

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 10-K/A

(Amendment No. 2)

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

For the fiscal year ended December 31, 2009

OR

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

Commission file number 001-33528

OPKO HEALTH, INC.

(Exact Name of Registrant as Specified in Its Charter)

DELAWARE

75-2402409

(State or Other Jurisdiction of Incorporation or Organization)

(I.R.S. Employer Identification No.)

4400 Biscayne Blvd., FL 33137

(Address of Principal Executive Offices, Zip Code)

Registrant's Telephone Number, Including Area Code: (305) 575-4100

Securities registered pursuant to section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, \$.01 par value per share	NYSE Amex

Securities registered pursuant to section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes No

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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

Large Accelerated filer Accelerated filer Non-Accelerated filer Smaller Reporting company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act).

Yes No

The aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, as of the last business day of the registrant's most recently completed second fiscal quarter was:

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Explanatory Note

OPKO Health, Inc. (the "Company") filed its Annual Report on Form 10-K for the year ended December 31, 2009 with the Securities and Exchange Commission ("SEC") on March 17, 2010 (the "Original Filing") and its Amendment No. 1 to the Annual Report on Form 10-K (the "First Amendment") on November 10, 2010. This Amendment No. 2 to the Annual Report on Form 10-K (the "Second Amendment" and together with the Original Filing and the First Amendment, the "Form 10-K") is being : b^A: b

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PART IV

ITEM 15. EXHIBITS, 3

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PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES.

- (a) (1) Financial Statements: See Part II, Item 8 of this report.
- (2) Financial Statement Schedules: See Part II, Item 8 of this report.
- (3) Exhibits: See below.

<u>Exhibit Number</u>	<u>Description</u>
2.1(1)	Merger Agreement and Plan of Reorganization, dated as of March 27, 2007, by and among Acuity Pharmaceuticals, Inc., Froprix Corporation, eXeGenics, Inc., e-Acquisition Company I-A, LLC, and e-Acquisition Company II-B, LLC.
2.2(5)+	Securities Purchase Agreement dated May 6, 2008, among Vidus Ocular, Inc., OPKO Instrumentation, LLC, OPKO Health, Inc., and the individual sellers and noteholders named therein.
3.1(2)	Amended and Restated Certificate of Incorporation.
3.2(4)	Amended and Restated By-Laws.
3.3(9)	Certificate of Designation of Series D Preferred Stock.
4.1(1)	Form of Common Stock Warrant.
4.2(9)	

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Exhibit Number	Description
10.10(4)	Share Purchase Agreement, dated as of November 28, 2007, by and among Ophthalmic Technologies, Inc., OTI Holdings Limited, and the Shareholders named therein.
10.11(4)	Exchange and Support Agreement, dated as of November 28, 2007, by and among OPKO Health, Inc. and OTI Holdings Limited and the holders of exchangeable shares named therein.
10.12(4)	Share Purchase Agreement, dated December 4, 2007, by and between members of The Frost Group, LLC and the Company.
10.13(4)*	OPKO Health, Inc. 2007 Equity Incentive Plan. b «± n ... «± n ... I
10.14(5) d	Indemnification Agreement for Director.
10.15(5))	Form of Officer Indemnification Agreement.
10.16(6)	Stock Purchase Agreement, dated August 8, 2008 by and among the Company and the Investors named thereck Purcny

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* Denotes management ~~eRm~~~~eRm~~~~eRm~~

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

OPKO HEALTH, INC.

By: /s/ Dr. Phillip Frost

Dr. Phillip Frost,
Chairman of the Board and
Chief Executive Officer

EXHIBIT INDEX

Exhibit Number	Description
10.25+	Asset Purchase Agreement, dated October 12, 2009, by and between the Company and Schering Corporation.
10.26	Letter Agreement, dated June 29, 2010, by and between the Company and Schering Corporation.
31.1	Certification by Phillip Frost, Chief Executive Officer, pursuant to Exchange Act Rules 13a-14 and 15d-14.
31.2	Certification by Rao Uppaluri, Chief Financial Officer, pursuant to Exchange Act Rules 13a-14 and 15d-14.
32.1	Certification by Phillip Frost, 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 by Rao Uppaluri, Chief Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

+ Certain confidential material contained in the document has been omitted and filed separately with the Securities and Exchange Commission.

**CONFIDENTIAL MATERIAL OMITTED AND FILED SEPARATELY WITH
THE SECURITIES AND EXCHANGE COMMISSION. ASTERISKS DENOTE
SUCH OMISSIONS**

ASSET PURCHASE AGREEMENT

between

SCHERING CORPORATION

As SELLER

and

OPKO HEALTH, INC.

As PURCHASER

Dated as of October 12, 2009

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LIST OF EXHIBITS

Exhibit A - Bill of Sale and Assignment and Assumption Agreement

Exhibit B - NK-1 Drug Substance
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Exhibit C

“Excluded Lia



“*Merger*” has the meaning set forth in the Preliminary Statements.

“*NK-1 Compounds*” means the neurokinin-1 (NK-1) receptor antagonists SCH **** (Rolapitant) and SCH ***, or any product containing such compounds.

“*NK-1 Drug Subst*”

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“Party” or “Parties” has the meaning set forth in the introductory paragraph of this Agreement.

“Permitted Encumbrances” means (a) statutory liens for current Taxes of Seller not yet due and payable or Taxes of Seller being contested in good faith by appropriate proceedings, and (b) mechanics’, carriers’, workers’, repairers’ and other similar liens arising or incurred in the ordinary course of business relating to obligations as to which there is no default on the part of Seller or the validity or amount of which is being contested in good faith by appropriate proceedings, or pledges, deposits or other liens securing the performance of ~~contracts~~, trade contracts, leases or statutory obligations (including workers’ compensation, unemployment insurance or other ~~finance~~

“*Representatives*” means, with respect to any Person, the directors, managers, employees, independent contractors, agents or consultants of such Person.

“*Retained Information*” means the records prepared and maintained by Seller or its Affiliates including, without limitation, laboratory books, batch records, stability studies, strategic or marketing studies, internal analyses and regulatory files (including correspondence with Governmental Authorities) and any and all memoranda or other documents prepared by Seller or its Affiliates related to the NK-1 Compounds, the NK-1 Program, or manufacture or distribution of the NK-1 Compounds, but which are not exclusive to the NK-1 Program, that are in Seller’s possession or control prior to or as of the Closing Date.

“*Retained Intellectual Property*” means, collectively, the know-how and patents, other than NK-1 Intellectual Property, owned or controlled by Seller relating to the NK-1 Compounds or NK-1 Program.

“*SEC*” means the United States Securities and Exchange Commission.

“*Seller Disclosure Schedule*” means the disclosure schedules delivered by Seller to Purchaser in connection with this Agreement (it

1.2.1 When a reference is made in this Agreement to a Section, Exhibit or Schedule, such reference is to a Section of, or an Exhibit or Schedule to, this Agreement unless otherwise stated.



2.3.4 Purchaser's obligations under this Section 2.3 shall not be subject to offset or reduction by reason of any actual or alleged breach of any representation, warranty or covenant contained in this Agreement or the BSAA Agreement or any right or alleged right to indemnification under this Agreement or the BSAA Agreement.

2.4 *Excluded Liabilities*. Seller shall retain and shall be responsible for paying, performing and discharging when due, and Purchaser shall not assume or have any responsibility C ”

(b) copies of all production outlines, standard testing requirements, standard operating procedures, technology, documents, data, or other information that constitutes the NK-1 Know-How.

2.5.3 *Additional Services.* At any time within **** after the Closing, Purchaser may, upon reasonable notice, request Seller to provide additional transition services, and Seller shall use reasonable efforts to provide such services on mutually agreeable terms and conditions.

2.5.4 *Term of Technical Transfer Services.* The term of the Technical Transfer Services to be provided pursuant to this Section shall commence on the Closing Date and shall continue until the completion of all Technical Transfer Services, provided that such term shall not extend longer than **** after the Closing Date or until Seller has fully transferred to Purchaser all of the assets subject to this Agreement, whichever is later. Upon the **** anniversary of the Closing Date, or the date by which Seller has fully transferred to Purchaser all of the assets subject to this Agreement, whichever is later, the Technical Team shall be disbanded and for an additional **** period thereafter, Seller shall make former Technical Team members (or currently employed personnel comparably knowledgeable in the relevant functional areas) available to Purchaser to respond to Purchaser's questions about the Purchased Assets, NK-1 Know-How, Retained Information or Retained Intellectual Property.

2.6 Licenses.

2.6.1 In partial consideration of the Purchase Price, Seller hereby grants to Purchaser a royalty-free, paid-up, irrevocable, transferable and sublicensable license in the Territory, under the NK-1 Know-How, Retained Information and Retained Intellectual Property solely to research, develop, make, have made, use, have used, offer for sale, sell, and import the NK-1 Compounds in and into the Territory (the "License"). Such License shall be exclusive (even as to Seller).

2.6.2 For the avoidance of doubt, Seller shall have the right to use the Retained Information and Retained Intellectual Property for all purposes in the Territory other than for the conduct of the NK-1 Program or to research, develop, make, have made, use, have used, offer for sale, sell, or import the NK-1 Compounds in and into the Territory.

2.6.3 The NK-1 Know-How, Retained Information and Retained Intellectual Property shall continue to be owned by Seller and licensed to Purchaser only in accordance with this Section 2.6. All rights to the NK-1 Know-How, Retained Information and Retained Intellectual Property not expressly granted by Seller pursuant to this Section 2.6 are hereby reserved granted by Seller, paid-up, at the time of purchase, develop, n

2.7 Payments.

2.7.1 Purchase Price. In addition to any other amounts due under this Agreement, in consideration of the sale, assignment, conveyance, and license of the Purchased Assets and the License under Section 2, Purchaser shall assume the Assumed Liabilities and pay to Seller in accordance with Section 2.11.2, by wire transfer of immediately available funds directly to an account designated by Seller, the s

2.11 *Transactions at Closing*. At the Closing, subject to the terms and conditions of this Agreement:

2.11.1 *Seller's Actions and Deliveries*. Seller shall deliver or cause to be delivered to Purchaser:

- (a) executed counterparts of the BSAA Agreement to which the Seller or an Affiliate of Seller is a party;
- (b) a certificate of a duly authorized officer of Seller certifying as to the matters set forth in Sections 6.2.1 and 6.2.2;
- (c) such Purchased Assets designated to be delivered on the Closing Date in accordance with the plan agreed upon by the Parties pursuant to Schedule 2.11 (the "*Asset Transfer Schedule*"); and
- (d) such other documents and instruments as may be reasonably necessary to effect or evidence the Transactions.

2.11.2 *Purchaser's Actions and Deliveries*. Purchaser shall deliver or cause to be delivered to Seller:

- (a) the Purchase Price in full by wire transfer of immediately available funds directly to the bank account designated by Seller in a written notice to Purchaser prior to the Closing;
 - (b) executed counterparts of the BSAA Agreement to which Purchaser or an Affiliate of Purchaser is a party;
 - (c) a certificate of a duly authorized officer of Purchaser certifying as to the matters set forth in Sections 6.3.1 and 6.3.2; and
 - (d) such other documents and instruments as may be reasonably necessary to effect or evidence the Transactions.
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3.6 *Litigation.* As of the Closing Date, there is no Action pending or, to Seller's Knowledge, threatened, and, to Seller's Knowledge, there is no claim, governmental investigation or administrative action pending or threatened as to Seller

3.13 *NK-1 Records*. To the Knowledge of Seller, the NK-1 Records are all of the records and recorded information exclusively related to the NK-1 Program.

3.14 *Brokers, Etc.* No broker, investment banker, agent, finder or other intermediary acting on behalf of Seller or under the authority of Seller, is or will be entitled to any broker's or finder's fee or any other commission or similar fee directly or indirectly in connection with any of the Transactions.

3.15 *Disclaimer*.

3.15.1 EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SECTION 3:

(a) SELLER, AND ITS RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR REPRESENTATIVES, DOES NOT MAKE OR HAS NOT MADE ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WRITTEN OR ORAL, AT LAW OR IN EQUITY, IN RESPECT OF THE PURCHASED ASSETS, ASSUMED LIABILITIES, THE NK-1 COMPOUNDS, THE NK-1 INTELLECTUAL PROPERTY OR THE NK-1 PROGRAM, INCLUDING ANY PRESS SON OUN OU OF TH

SECTION 4.
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants to Seller, as of the Closing Date, as follows:

4.1 *Organization.* Purchaser is a corporation duly organized and validly existing and in good standing under the laws of Delaware. Purchaser has all requisite corporate power and authority to own, lease and operate its properties and to carry on the NK-1 Program as now being conducted.

4.2 *Due Authorization.* Purchaser has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and the BSAA Agreement, and the execution and delivery of this Agreement and the BSAA Agreement and the performance of all of its obligations under this Agreement and under the BSAA Agreement have been duly authorized by Purchaser and, to the extent required by Law, contract or otherwise, its stockholders.

4.3 *Sufficiency of Purchaser.* Purchaser is a viable competitor in the research, development, marketing and sale of pharmaceutical products such as the NK-1 Compounds. Purchaser has, or is able to secure access to, the expertise and financial resources to develop and commercialize the NK-1 Compounds in the Territory following the Closing Date.

4.4 *No Conflicts; Enforceability.*

4.4.1 The execution, delivery and performance of this Agreement and the BSAA Agreement by Purchaser (1) are not prohibited or limited by, and will not result in the breach of or a default under, any provision of the certificate of incorporation or bylaws of Purchaser, (2) do not conflict with any Law applicable to Purchaser and (3) do not conflict with, result in a breach of, constitute (with or without due notice or lapse of time or both) a default under, result in the acceleration of obligations under, create in any party the right to terminate, modify or cancel, or require any notice, consent or waiver under, any material agreement or instrument binding on Purchaser or any applicable order, writ, injunction or decree of any court or Governmental Authority to which Purchaser is a party or by which Purchaser is bound or to which any of its Assets is subject, except for such prohibition, limitation, default, notice, filing, permit, authorization, consent, approval, conflict breach or default which would not prevent or delay consummation by Purchaser of the Transactions.

4.4.2 This Agreement and the BSAA Agreement have been duly executed and delivered by Purchaser, and constitute the legal, valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with their respective terms, except as enforceability may be limited or affected by applicable bankruptcy, insolvency, moratorium, reorganization or other laws of general application relating to or affecting creditors' rights generally.

4.5 *Litigation.* There is no Action pending or, to Purchaser's knowledge, threatened, directly or indirectly involving Purchaser (or to Purchaser's knowledge, any Third Party) that would prohibit, hinder, delay or otherwise impair Purchaser's ability to perform its obligations under this Agreement or under the BSAA Agreement, including the assumption of the Assumed Liabilities, would affect the legality, validity or enforceability of this Agreement or the BSAA Agreement, or prevent or delay the consummation of the Transactions.

4.6 *Consents.* Except for the requisite filings as may be necessary as a result of any facts or circumstances relating solely to the Seller, no notice to, filing with, authorization of, exemption by, or consent of, any Person, including any Governmental Authority, is required for Purchaser to consummate the Transactions.

4.7 *Financing.* Purchaser has sufficient immediately available funds to pay, in cash, the Purchase Price and all other amounts payable pursuant to this Agreement and the BSAA Agreement or otherwise necessary to consummate all the Transactions. Upon the consummation of the Transactions (a) Purchaser will not be insolvent, (b) Purchaser will not be left with unreasonably small capital, (c) Purchaser will not have incurred debts beyond its ability to pay such debts as they mature and (d) the capital of Purchaser will not be impaired.

4.8 *Brokers, Etc.* No broker, investment banker, agent, finder or other intermediary acting on behalf of Purchaser or under the authority of Purchaser is or will be entitled to any broker's or finder's fee or any other commission or similar fee directly or indirectly in connection with any of the Transactions.

4.9 *Independent Investigation.*

4.9.1 In making the decision to enter into this Agreement and the BSAA Agreement and to consummate the Transactions, Purchaser has conducted its own independent investigation, review and analysis of the Purchased Assets, Assumed Liabilities, the NK-1 Compounds and NK-1 Program, which investigation, review and analysis was done by Purchaser and its Affiliates and Representatives. Purchaser acknowledges that it and its Representatives have been provided adequate access to the personnel, properties, premises and records of the NK-1 Program for such purpose. In entering into this Agreement and the BSAA Agreement, Purchaser acknowledges that Purchaser and its Affiliates have relied solely upon the aforementioned investigation, review and analysis and not on any factual representations or opinions of Seller or its respective Representatives (except the specific representations and warranties of Seller set forth in Section 3).

4.9.2 Purchaser hereby acknowledges and agrees that (1) other than the representations and warranties made in Section 3, none of Seller or its respective Affiliates, or any of its respective Representatives make or have made any representation or warranty, express or implied, at law or in equity, with respect to the Purchased Assets, Assumed Liabilities and NK-1 Program, including as to (i) merchantability or fitness for any particular use or purpose, (ii) the operation of the NK-1 Program by Purchaser after the Closing in any manner other than as used and operated by Seller or (iii) the probable success or profitability of the NK-1 Compounds or NK-1 Program after the Closing, and (2) none of Seller or its respective Affiliates nor any of their respective Representatives will have or be subject to any Liability or indemnification obligation to Purchaser or to any other Person resulting from the distribution to Purchaser, its Affiliates or Representatives of, or Purchaser's use of, any information relating to the NK-1 Program, including any information, documents or material made available to Purchaser, whether orally or in writing, in certain electronic and physical "data rooms," face-to-face presentations, functional "break-out" discussions, responses to questions submitted on behalf of Purchaser or in any other form in expectation of the Transactions.

4.10 ****

SECTION 5.
COVENANTS PRIOR TO CLOSING

5.1 Required Approvals and Consents; Cooperation.

5.1.1 As soon as reasonably practicable after the Execution Date, the Parties shall make all filings required to be made in order to consummate the Transactions.

5.1.2 Purchaser, including its Affiliates, as applicable, shall as promptly as practicable after the Execution Date (i) prepare and furnish all necessary information and documentation (including furnishing all information requested by any Governmental Authorities) and make presentations to the FTC, (ii) take all other actions that may be necessary to demonstrate to the FTC that Purchaser is an acceptable purchaser of the Purchased Assets and that Purchaser will effectively compete in the marketplace using the Purchased Assets (and Seller shall use its reasonable efforts to assist Purchaser in taking such actions) and (iii) otherwise to do whatever is necessary, proper and reasonable to assist and cooperate with Seller in obtaining necessary consents, approvals or filings to be made in order to consummate the Transactions.

5.4 *Cooperation.* Purchaser understands that Seller is entering into this Agreement to comply with the Consent Order and that Purchaser and the Transaction are subject to the prior approval of the FTC pursuant to the Consent Order. Purchaser agrees and warrants that it will cooperate in good faith with Seller in its efforts to obtain such approvals. Purchaser will supply all information and take such other actions as Seller may reasonably require in connection with Seller's request for FTC approval of Purchaser and the Transactions.

5.5 *Further Assurances; Further Documents.*

5.5.1 Commencing on the Execution Date, each of the Parties shall use its commercially reasonable efforts, in the most expeditious manner practicable, (i) to satisfy or cause to be satisfied all the conditions precedent that are set forth in Section 6, as applicable to each of them, (ii) to cause the Transactions to be consummated, and (iii) without limiting the generality of the foregoing, to obtain all consents and authorizations of Third Parties and to make all filings with, and give all notices to, Third Parties that may be necessary or reasonably requested on its part in order to consummate the Transactions.

5.5.2 Each of Purchaser and Seller shall, and shall cause its respective Affiliates to, at the request of another Party, execute and deliver to such other Party all such further instruments, assignments, assurances and other documents as such other Party may reasonably request in connection with the carrying out of this Agreement and the Transactions.

5.6 *Intellectual Property.*

5.6.1 Until the Closing, Seller shall preserve intact the Purchased Assets and maintain and protect its interests in each item of the NK-1 Patents. Seller further warrants to Purchaser that all application and renewal fees, costs, charges, taxes and other steps required for the maintenance or protection of the NK-1 Patents arising prior to the Closing Date will be duly paid in a timely manner and to Seller's Knowledge there are no currently outstanding patent office response final deadlines or expiration dates in relation to the NK-1 Patents that arise after the Execution Date and prior to December 31, 2009.

5.6.2 Seller shall execute the short-form patent assignment document attached hereto as Exhibit D upon Closing. For one hundred eighty (180) days after the Closing Date, Seller shall further execute and deliver to Purchaser all other documents and instruments, to be prepared by Purchaser, as Purchaser reasonably requests, in order for Purchaser to prosecute, perfect, record and/or enforce any of the rights that are granted to it under this Agreement, promptly after requested by Purchaser. If Purchaser is unable, after making reasonable inquiry, to obtain Seller's signature on any such documents, then if and only if such documents are reasonably necessary due to Seller having previously been the assignee of record on the NK-1 Patents, Seller hereby appoints Purchaser as Seller's attorney-in-fact for the sole purpose of executing and delivering such documents, which appointment is coupled with an interest.

**SECTION 6.
CONDITIONS TO CLOSING**

6.1 *Conditions Precedent to Obligations of Purchaser and Seller.* The respective obligations of Purchaser and Seller to consummate the Transactions on the Closing Date are subject to the satisfaction or waiver (in accordance with Section 9.9) at or prior to the Closing Date of the following conditions:

6.1.1 *Litigation.* No preliminary or permanent injunction or other order has been issued by any court or by any other Governmental Authority which enjoins, restrains, prohibits or makes illegal pursuant to applicable Law the Transactions on the Closing Date.

6.1.2 *Merger, FTC Consent.* The Me

7.1.4 From and after the Execution Date, all Seller Proprietary Information (which shall not include Confidential Information exclusively concerning the NK-1 Program, the Purchased Assets and the Assumed Liabilities disclosed by Seller to Purchaser), shall be used by Purchaser solely as required to perform its obligations, exercise or enforce its rights under this Agreement (or the BSAA Agreement), or comply with applicable Law, and for no other purpose. Purchaser shall not disclose, or permit the disclosure of, any of the Seller Proprietary Information to any Person except those Persons to whom such disclosure is necessary to permit Purchaser to perform its obligations, exercise or enforce its rights under this Agreement (or the BSAA Agreement), or comply with applicable Law. Purchaser shall treat, and will cause its Affiliates and the directors, officers, employees, agents, representatives and advisors of Purchaser or any of their Affiliates to treat, the Seller Proprietary Information as confidential, using the same degree of care as Purchaser normally employs to safeguard its own confidential information from unauthorized use or disclosure, but in no event less than a reasonable degree of care.

7.1.5 Purchaser acknowledges and agrees, that Seller (and its Affiliates) may retain one (1) or more copies of all or part of the documentation (including written or electronic records, files, manuals, filings, etc.), including any Purchaser Proprietary Information contained in such documentation, that Seller delivered to Purchaser as part of the Purchased Assets, in accordance with the provisions of and solely for the purposes set forth in this Section 7.1.

7.1.6 In the event either Party is requested pursuant to, or required by, applicable Law to disclose any of the other Party's Confidential Information (*i.e.*, Seller Proprietary Information or Purchaser Proprietary Information, as applicable), it will notify the other Party in a timely manner so that such Party may seek a protective order or other appropriate remedy or, in such Party's sole discretion, waive compliance with the confidentiality provisions of this Agreement. Each Party will co-operate in all reasonable respects, in connection with any reasonable actions to be taken for the foregoing purpose. In any event, the Party requested or required to disclose such Confidential Information may furnish it as requested or required pursuant to applicable Law (subject to any such protective order or other appropriate remedy) without liability under this Agreement, provided that such Party furnishes only that portion of the Confidential Information which such Party is advised by a reasoned opinion of its counsel is legally required, and such Party exercises reasonable efforts to obtain reliable assurances that confidential treatment will be accorded such Confidential Information.

7.2 *Publicity*. The Parties shall jointly agree upon the necessity and content of any press release in connection with the Transactions. Any other publication, news release or other public announcement by a Party relating to this Agreement or to the performance under this Agreement shall first be reviewed and consented to in writing by the other Party; *provided, however*, that notwithstanding any contrary term contained in the Confidentiality Agreement, (i) any disclosure that is required by Law as advised by the disclosing Party's counsel may be made without the prior written consent of the other Party and (ii) any Party may issue a press release or public announcement if the contents of such press release or public announcement have previously been made public other than through a breach of this Agreement by the issuing Party, without the prior written consent of the other Party. To the extent practicable, the disclosing Party shall

7.10 Additional Information. Attached as Schedule 7.10 is the list of the Key Rolapitant Employees that is referred to in the Consent Order. The “Key Rolapitant Employees” means the Product Research and Development Employees and the Product Manufacturing Employees (both as defined in the Consent Order).





8.7 *Limitation on Liability.* EXCEPT WITH RESPECT TO THIRD PARTY CLAIMS, THE INDEMNIFICATION OBLIGATIONS OF THE PARTIES SHALL NOT EXTEND TO INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING NK-1 PROGRAM INTERRUPTION, LOST PROFITS, LOSS OF USE, DAMAGE TO GOODWILL OR LOSS OF THE NK-1 PROGRAM.

**SECTION 9.
MISCELLANEOUS**

9.1 *Assignment; Binding Effect.* This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns; *provided, however,* that neither party may assign this Agreement without the prior written consent of the other party hereto, except that either party may assign its rights and obligations under this Agreement to an Affiliate without such consent.

9.2 *No Third Party Beneficiaries.* This Agreement is solely for the benefit of the Parties and their respective Affiliates and no provision of this Agreement shall be deemed to confer upon any Third Parties any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

9.3 *Expenses.* Except as otherwise specified in this Agreement, and regardless of whether or not the Transactions are consummated, each Party shall bear its own expenses with respect to the Transactions.

9.4 *Notices.* All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) when received, if delivered personally, (b) when transmitted, if telecopied (which is confirmed), (c) upon receipt, if sent by registered or certified mail (postage prepaid, return receipt requested) and (d) the day after it is sent, if sent for next-day delivery to a domestic address by overnight mail or courier, to the Parties at the following addresses:

If to Seller, to:

Schering-Plough Corporation
2000 Galloping Hill Road
Kenilworth, NJ 07033
Attn: Senior Vice President, Business Development
Facsimile: 908-298-7044

with a copy sent concurrently to:

Schering-Plough Corporation
2000 Galloping Hill Road
Kenilworth, NJ 07033
Attn: Group Vice President & Associate General Counsel,
Global Human Pharmaceuticals
Facsimile: 908-298-7303

If to Purchaser, to:

OPKO Health, Inc.
4400 Biscayne Blvd.
Miami, FL 33137 Attn: Jamie Freedman, Executive Vice President of R&D and Business Development
Facsimile: 305-575-6444

With a copy sent concurrently to:

OPKO Health, Inc.
4400 Biscayne Blvd.
Miami, FL 33137
Attn: Kate Inman, Deputy General Counsel
Facsimile: 305-575-4140

provided, however, that if any Party shall have designated a different address by notice to the others, then to the last address so designated.

9.5 Governing Law. This Agreement (including any claim or controversy arising out of or relating to this Agreement) shall be governed by the laws of the State of Delaware without regard to conflict of law principles.

9.6 Dispute Resolution.

9.6.1 The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Any Party may give the other Parties written notice of any dispute not resolved in the normal course of business. Within ten (10) days after delivery of the notice, the receiving Party shall submit to the other Party a written response. The notice and response shall include: (a) a statement of that Party's position and a summary of arguments supporting that position, and (b) the name and title of the executive who will represent that Party and of any other person who will accompany the executive. Within thirty (30) days after delivery of the initial notice, the executives of both Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one Party to the other Party will be honored. All negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

9.6.2 Except for disputes concerning non-payment of a development milestone payment when due (which are not subject to the remainder of this Section 9.6), if a dispute has not been resolved by negotiation as provided in Section 9.6.1 within forty-five (45) days after delivery of the initial notice of negotiation, or if the parties failed to meet within thirty (30) days after delivery, the Parties shall endeavor to settle the dispute by mediation under the CPR Mediation Procedure then currently in effect, provided, however, that if one Party fails to participate in the negotiation as provided in this Section, the other Party can initiate mediation prior to the expiration of the forty-five (45) day period. Unless otherwise agreed, the Parties will select a mediator from the CPR Panels of Distinguished Neutrals.

9.8.4 by any Party, if the FTC shall have disapproved of this Agreement or the Parties hereto at any time.

9.9 *Effect of Termination.* In the event of termination of this Agreement pursuant to Se

IN WITNESS WHEREOF, the Parties have caused this Asset Purchase Agreement to be executed by their respective duly authorized representatives as of the date first above written.

SCHERING CORPORATION

By: _____
Name:
Title:

OPKO HEALTH, INC.

By: _____
Name:
Title:

EXHIBIT A
BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT

This **BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "Assignment Agreement") is dated as of October 12, 2009 and is entered into by and between Schering Corporation, a New Jersey corporation ("*Seller*"); and OPKO Health, Inc., a Delaware corporation ("*Purchaser*"). Seller and Purchaser are sometimes referred to herein, individually, as a "*Party*" and, collectively, as the "*Parties*."

WHEREAS, Purchaser and Seller have entered into an Asset Purchase Agreement dated as of October 12, 2009 (the "APA"); and

WHEREAS, pursuant to the APA, Seller agreed to sell the Purchased Assets, and Purchaser agreed to purchase the Purchased Assets and to assume the Assumed Liabilities from Seller.

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. Definitions. Unless otherwise defined herein, all capitalized terms used in this Assignment Agreement shall have the meanings set forth in the APA.

2. Conveyance and Acceptance. In accordance with the provisions of the APA, Seller hereby sells, conveys, transfers, assigns and delivers to Purchaser, and Purchaser hereby purchases, takes delivery of and acquires from Seller, all of Seller's right, title and interest in and to the Purchased Assets.

3. Assumption of Assumed Liabilities. In accordance with the provisions of the APA, Seller hereby assigns, delegates and transfers to Purchaser the Assumed Liabilities, and Purchaser hereby assumes, accepts and agrees to pay, perform or otherwise discharge, in accordance with their respective terms and subject to the respective conditions thereof, the Assumed Liabilities.

4. Miscellaneous.

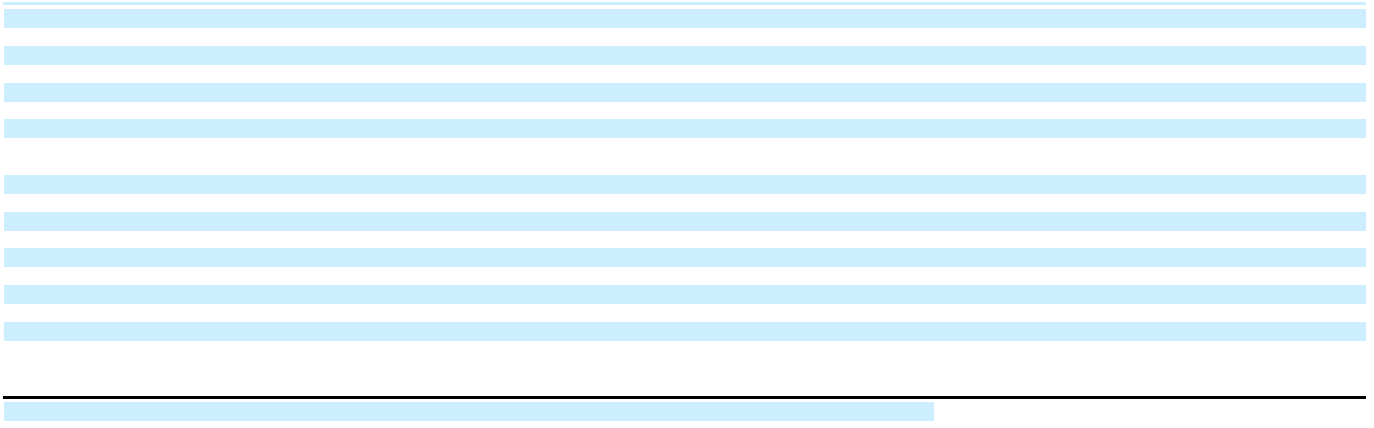
(a) This Assignment Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

(b) This Assignment Agreement (including any claim or controversy arising out of or relating to this Assignment Agreement) shall be governed by the law of the State of Delaware without regard to conflict of law principles. The Parties hereto agree that any disputes which may arise out of this Assignment Agreement which relate to any Party's rights and/or obligations hereunder shall be resolved in accordance with the provisions of Section 9.6 of the APA.

(c) This Assignment Agreement may be amended or modified only by a written instrument executed by all of the Parties.

(d) If any term, provision, covenant or restriction of this Assignment Agreement is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable or against its regulatory policy, such determination shall not affect the enforceability of any others or the remainder of this Assignment Agreement.

(e) This Assignment Agreement may be executed manually or by facsimile by the Parties, in any number of counterparts, each of which shall be considered one and the same agreement and shall become effective when a counterpart hereof shall be¹



SCH 619734 - Intermediates

Total Quantity (kg)	Quantity (kg)	Lot #	Date Mfg	Retest	Expiry	Use	Comments
****	****	K-H08967	03.****	21.****	TBD	****	****intermediate; ****

SCH 900978 - Reference Standards

Total Quantity (kg)	Quantity (kg)	Lot #	Date Mfg	Retest	Expiry	Use	Comments
****	****			****			

SCH 900978 - Drug Substance

Total Quantity (kg)	Quantity (kg)	Lot #	Date Mfg	Retest	Expiry	Use	Comments
****	****	07-900978-GX-102-R1	12.****	12.****	12.****	****	produced via ****
	****	07-900978-GX-102-R1	12.****	12.****	12.****	****	produced via ****
****	****	07-900978-GX-103-R1	14.****	14.****	14.****	****	produced via ****
	****	07-900978-GX-103-R1	14.****	14.****	14.****	****	produced via ****
****	****	07-900978-GX-104	7.****	7.****	7.****	****	produced via ****
	****	07-900978-GX-104	7.****	7.****	7.****	****	produced via ****
****	****	07-900978-GX-101		7.****	7.****	****	produced via ****

SCH 900978 - Intermediates

Total Quantity (kg)	Quantity (kg)	Lot #	Date Mfg	Retest	Expiry	Use	Comments
weight not listed	weight not listed	07-900978-F-004					SCH 900978-F
****	****	07-900978-G-104R					****; SCH 900978-G
	****	07-900978-G-103-R1					****; SCH 900978-G

SCH 900978 - Starting Materials

Total Quantity (kg)	Quantity (kg)	Lot #	Date Mfg	Retest	Expiry	Use	Comments
****	****	070167D		29.****		****	SCH 900978-C
****	****	070167E		29.****		****	SCH 900978-C
****	****	071080A		4.****		****	SCH 900978-M
****	****	070180B01				****	SCH 900978-M

SCH 900978 - Reference Standards

Total Quantity (kg)	Quantity (kg)	Lot #	Date Mfg	Retest	Expiry	Use	Comments
****	****	BJ-85296-33		****			900978-C Reference
****	****	BJ-83274-151		****			900978-M Reference ****
****	****	80340-76			2****		900978

In accordance with Section 7.11 of the Agreement, Seller shall retain the Hold Back API until its obligations under Section 7.11 have been met in accordance with the terms thereof.

Case No.	Country	Status	Appln No.	Appln Date	Next Tax Date	Publication Date	Publication No.
6459	AR	Inactive	P070101435	04/04/2007		06/11/2008	AR060352A1
6459	CL	Inactive	2007-947	04/04/2007			
6459	WO	Inactive	US2007-008346	04/04/2007		10/11/2007	WO07/114922
6459	PE	Inactive	415.2007	04/04/2007	04/30/2010		
6459	TW	Inactive	096112181	04/04/2007		02/01/2008	200806666
6459	TH	Inactive	0701001643	04/04/2007			
6459	US	Expired Prov.	60/789513	04/05/2006			
6459	VE	Inactive	2007-000683	04/04/2007			

Exhibit C-6

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IN TESTIMONY WHEREOF, the undersigned has executed this instrument on the _____ day of _____
_____ 2009.

SCHERING CORPORATION

By: _____
Name:
Title:

State of _____)
_____)
County of _____)
_____)

On _____ before me, _____,
personally appeared _____

personally known to me — **OR-** proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

Case Number	Status	Appln Number	Appln Date	Patent No.	Grant Date	Exp Date
CN01524K NZ	GRANTED	532975	12/17/2002	532975	06/07/2007	12/17/2022
CN01524KB NZ	GRANTED	551997	12/12/2006	551997	11/13/2008	12/17/2022
CN01524K NO	FILED	20043041	12/17/2002			
CN01524K WI	INACTIVE	US02/40203	12/17/2002			
CN01524KB PE	FILED	1006.2006	08/18/2006			
CN01524K PE	GRANTED	1200.2002	12/12/2002	4880	02/07/2008	12/12/2022
CN01524K PH	FILED	1-2004-500780	12/17/2002			
CN01524K PL	FILED	P370841	12/17/2002			
CN01524K PT	GRANTED	02805167.0	12/17/2002	1463716	02/13/2008	12/17/2022
CN01524K RO	GRANTED	1015273	12/17/2002	1463716	02/13/2008	12/17/2022
CN01524K RU	GRANTED	2004122109	12/17/2002	2326120	06/10/2008	12/17/2022
CN01524K ZA	GRANTED	2004/04583	12/17/2002	2004/4583	02/22/2006	12/17/2022
CN01524K CH	GRANTED	02805167.0	12/17/2002	1463716	02/13/2008	12/17/2022
CN01524K SG	GRANTED	200402928-6	12/17/2002	104238	07/31/2006	12/17/2022
CN01524KB SG	FILED	200604791-4	07/14/2006			
CN01524K SI	GRANTED	1463716	12/17/2002	P-200230671	02/13/2008	12/17/2022
CN01524K SK	GRANTED	02805167.0	12/17/2002	1463716	02/13/2008	12/17/2022
CN01524K ES	GRANTED	02805167.0	12/17/2002	2299637	02/13/2008	12/17/2022
CN01524K SE	GRANTED	02805167.0	12/17/2002	1463716	02/13/2008	12/17/2022
CN01524K TW	FILED	091136267	12/16/2002			
CN01524K TH	FILED	078807	12/16/2002			
CN01524K TR	GRANTED	02805167.0	12/17/2002	1463716	02/13/2008	12/17/2022
CN01524K1 US	GRANTED	10/321687	12/17/2002	7049320	05/23/2006	12/08/2023
CN01524K1B US	FILED	11/358827	02/21/2006			
CN01524P US	INACTIVE	60/341452	12/18/2001			12/18/2002
CN01524K VE	FILED	2002-02437	12/13/2002			
PC1524/TA	DOCKETED					

Exhibit D-5

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Function	Service to be Provided by Sellers	Comments
Technical Operations	<p>Seller shall provide the reasonable assistance of Seller's then current employees and reasonable access to its other internal resources to provide Purchaser (and/or Purchaser's designee) with a reasonable level of technical assistance and consultation in connection with the transfer of the NK-1 Program to Purchaser, including the provision and explanation, on request, to Purchaser and its Affiliates of all technology, electronic files, materials, reports, data, documents and materials describing or embodying the Purchased Assets.</p> <p>Purchaser will be given the reasonable opportunity to meet with, and receive assistance and services of, the Seller's knowledgeable personnel in connection with Purchaser gaining competent knowledge of the contents of the Purchased Assets, NK-1 Know-How, Retained Information and Retained Intellectual Property and Seller's conduct of its NK-1 Program, including meeting with:</p> <ul style="list-style-type: none"> - manufacturing personnel to discuss all facets of the manufacture of the NK-1 Compounds - regulatory personnel to discuss regulatory files and correspondence with regulatory authorities -Formulation research and development personnel to discuss specifically the ****. - Nonclinical (GLP) research personnel, specifically study directors or their managers, to discuss ****. - Clinical research and development personnel to discuss past and current research and development efforts specific for the NK-1 Compounds -Drug Metabolism personnel to assist as required in the transfer of the ****. -Quality Assurance personnel to review and/or provide relevant information particularly audit reports related to this project to ensure all studies were conducted in accordance with GLP, GMP & GCP. -IT personnel to discuss format, systems utilized and transfer of non-clinical, clinical and CMC data. <p>Seller will provide list consistent with language of FTC order.</p> <p>(Note: all such meetings and communication will be coordinated through a point of contact)</p>	
Regulatory Services	<p>Seller and Purchaser shall establish a prompt communication and interaction process to ensure the orderly transfer of all Regulatory Filings as promptly as practicable following Closing. Within **** following Closing, or as otherwise agreed by the Parties, the ****. Both Seller and Purchaser agree to use commercially reasonable efforts to take any actions required by the FDA or other applicable Governmental Authority to affect the ****.</p>	
Manufacturing Process	<p>Development and implementation of a technology transfer protocol for the transfer of the manufacturing process (including in-process methods) and formulation process for API and formulated drug substance for the NK-1 Compounds to Purchaser</p>	

**SCHEDULE 2.11
ASSET TRANSFER SCHEDULE**

The Parties' representatives comprising the Technical Team shall have the ability to mutually agree to modify in writing the Asset Transfer Schedule as reasonably required and in the event the Parties deem it in their mutual interest provided that written notification of any such modification(s) is provided to the Federal Trade Commission as part of any compliance report regularly filed with the FTC pursuant to the Consent Order.

Asset	Delivery Time	Delivery Method	Discussion / Comments
**** in the Data Room	SP will provide within **** days of the Closing Date.	To be delivered on CD or DVD via commercial carrier.	Will contain the **** contents of the **** that was available to purchaser during due diligence.
****	Parties will work together to effect the **** transfer as soon as possible with an expectation this will occur within **** of the Closing Date.	To be delivered on CD or DVD via commercial carrier.	SP can transfer the **** only after Purchaser notifies SP that they are prepared to accept transfer and notify FDA that they will accept Sponsorship.
****	Parties will work together to effect the **** transfer as soon as possible with an expectation this will occur **** of the Closing Date.	To be delivered on CD or DVD via commercial carrier.	SP can transfer the **** only after Purchaser notifies SP that they are prepared to accept transfer and notify FDA that they will accept Sponsorship.
Regulatory Documents			
• ****	To be delivered **** calendar **** of the Closing Date.	Hard copy of all correspondence to and from regulatory agencies and attachments arranged in chronological order. The original **** and **** to be delivered on CD or DVD.	
Pharmacovigilance			
• ****	To be transferred to Purchaser within **** calendar days of the Closing Date.	To be delivered on CD or DVD via commercial carrier.	Purchaser will notify SP when they become the sponsor of the **** and at this point, Purchaser will assume all pharmacovigilance requirements.

<i>Asset</i>	<i>Delivery Time</i>	<i>Delivery Meth</i>	

of the foregoing areN

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“Key Rolapitant Employees”

**Name
Role**

Schedule 7.10

~~SCHERING CORPORATION~~

2000 GALLOPING HILL ROAD



KENILWORTH, N.J. 07033

TELEPHONE: (908) 298-4000

June 29, 2010

Steven D. Rubin
Executive Vice President
OPKO Health, Inc.
4400 Biscayne Boulevard
Miami, Florida 33137

RE: The October 12, 2009 Asset Purchase Agreement between Schering Corporation (“Schering”) and OPKO Health, Inc. (“OPKO”) (the “Agreement”)

Dear Mr. Rubin:

This letter confirms our understanding with respect to the schedule for the payment of the Twenty-Five Million Dollars (\$25,000,000) that may become due and payable under Paragraph 2.7.2(b) of the Agreement. The schedule for payments made under Section 2.7.2(b) of the Agreement shall be as follows:

- (i) Five Million Dollars (\$5,000,000) upon NDA approval for an NK-1 Compound, and
- (ii) Five Million Dollars (\$5,000,000) each year thereafter for the next four (4) years on the anniversary date of such NDA approval.

Please acknowledge your understanding of the payment schedule for Paragraph 2.7.2(b) by having this letter, and the enclosed duplicate copy, signed on behalf of OPKO where indicated and return one fully signed version to your legal contact for Schering.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Bruce N. Kuhlik', written over a horizontal line.

Bruce N. Kuhlik
Executive Vice President
and General Counsel

ACKNOWLEDGED:

OPKO HEALTH, INC.

By: /s/ Steven D. Rubin
Title: EVP
Date: 7-7-2010

**Approved for Signature
OPKO Legal Dept.**

By: /s/ Kate Inman
Date: 7/7/2010

CERTIFICATIONS

I, Phillip Frost, certify that:

- (1) I have reviewed this Annual Report on Form 10-K/A of OPKO Health, 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 set forth in the report.

CERTIFICATIONS

I, Rao Uppaluri, certify that:

- (1) I have reviewed this Annual Report on Form 10-K/A of OPKO Health, 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;

Date: February 3, 2011

/s/ Rao Uppaluri
Rao Uppaluri
Chief Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of OPKO Health, Inc. (the "Company") on Form 10-K/A for the year ended December 31, 2009 (the "Report"), and pursuant to 18 U.S.C. §1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, I, Phillip Frost, Chief Executive Officer of the Company, certify that to the best of my knowledge:

- (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.

/s/ Phillip Frost
Phillip Frost, M.D.
Chief Executive Officer
February 3, 2011

