

**PATENT ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT
<b>CONVEYING PARTY DATA</b>	
<b>Name</b>	<b>Execution Date</b>
King Pharmaceuticals, Inc.	11/22/2004
<b>RECEIVING PARTY DATA</b>	
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<b>State/Country:</b>	NEW YORK
<b>Postal Code:</b>	10970
<b>PROPERTY NUMBERS Total: 1</b>	
<b>Property Type</b>	<b>Number</b>
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<b>NAME OF SUBMITTER:</b>	Matthew E. Kelley

Total Attachments: 11  
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December 28, 2005

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**Art Unit 1617**

**Attn: Mail Stop Assignment**

Re: U.S. Utility Patent Application  
Application No. 10/806,613; Filed: March 22, 2004  
For: **Low Dose Estrogen Interrupted Hormone Replacement Therapy**  
Inventors: CASPER *et al.*  
Our Ref: 2710.0990003/JUK/MEK

Sir:

Provided herein are redacted copies of an Agreement. This Agreement demonstrates that Duramed Pharmaceuticals, Inc. is co-owner of U.S. Appl. No. 10/806,613 with an exclusive right to prosecute the application and transact all business in the U.S. Patent and Trademark Office (USPTO).

Portions of the Agreement have been redacted to protect the confidentiality of the parties involved:

Attachment D: Purchase Agreement between King Pharmaceuticals, Inc. ("King") and Duramed Pharmaceuticals, Inc. ("Duramed") "The King/Duramed Agreement" (9 Sheets)

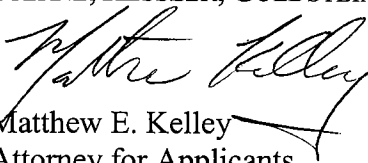
- Sheet 1 (page 1 of 37 of the King/Duramed Agreement) identifies the parties involved in the agreement, and identifies the date of execution of the agreement as November 22, 2004;
- Sheet 2 (page 8 of 37 of the King/Duramed Agreement) identifies that the terms of the agreement are limited to the "Product Intellectual Property" and the "Casper Rights;"

- Sheets 3-4 (pages 14-15 of 37 of the King/Duramed Agreement) define the term "Product Intellectual Property," outline terms of the agreement that relate to intellectual property, and identify patents listed in Section 1.01(ppp) of the Seller Disclosure as intellectual property transferred under the terms of the agreement;
- Sheets 5-6 (Signature pages of the King/Duramed Agreement) contain signatures of the parties executing the Agreement;
- Sheet 7 (Section 1.01(ppp) of the King/Duramed Agreement) identifies U.S. Appl. No. 10/806,613 as an asset transferred under the Agreement and indicates that U.S. Appl. No. 10/806,613 is co-owned per the rules of Section 6.11(a) and 6.11(b); and
- Sheets 8-9 (Sections 6.11(a) and 6.11(b) of the King/Duramed Agreement) identifies that Duramed co-owns U.S. Appl. No 10/806,613 with Jencap Research, Ltd. and Robert F. Casper. In particular, Section 6.11(a) indicates that the King/Duramed agreement is subject to the terms of the Assignment of Rights and Obligations, entered into April 26, 2002, by and between King, Ortho-McNeil Pharmaceuticals, Inc., Jencap Research, Ltd., and Robert F. Casper.

In conclusion, the documents listed above demonstrate that Duramed Pharmaceuticals, Inc. co-owns U.S. Appl. No. 10/806,613 with an exclusive right to prosecute and conduct business before the USPTO.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Matthew E. Kelley  
Attorney for Applicants  
Registration No. 55,887

JUK/MEK/A-L/lam  
Enclosures

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## ASSET PURCHASE AGREEMENT (PREFEST)

This Asset Purchase Agreement (Prefest) (this "Agreement") is made and entered into as of November 2, 2004, by and between Duramed Pharmaceuticals, Inc., a Delaware corporation ("Buyer") and King Pharmaceuticals, Inc., a Tennessee corporation ("Seller").

### RECITALS

WHEREAS, Seller and certain of its Affiliates (as defined below) are engaged in the Business (as defined herein); and

WHEREAS, subject to the terms and conditions of this Agreement, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, certain of the assets, tangible and intangible, associated with the Business.

### AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties agree as follows:

#### Article I. Definitions

##### Section 1.01 Defined Terms.

As used in this Agreement, the following defined terms have the meanings described below:

(a) "Accountants" means an accounting firm of national reputation (excluding Buyer's and Seller's respective accounting firms) as may be mutually acceptable to the Parties.

(b) "Accounts Receivable" means all trade accounts and notes receivable and other miscellaneous receivables of the Business, including those that are not evidenced by instruments or invoices, existing as of the Closing.

(c) "Action or Proceeding" means any cause of action, suit, proceeding, arbitration, Order, inquiry, hearing, assessment with respect to fines or penalties or litigation (whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental or Regulatory Authority.

(d) "Adverse Effect" means an effect, condition or change that individually or in the aggregate is materially adverse to the Purchased Assets taken as a whole, other than changes in general economic or market conditions or changes or developments generally affecting the pharmaceutical industry.

(zzz) "Tax" means all of the following taxes (with the exception of income taxes attributable to the Seller or any of its Affiliates) in connection with the operations of the Business or the transactions contemplated hereby: (i) any net income, alternative or add-on minimum tax, gross income, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, excise, severance, stamp, occupation, premium, property, environmental or windfall profit tax, custom, duty or other tax, governmental fee or other like assessment imposed by an governmental, regulatory or administrative entity or agency responsible for the imposition of any such tax; (ii) any Liability for the payment of any amounts of the type described in clause (i) above as a result of being a member of any affiliated, consolidated, combined, unitary or other group for any Taxable period; and (iii) any Liability for the payment of any amounts of the type described in clause (i) or (ii) above as a result of any express or implied obligation to indemnify any other person.

(aaaa) "Third Party Claim" has the meaning set forth in Section 11.02(d).

(bbbb) "WAC" has the meaning set forth in Section 8.11(f).

#### **Section 1.02 Construction of Certain Terms and Phrases.**

Unless the context of this Agreement otherwise requires: (a) words of any gender include each other gender; (b) words using the singular or plural number also include the plural or singular number, respectively; (c) the terms "hereof," "herein," "hereby" and derivative or similar words refer to this entire Agreement; (d) the terms "Article", "Section" or "Exhibit" refer to the specified Article, Section or Exhibit of this Agreement; (e) the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or"; (f) "Dollars" or "\$" means United States dollars; and (g) the terms "including" and "includes" mean "including without limitation" and "includes without limitation," respectively. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified.

### **Article II. Purchase and Sale of Assets**

#### **Section 2.01 Purchase and Sale of Assets.**

(a) Subject to the terms and conditions of this Agreement, at the Closing, Seller shall, or shall cause its relevant Affiliates to, sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase, acquire and accept from Seller and such Affiliates of Seller, all of Seller's and each such Affiliate's right, title and interest, as of the Closing, in and to the Purchased Assets.

(b) Buyer acknowledges and agrees that the Purchased Assets do not include, and Seller and its Affiliates are not selling or conveying to Buyer, any rights in or to any intellectual property except for the Product Intellectual Property, the Casper Rights, the Dedicated Business Know-How, and the Licensed Business Know-How.

(c) Notwithstanding anything contained in this Agreement to the contrary, (i) from and after the Closing, Seller and its Affiliates shall retain all of their right, title

its Affiliates or such third party contractors were not in compliance with applicable Law with respect to the Product in the United States except, with respect to this subsection (ii), warning letters and other written correspondence that could not reasonably be expected to have an Adverse Effect. During the two (2) years prior to the date of this Agreement, there has not been any occurrence of any product recall, market withdrawal or replacement, or post-sale warning conducted by or on behalf of Seller concerning the Product in the United States or any product recall, market withdrawal or replacement conducted by or on behalf of any entity as a result of any alleged defect in the Product in the United States, and Seller has made available to Buyer every complaint and notice of alleged defect or adverse reaction with respect to the Product in the United States that has been received in writing by Seller and its Affiliates or that has been orally transmitted to and recorded by Seller and its Affiliates.

**Section 6.09 Brokers.**

[REDACTED]

**Section 6.10 Product Intellectual Property.**

(a) All necessary registration, maintenance and renewal fees due in connection with the Registered Intellectual Property have been paid and all necessary documents and certificates in connection with such Registered Intellectual Property have been filed with the relevant patent, trademark or other Governmental or Regulatory Authorities for the purposes of maintaining such Registered Intellectual Property.

(b) Neither Seller nor any of its Affiliates has received any written notice from any Person, or has Knowledge, that the use of the Product Intellectual Property in connection with the Purchased Assets, infringes the intellectual property rights of any Person.

(c) Neither Seller nor any of its Affiliates has received any written notice from any Person, or has Knowledge, of any unauthorized use, infringement or misappropriation of any of the Product Intellectual Property by any Person.

(d) Except as set forth in Section 6.10(d) of the Seller Disclosure Schedule, to the Knowledge of Seller, all of the patents listed on Section 1.01(ppp) of the Seller Disclosure Schedule are valid, subsisting and enforceable. None of the patents listed on Section 1.01(ppp) of the Seller Disclosure Schedule are currently involved in any interference, reissue, reexamination or opposition proceeding, and neither the Seller nor any of its Affiliates has received any written notice from any Person, or has Knowledge, of any claim or assertion to the contrary.

(e) Except as set forth in Section 6.10(e) of the Seller Disclosure Schedule, to the Knowledge of the Seller, there are no Actions or Proceedings (including any inventorship challenges) pending with respect to any of the Registered Intellectual Property, nor have any such Actions or Proceedings been brought during the past two (2) years.

(f) To the Knowledge of Seller, none of the Product Trademarks listed in Section 1.01(ppp) of the Seller Disclosure Schedule is or has been the subject of any invalidation, opposition, cancellation, abandonment or similar proceeding, and neither the Seller nor any of its Affiliates has received any written notice from any Person, or has Knowledge, of any actual or threatened claim or assertion to the contrary. To the Knowledge of Seller, there are no trademarks or trademark registrations or applications of any Person that are interfering or potentially interfering with the Product Trademarks listed in Section 1.01(ppp) of the Seller Disclosure Schedule.

(g) Section 6.10(g) of the Seller Disclosure Schedule sets forth a complete and accurate list of each Contract pursuant to which the Seller or its Affiliates have license or other similar rights to patents or trademarks used by them in the Business as conducted on the date hereof.

(h) To the Knowledge of Seller, (i) Seller does not possess any Know-How material to the manufacture or preparation of the Product; and (ii) the use of the Licensed Business Know-How and the Dedicated Business Know-How as of the date hereof in connection with the Purchased Assets does not infringe the intellectual property rights of any Person.

(i) The Product Intellectual Property, the Casper Rights, the Dedicated Business Know-How, the Licensed Business Know-How and the Manufacturing Patent constitute all of the intellectual property owned, used or held for use by Seller or its Affiliates in connection with the manufacturing or preparation of the Product as conducted on the date hereof.

**Section 6.11 Title.**

(a) Except as set forth in Section 6.11(a) of the Seller Disclosure Schedule, (i) Seller or one of its Affiliates has good and marketable title to the Purchased Assets, free and clear of all Encumbrances, other than Permitted Encumbrances, (ii) to Seller's Knowledge, there are no adverse claims of ownership to the Purchased Assets; and (iii) neither Seller nor any of its Affiliates has received written notice that any Person or Persons has asserted a claim of ownership or right of possession or use in and to any of the Purchased Assets.

(b) Except as set forth in Section 6.11(b) of the Seller Disclosure Schedule, at Closing, Seller and its Affiliates will transfer to Buyer good and marketable title to the Purchased Assets, free and clear of all Encumbrances, other than Permitted Encumbrances.

**Section 6.12 Financial Information/Books and Records.**

[REDACTED]

(b) The Books and Records are true and accurate copies of the original files, documents, papers, instruments, books and records they purport to duplicate.



IN WITNESS WHEREOF, this Agreement has been executed by the Parties as of  
the date first above written.

KING PHARMACEUTICALS, INC.

By: 

Name: Brian A. Markison

Title: President & Chief Executive Officer

DURAMED PHARMACEUTICALS, INC.

By: \_\_\_\_\_

Name:

Title:

IN WITNESS WHEREOF, this Agreement has been executed by the Parties as of  
the date first above written.

KING PHARMACEUTICALS, INC.

By: \_\_\_\_\_  
Name:  
Title:

DURAMED PHARMACEUTICALS, INC.

By:   
Name: *Paul Bisaro*  
Title: *President*

Section 1.01(ppp)

Registered Intellectual Property

Product Trademark Registrations

1. Prefest®, U.S. Reg. No. 2,744,696

Patents

1. U.S. Patent 6,747,019\*
2. U.S. Application No. 10/806,613\*

Internet Domain Names

1. prefest.com
2. prefest.org
3. prefesthrt.com

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\* Co-owned. See Schedules 6.11(a) and 6.11(b).

**Section 6.11(a)**

**Title of Seller to Purchased Assets**

1. On November 2, 2004, Johnson & Johnson, the owner of Reg. No. 2,390,387 for the mark ORTHO-PREFEST, filed a Notice of Surrender of Registration for such trademark.
2. Seller co-owns U.S. Patent 6,747,019 and U.S. Application No. 10,806,613 with Jencap Research, Ltd. and Robert F. Casper. Seller submitted a copy of the Assignment of Rights and Obligations, entered into as of April 26, 2002, by and between Ortho-McNeil Pharmaceutical, Inc. and Seller and agreed to by Jencap Research, Ltd. and Robert F. Casper to the United States Patent and Trademark Office to evidence such co-ownership on October 29, 2004.

**Section 6.11(b)**

**Exceptions to Good and Marketable Title of Buyer in Purchased Assets**

1. After the transfer of the Purchased Assets from the Seller to the Buyer, Buyer will co-own U.S. Patent 6,747,019 and U.S. Application No. 10,806,613 with Jencap Research, Ltd. and Robert F. Casper.