activities including contacting customers and engaging in non-binding contracting negotiations, and entering into binding contracts beginning [**] prior to a reasonably anticipated [**]. If Supernus has entered or enters into a Third Party Agreement providing such Third Party with any license or authorization to conduct activities described in this Section for period of time greater than provided herein, then this License Agreement shall automatically be amended to provide Ascent with such greater time periods. Supernus will notify Ascent within [**] of entering into any such Third Party Agreement.

18.2 Ascent and its Affiliates shall not assist, coordinate with, or otherwise help any Third Parties in prosecuting, defending, or settling their litigations concerning their ANDA to Market any Generic Equivalent Product, except as required by Law. Ascent and its Affiliates hereby agree not to: (i) challenge the validity, patentability, or enforceability of the Litigated Patents (including but not limited to a petition for ex parte reexamination, Inter Partes Review (IPR), and Post Grant Review (PGR)); (ii) aid, abet, assist, enable, or participate with any Third Party in a challenge to the validity, patentability, or enforceability of the Litigated Patents or the non-infringement of a Generic Equivalent Product; (iii) Market or Manufacture a Generic Equivalent Product other than the Ascent Product pursuant to the License and Authorization; or (iv) aid, abet, enable, or contract with any Third Party regarding the Marketing or Manufacturing of any Generic Equivalent Product in or into the Territory other than the Ascent Product. Notwithstanding the foregoing, nothing herein shall prohibit Ascent from asserting any and all counterclaims or defenses of invalidity, non-infringement, or unenforceability of the Litigated Patents in any proceeding the subject matter of which is not the Ascent Product or a Generic Equivalent Product or products subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug (and Ascent may file a petition for ex parte reexamination. Inter Partes Review (IPR), and Post Grant Review (PGR) of a Litigated Patent, if such Litigated Patent is asserted against Ascent in any proceeding the subject matter of which is not the Ascent Product or a Generic Equivalent Product or products subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug). Nothing herein shall prevent Ascent from filing or maintaining any Paragraph IV Certification with respect to any Litigated Patent or any other patent listed in the Orange Book in connection with any product which is not the Ascent Product or a Generic Equivalent Product or products subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug. Ascent shall have the right to maintain with the FDA any Paragraph IV Certifications filed against the Litigated Patents in connection with the Ascent ANDA and to file Paragraph IV Certifications in connection with the Ascent ANDA against any patents now listed or listed in the future in the Orange Book with respect to the Trokendi XR Product.

18.3 Ascent and its Affiliates acknowledge and agree that the restrictions set forth herein on the manufacture, use, sale, offer to sell, importation, and distribution of the Ascent Product are reasonable and necessary to protect the legitimate business interests of Supernus, that Supernus would not have entered into the Settlement Documents in the absence of such restrictions, and that any breach of those restrictions will result in irreparable injury to Supernus for which there will be no adequate remedy at law. Accordingly, if Ascent and its Affiliates breach any of their undertakings in Sections 3.1 or 3.2, in addition to any other remedy Supernus may have at law or in equity: (1) Supernus may, at its sole discretion, immediately,

effective upon notice to Ascent, terminate all, or any of, the License Agreement or the Settlement Agreement; and (2) Ascent agrees that Supernus shall be entitled to an injunction to prevent the continuance of such breach and that Supernus will not be required to demonstrate irreparable harm or that the balance of hardship supports the entry of injunctive relief in order to obtain such relief.

18.4 Nothing set forth herein or in the other Settlement Documents shall be deemed to give Supernus any control over any Marketing exclusivity that may be granted to Ascent by the FDA in connection with the Ascent ANDA or the Ascent Product. Nothing set forth herein or in the other Settlement Documents shall be deemed to prevent or restrict Ascent from Manufacturing or Marketing any Generic Equivalent Product which would not infringe the Licensed Patents, and nothing herein shall prohibit Ascent from entering into any agreement with a Third Party related to any Generic Equivalent Product that does not infringe the Licensed Patents.

18.5 Supernus hereby covenants not to sue Ascent or any of its shareholders, licensees, sublicensees, customers, suppliers, importers, manufacturers, distributors, marketers, insurers, or any heirs, administrators, executors, predecessors, successors, or assigns of the foregoing, or cause or authorize any Person to do any of the foregoing, claiming or otherwise asserting that the manufacture, having manufactured, marketing, use, sale, offer for sale, or importation of the Ascent Product or the active pharmaceutical ingredient for incorporation therein infringes the Licensed Patents and any other U.S. patents or patent applications and foreign patents Controlled now or in the future by Supernus or any of its Affiliates that could claim or cover the making, having made, marketing, using, selling, offering for sale or importation of the Ascent Productor components therein solely for use in the Ascent Product (the "**Covenant Not to Sue**"). Supernus will impose the foregoing Covenant Not to Sue on any Third Party to which Supernus may assign, grant a right to enforce, or otherwise transfer (by any means) any of the patents subject to the foregoing Covenant Not to Sue. The Covenant Not to Sue shall not apply in the event Supernus has terminated this License Agreement. For any of the Licensed Patents listed in the Orange Book for the Trokendi XR Product, the Covenant Not to Sue will hereby be treated as a non-exclusive license, so that Ascent may file, modify and maintain with the FDA any "Paragraph IV Certifications" under 21 U.S.C. § 355(j)(2)(A)(vii)(IV) (as amended or replaced) and 21 U.S.C. § 355(b)(2)(A)(iv) (as amended or replaced) with respect to the Ascent ANDA, or amend the Ascent ANDA or (ii) amending Ascent's ANDA to include Paragraph IV Certifications to any other patents that may be listed in the Orange Book for the Trokendi XR Product.

18.6 Supernus shall not [**] to [**] with the FDA approval of the Ascent ANDA, or the [**] as of the applicable [**], and shall not assist, encourage, finance, or join with any Third Party to do so, including by: (i) [**] as [**] or [**] the [**] prior to [**] after the [**] in the [**]; (ii) [**] or [**] any [**] with respect to the [**] from the [**]; (iii) [**] for the [**]; (iv) [**] or otherwise [**] the [**] of the [**] ([**]due to a [**] or [**] issue based on [**]) prior to the [**] in the [**]; (v) [**] or otherwise [**] any action with the [**] to [**] any of the [**] from the market ([**] due to a [**] or [**] issue based on [**]) prior to [**] after [**] in the

[**]; or (vi) filing any [**] with the [**] or suit against [**] relating to [**] which [**] the approval of the [**], [**] for purposes of [**] or [**] which are based on [**].

18.7 Reserved.

18.8 Supernus represents and covenants to Ascent that the Ascent License Date, license acceleration provisions therein, launch at risk terms, and royalties terms, as set forth in Section 4 (including the royalty rates set forth in Section 4.3), will be equivalent to or better than the terms granted by Supernus after the Effective Date to any Third Party which had originally filed an ANDA or 505(b)(2) application [**] or [**] to a [**] the [**] as the [**] after [**], with a "Paragraph IV Certification" under 21 U.S.C. § 355(j)(2)(A)(vii)(IV) (as amended or replaced) or 21 U.S.C. § 355(b)(2)(A)(iv) (as amended or replaced) **("Third Party Agreement")**. If Supernus has entered or enters into a Third Party Agreement providing such Third Party with more [**], or [**] to a [**] or [**] to a [**] the [**] as the [**], then the applicable terms in this License Agreement shall be automatically amended to provide such more favorable terms to Ascent. Supernus will notify Ascent within [**] of entering into any such Third Party Agreement.

18.9 Reserved.

18.10 Prior to the Ascent License Date, Supernus will provide written notice to Ascent within [**] after each time either (i) Supernus submits a document to FDA seeking a change in the [**] for the Trokendi XR Product, including any specific [**] amendments or supplements to the Supernus NDA or (ii) FDA communicates to Supernus a suggestion or directive to make a change to the [**] for the Trokendi XR Product. In each case such notice shall include the text of the proposed or directed [**] change. Ascent shall be licensed to adopt, incorporate, and use any and all text of the proposed or directed [**] change for any change, amendment, or supplement to the Ascent ANDA.

19. Marketing of Ascent Product

19.1 **Ascent Pricing**. Ascent and a Designated Distributor will have sole discretion in setting the price for the sale of Ascent Product in the Territory.

19.2 **Scope of License Agreement**. Except to the extent permitted pursuant to Sections 2.1 and 11.3, and without derogating from Ascent's "have Manufactured" and Marketing rights set forth in Section 2.1 or the rights of Third Parties after the first sale of any Ascent Product as permitted under this Agreement, only Ascent and a Designated Distributor shall be permitted to Launch and Market the Ascent Product under this License Agreement.

19.3 **Ascent Royalties**. For any Ascent Product sold during the period commencing upon the Ascent License Date and continuing until the expiration of the last valid claim of the Litigated Patents asserted as of the Effective Date in the Pending Litigation (the "**Royalty Term**"**),** Ascent will pay to Supernus a royalty as follows:

19.3.1 [**] of Net Sales on Ascent Product sold (as determined by Ascent's standard practices for other pharmaceutical products, consistently applied) during any period when the Ascent Product is the only Generic Equivalent Product or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug on the market in the Territory;

19.3.2 [**] of Net Sales on Ascent Product sold (as determined by Ascent's standard practices for other pharmaceutical products, consistently applied) during any period when the Ascent Product is on the market in the Territory with one (1) other Generic Equivalent Product, or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug;

19.3.3 [**] of Net Sales on Ascent Product sold (as determined by Ascent's standard practices for other pharmaceutical products, consistently applied) during any period when the Ascent Product is on the market in the Territory with two (2) other Generic Equivalent Products, or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug;

19.3.4 [**] of Net Sales on Ascent Product sold when there are three (3) or more other Generic Equivalent Products, or product subject to a Section 505(b)(2) application referencing the Trokendi XR Product as the reference listed drug it being acknowledged, for the avoidance of doubt that the license granted hereunder shall be royalty-free during any period in which this Section 4.3.4 is applicable);

19.3.5 Notwithstanding Sections 4.3.1 through 4.3.4, in the event that Ascent or a Designated Distributor sells any Ascent Product after an At-Risk Launch and prior to the earlier of the Anticipated License Date or an Accelerated License Date (the "**At-Risk Period**") and Supernus subsequently obtains a court order enjoining such At-Risk Launch (which injunction is not subsequently vacated or otherwise overturned or rescinded), the royalty on Net Sales of the Ascent Product during such At-Risk Period will be retroactively increased to [**] of Net Sales on Ascent Product sold (as determined by Ascent's standard practices for other pharmaceutical products, consistently applied, unless any such injunction is subsequently vacated) and Ascent will pay to Supernus the difference between the percentage of Net Sales actually paid by Ascent and [**] of such Net Sales on Ascent Product; provided that the total royalty payable by Ascent for sales of the Ascent Product during such At-Risk Period shall not exceed, on a per unit basis, the per unit amount paid by the Third Party initiating the At-Risk Launch. In the event Supernus obtains a court order (other than a Final Court Decision) enjoining an At-Risk Launch, the determination of whether the retroactive increase in the royalty rate under this Section 4.3.5 shall be applicable will be made upon the entry of a Final Court Decision concerning such order.

19.4 Royalty Payments. Payments due under this Section 4 shall be made by Ascent for sales of Ascent Product whether by itself or a Designated Distributor within [**] days from the end of each calendar quarter in which Ascent Product is sold. All such payments shall include a report provided consistent with the antitrust laws which details the calculation of gross sales. Net Sales, and the royalties payable hereunder.

19.5 Annual True-Up. Within [**] days after the end of each calendar year during the Royalty Term in which fees are payable to Supernus pursuant to this Section 4, Ascent and the Designated Distributor shall perform a "true up" reconciliation (and shall provide Supernus with a written report of such reconciliation) of the items comprising deductions from Net Sales other than returns. The reconciliation shall be based on actual cash paid or credits actually issued plus an estimate for any remaining liabilities incurred related to Ascent Product but not yet paid. If the foregoing reconciliation report shows either an underpayment or an overpayment between the Parties, the Party owing payment to the other Party shall pay the amount of the difference to the other Party within [**] days of the date of delivery of such report.

19.6 Final True-Up. Within [**] months of the end of the last calendar year during the Royalty Term in which fees are payable to Supernus pursuant to this Section 4, Ascent and the Designated Distributor shall perform a "true-up" reconciliation (and shall provide Supernus with a written report of such reconciliation) of the items comprising deductions from Net Sales for returns. The reconciliation shall be based on actual cash paid or credits issued for returns, through the [**] month period following the termination of the Royalty Term. If the foregoing reconciliation report shows either an underpayment or an overpayment between the Parties, the Party owing payment to the other Party shall pay the amount of the difference to the other Party within [**] days of the date of delivery of such report.

19.7 Maintenance of Records. Ascent and the Designated Distributor shall, and shall ensure that their Affiliates shall, keep at either their normal place of business, or at an offsite storage facility, detailed, accurate, and up to date records consisting of (i) records and books of account sufficient to confirm the calculation of the gross sales, Net Sales, and the royalties payable hereunder; and (ii) any invoices or reports accompanying any payment to Supernus provided to Supernus in connection with this License Agreement. Such records shall be retained for a period of at least three (3) years after the end of each calendar quarter to which such records relate.

19.8 Inspection. On no less than [**] notice from Supernus, Ascent and the Designated Distributor shall make all the records referred to in Section 4.7 of this License Agreement available for inspection during normal business hours by an internationally recognized independent accounting firm selected by Supernus and reasonably acceptable to Ascent that is not paid in whole or in part by a contingent fee arrangement **("Supernus External Auditor")** for the purpose of general review or audit; provided that Supernus may not request such inspection more than once in any [**]. Upon reasonable belief of discrepancy or dispute, Supernus's External Auditor shall be entitled to take copies or extracts from such records and books of account (but only to the extent related to the contractual obligations set out in this License Agreement) during any review or audit, provided Supernus's External Auditor signs a confidentiality agreement with Ascent and the Designated Distributor providing that such records and books of account shall be treated as Confidential Information which may not be disclosed to Supernus or any Third Party. Supernus External Auditor shall only disclose to Supernus the results of the Supernus's External Auditor's audit, which results shall be concurrently disclosed to Ascent. Any underpayment of amounts due hereunder as reflected by Supernus External Auditor's shall be promptly paid by Ascent to Supernus.

19.9 Inspection Costs. Supernus shall be solely responsible for its and Supernus's External Auditor's costs in making any such review and audit, unless Supernus's External Auditor identifies a discrepancy in the calculation of royalties paid to Supernus under this License Agreement in any calendar year from those properly payable for that calendar year of [**] or greater, in which event Ascent shall be solely responsible for the cost of such review and audit and shall pay Supernus any payment due. All information disclosed by Ascent or its Affiliates pursuant to this Section 4 shall be deemed Confidential Information.

19.10 Payment Method. All payments to be made by Ascent to Supernus under this License Agreement shall be in United States dollars in immediately available funds and shall be made by wire transfer to an account designated by Supernus, such account to be designated by Supernus at least [**] prior to the date any such payment is due. Any payments to be made by Supernus to Ascent under this License Agreement shall be in United States dollars in immediately available funds and shall be made by wire transfer to an account designated by Ascent for such purpose.

19.11 Late Payments. In addition to any other rights and remedies, in the event payments required to be made under this License Agreement are not made on or prior to the required payment date, or cured within [**] days thereafter, the amount of the late payment shall bear interest at the lesser of [**] above the prime rate reported in The Wall Street Journal (Eastern Edition) on the date such payment was due and the maximum permissible rate under the Law commencing on the date such payment is due until such date as the payment is made.

19.12 Taxes. Supernus shall be responsible for and shall pay all taxes payable on any income or any payments by Ascent to Supernus. Ascent and Supernus shall bear sole responsibility for payment of compensation to their respective personnel, employees, or subcontractors and for all employment taxes and withholding with respect to such compensation pursuant to Applicable Law. Ascent shall have the right to withhold taxes in the event that the revenue authorities in any country require the withholding of taxes on amounts paid hereunder to Supernus. Ascent shall secure and promptly send to Supernus proof of such taxes, duties, or other levies withheld and paid by Ascent for the benefit of Supernus. Each Party agrees to cooperate with the other Party in claiming exemptions from such deductions or withholdings under any agreement or treaty from time to time in effect.

20. Confidentiality

20.1 Confidentiality Obligation. The Parties shall keep and maintain, and shall cause their respective Affiliates and their respective employees, directors, officers, consultants, and contractors to keep and maintain, as confidential any Confidential Information supplied by the other Party during the Term. The confidentiality and non-disclosure obligations contained in the Settlement Documents shall not apply to, and the definition of Confidential Information shall not include, any information to the extent that such information is:

20.1.1 at the time of disclosure by one Party to the other, in the public domain or otherwise publicly known;

20.1.2 after disclosure by one Party to the other becomes part of the public domain, other than by breach by a Party of any obligation of confidentiality;

20.1.3 information which the receiving Party can establish by competent evidence was already in its possession at the time of receipt or was independently developed by the receiving Party; or

20.1.4 received from a Third Party who was lawfully entitled to disclose such information free of an obligation of confidentiality.

20.2 Exceptions. Notwithstanding Section 5.1, in addition to any disclosure allowed under Section 11.5, the Party receiving Confidential Information may disclose such Confidential Information to the extent that such disclosure has been ordered by a court of law or directed by a Governmental Authority, provided that, the disclosure is limited to the extent ordered or directed and wherever practicable, the Party that owns the Confidential Information has been given sufficient written notice in advance to enable it to seek protection or confidential treatment of such Confidential Information.

20.3 Expiration of Confidentiality. The confidentiality obligation contained in this Section 5 shall survive the termination or expiry of this License Agreement for so long as such Confidential Information remains confidential.

20.4 Disclosure. If a Party is subpoenaed or otherwise requested by any Person, including any Governmental Authority, (i) to give testimony or provide information which in any way relates to the Settlement Documents, or (ii) to disclose through testimony or otherwise disclose Confidential Information of the other Party which in any way relates to the Ascent Product or practices associated with the Ascent Product, then in each case such Party shall give the other Party prompt notice of such request, and unless otherwise required by Law, shall make no disclosure until such other Party has had a reasonable opportunity to contest the right of the requesting Person to such disclosure. Notwithstanding the foregoing, either Party may state publicly that the Pending Litigation has been settled on terms that are confidential.

20.5 Enforcement. The Parties agree that equitable relief, including injunctive relief and specific performance, is appropriate in enforcing the confidentiality provisions of the Settlement Documents. In the event of any such action, the prevailing Party will be entitled to recover, in addition to any charges fixed by the court, its costs and expenses of suit, including reasonable attorney's fees. Such remedies shall not be deemed to be the exclusive remedies for a breach of this provision, but shall be in addition to all other remedies available at law or equity.

21. Representations and Warranties of Parties

21.1 Supernus represents and warrants to Ascent that Supernus possesses the rights and authority to grant the License and Authorization to Ascent.

21.2 Each of Supernus and Ascent represents, warrants, and covenants, to the other Party that:

21.2.1 Organization and Authority. Such Party is a corporation or other legal entity duly organized, validly existing, and in good standing under the Laws of the jurisdiction of its formation. Such Party has the requisite power and authority to enter into the Settlement Documents. Such Party has the requisite power and authority to execute and deliver the Settlement Documents and to perform all of its obligations hereunder. The execution and delivery of the Settlement Documents and the performance by such Party of its obligations hereunder have been authorized by all requisite action on its part. The Settlement Documents have been validly executed and delivered by such Party, and, assuming that such documents have been duly authorized, executed and delivered by the other Party, constitutes a valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

21.2.2 Consents and Approvals. Except as otherwise set forth in this License Agreement or other Settlement Documents, to the best of the Parties' knowledge, no material filing with, and no material permit, authorization, consent, or approval, of or from any Governmental Authority is required to be obtained by or on behalf of such Party with respect to the transactions contemplated by the Settlement Documents, except for those filings, permits, authorizations, consents, or approvals, the failure of which to be made or obtained would not materially impair such Party's ability to consummate the transactions contemplated hereby or materially delay the consummation of the transactions contemplated hereby.

21.2.3 No Violations. To the best of the Parties' knowledge, neither the execution nor the delivery of the Settlement Documents by such Party, nor the

performance by such Party of its obligations hereunder, will (i) violate the certificate of incorporation, certificate of formation, by-laws, or other organizational document of such Party; (ii) conflict in any material respect with or result in a material violation or breach of, or constitute a material default under, any material contract, agreement, or instrument to which such Party is a party; or (iii) violate or conflict in any material respect with any material Law applicable to such Party.

22. Indemnities; Product Liability Insurance

22.1 Indemnity by Supernus. Supernus shall defend, indemnify, and hold harmless Ascent and its directors, officers, employees, and contractors (each a "**Ascent Party**") from and against any and all Losses, arising from or in connection with:

22.1.1 any Claim resulting from any negligent acts or acts of willful misconduct of any Supernus Party in connection with the performance of its obligations under this License Agreement;

22.1.2 any Claim based on or arising out of the use, Manufacturing, Labeling, Packaging, or Marketing of the Trokendi XR Product, including, any investigation by a Governmental Authority or any claim for personal injury or property damage asserted by any user of Trokendi XR Product; or

22.1.3 the breach by Supernus of any of its representations or warranties contained in this License Agreement,

except, in each case, to the extent such Losses are caused by the negligence, breach of the terms of this License Agreement, or willful misconduct of a Ascent Party.

22.2 Indemnity by Ascent. Ascent shall defend, indemnify, and hold harmless each of Supernus and its Affiliates and its and their directors, officers, employees, and contractors (each, a "**Supernus Party**"**)** from and against any and all Losses arising from or in connection with:

22.2.1 any Claim resulting from any negligent acts or acts of willful misconduct of any Ascent Party in connection with the performance of its obligations under this License Agreement;

22.2.2 any Claim resulting from any negligent acts or acts of willful misconduct of any Designated Distributor in connection with the Marketing of the Ascent Product;

22.2.3 any Claim based on or arising out of the use, Manufacturing, Labeling, Packaging, or Marketing of Ascent Product, including, any investigation by a Governmental Authority or any claim for personal injury or property damage asserted by any user of Ascent Product; or

22.2.4 the breach by Ascent of any of its representations or warranties contained in this License Agreement,

except, in each case, to the extent that such Losses are caused by the negligence, breach of the terms of this License Agreement, or willful misconduct of a Supernus Party.

22.3 Control of Proceedings. A Party seeking indemnification hereunder shall provide prompt written notice thereof to the other Party (and, in any event, within thirty (30) days) of the assertion of any Claim against such indemnified Party as to which indemnity is to be requested hereunder, provided, however, that any delay or failure to provide such notice shall not relieve the indemnifying Party of its indemnity obligations unless, and solely to the extent that, such delay or failure to notify materially prejudices the indemnifying Party's ability to defend such claims. The indemnifying Party shall have the sole control over the defense of any Claim, provided that, the indemnifying Party shall obtain the written consent of the indemnified Party prior to settling or otherwise disposing of such Claim if as a result of the settlement or Claim disposal the indemnified Party's interests are in any way adversely affected, including if disposing of such Claim would impose any financial obligation upon the indemnified Party or result in an admission of wrongdoing by the indemnified Party.

22.4 No Admissions. The indemnified Party shall not make any payment or incur any expenses in connection with any liability for which such Party is seeking

indemnification, or make any admissions or do anything that may compromise or prejudice the defense of any Claim without the prior written consent of the indemnifying Party.

22.5 Claim Information. Each Party shall promptly:

22.5.1 inform the other by written notice of any actual or threatened Claim to which Sections 7.1 or 7.2 apply;

22.5.2 provide to the other Party copies of all papers and official documents received in respect of any such Claim; and

22.5.3 cooperate as reasonably requested by the other Party in the defense of any such Claim, provided any actual out of pocket costs incurred in connection with such cooperation shall be at the expense of the indemnifying Party.

22.6 Limitation of Liability. Except as may be included in a Claim under Section 7.1, 7.2, or 7.7, or a breach by any Party of Section 3, Section 5, or Section 11.5, in no event shall any Party or its Affiliates be liable for special, punitive, indirect, incidental, or consequential loss or damage based on contract, tort, or any other legal theory arising out of this License Agreement.

22.7 Product Liability Insurance. Each Party and any Designated Distributor shall maintain, at its own cost, general commercial liability insurance (including comprehensive product liability) in such amount as such Party and the Designated Distributor customarily maintain with respect to its other products and which is reasonable and customary in the U.S. pharmaceutical industry for companies of comparable size and activities, but in any event not less than $[**] per occurrence and $[**] in the aggregate. In the event the insurance policy obtained by a Party is a "claims made" policy (as opposed to an "occurrence" policy), such Party shall obtain comparable insurance for not less than [**] following the expiry or termination of this License Agreement (or, in Ascent's and the Designated Distributor's case, the cessation of sales of the Ascent Product hereunder). Notwithstanding anything to the contrary contained herein, either Party and the Designated Distributor may fulfill all of its obligations hereunder through the purchase of commercial insurance, self-insurance, or through a combination of both.

22.8 Irreparable Harm. Ascent and the Designated Distributor and their Affiliates acknowledge that in the event of a Ascent Launch or continued Marketing or Shipping by Ascent or a Designated Distributor or their Affiliates of Ascent Product or any other Generic Equivalent Product in the Territory other than as permitted under this License Agreement, the damages to Supernus and its business (including, but not limited to, lost sales of the Trokendi XR Product) would be difficult to calculate and the adequacy of monetary damages calculated at Law would be uncertain. Accordingly, Ascent and the Designated Distributor and their Affiliates agree that in any action by Supernus seeking injunctive or other equitable relief in connection with any such Ascent Launch or continued Marketing or Shipping, other than as permitted under this License Agreement, Ascent and the Designated Distributor and their Affiliates shall not assert or plead the availability of an adequate remedy at Law as a defense to the obtaining of any such remedy. Ascent and any Designated Distributor and their Affiliates

hereby waive any equitable defense to such injunction including, laches, unclean hands, acquiescence, or any estoppel arguments. The foregoing shall not be in lieu of any other remedy to which Supernus may be entitled hereunder in equity or at law as a result of such a breach.

22.9 Limitation on Representations, Warranties and Indemnification. NEITHER PARTY SHALL BE DEEMED TO MAKE ANY REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, EXCEPT AS SPECIFICALLY SET FORTH HEREIN. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED BY EACH PARTY.

23. Force Majeure

23.1 Force Majeure. Neither Party shall be entitled to terminate this License Agreement or shall be liable to the other under this License Agreement for loss or damages attributable to any Force Majeure, provided the Party affected shall give prompt notice thereof to the other Party. Subject to Section 8.2, the Party giving such notice shall be excused from such of its obligations hereunder for so long as it continues to be affected by Force Majeure.

23.2 Continued Force Majeure. If any Force Majeure continues unabated for a period of at least [**] days, the Parties shall meet to discuss in good faith what actions to take or what modifications should be made to this License Agreement as a consequence of such Force Majeure in order to alleviate its consequences on the affected Party.

24. Trademarks and Trade Names

24.1 This License Agreement conveys no rights to either Party to use any trademark or trade dress of the other Party, and conveys no rights to any other intellectual property of either Party other than pursuant to the License and Authorization.

25. Term and Termination

25.1 Term. Unless sooner terminated in accordance with the terms hereof, the term of this License Agreement shall extend from the Effective Date until the expiration of the Licensed Patents (the "**Term**"). In the event this License Agreement terminates due to expiration of the Litigated Patents, Section 8 of the Settlement Agreement and Section 3.5 of the License Agreement shall remain in full force and effect until all patents and applications covered by those sections have expired or are no longer in force.

25.2 Termination. In addition to Supernus's right to immediately terminate this License Agreement as set forth in Section 3, either Party shall be entitled to terminate this License Agreement by written notice to the other if:

25.2.1 the other Party commits a material breach of this License Agreement, and fails to remedy it within [**] days of receipt of notice from the first Party of such breach and of its intention to exercise its rights under this Section 10.2; or

25.2.2 an order is made or a resolution is passed for the winding up of the other Party (other than voluntarily for the purposes of solvent amalgamation or reconstruction) or an order is made for the appointment of an administrator to manage the other Party's affairs, business, and property or if a receiver (which expression shall include an administrative receiver) is appointed over any of the other Party's assets or undertaking or if circumstances arise which entitle the court or a creditor to appoint a receiver or manager or which entitle the court to make a winding-up order or if a voluntary arrangement is proposed in respect of the other Party or if the other Party takes or suffers any similar or analogous action in consequence of debt, and such order, appointment, or similar action is not removed within [**] days.

25.3 Effect of Termination. In the event of expiry or termination of this License Agreement for any reason, upon request from the other Party, each Party shall promptly return all Confidential Information of the other Party provided during the Term or destroy and certify the destruction of such Confidential Information. In the event of expiry or termination of this License Agreement for any reason, any then-effective license and authorization granted to a Designated Distributor shall also terminate.

25.4 Liability on Termination. The termination or expiry of this License Agreement shall not release either of the Parties from any liability which at the time of termination or expiry has already accrued to the other Party, nor affect in any way the survival of any other right, duty or obligation of the Parties which is expressly stated elsewhere in this License Agreement to survive such termination or expiry.

25.5 Surviving Sections. The provisions of Sections 1, 4.4-4.12, 5, 6, 7.1-7.7, 9,10.3-10.5, 11 shall continue in force in accordance with their respective terms notwithstanding expiry or termination of this License Agreement for any reason.

26. Miscellaneous

26.1 Notice.

26.1.1 Any notice or other document given under the Settlement Documents shall be in writing in the English language and shall be given by hand or sent by prepaid overnight mail or by email, to the address of the receiving Party (along with confirmation by email, if notice is given by hand or sent by prepaid overnight mail) as set out in Section 11.2 below unless a different address has been notified to the other in writing for this purpose.

26.1.2 Each such notice or document shall: (i) if sent by hand, be deemed to have been given when delivered at the relevant address; (ii) if sent by prepaid overnight mail, be deemed to have been given one (1) Business Day after posting; or (iii) if sent by email be deemed to have been given when transmitted, provided that, a confirmatory copy of such email shall have been sent by prepaid overnight mail within one (1) Business Day of such transmission.

26.2 Address for Notice. The address for services of notices and other documents on the Parties shall be:

To Supernus

Supernus Pharmaceuticals, Inc.
9715 Key West Avenue
Rockville, MD 20850
Attn: President

Email: [**]

with a copy to (which shall not constitute notice):

Nicholas F. Giove
Haug Partners LLP
745 Fifth Avenue
New York, NY 10151
Email: [**]

To Ascent:

Ascent Pharmaceuticals, Inc.
400 S Technology Drive
Central Islip, NY 11772
Attention: Sudhakar Vidiyala

with a copy to (which shall not constitute notice):

H. Keeto Sabharwal
HUSCH BLACKWELL LLP
1801 Pennsylvania Avenue NW, Suite 1000
Washington, D.C., 20006-3606
[**]

26.3 Assignment.

26.3.1 Subject to Section 11.3.2, neither Party shall assign or transfer any of its rights or obligations under the Settlement Documents without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.

26.3.2 Each Party shall be entitled, without prior written consent of the other Party, to assign all, but not less than all, of its rights under the Settlement Documents to an Affiliate or transfer such rights to a successor entity by way of merger or acquisition of substantially all of the assets of such Party (whether by consolidation, sale of assets, or otherwise); provided the Affiliate or other successor entity expressly assumes in writing those rights, duties, and obligations under the Settlement Documents and the Affiliate or other successor is a financially capable business entity. The assignment of the Settlement Documents

by a Party and its Affiliates shall not in any way affect such Party's or its Affiliates' duties, obligations, and admissions in the Settlement Documents.

26.3.3 Subject to the foregoing, the Settlement Documents shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Any assignment or transfer in contravention of the terms of the Settlement Documents shall be null and void.

26.4 Amendment. The Settlement Documents may not be varied, changed, amended, supplemented, waived, discharged, or terminated, including by course of conduct or trade usage, except by an instrument in writing signed by all Parties to the Settlement Documents.

26.5 Public Announcements. The Parties shall maintain in confidence the terms of the Settlement Documents and the negotiations of the Parties pertaining thereto. Without limiting the generality of the foregoing, neither Party nor its counsel shall provide discovery (including without limitation documents, oral testimony, or statements whether by deposition or otherwise, the work of outside experts or consultants, or work product embodying any of the above) to any Third Party in any judicial or arbitral proceeding pertaining to the Settlement Documents in the Territory. Notwithstanding these obligations, (i) either Party may, without the consent of the other Party, issue a press release which states publicly that the Pending Litigation has been settled; (ii) either Party may reference or repeat information previously disclosed in a press release or other public disclosure made in accordance with this Section 11.5; (iii) either Party may disclose such terms in discovery as otherwise required by court order, provided that the other Party shall be given the opportunity to (a) review and comment on the proposed disclosure reasonably in advance of the disclosure, and (b) quash such order and to obtain a protective order requiring that the information and documents that are the subject of such order be held in confidence by such court; (iv) either Party may disclose such terms on a need-to-know basis to such Party's actual and prospective investors, prospective acquirers, underwriters and lenders, attorneys, accountants, insurers, and FDA consultants, so long as the disclosed-to entity is bound by rules of professional conduct, or has agreed in writing and in advance to maintain the confidentiality of such information under terms no less restrictive than those set forth herein; (v) Ascent may disclose such terms to the FDA as may be necessary or useful in obtaining and maintaining Regulatory Approval of the Ascent ANDA and Launching the Ascent Product as provided by the Settlement Documents, so long as Ascent requests that the FDA maintain such terms in confidence, and (vi) either Party may disclose such terms as otherwise required by Law, including without limitation securities reporting requirements, or by the rules or regulations of any stock exchange to which the Parties are subject which are believed to be necessary in good faith by counsel for any Party; provided that the Parties will coordinate in advance with each other in connection with the redaction of certain provisions of the Settlement Documents with respect to any securities filings, and each Party shall use reasonable efforts to seek confidential treatment for such terms; provided, however, that each Party shall ultimately retain control over what information to disclose to the securities regulators or any other such Governmental Authorities.

26.6 Merger and Integration. The Settlement Documents supersede all prior discussions and writings of the Parties and constitute the entire agreement between the Parties with respect to the subject matter contained therein. Any breach of the License Agreement or Settlement Agreement shall constitute a breach of the Settlement Documents as a whole. Each of the Settlement Documents shall be deemed of equal dignity to each other and shall be construed together in a consistent manner as reflecting a single intent and purpose. It is agreed that: (i) neither Party has entered into any of the Settlement Documents in reliance upon any representation, warranty, or undertaking of the other Party which is not expressly set out in the Settlement Documents; (ii) neither Party shall have any remedy in respect of misrepresentation or untrue statement made by the other Party or for any breach of warranty which is not contained in Settlement Documents; and (iii) this Section 11.6 shall not exclude any liability for, or remedy in respect of, fraudulent misrepresentation.

26.7 Governing Law. The Settlement Documents shall be governed by the Laws of the State of Delaware without regard to the conflicts of law provisions thereof. The Parties irrevocably agree that the United States District Court for the District of Delaware shall have exclusive jurisdiction to deal with any disputes arising out of or in connection with the Settlement Documents and that, accordingly, any proceedings arising out of or in connection with the Settlement Documents shall be brought in the United States District Court for the District of Delaware. Notwithstanding the foregoing, if there is any dispute for which the United States District Court for the District of Delaware does not have subject matter jurisdiction, the state courts in the county and state of Delaware shall have jurisdiction. In connection with any dispute arising out of or in connection with the Settlement Documents, each Party hereby expressly consents and submits to the personal jurisdiction of the federal and state courts in the State of Delaware.

26.8 Agreement Costs. Each Party shall pay its own costs, charges, and expenses incurred in connection with the negotiation, preparation, and completion of the Settlement Documents.

26.9 Counterparts. The Settlement Documents may be executed in any number of counterparts and may be executed by the Parties on separate counterparts (including fax or electronic counterparts), each of which is an original but all of which together constitute the same instrument.

26.10 Severability. If and to the extent that any provision of the Settlement Documents is held to be illegal, void, or unenforceable, such provision shall be given no effect and shall be deemed not to be included in the Settlement Documents but without invalidating any of the remaining provisions of the Settlement Documents.

26.11 Relationship of the Parties. In making and performing the Settlement Documents, the Parties are acting, and intend to be treated, as independent entities; and nothing contained in the Settlement Documents shall be construed or implied to create an agency, partnership, joint venture, or employer and employee relationship between Supernus and Ascent. Except as otherwise provided herein, neither Party may make any representation, warranty, or

commitment, whether express or implied, on behalf of or incur any charges or expenses for or in the name of the other Party.

26.12 Construction. The language in all parts of the Settlement Documents shall be construed, in all cases, according to its fair meaning. Supernus and Ascent acknowledge that each Party and its counsel have reviewed and revised the Settlement Documents and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation thereof. The words "hereof," "herein," "hereto," and "hereunder" and words of similar import, when used in the Settlement Documents, shall refer to the agreements as a whole and not to any particular provision thereof. The terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa. Whenever used herein, the words "include," "includes," and "including" shall mean "include, without limitation," "includes, without limitation," and "including, without limitation," respectively. The masculine, feminine, or neuter gender and the singular or plural number shall each be deemed to include the others whenever the context so indicates. With respect to any particular action or agreement, the use of the words "Supernus shall" or "Supernus will" herein shall also mean "Supernus shall cause" the particular action to be performed. Similarly, with respect to any particular action or agreement, the use of the words "Ascent shall" or "Ascent will" herein shall also mean "Ascent shall cause" the particular action to be performed. Nothing in the Settlement Documents shall operate to exclude any provision implied into the Settlement Documents by Law and which may not be excluded by Law or limit or exclude any liability, right, or remedy to a greater extent than is permissible under Law.

26.13 Dispute Resolution.

26.13.1Preliminary Process. If there is a disagreement between the Parties as to the interpretation of the Settlement Documents in relation to any aspect of the performance by either Party of its obligations thereunder, the Parties shall, within [**] days of receipt of a written request from either Party, meet in good faith and try to resolve the disagreement without recourse to legal proceedings.

26.13.2Escalation of Dispute. If resolution of the disagreement does not occur within ten (10) Business Days after such meeting, the matter shall be escalated to applicable Ascent and Supernus Presidents (or other ranking senior executive) for resolution.

26.13.3Equitable Relief. Nothing in this Section 11.13 restricts either Party's freedom to seek urgent relief to preserve a legal right or remedy, or to protect a proprietary or trade secret right, or to otherwise seek legal remedies through any available channel if resolution is not otherwise achieved under this Section 11.13.

26.14 Cumulative Rights. Except as expressly set forth in the Settlement Documents, the rights and remedies of each of the Parties under or pursuant to the Settlement Documents are cumulative, may be exercised as often as such Party considers appropriate and are in addition to its rights and remedies under general law.

26.15 No Third Party Benefit The Settlement Documents shall be binding upon and inure solely to the benefit of the Parties hereto, their Affiliates, successors, and permitted assigns, and except as provided herein, nothing in the Settlement Documents, express or implied, is intended to or shall confer upon any other Person or Persons any right, benefits, or remedies of any nature whatsoever under or by reason of any of the Settlement Documents.

26.16 Further Assurance. Each of the Parties shall do, execute, and perform and shall procure to be done and perform all such further acts, deeds, documents, and things as the other Party may reasonably require from time to time to give full effect to the terms of the Settlement Documents.

26.17 Waiver. No failure or delay by either Party in exercising any right or remedy provided by law under or pursuant to the Settlement Documents shall impair such right or remedy or operate or be construed as a waiver, acquiescence, or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy. A waiver by a Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which such Party would otherwise have on any future occasion.

[Signature Page Follows]

[Signature Page to License Agreement]

IN WITNESS WHEREOF, the Parties hereto have each caused this License Agreement to be executed by their authorized representatives as of the Effective Date.

SUPERNUS PHARMACEUTICALS, INC.

By: /s/ Jack Khattar

Name: Jack Khattar

Title: President & CEO

ASCENT PHARMACEUTICALS, INC.

By: /s/ Sudhakar Vidiyala

Name: Sudhakar Vidiyala

Title: President & CEO

EXHIBIT B

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SUPERNUS PHARMACEUTICALS, INC. Plaintiff, V. ASCENT PHARMACEUTICALS, INC., Defendant.	Case No. 3:23-cv-04015-GC-DEA

STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE

This action for patent infringement having been brought by Plaintiff Supernus Pharmaceuticals, Inc. ("Supernus") against Defendant Ascent Pharmaceuticals, Inc. ("Ascent").

Pursuant to Fed. R. Civ. P. 41, Supernus and Ascent by and through their undersigned counsel, hereby stipulate, that:

1. All claims, counter-claims, and defenses asserted by Supernus and Ascent are dismissed without prejudice; and
2. Each party shall bear its own costs and attorneys' fees with respect to the matters dismissed hereby.

EXHIBIT C

[SENDER]

[DATE]

Jack A. Khattar
President and Chief Executive Officer, Director
Supernus Pharmaceuticals, Inc.
9715 Key West Avenue
Rockville, MD 20850
[**]

Re: Designated Distributor License and Authorization Agreement

Dear Mr. Khattar:

This license and authorization agreement ("**Letter Agreement**"), memorializes the understandings and terms between and among Supernus Pharmaceuticals, Inc., a corporation organized and existing under the laws of Delaware, having offices located at 9715 Key West Avenue, Rockville, Maryland 20850 ("**Supernus**"), Ascent Pharmaceuticals, Inc., a corporation organized and existing under the laws of New York, having its principal place of business at 400 South Technology Drive, Central Islip, New York 11722 (" **Ascent**"), and Camber Pharmaceuticals, Inc., ("**Camber**"), a corporation organized and existing under the laws of Delaware having offices located at 800 Centennial Avenue, Suite 1, Piscataway, New Jersey, 08854 (collectively, the "**Parties**") regarding Ascent's identification and use of Camber as a Designated Distributor pursuant to the terms of a Settlement Agreement, including a License Agreement, by and between Supernus Pharmaceuticals, Inc. and Ascent Pharmaceuticals, Inc. dated as of April 30, 2024 (collectively "**Settlement Documents**" and the "**License Agreement**").

Capitalized terms used, but not defined, in this Letter Agreement shall have the meaning provided for such terms in the License Agreement. Except as expressly set forth herein, this Letter Agreement does not vary, alter, change, amend, supplement, waive, discharge, or terminate any provision of the License Agreement.

1. DESIGNATION; LICENSE AND AUTHORIZATION

26.1 Ascent hereby designates Camber as a Designated Distributor—as defined in Section 1.67 of the License Agreement—to Market in the Territory, on Ascent's behalf, the Ascent Product on and/or after the applicable [**]. Camber shall itself have such rights and obligations held by Ascent to Market the Ascent Product as provided by the License Agreement. [**] shall exclusively Market the Ascent Product, except as permitted by Sections 2.8 and 2.9 of the License Agreement.

26.2 Except as expressly set forth in the Settlement Documents, including the License Agreement, or this Letter Agreement, there are no authorizations, licenses, or rights granted to Ascent or Camber by implication, estoppel, or otherwise, including, without limitation, any rights to the [**] or any right to Market or Manufacture any [**]. All rights not expressly granted by Supernus herein and in the License Agreement are hereby retained by Supernus. In addition, except as expressly set forth in the License Agreement or other Settlement Documents, Supernus explicitly retains the right itself or through an Affiliate to Market an [**], and Supernus is free to grant a license under the Licensed Patents or supply [**] to Ascent or any Third Party.

27. COVENANTS

27.1 Camber hereby agrees not to manufacture, have manufactured, import, or use Ascent Product in the Territory at any time. Except as expressly set forth in the License Agreement, other Settlement Documents, or this Letter Agreement, Camber hereby agrees not to offer to sell or sell the [**] in the [**] prior to the applicable [**]. Notwithstanding the foregoing and in addition to Section 2.1 of the License Agreement, Supernus hereby grants Camber a limited license, commencing [**] days prior to the [**], to communicate to potential purchasers that Camber will be selling the [**] in the [**] on or after the [**] (including, for example, notification to customers regarding the [**], and engaging customers in non-binding pricing/contracting activities), and shipping or delivering or distributing the [**] to Third Party distributors or Affiliated distributors, in each case solely for the purpose of conducting preparations for an [**] in or into the Territory on the [**]. In addition, starting [**] days prior to a reasonably anticipated [**], Supernus hereby grants Ascent and Camber a license to engage in premarketing activities including contacting customers and engaging in non-binding contracting negotiations, and entering into binding contracts beginning [**] days prior to a reasonably anticipated [**].

27.2 Camber and its Affiliates shall not assist, coordinate with, or otherwise help any Third Parties in prosecuting, defending, or settling their litigations concerning their ANDA to Market any [**], except as required by Law. Camber and its Affiliates hereby agree not to: (i) challenge the validity, patentability, or enforceability of the Litigated Patents (including but not limited to a petition for ex parte reexamination, Inter Partes Review (IPR), and Post Grant Review (PGR)); (ii) aid, abet, assist, enable, or participate with any Third Party in a challenge to the validity, patentability, or enforceability of the Litigated Patents or the non-infringement of a Generic Equivalent Product; (iii) Market or Manufacture a [**] other than the Ascent Product pursuant to the License and Authorization; or (iv) aid, abet, enable, or contract with any Third Party regarding the Marketing or Manufacturing of any [**] in or into the [**] other than the [**]. Notwithstanding the foregoing, nothing herein shall prohibit Camber from asserting any and all counterclaims or defenses of invalidity, non-infringement, or unenforceability of the Litigated Patents in any proceeding the subject matter of which is not the [**] or a [**] or [**] to a [**] the [**] as the [**] (and [**] may file a petition for ex parte reexamination, Inter Partes Review (IPR), and Post Grant Review (PGR) of a Litigated Patent, if such Litigated Patent is asserted against Camber in any proceeding the subject matter of which is not the [**] or a [**] or [**] to a [**] the [**] as the [**]).

27.3 Camber and its Affiliates acknowledge and agree that the restrictions set forth herein and in the License Agreement on the manufacture, use, sale, offer to sell, importation, and distribution of the Ascent Product are reasonable and necessary to protect the legitimate business interests of Supernus, that Supernus would not have entered into this Letter Agreement in the absence of such restrictions, and that any breach of those restrictions will result in irreparable injury to Supernus for which there will be no adequate remedy at law. Accordingly, if Camber and its Affiliates breach any of their undertakings herein, in addition to any other remedy Supernus may have at law or in equity: (1) Supernus may, at its sole discretion, immediately, effective upon notice to Camber, terminate this Letter Agreement; and (2) Camber agrees that Supernus shall be entitled to an injunction to prevent the continuance of such breach and that Supernus will not be required to demonstrate irreparable harm or that the balance of hardship supports the entry of injunctive relief in order to obtain such relief.

28. MARKETING OF ASCENT PRODUCT

28.1 Camber will have sole discretion in setting the price for the sale of Ascent Product in the Territory.

28.2 Camber acknowledges and expressly agrees to comply with the true-up, maintenance of records, and inspection requirements set forth in Section 4 of the License Agreement.

29. CONFIDENTIALITY

29.1 Camber acknowledges and expressly agrees to comply with the confidentiality requirements set forth in Section 5 of the License Agreement.

30. REPRESENTATIONS AND WARRANTIES OF PARTIES

30.1 Camber represents, warrants, and covenants that it has read and understands the terms of the Settlement Documents and License Agreement, including without limitation Ascent's rights to Market the Ascent Product under the License Agreement.

30.2 Supernus represents and warrants to Ascent and [**] that Supernus possesses the rights and authority to grant the License and Authorization conveyed herein.

30.3 Camber represents, warrants, and covenants that it has not filed and is not maintaining as of the date of this Letter Agreement an ANDA seeking Regulatory Approval for a Generic Equivalent Product (as defined in Section 1.26 of the License Agreement). Camber represents, warrants, and covenants that if Camber subsequently becomes unqualified to be a Designated Distributor—e.g., by filing and/or maintaining an ANDA seeking Regulatory Approval for a Generic Equivalent Product—it will immediately notify Supernus and Ascent of such disqualification. Notwithstanding Camber's obligation to provide such notice to Supernus, Ascent will provide written notice to Supernus of the disqualification within [**] days of Ascent's learning of Camber's disqualification. At any time after receiving such notice from Camber or Ascent, or Supernus having learned of Camber's disqualification, Supernus may

provide forty--five (45) days written notice to Ascent and Camber of termination of this Letter Agreement pursuant to Section 7 below. If this Letter Agreement is terminated by Supernus due to disqualification of Camber, Ascent may elect to propose a new Designated Distributor in accordance with Section 2.9 of the License Agreement.

30.4 Each of Supernus, Ascent, and Camber represents, warrants, and covenants, to the other Party that:

30.4.1 Organization and Authority. Such Party is a corporation or other legal entity duly organized, validly existing, and in good standing under the Laws of the jurisdiction of its formation. Such Party has the requisite power and authority to enter into this Letter Agreement. Such Party has the requisite power and authority to execute and deliver this Letter Agreement and to perform all of its obligations hereunder. The execution and delivery of this Letter Agreement and the performance by such Party of its obligations hereunder have been authorized by all requisite action on its part. This Letter Agreement has been validly executed and delivered by such Party, and, assuming that such documents have been duly authorized, executed and delivered by the other Party, constitutes a valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

30.4.2 Consents and Approvals. Except as otherwise set forth herein or in the License Agreement, to the best of the Parties' knowledge, no material filing with, and no material permit, authorization, consent, or approval, of or from any Governmental Authority is required to be obtained by or on behalf of such Party with respect to the transactions contemplated herein, except for those filings, permits, authorizations, consents, or approvals, the failure of which to be made or obtained would not materially impair such Party's ability to consummate the transactions contemplated hereby or materially delay the consummation of the transactions contemplated hereby.

30.4.3 No Violations. To the best of the Parties' knowledge, neither the execution nor the delivery of this Letter Agreement by such Party, nor the performance by such Party of its obligations hereunder, will (i) violate the certificate of incorporation, certificate of formation, by-laws, or other organizational document of such Party; (ii) conflict in any material respect with or result in a material violation or breach of, or constitute a material default under, any material contract, agreement, or instrument to which such Party is a party; or (iii) violate or conflict in any material respect with any material Law applicable to such Party.

31. INDEMNITIES; PRODUCT LIABILITY INSURANCE

31.1 Indemnity by Supernus. Supernus shall defend, indemnify, and hold harmless Camber and their directors, officers, employees, and contractors from and against any and all Losses, arising from or in connection with:

31.1.1 any Claim resulting from any negligent acts, omissions, or acts of willful misconduct of any Supernus Party in connection with the performance of its obligations under this Letter Agreement;

31.1.2 any Claim based on or arising out of the use, Manufacturing, Labeling, Packaging, or Marketing of the Trokendi XR Product, including, any investigation by a Governmental Authority or any claim for personal injury or property damage asserted by any user of Trokendi XR Product; or

31.1.3 the breach by Supernus of any of its representations or warranties contained in this Letter Agreement,

except, in each case, to the extent such Losses are caused by the negligence, breach of the terms of this Letter Agreement, or willful misconduct of Ascent, Camber, or their directors, officers, employees, or contractors.

31.2 Indemnity by Ascent and Camber. Ascent and Camber shall defend, indemnify, and hold harmless each of Supernus and its Affiliates and its and their directors, officers, employees, and contractors (each, a "**Supernus Party**") from and against any and all Losses arising from or in connection with:

31.2.1 any Claim resulting from any negligent acts, omissions, or acts of willful misconduct of Ascent, Camber, or their directors, officers, employees, or contractors in connection with the performance of its obligations under this Letter Agreement;

31.2.2 any Claim based on or arising out of the use, Manufacturing, Labeling, Packaging, or Marketing of Ascent Product, including, any investigation by a Governmental Authority or any claim for personal injury or property damage asserted by any user of Ascent Product; or

31.2.3 the breach by Ascent or by Camber of any of its representations or warranties contained in this Letter Agreement, except, in each case, to the extent that such Losses are caused by the negligence, breach of the terms of this Letter Agreement, or willful misconduct of a Supernus Party.

31.3 Control of Proceedings. A Party seeking indemnification hereunder shall provide prompt written notice thereof to the other Party (and, in any event, within [**] days) of the assertion of any Claim against such indemnified Party as to which indemnity is to be requested hereunder, provided, however, that any delay or failure to provide such notice shall not relieve the indemnifying Party of its indemnity obligations unless, and solely to the extent that, such delay or failure to notify materially prejudices the indemnifying Party's ability to defend such claims. The indemnifying Party shall have the sole control over the defense of any Claim, provided that, the indemnifying Party shall obtain the written consent of the indemnified Party prior to settling or otherwise disposing of such Claim if as a result of the settlement or Claim disposal the indemnified Party's interests are in any way adversely affected, including if disposing of such Claim would impose any financial obligation upon the indemnified Party or result in an admission of wrongdoing by the indemnified Party.

31.4 No Admissions. The indemnified Party shall not make any payment or incur any expenses in connection with any liability for which such Party is seeking

indemnification, or make any admissions or do anything that may compromise or prejudice the defense of any Claim without the prior written consent of the indemnifying Party.

31.5 Claim Information. Each Party shall promptly:

31.5.1 inform the other by written notice of any actual or threatened Claim to which Sections 6.1 or 6.2 apply;

31.5.2 provide to the other Party copies of all papers and official documents received in respect of any such Claim; and

31.5.3 cooperate as reasonably requested by the other Party in the defense of any such Claim, provided any actual out of pocket costs incurred in connection with such cooperation shall be at the expense of the indemnifying Party.

31.6 Limitation of Liability. Except as may be included in a Claim under Section 6.1, or 6.7, or a breach by any Party of Section 2, Section 4, or Section 8.5, in no event shall any Party or its Affiliates be liable for special, punitive, indirect, incidental, or consequential loss or damage based on contract, tort, or any other legal theory arising out of this License Agreement.

31.7 Product Liability Insurance. Supernus, Ascent, and Camber shall maintain, at their own cost, general commercial liability insurance (including comprehensive product liability) in such amount as such Party customarily maintain with respect to its other products and which is reasonable and customary in the U.S. pharmaceutical industry for companies of comparable size and activities, but in any event not less than $[**] per occurrence and $[**] in the aggregate. In the event the insurance policy obtained by a Party is a “claims made” policy (as opposed to an “occurrence” policy), such Party shall obtain comparable insurance for not less than [**] following the expiry or termination of this Letter Agreement (or, in Ascent’s and Camber’s case, the cessation of sales of the Ascent Product hereunder). Notwithstanding anything to the contrary contained herein, a Party may fulfill all of its obligations hereunder through the purchase of commercial insurance, self-insurance, or through a combination of both.

31.8 Irreparable Harm. Ascent and Camber and their Affiliates acknowledge that in the event of an Ascent Launch or continued Marketing or Shipping by Ascent or Camber or their Affiliates of the Ascent Product or any other [**] in the Territory other than as permitted under the License Agreement or this Letter Agreement, the damages to Supernus and its business (including, but not limited to, lost sales of the Ascent Product) would be difficult to calculate and the adequacy of monetary damages calculated at Law would be uncertain. Accordingly, Ascent and Camber and their Affiliates agree that in any action by Supernus seeking injunctive or other equitable relief in connection with any such [**] or continued Marketing or Shipping, other than as permitted under this License Agreement, Ascent and [**] and their Affiliates shall not assert or plead the availability of an adequate remedy at Law as a defense to the obtaining of any such remedy. Ascent and Camber and their Affiliates hereby waive any equitable defense to such injunction including, laches, unclean hands, acquiescence, or any estoppel arguments. The

foregoing shall not be in lieu of any other remedy to which Supernus may be entitled hereunder in equity or at law as a result of such a breach.

31.9 Limitation on Representations, Warranties and Indemnification. NO PARTY SHALL BE DEEMED TO MAKE ANY REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, EXCEPT AS SPECIFICALLY SET FORTH HEREIN. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED BY EACH PARTY.

32. TERM, TERMINATION, AND EFFECT OF TERMINATION OF THE LICENSE AGREEMENT

32.1 Term. Unless sooner terminated in accordance with the terms hereof, the term of this Letter Agreement shall extend from the date of this Letter Agreement until the expiration of the Licensed Patents as defined in Section 1.32 of the License Agreement (the "Term"). In the event this Letter Agreement terminates due to expiration of the Litigated Patents as defined in Section 1.33 of the License Agreement, Section 8 of the Settlement Agreement and Section 3.5 of the License Agreement shall remain in full force and effect until all patents and applications covered by those sections have expired or are no longer in force.

32.2 Termination.

32.2.1 Supernus shall have the right to immediately terminate this Letter Agreement as provided in Section 2.3.

32.2.2 Supernus shall have the right to terminate this Letter Agreement as provided in Section 5.3.

32.2.3 In addition to Supernus's rights to terminate this Letter Agreement as set forth in Sections 2.3 and 5.3, Supernus shall be entitled to terminate this Letter Agreement by written notice to Ascent and Camber if Ascent or Camber commits a material breach of this Letter Agreement, and fails to remedy it within [**] days of receipt of notice from Supernus of such breach and of its intention to exercise its rights under this Section 7.

32.2.4 Ascent shall be responsible for ensuring Camber's compliance with Camber's obligations under this Letter Agreement to comply with Ascent's obligations under the License Agreement. In the event Camber fails to comply with Ascent's or its own obligations under the License Agreement or this Letter Agreement, and fails to remedy it within [**] days of receipt of notice from Supernus of such breach and of its intention to exercise its rights under this Section 7, Camber's noncompliance shall constitute both Camber's breach of this Letter Agreement and Ascent's breach of the License Agreement. Camber's breach of this Letter Agreement by failing to comply with Ascent's obligations under the License Agreement shall cause immediate termination of this Letter Agreement.

32.2.5 Any Party shall be entitled to terminate this Letter Agreement by written notice to the other Parties if an order is made or a resolution is passed for the winding up of the other Party (other than voluntarily for the purposes of solvent amalgamation or reconstruction) or an order is made for the appointment of an administrator to manage the other Party's affairs, business, and property or if a receiver (which expression shall include an administrative receiver) is appointed over any of the other Party's assets or undertaking or if circumstances arise which entitle the court or a creditor to appoint a receiver or manager or which entitle the court to make a winding-up order or if a voluntary arrangement is proposed in respect of the other Party or if the other Party takes or suffers any similar or analogous action in consequence of debt, and such order, appointment, or similar action is not removed within [**] days.

32.3 Effect of Termination. In the event of expiry or termination of the License Agreement for any reason, any then-effective license and authorization granted to a Designated Distributor shall also terminate.

32.4 Liability on Termination. The termination or expiry of this Letter Agreement shall not release any Party from any liability which at the time of termination or expiry has already accrued to the other Party, nor affect in any way the survival of any other right, duty or obligation of the Parties which is expressly stated elsewhere in this Letter Agreement to survive such termination or expiry.

32.5 Termination Upon Changing or Adding a Designated Distributor. If Ascent elects to change a Designated Distributor to a qualified Third Party other than Camber, or add a Designated Distributor, or eliminate the use of Camber as a Designated Distributor, this Letter Agreement shall terminate with respect to Camber. The obligations of Camber under the License Agreement and this Letter Agreement following termination shall survive and continue, including those set forth in Sections 3, 5, 7.1-7.7, and 11 of the License Agreement.

32.6 Surviving Sections. The provisions of Sections 3.2, 4, 5, 6.1-6.7, 7.3-7.6, and 8 shall continue in force in accordance with their respective terms notwithstanding expiry or termination of this Letter Agreement for any reason.

33. MISCELLANEOUS

33.1 Notice.

33.1.1 Any notice or other document given under the provisions herein shall be in writing in the English language and shall be given by hand or sent by prepaid overnight mail or by email, to the address of the receiving Party (along with confirmation by email, if notice is given by hand or sent by prepaid overnight mail) as set out in Section 8.2 below unless a different address has been notified to the other in writing for this purpose.

33.1.2 Each such notice or document shall: (i) if sent by hand, be deemed to have been given when delivered at the relevant address; (ii) if sent by prepaid overnight mail, be deemed to have been given [**] after posting; or (iii) if sent by email be deemed to have been

given when transmitted, provided that, a confirmatory copy of such email shall have been sent by prepaid overnight mail within [**] of such transmission.

33.2 Address for Notice. The address for services of notices and other documents on the Parties shall be:

To Supernus

Supernus Pharmaceuticals, Inc.
9715 Key West Avenue
Rockville, MD 20850
Attn: President
Email: [**]
with a copy to (which shall not constitute notice):

Nicholas F. Giove
HAUG PARTNERS LLP
745 Fifth Avenue
New York, NY 10151
Email: [**]

To Ascent:

Ascent Pharmaceuticals, Inc.
400 S Technology Drive
Central Islip, NY 11772
Attention: Sudhakar Vidiyala

with a copy to (which shall not constitute notice):

H. Keeto Sabharwal
HUSCH BLACKWELL LLP
1801 Pennsylvania Avenue NW, Suite 1000
Washington, D.C., 20006-3606
[**]

To Camber:

Camber Pharmaceuticals Inc.
800 Centennial Ave, Suite 1
Piscataway, NJ 08854
Attention: Kon Ostaficiuk – President
Ron Cerminaro – Vice President, Commercial Strategy and Operations
[**]
[**]

33.3 Assignment. Neither Ascent nor Camber shall have the right to sublicense, assign, or transfer any of its rights under this Letter Agreement without the prior written consent of Supernus.

33.4 Amendment. This Letter Agreement may not be varied, changed, amended, supplemented, waived, discharged, or terminated, including by course of conduct or trade usage, except by an instrument in writing signed by all Parties to the Letter Agreement.

33.5 Public Announcements. The Parties shall maintain in confidence the terms of this Letter Agreement, the negotiations of the Parties pertaining thereto, and the License Agreement. Without limiting the generality of the foregoing, no Party nor its counsel shall provide discovery (including without limitation documents, oral testimony, or statements whether by deposition or otherwise, the work of outside experts or consultants, or work product embodying any of the above) to any Third Party in any judicial or arbitral proceeding pertaining to this Letter Agreement or the License Agreement in the Territory. Notwithstanding these obligations, (i) any Party may disclose such terms in discovery as otherwise required by court order, provided that the other Party shall be given the opportunity to (a) review and comment on the proposed disclosure reasonably in advance of the disclosure, and (b) quash such order and to obtain a protective order requiring that the information and documents that are the subject of such order be held in confidence by such court; (ii) any Party may disclose such terms on a need-to-know basis to such Party's actual and prospective investors, prospective acquirers, underwriters and lenders, attorneys, accountants, insurers, and FDA consultants, so long as the disclosed-to entity is bound by rules of professional conduct, or has agreed in writing and in advance to maintain the confidentiality of such information under terms no less restrictive than those set forth herein; (iii) Ascent may disclose such terms to the FDA as may be necessary or useful in obtaining and maintaining Regulatory Approval of the Ascent ANDA and Launching the Ascent Product as provided by the Settlement Documents, so long as Ascent requests that the FDA maintain such terms in confidence, and (iv) any Party may disclose such terms as otherwise required by Law, including without limitation securities reporting requirements, or by the rules or regulations of any stock exchange to which the Parties are subject which are believed to be necessary in good faith by counsel for any Party; provided that the Parties will coordinate in advance with each other in connection with the redaction of certain provisions of this Letter Agreement with respect to any securities filings, and each Party shall use reasonable efforts to seek confidential treatment for such terms; provided, however, that each Party shall ultimately retain control over what information to disclose to the securities regulators or any other such Governmental Authorities.

33.6 Merger and Integration. This Letter Agreement between Supernus, Ascent, and Camber supersedes all prior discussions and writings between and among these three parties and constitutes the entire agreement between Supernus, Ascent, and Camber with respect to the subject matter contained in this Letter Agreement. For the avoidance of doubt, nothing set forth in this Letter Agreement shall or shall be deemed to amend, modify, or otherwise change the terms and conditions of the Settlement Documents between Supernus and Ascent, except as expressly stated herein.

33.7 Governing Law. This Letter Agreement shall be governed by the Laws of the State of Delaware without regard to the conflicts of law provisions thereof. The Parties irrevocably agree that the United States District Court for the District of Delaware shall have exclusive jurisdiction to deal with any disputes arising out of or in connection with this Letter Agreement and that, accordingly, any proceedings arising out of or in connection with this Letter Agreement shall be brought in the United States District Court for the District of Delaware. Notwithstanding the foregoing, if there is any dispute for which the United States District Court for the District of Delaware does not have subject matter jurisdiction, the state courts in the county and state of Delaware shall have jurisdiction. In connection with any dispute arising out of or in connection with this Letter Agreement, each Party hereby expressly consents and submits to the personal jurisdiction of the federal and state courts in the State of Delaware.

33.8 Agreement Costs. Each Party shall pay its own costs, charges, and expenses incurred in connection with the negotiation, preparation, and completion of this Letter Agreement.

33.9 Counterparts. This Letter Agreement may be executed in any number of counterparts and may be executed by the Parties on separate counterparts (including fax or electronic counterparts), each of which is an original but all of which together constitute the same instrument.

33.10 Severability. If and to the extent that any provision of this Letter Agreement is held to be illegal, void, or unenforceable, such provision shall be given no effect and shall be deemed not to be included in this Letter Agreement but without invalidating any of the remaining provisions of this Letter Agreement.

33.11 Relationship of the Parties. In making and performing the Settlement Documents, the Parties are acting, and intend to be treated, as independent entities; and nothing contained in the Settlement Documents shall be construed or implied to create an agency, partnership, joint venture, or employer and employee relationship between Supernus and Ascent. Except as otherwise provided herein, no Party may make any representation, warranty, or commitment, whether express or implied, on behalf of or incur any charges or expenses for or in the name of the other Party.

33.12 Construction. The language in all parts of this Letter Agreement shall be construed, in all cases, according to its fair meaning. Supernus, Ascent, and Camber acknowledge that each Party and its counsel have reviewed and revised this Letter Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation thereof. The words “hereof,” “herein,” “hereto,” and “hereunder” and words of similar import, when used in this Letter Agreement, shall refer to the agreement as a whole and not to any particular provision thereof. The terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa. Whenever used herein, the words “include,” “includes,” and “including” shall mean “include, without limitation,” “includes, without limitation,” and “including, without limitation,” respectively. The masculine, feminine, or neutral gender and the singular or plural number shall each be deemed to include the others whenever the context so indicates. With respect to any

particular action or agreement, the use of the words “Supernus, Ascent, and/or Camber shall” or “Supernus, Ascent, and/or Camber will” herein, or the like, shall also mean “Supernus, Ascent, and/or Camber shall cause” the particular action to be performed. Nothing in this Letter Agreement shall operate to exclude any provision implied into this Letter Agreement by Law and which may not be excluded by Law or limit or exclude any liability, right, or remedy to a greater extent than is permissible under Law.

33.13 Dispute Resolution.

33.13.1Preliminary Process. If there is a disagreement between the Parties as to the interpretation of this Letter Agreement in relation to any aspect of the performance by any Party of its obligations thereunder, the Parties shall, within [**] days of receipt of a written request from any Party, meet in good faith and try to resolve the disagreement without recourse to legal proceedings.

33.13.2Escalation of Dispute. If resolution of the disagreement does not occur within [**] after such meeting, the matter shall be escalated to applicable Ascent, Supernus, and Camber Presidents (or other ranking senior executive) for resolution.

33.13.3Equitable Relief. Nothing in this Section 8.13 restricts any Party’s freedom to seek urgent relief to preserve a legal right or remedy, or to protect a proprietary or trade secret right, or to otherwise seek legal remedies through any available channel if resolution is not otherwise achieved under this Section 8.13.

33.14 Cumulative Rights. Except as expressly set forth in this Letter Agreement, the rights and remedies of each of the Parties under or pursuant to this Letter Agreement are cumulative, may be exercised as often as such Party considers appropriate and are in addition to its rights and remedies under general law.

33.15 No Third Party Benefit. This Letter Agreement shall be binding upon and inure solely to the benefit of the Parties hereto, their Affiliates, successors, and permitted assigns, and except as provided herein, nothing in this Letter Agreement, express or implied, is intended to or shall confer upon any other Person or Persons any right, benefits, or remedies of any nature whatsoever under or by reason of this Letter Agreement.

33.16 Further Assurance. Each of the Parties shall do, execute, and perform and shall procure to be done and perform all such further acts, deeds, documents, and things as the other Party may reasonably require from time to time to give full effect to the terms of this Letter Agreement.

33.17 Waiver. No failure or delay by any Party in exercising any right or remedy provided by law under or pursuant to this Letter Agreement shall impair such right or remedy or operate or be construed as a waiver, acquiescence, or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy. A

waiver by a Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which such Party would otherwise have on any future occasion.

Signature below by a duly authorized representative constitutes written acceptance of the terms set forth above.

ACKNOWLEDGED AND AGREED:

SUPERNUS PHARMACEUTICALS, INC.

By:_____

Name:_____

Title:_____

Date:_____

ASCENT PHARMACEUTICALS, INC.

By:_____

Name:_____

Title:_____

Date:_____

CAMBER PHARMACEUTICALS, INC.

By:_____

Name:_____

Title:_____

Date:_____

EXHIBIT 31.1

CERTIFICATION

I, Jack A. Khattar, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Supernus Pharmaceuticals, Inc.;

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

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

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

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

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

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

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

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

Date: August 6, 2024

By: /s/ Jack A. Khattar

Jack A. Khattar

President and Chief Executive Officer

EXHIBIT 31.2

CERTIFICATION

I, Timothy C. Dec, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Supernus Pharmaceuticals, Inc.;

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

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

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

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

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

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

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

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

Date: August 6, 2024

By: /s/ Timothy C. Dec

Timothy C. Dec

Senior Vice President and Chief Financial Officer

EXHIBIT 32.1

SUPERNUS PHARMACEUTICALS, INC.

CERTIFICATION PURSUANT TO

18 U.S.C. sec. 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Supernus Pharmaceuticals, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2024 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jack A. Khattar, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. sec. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

ugust 6, 2024

By: /s/ Jack A. Khattar

Jack A. Khattar

President and Chief Executive Officer

EXHIBIT 32.2

SUPERNUS PHARMACEUTICALS, INC.

CERTIFICATION PURSUANT TO

18 U.S.C. sec. 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Supernus Pharmaceuticals, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2024 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Timothy C. Dec, Senior Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. sec. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

August 6, 2024

By: /s/ Timothy C. Dec

Timothy C. Dec

Senior Vice President and Chief Financial Officer