16. **GRANT OF RIGHTS.**

16.1 License Grants from CyDex to Hospira.

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

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

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

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

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

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

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

16.4 **Negative Covenants** by CyDex.

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

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

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

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

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

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