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| UNITED STATES BANKRUPTCY COURT For the District of Delaware | PROOF OF CLAIM |
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| Name of Debtor: Graceway Pharmaceuticals, LLC | Case Number: 11-13036 |
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NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.

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| Name of Creditor (the person or other entity to whom the debtor owes money or property): CaremarkPCS Health, L.L.C. | |
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| Name and address where notices should be sent: Geoffrey S. Goodman, Esq. Foley & Lardner LLP 321 North Clark St., Suite 2800, Chicago, IL 60654 Telephone number: (312) 832-4500 email: ggoodman@foley.com | <p style="text-align: center;">COURT USE ONLY</p> <input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____ |
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| | |
|--|---|
| Name and address where payment should be sent (if different from above): Telephone number: _____ email: _____ | <div style="border: 1px solid black; padding: 10px; width: fit-content; margin: auto;"> <p>RECEIVED</p> <p>DEC 30 2011</p> <p>BMC GROUP</p> </div> |
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1. Amount of Claim as of Date Case Filed: \$ 99,682.37

If all or part of the claim is secured, complete item 4.

If all or part of the claim is entitled to priority, complete item 5.

Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.

2. Basis for Claim: See attached Rider and Exhibit A thereto
(See instruction #2)

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| 3. Last four digits of any number by which creditor identifies debtor: 1 7 1 1 | 3a. Debtor may have scheduled account as: _____ (See instruction #3a) | 3b. Uniform Claim Identifier (optional): _____ (See instruction #3b) |
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| 4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable (when case was filed) | Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____ |
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5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.

| | | |
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| <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B). | <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4). | <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5). |
| <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7). | <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8). | <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(). |

Amount entitled to priority: \$ _____

Graceway Pharmaceuticals LLC


 00190

**Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*

6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

IN RE:) Chapter 11
)
GRACEWAY PHARMACEUTICALS, LLC,) Case No. 11-13036 (PJW)
et al.,¹)
) Jointly Administered
Debtors.)

**NOTICE OF APPEARANCE, REQUEST FOR
SERVICE OF PAPERS AND CONSENT TO E-SERVICE**

PLEASE TAKE NOTICE that the undersigned hereby files this Notice of Appearance and Request for Service of Papers as counsel for CVS Caremark Corp., Caremark, L.L.C., CaremarkPCSHHealth, L.L.C. (f/k/a CaremarkPCS Health, L.P.), Pharmacare Management Services, L.L.C. and Silverscript, L.L.C. (n/k/a CVS Caremark Part D Services, L.L.C.) (collectively “Caremark”) in these cases. Pursuant to the applicable Federal Rules of Bankruptcy Procedure, the undersigned does hereby request and demand that the Clerk of this Court and all other parties-in-interest in these proceedings, provide notice of, and where applicable, service of, all motions, applications, orders, pleadings, notices or other

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Graceway Pharma Holding Corp., a Delaware corporation (9175), Case No. 11-13037 (PJW); Graceway Holdings, LLC, a Delaware limited liability company (2502), Case No. 11-13038 (PJW); Graceway Pharmaceuticals, LLC, a Delaware limited liability company (5385), Case No. 11-13036 (PJW); Chester Valley Holdings, LLC, a Delaware limited liability company (9457), Case No. 11-13039 (PJW); Chester Valley Pharmaceuticals, LLC, a Delaware limited liability company (3713), Case No. 11-13041 (PJW); Graceway Canada Holdings, Inc., a Delaware corporation (6663), Case No. 11-13042 (PJW); and Graceway International, Inc., a Delaware corporation (2399), Case No. 11-13043 (PJW). The mailing address for Graceway Pharmaceuticals, LLC is 340 Martin Luther King Jr. Blvd., Suite 500, Bristol, TN 37620 (Attn: John Bellamy). On October 4, 2011, Graceway Canada Company filed an application in the Ontario Superior Court of Justice (Commercial List) pursuant to the Courts of Justice Act, R.S.O. 1990, c. C. 43.

communications filed in, or pertaining to these proceedings to the undersigned, whether such motion, application, order, pleading, notice, or other communication is written or oral, formal or informal, by hand delivery, mail, telephone, telex, telecopy, or made in any other manner whatsoever, to the attorneys listed directly below:

Geoffrey S. Goodman
FOLEY & LARDNER LLP
321 North Clark Street, Suite 2800
Chicago, IL 60654-5313
Tel: (312) 832-4500
Fax: (312) 832-4700
E-mail: ggoodman@foley.com

PLEASE TAKE NOTICE that Caremark intends that neither this Notice of Appearance nor any later appearance, pleading, claim, or suit shall waive (1) its right to have final orders in non-core matters entered only after *de novo* review by a United States District Court Judge, (2) its right to a trial by jury in any proceeding so triable in these cases or any case, controversy, or proceeding related to these cases, (3) its right to have the United States District Court withdraw the reference in any matter subject to mandatory or discretionary withdrawal, or (4) any other rights, claims, actions, defenses, setoffs, recoupments or remedies to which it is or may be entitled under agreements, in law or in equity, all of which rights, claims, actions, defenses, setoffs, recoupments and remedies it expressly reserves.

Dated: Chicago, Illinois
December 15, 2011

By: /s/ Geoffrey S. Goodman
Geoffrey S. Goodman (#6272297)
FOLEY & LARDNER LLP
321 North Clark Street, Suite 2800
Chicago, IL 60654
Tel: (312) 832-4500
Fax: (312) 832-4700
ggoodman@foley.com

Attorneys for CVS Caremark Corp., Caremark, L.L.C., CaremarkPCSHHealth, L.L.C. (f/k/a CaremarkPCS Health, L.P.), Pharmacare Management Services, L.L.C. and Silverscript, L.L.C. (n/k/a CVS Caremark Part D Services, L.L.C.)

CERTIFICATE OF SERVICE

I, Geoffrey S. Goodman, an attorney, certify that on December 15, 2011, I caused a true and correct copy of NOTICE OF APPEARANCE, REQUEST FOR SERVICE OF PAPERS AND CONSENT TO E-SERVICE to be served upon the following via First Class U.S.

Mail:

David S. Heller
Josef S. Athanas
Matthew L. Warren
233 S. Wacker Drive, Suite 5800
Chicago, IL 60606

BMC Group, Inc.
Attn: Graceway Pharmaceuticals
18750 Lake Drive East
Chanhassen, MN 55317

Young Conaway Stargatt &
Taylor, LLP
Michael R. Nestor
Kara Hammond Coyle
1000 West Street, Suite 17th Floor
Wilmington, DE 19801

Juliet Sarkessian
Office of the United States Trustee
844 King Street, Suite 2207
Wilmington, DE 19801

/s/ Geoffrey S. Goodman

FOLEY & LARDNER LLP
321 North Clark Street, Suite 2800
Chicago, IL 60654-5313
Tel: (312) 832-4500
Fax: (312) 832-4700

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|--------------------------------|---|-------------------------|
| In re: |) | Chapter 11 |
| |) | |
| GRACEWAY PHARMACEUTICALS, LLC, |) | Case No. 11-13036 (PJW) |
| <i>et al.</i> ¹ |) | |
| |) | |
| |) | (Jointly Administered) |
| Debtors. |) | |
| <hr/> | | |

RIDER TO PROOF OF CLAIM OF CAREMARKPCS HEALTH, L.L.C.

1. CaremarkPCS Health, L.L.C. (“Caremark”) submits this Rider to its annexed proof of claim against Graceway Pharmaceuticals, LLC (“Graceway”), the debtor in the above-captioned chapter 11 case (Case No. 11-13036) (PJW).

BACKGROUND

2. Caremark is in the business of, among other things, providing certain prescription benefit and formulary management services to large and small businesses across the country. Caremark and Graceway are parties to that certain Rebate Agreement, dated as of January 1, 2009, as amended (the “Rebate Agreement”). Pursuant to the Rebate Agreement, Graceway provides discounts, in the form of rebates, to Caremark for certain drugs manufactured or developed by Graceway and included in Caremark’s formulary for eligible beneficiaries of prescription drug plans.²

¹ The debtors in these jointly administered cases (collectively, the “Debtors”) are: Graceway Pharma Holding Corp., Case No. 11-13037 (PJW); Graceway Holdings, LLC, Case No. 11-13038 (PJW); Graceway Pharmaceuticals, LLC, Case No. 11-13036 (PJW); Chester Valley Holdings, LLC, Case No. 11-13039 (PJW); Chester Valley Pharmaceuticals, LLC, Case No. 11-13041 (PJW); Graceway Canada Holdings, Inc., Case No. 11-13042 (PJW); and Graceway International, Inc., Case No. 11-13043 (PJW).

² The Rebate Agreement is a confidential document. Graceway already possesses a copy of the Rebate Agreement, but an additional copy of the agreement is available upon request.

3. On September 29, 2011, the Debtors filed a motion to sell certain of their assets free and clear of liens, claims, encumbrances and other interests to Galderma S.A., a Switzerland Corporation (“Galderma”), or another higher and better bidder for such assets (the “Sale Motion”). The Sale Motion also requested that this Court approve the assumption and assignment of certain executory contracts to Galderma or another buyer, as applicable.

4. On October 20, 2011, the Debtors filed their Notice of (I) Cure Amounts With Respect to Executory Contracts to be Assumed and Assigned and (II) Potential Assumption and Assignment of Executory Contracts [Docket No. 141], and then on October 21, 2011 filed an Amended Notice thereof [Docket No. 148] (together, the “Cure Notice”). Exhibit 1 to the Cure Notice designated the Rebate Agreement as a contract proposed to be assumed and assigned to Galderma.

5. Immediately before the auction on the Debtors’ assets, the Debtors advised Caremark that they would not be assuming and assigning the Rebate Agreement to the buyer of the Debtors’ assets. On November 17, 2011, the Debtors conducted an auction on the sale of their assets and Medicis Pharmaceutical Corp. (“Medicis”) was selected as the winning bidder. On information and belief, the sale of the Debtors’ assets to Medicis closed on or about December 2, 2011 (the “Closing Date”).

PROPOSED REJECTION OF THE REBATE AGREEMENT

6. On November 23, 2011, the Debtors filed a Notice of Rejection of certain executory contracts and unexpired leases, but the Debtors designated the Rebate Agreement as a “retained contract” that would not be rejected under that Notice. On December 2, 2011, however, the Debtors filed a Motion to, among other things, reject certain executory contracts (the “Rejection Motion”). The Debtors designated the Rebate Agreement as a contract to be

rejected under the Rejection Motion. As of the preparation of this proof of claim, the Bankruptcy Court has not entered an order on the Rejection Motion.

SUMMARY OF THE CAREMARK CLAIM

7. As set forth in more detail on Exhibit A attached hereto, Graceway owes Caremark approximately \$99,682.37 under the Rebate Agreement (the “Claim Amount”).³ The Claim Amount includes an estimate of the amounts Graceway owes to Caremark for 4th quarter 2011, as final numbers will not be available until January 2012.⁴

8. Because Graceway has not assumed or rejected the Rebate Agreement as of the date hereof, Caremark has performed and continues to perform under the Rebate Agreement, resulting in post-petition obligations owed by Graceway to Caremark. Moreover, Caremark was induced to perform, and in fact did perform, its obligations under the Rebate Agreement throughout the post-petition period including, without limitation, through the Closing Date. This proof of claim is without prejudice to claims that Caremark had, has, or may have for amounts now or hereafter owing as an administrative expense allowable under 11 U.S.C. § 503(b), whether or not such amounts are included in this proof of claim, and Caremark expressly reserves its right to file such a claim at an appropriate time. Indeed, based on its preliminary calculations, Caremark’s administrative claim against Graceway under 11 U.S.C. § 503(b) is no less than \$43,425.39. This proof of claim is also without prejudice to any additional pre-petition damages that Caremark may assert in an amended proof of claim.

³ Invoices summarizing the amounts owed are not attached to the proof of claim because they are confidential and contain proprietary information. Copies of the invoices, however, have been previously sent to Graceway and are available upon request by Graceway.

⁴ If the final numbers differ from the amounts set forth in this proof of claim, Caremark will file an amended proof of claim reflecting those numbers.

9. Caremark hereby asserts and reserves all rights to exercise any rights and remedies that it may possess as a holder of rights of recoupment and/or setoff against Graceway and/or the Debtors including, but not limited to, any rights and remedies under §§ 105 and 553 of the Bankruptcy Code. Caremark also expressly reserves the right to: (a) alter, amend, update, modify, supplement or otherwise revise this proof of claim in any respect at any time; and (b) file additional proofs of claim for any other liability or indebtedness of Graceway, whether based on the Rebate Agreement or otherwise. Caremark specifically preserves all of its procedural and substantive defenses and rights with respect to any claim that may be asserted against Caremark by Graceway or any other party in interest in Graceway's bankruptcy case, or any other person or entity whatsoever, including any challenge or defense to the jurisdiction of this Court over any such claim.

10. The filing of this proof of claim is not and should not be construed to be: (a) a waiver or release of Caremark's rights against any other person liable for all or part of any claim described herein; (b) a waiver of the right to seek to have the reference withdrawn with respect to any proceedings commenced in this case against or otherwise involving Caremark (including with respect to any counterclaims to the claims asserted in this proof of claim); or (c) an election of remedies which waives or otherwise affects any other remedy of Caremark.

GRACEWAY PHARMACEUTICALS, LLC
AMOUNTS OWED TO CAREMARKPCS HEALTH, L.L.C.

| <u>Pre-Petition Amount Owed</u> | <u>Estimated 4th Quarter 2011 Amount Owed</u> | <u>Total Amount of Claim</u> |
|--|--|---|
| \$56,256.98 | \$43,425.39 | \$99,682.37 |



FOLEY & LARDNER LLP

ATTORNEYS AT LAW

321 NORTH CLARK STREET, SUITE 2800
CHICAGO, IL 60654-5313
312.832.4500 TEL
312.832.4700 FAX
foley.com

December 29, 2011

VIA FEDERAL EXPRESS
VIA OVERNIGHT DELIVERY

WRITER'S DIRECT LINE
312.832.4514
ggoodman@foley.com EMAIL

CLIENT/MATTER NUMBER
071141-0317

BMC Group
Attention: Graceway Claims Processing
18750 Lake Drive East
Chanhassen, MN 55317

Re: In Re Graceway Pharmaceuticals, LLC
Case Number 11-13036, United States Bankruptcy Court for the District of Delaware

Dear Sir/Madam:

Enclosed please find an original and two copies of Proofs of Claim to be filed in the above captioned matter by the following parties.

- CVS Caremark Part D Services, L.L.C.
- CaremarkPCS Health, L.L.C.
- Caremark, L.L.C.
- Cvs Caremark Corporation

Please return filed stamped copies of each creditor's claim in the enclosed, self-addressed envelope.

Sincerely,

Geoffrey S. Goodman

GSG:acb
enclosures

BOSTON
BRUSSELS
CHICAGO
DETROIT

JACKSONVILLE
LOS ANGELES
MADISON
MIAMI

MILWAUKEE
NEW YORK
ORLANDO
SACRAMENTO

SAN DIEGO
SAN DIEGO/DEL MAR
SAN FRANCISCO
SHANGHAI

SILICON VALLEY
TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.

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