

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-K/A-1

AMENDMENT TO

FORM 10-K

[X] ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE  
ACT OF 1934 FOR THE FISCAL YEAR ENDED JUNE 30, 1996.

Commission file number: 0-16159

LECTEC CORPORATION  
(Exact name of Registrant as specified in its charter)

Minnesota  
(State or other jurisdiction of  
incorporation or organization)

41-1301578  
(I.R.S. Employer Identification No.)

10701 Red Circle Drive, Minnetonka, Minnesota 55343  
(Address of principal executive offices)

Registrant's telephone number, including area code: (612) 933-2291

Securities registered pursuant to Section 12(b) of the Act: None

Securities registered pursuant to Section 12(g) of the Act:  
Common Stock, (\$0.01 par value)

(Title of Class)

Exhibit Index Appears on Page 7

FILING OF REVISED EXHIBITS 10.17 AND 10.19

On September 30, 1996, LecTec Corporation (the "Company") filed its Annual Report on Form 10-K for the Fiscal Year Ended June 30, 1996 (the "Form 10-K"). Certain confidential portions of Exhibits 10.17 and 10.19 were omitted from such Exhibits; these portions were filed separately with the Securities and Exchange Commission (the "Commission") pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended, and accompanied by a confidential treatment request. In a comment letter dated November 14, 1996, the Commission requested that the Company add certain language to each place in the Exhibits in which confidential information had been omitted. In addition, the Commission made certain comments regarding the scope of the confidential treatment requested with respect to Schedule B to Exhibit 10.17 and Exhibit A to Exhibit 10.19, in response to which the Company is amending its confidential treatment request with regard to those items. The sole purpose of this Amendment 10-K/A-1 is to refile Exhibits 10.17 and 10.19 to include such language and to amend the information as to which confidential treatment has been requested in Schedule B to Exhibit 10.17 and Exhibit A to Exhibit 10.19.

Other than such amended Exhibits 10.17 and 10.19, this Amendment 10-K/A-1 contains no financial statements, financial statement schedules, exhibits and or other papers and documents.

## (a) Financial Statements, Schedules and Exhibits

## 1. Financial Statements

The following consolidated financial statements of the Company and its subsidiaries are filed as a part of this Form 10-K in Part II, Item 8:

- (i) Report of Independent Certified Public Accountants
- (ii) Consolidated Balance Sheets at June 30, 1996 and 1995
- (iii) Consolidated Statements of Operations for the years ended June 30, 1996, 1995 and 1994
- (iv) Consolidated Statements of Shareholders' Equity for the years ended June 30, 1996, 1995 and 1994
- (v) Consolidated Statements of Cash Flows for the years ended June 30, 1996, 1995 and 1994
- (vi) Notes to the Consolidated Financial Statements

## 2. Financial Statement Schedules :

All schedules have been omitted since the required information is not present or not present in amounts sufficient to require submission of the schedule, or because the information required is included in the financial statements or the notes thereto.

&lt;TABLE&gt;

&lt;CAPTION&gt;

3. Exhibits		Method of Filing
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<S>	<C>	<C>
3.01	Articles of Incorporation of Registrant, as amended	(1)
3.02	By-laws of Registrant	(1)
10.01	Service Agreement dated July 1, 1986, between LecTec International, Inc., a U.S. Virgin Islands corporation, and LecTec Corporation, relating to the sale, lease or rental of certain property outside the United States.	(1)
10.02	Distribution and Commission Agreement dated July 1, 1986, between LecTec International, Inc., a U.S. Virgin Islands corporation, and LecTec Corporation, relating to the sale, lease or rental of certain property outside the United States.	(1)
10.03	1986 Incentive Stock Option Plan	(1)
10.04	Agreement dated June 1, 1983, between LecTec Corporation and George Ingebrand, relating to the grant of stock-equivalent units.	(1)
10.05	Certificate of Secretary pertaining to Resolution of Board of Directors of LecTec Corporation, dated October 30, 1986, implementing a Profit Sharing Bonus Plan.	(1)
10.06	Research Agreement dated December 31, 1991, between LecTec Corporation and the University of Minnesota, whereby LecTec Corporation received exclusive rights to market and sell a non-nicotine compound to be mutually developed for smoking cessation.	(2)
10.07	Assignment and Mutual Release Agreement dated March 9, 1993 between Pharmaco Behavioral Associates, Inc.,	(2)

Robert M. Keenan, Ph.D., M.D. and the University of Minnesota, whereby the University assigned title, royalty and patent rights associated with the technology to alleviate symptoms of tobacco withdrawal to Pharmaco Behavioral Associates, Inc. and Dr. Keenan. Also included is a mutual release of all parties on all past title, royalty and patent rights.

- 10.08 License Agreement dated March 9, 1993 between Pharmaco Behavioral Associates, Inc. and LecTec Corporation, whereby the Company received an exclusive, worldwide license to market, make and sublicense product associated with the technology to alleviate symptoms of tobacco withdrawal. (2)
- 10.09 Consultant Contract and Invention Assignment dated March 9, 1993 between Robert Keenan, Ph.D., M.D. and LecTec Corporation, whereby the Company received assignment of patent and invention rights associated with the technology to alleviate symptoms of tobacco withdrawal including provisions that the Company enter into a consulting agreement with Dr. Keenan. (2)
- 10.10 Research Agreement dated June 30, 1992, between LecTec Corporation and Natus Corporation, whereby Natus will fund the the development of an analgesic patch for exclusive rights to sell the the product. (2)
- 10.11 Stock Investment and Repurchase Agreement dated July 1, 1992, between LecTec Corporation and Natus Corporation, whereby LecTec purchased Common Stock of Natus Corporation. (2)
- 10.12 Amendments dated March 18, 1993 to the original Research Agreement dated June 30, 1992, between LecTec Corporation and Natus Corporation. (2)
- 10.13 Subscription Agreement dated June 17, 1993 between LecTec Corporation and Natus Corporation. (2)
- 10.14 A Promissory Note dated June 17, 1993 between LecTec Corporation and Natus Corporation. Included in the note is an option for LecTec to receive common stock of Natus in lieu of payment. (2)
- 10.15 Amended and Restated Stock Option Agreement between LecTec Corporation and Natus Corporation, whereby LecTec has obtained the option to acquire the additional shares required to equal 51% of the Common Stock of Natus. (3)
- 10.16 Contribution Agreement dated March 12, 1996 between Natus Corporation and ACM Investments, L.L.C. regarding the acquisition of an equity interest in Natus L.L.C (4)
- \*10.17 Distribution Agreement dated March 12, 1996 between LecTec Corporation, Natus Corporation and Natus L.L.C. (4)
- 10.18 Operating Agreement dated March 12, 1996 between Natus L.L.C., ACM Investments, L.L.C., Natus Corporation and Natus Management, Inc. (4)
- \*10.19 Marketing and Distribution Agreement dated January 11, 1996 between LecTec Corporation, Natus Corporation and CNS, Inc. regarding an analgesic pain patch (4)
- 10.20 Credit Agreement dated May 1, 1996 between LecTec Corporation and The First National Bank of Saint Paul, a national banking association, whereby LecTec (4)

Corporation has an unsecured \$1 million working capital line of credit

10.21	Revolving Credit Note dated May 1, 1996 between LecTec Corporation and The First National Bank of Saint Paul, a national banking association	(4)
10.22	Working Capital Loan Agreement dated September 5, 1995 between LecTec Corporation and Natus Corporation relating to a loan from LecTec to Natus Corporation	(4)
10.23	Form of Working Capital Loan Agreement dated September 5, 1995; between Natus Corporation and various shareholders relating to loans to Natus Corporation	(4)
21.01	Subsidiaries of the Company	(3)
23.01	Consent of Grant Thornton LLP	(4)
27.01	Financial Data Schedule	(4)

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- \* Filed with this report on Form 10-K/A-1, Amendment to Form 10-K, for the fiscal year ended June 30, 1996. Confidential treatment has been requested for portions of this Exhibit pursuant to Rule 24b-2 under the Securities Exchange Act of 1934 as amended, the confidential portions have been deleted and filed separately with the Securities and Exchange Commission together with a confidential treatment request.
- (1) Incorporated herein by reference to the Company's Form S-18 Registration Statement (file number 33-9774C) filed on October 31, 1986 and amended on December 12, 1986.
- (2) Incorporated herein by reference to the Company's Annual Report on Form 10-K for the year ended June 30, 1993.
- (3) Incorporated herein by reference to the Company's Annual Report on Form 10-K for the year ended June 30, 1994.
- (4) Filed herewith.

(b) 1. Reports on Form 8-K.

None.

#### 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 on Form 10-K/A-1 Amendment to Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized, on the 27th day of November, 1996.

LECTEC CORPORATION

/s/Rodney A. Young

-----  
Rodney A. Young  
Chief Executive Officer, President  
and Chairman  
(Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the date indicated.

/s/Rodney A. Young

November 27, 1996

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Rodney A. Young  
Chief Executive Officer, President  
Chairman  
(Principal Executive Officer)

/s/Justin W. Shireman

November 27, 1996

-----  
Justin W. Shireman  
Controller  
(Principal Financial and Accounting Officer)

/s/Rodney A. Young

November 27, 1996

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Rodney A. Young  
Chief Executive Officer, President,  
Chairman, Director

/s/Alan C. Hymes

November 27, 1996

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Alan C. Hymes  
Director

/s/Lee M. Berlin

November 27, 1996

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Lee M. Berlin  
Director

/s/Paul Johnson

November 27, 1996

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Paul Johnson  
Director

/s/Alan J. Wilensky

November 27, 1996

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Alan J. Wilensky  
Director

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Certain confidential portions of this Exhibit have been deleted and filed separately with the Securities and Exchange Commission. An asterisk (\*) denotes confidential information that has been omitted from the Exhibit and filed separately, accompanied by a confidential treatment request, with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

#### DISTRIBUTION AGREEMENT

This Distribution Agreement ("Agreement") is entered into and is effective this 12th day of March, 1996, by and among LecTec Corporation, a Minnesota corporation having its principal place of business at 10701 Red Circle Drive, Minnetonka, Minnesota ("LecTec"), Natus Corporation, a Minnesota corporation having its principal place of business at 10701 Red Circle Drive, Minnetonka, Minnesota ("Old Natus") and Natus, L.L.C., an Arizona limited liability company having its principal place of business at 3001 East Camelback Road, Suite 200, Phoenix, Arizona 85016 ("New Natus").

WHEREAS, LecTec is in the business of manufacturing Patches (as defined below) for marketing, distribution and sale to the general public; and

WHEREAS, Old Natus is in the business of distributing Patches manufactured by LecTec through means other than multi-level (network) direct sales marketing and distribution; and

WHEREAS, LecTec owns a majority of the outstanding shares of Old Natus; and

WHEREAS, New Natus is in the business of multi-level (network) direct sales marketing and distribution of products such as the Patches and desires to purchase the Patches for resale to in its multi-level (network) direct sales marketing and distribution business under Natus trademarks, utilizing Natus packaging and Natus promotional material; and

WHEREAS, LecTec has the capacity to manufacture or have manufactured New Natus's requirements of such products; and

WHEREAS LecTec is willing to sell the Patches to Old Natus for distribution to New Natus, and Old Natus is willing to distribute the Patches to New Natus, for the multi-level (network) direct sales marketing and distribution in the Exclusive Market (as defined below);

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises expressed herein, LecTec and New Natus agree as follows:

1. Definitions. As used herein, the following terms shall have the following meanings:

1.1 "Agreement" shall mean this Distribution Agreement, including any future written amendments, modifications, or supplements made in accordance herewith.

1.2 "Effective Date" shall have the meaning set forth in Section 3.

1.3 "Exclusive Market" shall mean the world-wide person-to-person multi-level network marketing and distribution of Patches, and specifically does not include institutional, retail, direct response infomercial or commercial spots, electronic retailing (such as HSN or QVC), marketing and distribution of Patches. It is expressly understood that this Agreement does not grant marketing and distribution rights outside the Exclusive Market.

1.4 "FDA" shall have the meaning set forth in Section 13.1(B).

1.5 "LecTec" shall mean LecTec Corporation, a Minnesota corporation.

1.6 "Old Natus" shall mean Natus Corporation, a Minnesota

corporation.

1.7 "Monthly Forecast" shall have the meaning set forth in Section 9.2.

1.8 "New Natus" shall mean Natus, L.L.C., an Arizona limited liability company.

1.9 "Patches" shall mean analgesic patches which meet the criteria set forth in the United States Food and Drug Administration monograph on external analgesic drug products for over-the-counter human use which contain the active ingredients methyl salicylate, menthol and camphor.

1.10 "Re-Commencing Party" shall have the meaning set forth in Section 19.5.

1.11 "Restricted Period" shall have the meaning set forth in Section 19.5.

1.12 "Termination Notice" shall have the meaning set forth in Section 19.4.

2. Engagement. Old Natus hereby engages New Natus, and New Natus hereby accepts such engagement, to act as the distributor for Old Natus in the Exclusive Market on the terms and conditions as set forth in this Agreement.

3. Term. The initial term of this Agreement shall begin on the date first set forth above ("Effective Date") and shall end on February 28, 2001. This Agreement shall be renewable for successive five (5) year terms thereafter provided that the parties have, prior to the end of each preceding term, reached an agreement on the price per Patch and minimum annual purchase amounts applicable to such renewal term. The parties shall, beginning not later than one year prior to the expiration of the initial term and each renewal term thereafter, negotiate in good faith with the object of reaching agreement on the price per Patch and the minimum annual purchase amount to be applied to the subsequent renewal term.

4. Limited Exclusivity. New Natus shall be the exclusive distributor of Patches in the Exclusive Market during the term of this Agreement, including any renewals hereof. New Natus shall not market Patches in or for resale in any other markets except the Exclusive Market. Neither LecTec nor Old Natus shall sell Patches to any other person or entity in or for resale in the Exclusive Market.

5. Right of First Offer for Other Analgesic Patches. Neither LecTec nor Old Natus may offer analgesic patches other than the Patches for distribution, sale or resale, whether directly or through a distributor, in the Exclusive Market unless LecTec or Old Natus, as the case may be, first offers the right to distribute such other analgesic patches to New Natus, specifying the terms of such distribution relationship, and New Natus does not accept such offer. If New Natus does not accept such offer to distribute such other analgesic patches on the terms so offered within thirty (30) days of such offer, LecTec or Old Natus, as the case may be, may offer such other analgesic patches for distribution, sale or resale in the Exclusive Market, but only through a distributor and only on such terms as are no more favorable to such distributor than the terms offered to New Natus pursuant to this Section 5.

6. Order; Minimum Purchase. New Natus shall order Patches by submitting a purchase order for the quantity of Patches desired to Old Natus. New Natus may order and purchase Patches in any quantity so long as the quantity equals or exceeds (\*) Patches per order, and so long as the aggregate of all orders purchased exceeds the minimum annual purchase amounts as set forth on Schedule A, attached hereto and incorporated by this reference, for each year set forth in Schedule A. For the purposes of calculating the aggregate orders purchased by New Natus within the first year of this Agreement, all Patches contributed by Old Natus to New Natus pursuant to the Contribution Agreement dated March 12th, 1996, shall be deemed to have been purchased by New Natus pursuant to this Agreement.

7. Price. The purchase price to New Natus for the Patches meeting the specifications set forth in Schedule B, attached hereto and incorporated by this reference, shall be (\*) per Patch purchased (other than those Patches deemed to have been purchased pursuant to the last sentence of Section 6). In the event

that New Natus desires to purchase Patches other than Patches meeting the specifications set forth in Schedule B, New Natus and Old Natus will negotiate in good faith in an attempt to agree on a price for such Patches. In no event shall Old Natus's charges to New Natus for Patches, whether meeting the specifications set forth in Schedule B or otherwise, be in excess of LecTec's or Old Natus' usual and customary charges for Patches of the same specifications to distributors in markets other than the Exclusive Market, and if LecTec or Old Natus offers a distributor in another market a lower price per Patch of the same specifications, New Natus shall be permitted to purchase Patches on the same terms as such other distributor.

8. Payment for Orders. New Natus shall pay to Old Natus the purchase price for Patches ordered from Old Natus within 30 days after such order is received by New Natus by payment to Old Natus.

9. Duties of New Natus.

9.1 New Natus shall devote the amount of time and effort on the part of its personnel required to promote, market and distribute the Patches.

9.2 On or before April 1, 1996, and at the beginning of each calendar month thereafter during the term hereof, New Natus shall provide Old Natus with an estimate of New Natus' requirements for Patches for the next ninety (90) days (the "Monthly Forecast").

9.3 New Natus shall comply with all United States Food and Drug Administration regulations applicable to New Natus' distribution of the Patches, including but not limited to storage, distribution and the handling of customer complaints. New Natus shall not misrepresent the nature of indications for use of the Patches and will not alter the Patches.

9.4 New Natus shall take such reasonable actions as are reasonably necessary (including cutting off supplies of Patches to or terminating distributors) to prevent any domestic or foreign entity from distributing or selling, directly or indirectly, outside the Exclusive Market any Patches sold to New Natus hereunder.

10. Duties of LecTec.

10.1 LecTec shall devote the amount of time and effort on the part of its personnel required to manufacture, produce and timely deliver all Patches ordered by New Natus. LecTec shall fill and ship all orders placed by New Natus within thirty (30) days after receipt of the corresponding purchase order provided that the quantity of Patches in such order does not exceed the estimate of New Natus' requirements for Patches contained in the Monthly Forecast. Any orders for quantities of Patches in excess of the foregoing limits shall be filled and shipped (i) to the extent of the foregoing limits, within thirty (30) days after receipt of the corresponding purchase order and, (ii) to the extent in excess of the foregoing limits, within sixty (60) days after receipt of the corresponding purchase order.

10.2 LecTec and Old Natus shall notify New Natus of any applications made or proposed (unless such notification is expressly prohibited by the third party, if any, making or proposing such application) for regulatory approval in any country or territory for the marketing or sale to the public of the Patch and any other analgesic patch for which New Natus is the distributor in the Exclusive Market, promptly upon LecTec or Old Natus obtaining knowledge of such applications. LecTec and Old Natus will, on a quarterly basis, notify New Natus of the status of any such applications made or proposed, unless such notification is expressly prohibited by the third party, if any, making or proposing such application. At the request of New Natus, LecTec and Old Natus shall cooperate with New Natus to the extent necessary to include in such applications a request for regulatory approval for the distribution and marketing within the Exclusive Market of Patches and any other analgesic patches for which New Natus is the distributor in the Exclusive Market unless such inclusion is expressly prohibited by the third party, if any, making such application. New Natus shall reimburse LecTec and Old Natus for any additional cost to LecTec and Old Natus directly associated with, and reasonably incurred as a result of, securing such additional regulatory approval for distribution and marketing in the Exclusive Market, if such additional regulatory approval is requested by New Natus.

11. Duties of Old Natus. Old Natus will timely forward any or all purchase orders and Monthly Forecasts received by it to LecTec. The failure of Old Natus to timely forward any or all purchase orders or Monthly Forecasts to LecTec shall not excuse LecTec from the timely performance of its obligations hereunder, including, without limitation, the obligation to timely fill and ship orders pursuant to Section 10 hereof.

12. Shipping. All shipping and handling costs; demurrage; storage costs; transportation insurance; sales or use taxes; and/or duties associated with any order placed by New Natus shall be paid by New Natus; provided, however, that any such costs associated with replacement shipments for defective products shipped by LecTec shall be paid by LecTec. The method and route of shipment shall be at New Natus's discretion.

13. Representations and Warranties of LecTec and Old Natus.

13.1 LecTec and Old Natus represent and warrant that:

(A) All Patches, their formulations and the methodology used in their manufacture are owned or controlled by LecTec or Old Natus and do not infringe upon any formulations or methodology not owned or controlled by LecTec or Old Natus.

(B) All Patches are produced in conformity with the United States Food and Drug Administration ("FDA") Tentative Final Monograph on External Analgesic Drug Products and are permitted to be marketed in the United States under a deferral letter from the FDA. It is expressly understood, however, that no representations or warranties are made as to the existence or likelihood of obtaining final regulatory approval for the marketing of the Patches in the United States or regulatory approval in any country outside of the United States for marketing of the Patches.

(C) Old Natus is the authorized distributor of the Patches in the Exclusive Market and has the right to enter into this Agreement relating to the distribution of the Patches in the Exclusive Market pursuant to the terms hereof.

13.2 LecTec represents and warrants that all Patches will meet LecTec's written quality and quantity specifications and are free from defects in materials and workmanship.

14. Indemnification of New Natus. LecTec and Old Natus, jointly and severally, shall indemnify, defend and hold New Natus harmless from and against any and all demands, penalties, liabilities, claims and expenses, including without limitation any attorneys' fees and costs, arising out of or relating to (1) any breach by LecTec or Old Natus of the representations and warranties contained in Section 13 hereof, or (2) any defects in the formulation, ingredients, materials, packaging, labeling or printed materials supplied by LecTec (including, but not limited to, instructions or indications for use) with respect to the Patches, provided such defect is not directly caused by negligence on the part of New Natus.

15. Indemnification of LecTec and Old Natus. New Natus shall indemnify, defend and hold LecTec and Old Natus harmless from and against any and all demands, penalties, liabilities, claims and expenses, including without limitation any attorneys' fees and costs, arising out of or relating to any claims by distributors or customers of New Natus with respect to the Patches, including, without limitation, false or deceptive advertising or claims of the Patches, except as set forth in Section 14 hereof, or the breach by New Natus of Section 9.3 hereof.

16. Insurance. LecTec and New Natus shall each secure and maintain product liability insurance in the amount of not less than \$1,000,000.00 and will cause the other and Old Natus to be named as an additional insured party as its interest bears under their respective policies. LecTec and New Natus shall each provide the other and Old Natus with a certificate of insurance evidencing the requisite coverage as well as any revisions or changes subsequently made thereto.

17. Force Majeure. Neither LecTec nor Old Natus shall be responsible or liable for any loss, damage, detention or delay caused by fire, civil or military authority, insurrection, riot, or railroad, air or port embargoes.

18. Survival. The covenants and agreements of the parties contained in Sections 9.3, 14, 15 and 16 hereof shall survive the termination of this Agreement and for a period of three (3) years following the termination. Notwithstanding the foregoing, in the event that any party has given notice of a claim for indemnification within the foregoing time limit, specifying in reasonable detail the nature and, to the extent then known, the amount of the claim, such claim shall survive until resolved.

19. Termination.

19.1 Either LecTec and Old Natus, jointly, or New Natus may terminate this Agreement for cause during its term in the event of a material default by the other party in its performance of any of the terms and conditions or covenants of this Agreement, which material default is not cured within thirty (30) days after receipt of a written notice to the defaulting party from the nondefaulting party specifying the nature of such default.

19.2 If New Natus fails to make payments in accordance with Section 8 hereof for Patches delivered to it by LecTec or Old Natus, LecTec and Old Natus may cease production and delivery of Patches against any then current and outstanding purchase order placed by New Natus with Old Natus under this Agreement until New Natus's account is brought current and such action by LecTec or Old Natus shall not constitute a breach under this Agreement.

19.3 Either LecTec and Old Natus, jointly, or New Natus may terminate this Agreement at any time if the other party, or (solely with respect to New Natus' right to terminate) Old Natus, initiates any voluntary proceeding or becomes the subject of any voluntary proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, receivership, dissolution, or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; is adjudicated insolvent or bankrupt by a decree of a court of competent jurisdiction; petitions or applies for, acquiesces in or consents to, the appointment of any receiver or trustee of such party or for all or a substantial part of the property of the party; makes an assignment for the benefit of creditors; or admits in writing its inability to pay its debts as they mature.

19.4 New Natus may terminate this Agreement upon ninety (90) days notice (the "Termination Notice") to LecTec and Old Natus if it determines it is not in its best interests to continue to distribute the Patches. If New Natus wishes to obtain Patches for sale in the Exclusive Market within the period beginning on the date of the termination of this Agreement pursuant to this Section 19.4 and ending on the earlier of (i) two (2) years from the date of termination of this Agreement pursuant to this Section 19.4, or (ii) the date upon which this Agreement would otherwise have expired pursuant to Section 3 hereof, New Natus shall offer to obtain such Patches from LecTec and Old Natus, specifying the terms upon which New Natus proposes to obtain such Patches. If LecTec and Old Natus do not accept such offer on the terms so offered within thirty (30) days of such offer, New Natus may obtain such Patches from any other supplier or suppliers, provided New Natus obtains such Patches only on such terms as are no less favorable to New Natus than those terms offered to LecTec and Old Natus. Upon the termination of this Agreement pursuant to this Section 19.4, New Natus shall purchase, upon the terms and conditions set forth herein, all unpurchased Patches manufactured prior to receipt by LecTec of the Termination Notice in reasonable reliance upon the Monthly Forecast and shall purchase (at LecTec's actual cost) all unused packaging materials ordered by LecTec prior to the Termination Notice in reasonable reliance on the Monthly Forecast.

19.5 LecTec and Old Natus, jointly, may terminate this Agreement upon ninety (90) days notice to New Natus if they determine it is not in their best interests to continue to manufacture the Patches. Under such a termination, neither LecTec nor Old Natus may supply Patches to any other distributor in the Exclusive Market or any other market during the period (the "Restricted Period") beginning on the date of the termination of this Agreement pursuant to this Section 19.5 and ending on the earlier of (i) two (2) years from the date of termination of this Agreement pursuant to this Section 19.5 or (ii) the date upon which this Agreement would otherwise have expired pursuant to Section 3 hereof. If LecTec or Old Natus wishes to supply Patches to any other distributor in the Exclusive Market or any other market during the Restricted Period, LecTec or Old Natus, as the case may be, (the "Re-Commencing Party") shall first offer to New Natus the right to distribute such Patches, specifying the terms of such distribution relationship. If New Natus does not accept such

offer on the terms so offered within thirty (30) days of such offer, the Re-Commencing Party may offer such Patches for distribution, sale or resale, but only through a distributor and only on such terms as are no more favorable to such distributor than the terms offered to New Natus pursuant to this Section 19.5.

19.6 LecTec and Old Natus, jointly, may terminate this Agreement within the notice period permitted by the FDA if the United States Food and Drug Administration forbids production or distribution of the Patches.

19.7 Notwithstanding anything in any agreement between Old Natus and LecTec to the contrary, in the event of the termination of Old Natus' right to distribute the Patches for any reason, this Agreement shall not thereby be terminated. In the event of any such termination, this Agreement shall continue in full force and effect and New Natus shall continue to be the distributor of Patches in the Exclusive Market.

## 20. Miscellaneous.

20.1 At all times during the term of this Agreement, LecTec, Old Natus and New Natus shall be deemed to be independent parties, and neither shall have any right or authority to (a) act for the other; (b) incur, assume or create any obligation, liability or responsibility, express or implied, in the name or on behalf of the other; or (c) bind the other in any manner whatsoever. No agency, joint venture, partnership or other representative or fiduciary relationship between or among any of New Natus, LecTec and Old Natus is created by, or may be inferred from, this Agreement or the parties' performance hereunder.

20.2 Neither this Agreement nor any right or obligation hereunder shall be assigned or otherwise transferred, in whole or in part, by any party hereto (whether by operation of law or otherwise, without the prior written consent of each other party. Any assignment or transfer contrary to the terms hereof shall be null and void and of no force or effect.

20.3 This Agreement is to be governed by and construed and enforced in accordance with the laws of the State of Arizona without regard to its internal laws respecting conflicts. The venue for any dispute arising hereunder shall be Maricopa County, Arizona.

20.4 The prevailing party in any legal proceedings arising out of this Agreement shall be entitled to recover, in addition to all other legal or equitable remedies available to it, reasonable attorneys' fees and costs from the other party.

20.5 All notices, requests, demands and other communications pursuant to this Agreement shall be in writing and shall be delivered personally or sent by certified or registered mail, return receipt requested, or by telefacsimile, with receipt confirmed by telephone and hard copy mailed, to the parties at the addresses set forth below:

LecTec Corporation  
10701 Red Circle Drive  
Minnetonka, Minnesota 55343  
Fax: (612) 933-1068  
Attention:

Natus Corporation  
10701 Red Circle Drive  
Minnetonka, Minnesota 55343  
Fax: (612) 933-1068  
Attention:

Natus, L.L.C.  
2777 East Camelback Road  
Phoenix, Arizona 85016  
Fax: (602) 954-9851  
Attention: President

Any such notice, request, demand or other communication shall be deemed to have been given as of the date delivered or sent by telefacsimile, or three (3) days after deposit in the U.S. mails. A party may change the address to

which notices, requests, demands and other communications hereunder are sent, by giving written notice of said change of address to the other parties in the manner above stated.

20.6 Section headings of this Agreement are solely for convenience and shall not be used in any way in the interpretation of this Agreement or otherwise be given any legal effect.

20.7 This Agreement, including all of the schedules attached hereto, together with the Operating Agreement of New Natus dated March 12th, 1996, and the Contribution Agreement by and among Old Natus and ACM Investments, L.L.C., dated March 12th, 1996, constitute the entire understanding and agreement between the parties and supersede all previous negotiations, representations and agreements made by the parties with respect to the subject matter hereof. There are no understandings or agreements relative hereto which are not fully expressed herein; no amendments hereof shall be valid unless in writing and signed by all parties; no waiver or discharge thereof shall be valid unless in writing and signed by the party or parties whose rights are adversely affected thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate, each of which shall for all purposes be deemed an original, effective as of the Effective Date.

"LECTEC"  
LECTEC CORPORATION

"NEW NATUS"  
Natus, L.L.C.

/s/Thomas E. Brunelle  
President and CEO

/s/ Richard J. Bennetts  
Richard J. Bennetts, President

"OLD NATUS"  
NATUS CORPORATION

/s/Kathleen A. Billings  
President

#### SCHEDULE A--MINIMUM ANNUAL PURCHASE

Year	Minimum Number of Patches
March 1, 1996 to February 28, 1997	(*)
March 1, 1997 to February 28, 1998	(*)
March 1, 1998 to February 28, 1999	(*)
March 1, 1999 to February 29, 2000	(*)
March 1, 2000 to February 28, 2001	(*)

#### SCHEDULE B--PATCH SPECIFICATIONS

Individually wrapped patches of a 2 inch by 3 inch dimension, packaged in boxes of 20 patches each.

Certain confidential portions of this Exhibit have been deleted and filed separately with the Securities and Exchange Commission. An asterisk (\*) denotes confidential information that has been omitted from the Exhibit and filed separately, accompanied by a confidential treatment request, with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

CONFIDENTIAL

## MARKETING AND DISTRIBUTION AGREEMENT

THIS AGREEMENT is made and entered into as of the 11th day of January, 1996 between CNS, Inc., a Delaware corporation ("Distributor"), Natus Corporation, a Minnesota corporation ("Natus"), and LecTec Corporation, a Minnesota corporation ("LecTec") (Natus and LecTec are collectively referred to herein as "Manufacturer").

### BACKGROUND

LecTec manufactures the Product (as defined below) and Natus has rights to the Product. Manufacturer is the owner of the Product. Distributor is in the business of manufacturing and marketing consumer medical products and has established sales channels for such products. Manufacturer desires to enter into a marketing and distribution agreement for the Product on the terms and conditions set forth in this Agreement

### TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall be defined in the manner set forth below:

1.1 "Product" shall mean Manufacturer's topical analgesic pain relief patch containing any of the active ingredients methyl salicylate, menthol and camphor, and all alterations of and improvements to such Product; provided, however, that Manufacturer may not alter the Product without Distributor's approval which approval shall not be unreasonably withheld.

1.2 "Territory" shall mean the United States of America and Canada, and all of their possessions and territories.

1.3 "Exclusive Market" shall mean all retail stores in the Territory and all wholesalers serving those retail stores.

1.4 "Non-Exclusive Market" shall mean those retail channels in the Territory other than the channels in the Exclusive Market; provided, however, that the Non-Exclusive Market shall not include (i) direct response infomercials and electronic retailing through television-based shopping programs such as (but not limited to) QVC and HSN, or (ii) direct person to person marketing, including multi-level distributorships.

1.5 "Growth Factor" for any one calendar year shall mean the product of Distributor's minimum purchase obligation for the prior year and the total growth in the United States' retail topical analgesic market for such prior year as measured by Information Resources, Inc. ("IRI") or Nielson Rating Services ("Nielson") scanner data.

### 2. APPOINTMENT OF DISTRIBUTOR.

2.1 Subject to the terms and conditions contained herein, Manufacturer grants to the Distributor, and the Distributor hereby accepts, the rights and responsibilities of (i) an exclusive distributor of the Product in the Exclusive Market in the Territory and (ii) a non-exclusive distributor of

the Product in the Non-Exclusive Market in the Territory. Distributor is prohibited from selling the Product outside the Exclusive Market or Non-Exclusive Market or to any customer who is not in the Territory. In addition, Distributor is hereby granted a right of first refusal to act as exclusive distributor in the Exclusive Market of any analgesic patch developed by the Manufacturer other than the Product. Such right of first refusal shall expire on the first anniversary of the commencement of test marketing of the Product hereunder.

2.2 Beginning on January 1, 1996 and during the Term of this Agreement, Manufacturer shall maintain Distributor's exclusivity in the Exclusive Market in the Territory by not appointing any sales representatives or distributors, or selling directly through other outlets in the Exclusive Market in the Territory. Nothing contained herein shall in any manner restrict or limit Manufacturer in regard to appointing another distributor for the Product or in regard to selling directly or through other outlets in the Non-Exclusive Market. Distributor acknowledges that Manufacturer has granted to a third party certain rights to sell the Product in the Exclusive Market under the trademark "Natus Patch," which rights are terminable by Manufacturer, and that on January 1, 1996 Manufacturer will give notice to such party to terminate such third party's rights to sell the Product in the Exclusive Market effective January 30, 1996.

2.3. Each of the parties is an independent contractor and nothing contained herein shall be deemed or construed to create the relationship of an agency, partnership, joint venture, franchise or any other association or relationship between the parties except that of a marketing and distributor relationship. Distributor is not granted any right or authority to assume or create any obligations or responsibilities, express or implied, on behalf or in the name of, Manufacturer or to bind Manufacturer in any manner or thing whatsoever, without the prior written approval and acceptance by Manufacturer in each instance.

### 3. PURCHASE ORDERS.

3.1 No purchase orders of Distributor shall be binding upon Manufacturer until accepted by Manufacturer in writing. Except as otherwise agreed in writing by Manufacturer, an order may not be canceled by Distributor after it has been accepted.

3.2 All sales of Product by Manufacturer to Distributor hereunder shall be subject to the provisions of this Agreement and shall not be subject to the terms and conditions contained in any purchase order of Distributor or confirmation of Manufacturer, except insofar as any such purchase order or confirmation establishes (i) the quantity of Product to be sold or (ii) the shipment date of Product.

### 4. SHIPMENT OF PRODUCT.

4.1 Subject to delay due to force majeure, Manufacturer will ship Product on the date indicated in Distributor's purchase order if such order is within the then current sales projection of Distributor. If such order is beyond the projection, Manufacturer will use commercially reasonable efforts to meet such order and will not unreasonably withhold or delay its acceptance of the order.

4.2 All Product sold by Manufacturer to Distributor hereunder will be shipped by Manufacturer F.O.B. LecTec's loading dock ("Shipping Point").

4.3 Distributor shall assume all risk of loss for Product upon delivery by Manufacturer of the Product to the Shipping Point.

4.4 Distributor will pay all loading, freight, shipping, insurance, forwarding and handling charges, taxes, storage, and all other charges applicable to the Product after it is delivered by Manufacturer to the Shipping Point.

### 5. PRICE AND PAYMENT.

5.1 Manufacturer agrees to sell the Product to Distributor F.O.B. Shipping Point at the price set forth on Exhibit A. Prices may not be changed without Distributor's prior approval and changes will be based on the national consumer price index.

5.2 The parties agree to renegotiate in good faith the price paid by Distributor for the Product in the following situations: (i) for specified packout configurations, for which different prices will be based on any cost savings or increases that Manufacturer incurs as a result of such packout changes, (ii) in the event price elasticity or competitive pricing pressures impact Distributor's ability to effectively penetrate the market, in which case the new prices will be negotiated in good faith; and (iii) to share manufacturing cost reductions with Distributor in the event that unit sales of the Product reach sufficient sustainable volume to generate manufacturing economies of scale, in which case the new prices will be negotiated in good faith with the understanding that the parties will take into consideration any cost saving experienced by Distributor in connection with its marketing efforts.

5.3 Manufacturer agrees that it will not (i) sell comparably-sized Product to any other party in the Non-Exclusive Market at a price less than the price paid by Distributor or (ii) sell comparably-sized Product to any other party at a price less than the price paid for the Product by Distributor. The restriction in Section 5.3(ii) shall not apply to sales under (a) agreements existing as of the date of this Agreement or (b) agreements for sales through direct person to person marketing, including multi-level distributorships.

5.4 Except as otherwise provided in this Agreement, Distributor shall pay Manufacturer for each shipment of Product within thirty (30) days of the date of the invoice issued by Manufacturer in conjunction with such shipment.

6. RETURNED GOODS POLICY. Distributor may return Product to Manufacturer upon Manufacturer's prior written approval if such Product deviated from Distributor's packaging specifications or if the Product or packaging does not meet the warranties contained in Section 13.1. Complaints concerning conditions of any Product or packaging must be made within fifteen (15) days of receipt by Distributor of such Product. Manufacturer shall pay all freight charges incurred in connection with any return of Product pursuant to this returned goods policy.

#### 7. MANUFACTURER'S RESPONSIBILITIES.

7.1 In support of Distributor's sales efforts to promote Product in the Territory, Manufacturer will furnish, at no cost to Distributor, (i) to the extent known and available to Manufacturer, medical literature regarding or relating to the Product, including abstracts of clinical studies and medical journal articles, (ii) sales and promotional materials as may be developed by Manufacturer, limited to technical data and technical journal reprints, and (iii) samples of Product in reasonable quantities, as requested by Distributor and agreed to by Manufacturer, each acting in good faith. Manufacturer will furnish information to aid in the orientation and training of Distributor's service and sales personnel.

7.2 Manufacturer will package the Product in conformance with the packaging specifications provided by Distributor. Distributor will provide camera-ready artwork for labels and packaging.

7.3 Manufacturer shall take such actions as are necessary (such as cutting off supply of Product) to prevent any domestic or foreign entity from distributing or selling, directly or indirectly, the Product in the Exclusive Market in the Territory.

7.4 Manufacturer shall, with the exception of an IND, underwrite the cost of any clinical studies necessary to support the Citizens Petition or other similar FDA filings. Distributor and Manufacturer shall jointly underwrite the cost of any mutually agreed upon clinical studies intended to broaden Product claims beyond the monograph. Neither party shall be obligated to file an IND or perform any clinical studies with respect to the Product.

7.5 Manufacturer shall give Distributor 180 days' written notice prior to discontinuing the manufacture of the Product and shall not discontinue manufacturing the Product prior to December 31, 1997 without Distributor's written approval, unless the Food and Drug Administration forbids production or distribution of the Product.

7.6 Manufacturer shall maintain a 30-day inventory of Product to meet Distributor's forecasted volume requirements provided to Manufacturer pursuant to Section 8.2.

8. DISTRIBUTOR'S RESPONSIBILITIES. In addition to the duties and responsibilities outlined elsewhere in this Agreement, Distributor agrees as follows:

8.1 Distributor will vigorously promote the sale and acceptance of Product throughout the Territory. Distributor shall provide its customers with all necessary and appropriate training and support regarding the use of the Product.

8.2 Distributor shall furnish to Manufacturer a written four-month rolling forecast for the Product, which forecast shall be given to Manufacturer on or before the 10th day of each month.

8.3 Distributor shall underwrite the cost of any comparative clinical studies for the Product. Distributor and Manufacturer shall jointly underwrite the cost of any clinical studies intended to broaden Product claims beyond the monograph, which are mutually agreed upon by the parties.

8.4 Claims language in all advertising or promotional materials utilized by Distributor, its agents or employees in conjunction with the sale of Product, other than such sales literature as is furnished to Distributor by Manufacturer, shall be approved, in writing, by Manufacturer prior to their use or dissemination.

8.5 Distributor shall cooperate fully with Manufacturer in dealing with customer complaints concerning the Product and shall take such action to resolve such complaints as may be requested by Manufacturer.

8.6 Distributor agrees, during the term of this Agreement, to comply with all FDA regulations applicable to the Product. Distributor shall not, in any way, misrepresent the nature or indications for use of the Product or, except by prior written approval of Manufacturer, alter the Product.

#### 9. MINIMUM PURCHASE OBLIGATIONS AND RETAIL STORE PLACEMENTS.

9.1 During the term of this Agreement, Distributor shall purchase a minimum number of Product from Manufacturer per calendar year and shall have the Product placed in a minimum number of retail stores as of December 31 of each year, as set forth below.

9.1.1	Year	Number of Patches
	1996	(*)
	1997	(*)
	1998	(*)
	Thereafter	(*)

9.1.2	Year	Number of Stores
	1996	(*)
	1997	(*)
	Thereafter	(*)

The above minimums assume that test marketing of the Product will begin by May 1, 1996. If test marketing begins later, the parties shall renegotiate the minimums in good faith.

9.2 The minimum purchase obligation for 1997 may be satisfied by achieving a combined volume of (\*) patches during 1996 and 1997.

9.3 During years 1996, 1997 and 1998, Distributor's obligations under this Section 9 may be satisfied by achieving either the Product minimums or retail store minimums determined through IRI or Nielson data and store purchase data, records of which may be reviewed by Manufacturer.

9.4 In the event that Manufacturer loses its Product deferral with the FDA and, as a consequence, Distributor is prohibited from selling the Product, the minimum requirements set forth above shall be waived.

9.5 In the event Distributor shall fail to meet any minimum

requirements as set forth in this Section 9, Distributor shall have defaulted under this Agreement, and Manufacturer's exclusive remedy is to terminate this Agreement pursuant to Section 10; provided, however, that after 1998, Distributor shall not be in breach of this Section 9 and Manufacturer may not terminate this Agreement until (i) Distributor shall have failed to meet any of its minimum requirements, (ii) Manufacturer has given Distributor a 30-day written notice of such failure, and (iii) Distributor fails to meet the minimum requirements after an additional six-month period to cure.

9.6 The minimums stated above will be appropriately reduced by good faith negotiation of the parties (i) if Manufacturer does not use reasonable efforts to defend its patents, (ii) if Manufacturer does not obtain or maintain the necessary governmental or regulatory approvals to sell the Product or (iii) where the parties are unable to agree on the price of the Product pursuant to in paragraph 5.2(ii) hereof.

#### 10. TERM OF AGREEMENT: TERMINATION.

10.1 This Agreement shall commence on the date hereof and terminate on the later of (i) expiration of the last of Manufacturer's United States patents on the Product issued or pending as of the date of this Agreement and (ii) any other patent issued or pending or application filed on the Product after the date hereof

10.2 Either party may terminate this Agreement by giving thirty (30) days' written notice to the other party of any material breach provided that as of the expiration of said thirty (30) day notice period and an additional sixty (60) days' cure period such breach remains uncured (other than as set forth in Section 9.5) (iii).

10.3 Either party may terminate this Agreement immediately upon written notice to the other party if the other party shall: (i) file a voluntary petition in bankruptcy or be the subject of an involuntary petition in bankruptcy which is not dismissed within thirty (30) days of the date of filing; (ii) be voluntarily or involuntarily dissolved; or (iii) have a receiver, trustee or other court officer appointed for its property in connection with any such bankruptcy proceeding, liquidation or insolvency proceeding.

10.4 Termination of this Agreement shall not relieve Manufacturer of its obligations to deliver all Product ordered by Distributor and accepted by Manufacturer prior to such termination; nor will such termination relieve Distributor of its obligation to accept and pay for all Product ordered by Distributor under purchase orders issued by Distributor and accepted by Manufacturer prior to the date of such termination. Termination shall not relieve or release either party from its obligation to make any other payments which may be owing to the other party under the terms of this Agreement or from any other liability which either party may have to the other arising out of this Agreement or the breach of this Agreement. Following notice of termination, Manufacturer shall have no obligation to accept any orders for Product from Distributor.

10.5 Upon termination of this Agreement for breach by Manufacturer or for breach by Distributor of its minimum purchase obligations or minimum store placements hereunder, Distributor shall have the right, but not the obligation, to cause Manufacturer to repurchase all Product having at least 50% of its original shelf life in possession of Distributor, at the lower of Distributor's original invoice purchase price or the then current invoice price, provided, that such Product is new, unused and not materially damaged. Manufacturer agrees to buy said Product from Distributor for said price should Distributor exercise this right.

10.6 Upon termination of this Agreement for breach by Distributor (other than a breach by Distributor of its minimum purchase obligations or minimum store placements hereunder), Manufacturer shall have no obligation to repurchase Distributor's inventory of Product, and shall have the right, but not the obligation, to cause Distributor to purchase, at the then current price, Manufacturer's 30 day inventory of Product as required to be held by Manufacturer pursuant to Section 7.6, having at least 50% of its original shelf life in Manufacturer's possession, provided, that such Product is new, unused and not materially damaged. Distributor agrees to buy said Product from Manufacturer for said price should Manufacturer exercise this right.

10.7 Notwithstanding anything contained herein to the

contrary, Sections 12, 13 and 19 of this Agreement shall survive termination of this Agreement and shall remain in full force and effect.

11. Waiver of Breach. The waiver or failure of either party to enforce the terms of this Agreement in one instance shall not constitute a waiver of said party's rights under this Agreement with respect to other violations.

#### 12. MANUFACTURER'S WARRANTIES AND REPRESENTATIONS: INDEMNIFICATION.

12.1 Manufacturer warrants that the Product and its packaging (i) are free from defects in material and manufacture, (ii) are fit to be used as indicated in the Product labeling, (iii) meet all specifications and performance claims, and (iv) are not adulterated or misbranded (as defined by the FDA). If a Product or the packaging does not meet its warranty, Manufacturer shall replace such Product or packaging or refund Distributor's purchase price. In case of a recall, Manufacturer shall reimburse Distributor for its reasonable costs in assisting in the recall.

THE WARRANTIES SET FORTH ABOVE ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY MANUFACTURER, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF USE, EXCEPT AS EXPRESSED ABOVE IN PARAGRAPH 12.1.

12.2 Manufacturer will comply with all material laws and regulations, including FDA GMPs with respect to the manufacturing, packaging and labeling of the Products. Distributor may periodically audit procedures, processes, process controls and manufacturing records of Manufacturer.

12.3 Each of LecTec and Natus has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Minnesota and the undersigned has been duly authorized to execute this Agreement on behalf of the Manufacturer, and when so executed, this Agreement will constitute the valid and binding obligation of Manufacturer, enforceable in accordance with its terms.

12.4 Manufacturer has the exclusive right, under the applicable patents related to the Product, to manufacture the Product, for the duration of such patents, in the United States and Canada and Manufacturer has obtained clearance to market the Product in the United States from the FDA. It will use commercially reasonable efforts to obtain clearance from the Ministry of Health to market the Product in Canada taking into account the costs of obtaining such clearance and the anticipated market for the Products in Canada.

12.5 LecTec and Natus shall jointly and severally save Distributor, its directors, officers and employees from and against and indemnify them from any and all claims, liabilities, costs and expenses of any nature (including attorney's fees) caused by reason of claim that the Product caused personal injury or property damage; provided, however, that Manufacturer's indemnification obligations are conditioned upon Distributor giving Manufacturer prompt written notice of any such claims and allowing Manufacturer to participate in its own defense with its own counsel.

12.6 Manufacturer shall maintain product liability insurance coverage in the amount of \$2 million per occurrence which will be renewed annually and which shall name Distributor as an additional named insured.

12.7 No party shall be liable to another party for any consequential damages (e.g., lost profits, business opportunities or investments) that arise as a result of this Agreement or its termination.

#### 13. DISTRIBUTOR'S REPRESENTATIONS: INDEMNIFICATION.

13.1 Distributor shall not make any statements concerning the Product which are not approved by Manufacturer, and any such statements by Distributor shall be the sole responsibility of Distributor and Distributor shall save Manufacturer, its directors, officers and employees harmless against and indemnify them from the liability, costs, and expenses of any nature (including attorneys' fees) which Manufacturer may incur as the result of any such statements; provided, however, that Distributor's indemnification obligations are conditioned upon Manufacturer giving Distributor prompt written notice of any such claims and allowing Distributor to participate in its own

defense with its own counsel.

13.2 Distributor has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware and the undersigned has been duly authorized to execute this Agreement on behalf of the Distributor, and when so executed, this Agreement will constitute the valid and binding obligation of Distributor, enforceable in accordance with its terms.

#### 14. TRADEMARKS AND TRADE NAMES.

14.1 Manufacturer hereby grants to Distributor the exclusive license to use the "TheraPatch(TM)" trade name for use in the Territory in connection with the advertising and sale of the Product. If at any time Distributor markets the Product under a trade name other than "TheraPatch," the exclusive license granted pursuant to this Section 14.1 shall terminate. Distributor will discontinue the use of such trade name at the end of this Agreement. If Distributor uses the TheraPatch name in connection with the advertising and sale of the Product, Distributor shall indicate on package labeling of the Product that the product is manufactured by LecTec and that "TheraPatch" is a trademark of the Manufacturer."

14.2 Distributor is hereby granted the first right of negotiation to acquire the trade name "TheraPatch." Such right of negotiation shall expire on the first anniversary of the commencement of test marketing of the Product hereunder.

14.3 Distributor shall not remove, cover, change, or add to the labels affixed by Manufacturer to Product without first receiving Manufacturer's written approval.

#### 15. PATENT OR TRADEMARK INFRINGEMENT.

15.1 If a patent infringement action is commenced or threatened against Manufacturer as to any Product and Manufacturer elects to, as a result, discontinue the sale of the Product in any part or all of the Territory, Distributor shall discontinue its efforts to sell said Product in any such part or all of the Territory immediately upon receipt of written notice thereof from Manufacturer. LecTec and Natus shall jointly and severally save Distributor, its directors, officers and employees harmless from and against and indemnify them from any and all claims, liabilities, costs and expenses of any nature (including attorney's fees) caused by reason of claims that the Product infringes the intellectual property rights of others (e.g., patent, copyright, trademark, trade name, etc.); provided, however, that Manufacturer's indemnification obligations are conditioned upon Distributor giving Manufacturer prompt written notice of any such claims and giving the defense of the claim to Manufacturer and reasonably cooperating with Manufacturer in the defense. Distributor shall have a right to cooperate in its own defense with its own counsel.

15.2 Distributor shall promptly notify Manufacturer in the event Distributor becomes aware of any activities of a third party that may constitute infringement of the Manufacturer's patents or pending patents on the Product or trademarks.

16. Recall. Distributor shall maintain complete and accurate records of all Product sold by Distributor, its agents or employees (including without limitation a complete and current list of all customers who have purchased, the date of such purchases and the lot numbers of the units purchased). In the event of a recall of any of the Product, Distributor will cooperate fully with Manufacturer in effecting such recall, including without limitation, promptly contacting any purchasers Manufacturer desires be contacted during the course of any such recall, and promptly communicating to such purchasers such information or instructions as Manufacturer may desire be transmitted to such purchasers.

17. Traceability . Distributor agrees to comply with all traceability programs in effect at any time as initiated by Manufacturer. Manufacturer may examine and make transcripts of any records required as part of a traceability program at reasonable times during business hours.

18. Appointment of Subdistributors. In the event Distributor appoints any subdistributors or sales representatives in the Territory in connection with the performance of this Agreement, such appointment shall be made only in the

name and for the account of Distributor and shall be for a term no greater than the term of this Agreement. Distributor shall not grant to the subdistributors and/or sales representatives any rights greater than those which are granted by Manufacturer to Distributor under this Agreement. Distributor shall also impose on the subdistributors and/or sales representatives the same obligations as Manufacturer has imposed on Distributor under this Agreement.

19. Confidential Information. Manufacturer and Distributor may exchange information each considers confidential ("Confidential Information"). "Confidential Information" shall include any information that is not generally known, including trade secrets, outside of that disclosing party and that is proprietary to that party, relating to any phase of that party's existing or reasonably foreseeable business which is disclosed to the receiving parties during the term of this Agreement. "Confidential Information" does not include information that (i) is or becomes publicly available through no fault of the receiving parties, (ii) is in the possession of the receiving parties prior to the receipt from the disclosing party, (iii) is developed by the receiving party independently of the Confidential Information, or (iv) is given to the receiving party by someone else who has the right to do so. Each party hereto specifically agrees to keep confidential and not to disclose to others any and all Confidential Information. Upon the request of the disclosing party, or in the event of the expiration or other termination of this Agreement, the receiving parties shall promptly return all such Confidential Information to the disclosing party. Each party hereto agrees not to use any such Confidential Information except in conjunction with the purposes of this Agreement. The duty not to disclose or use (other than in conjunction with the performance of this Agreement) such Confidential information shall survive the termination of this Agreement.

20. Force Majeure. Neither Manufacturer nor Distributor shall be in breach of this Agreement for a failure to perform or be liable to the other for any failure to perform under this Agreement if such failure is caused, in whole or in part, directly or indirectly, by strikes, lockouts, or any other labor troubles, fires, floods, acts of God, accidents, embargoes, war, riots, act or order of any government or governmental agency, delay in the delivery of raw material parts, or completed merchandise by the supplier thereof or any other cause beyond the control of, or occurring without the fault of, such party.

21. Notice. All notices under this Agreement shall be in writing, and may be delivered by hand or sent by mail or facsimile transaction. Notices sent by mail shall be sent by registered mail return receipt requested, and shall be deemed received on the date of receipt indicated by the receipt verification provided by the United States postal service. Notices delivered by hand or facsimile transaction shall be effective upon receipt. Notices shall be given, mailed, or sent to the parties at the following addresses:

If to LecTec:

LecTec Corporation  
10701 Red Circle Drive  
Minnetonka, MN 55343  
Attn: Thomas E. Brunelle, Ph.D.  
Phone: (612) 933-2291  
Fax: (612) 933-1068

With a copy to:

Dorsey & Whitney P.L.L.P.  
Pillsbury Center South  
220 South 6th Street  
Minneapolis, MN 55402  
Attn: Karin Keitel  
Phone: (612) 340-8809  
Fax: (612) 340-8738

If to Natus:

Natus Corporation  
4550 W. 77th Street  
Edina, MN 55435  
Attn: Kathleen A. Billings  
Phone: (612) 835-4626  
Fax: (612) 835-2317

With a copy to:

Dorsey & Whitney P.L.L.P.  
Pillsbury Center South  
220 South 6th Street  
Minneapolis, MN 55402  
Attn: Karin Keitel  
Phone: (612) 340-8809  
Fax: (612) 340-8738

If to Distributor:

With a copy to:

CNS, Inc.  
P.O. Box 39802  
Minneapolis, MN 55439  
Attn: Richard E. Jahnke  
Phone: (612) 820-6696

Lindquist & Vennum P.L.L.P.  
4200 MS Center  
80 South 8th Street  
Minneapolis, MN 55402  
Attn: Patrick Delaney

Fax: (612) 820-6697

Phone: (612) 371-3281

Fax: (612) 371-3207

Any party hereto may designate any other address for notices given it hereunder for written notice to the other party given at least ten (10) days prior to the effective date of such change.

22. **ENTIRE CONTRACT** There are no oral or other agreements or understandings between the parties affecting this Agreement or relating to the selling or purchase of Product. This Agreement supersedes all previous oral and written arrangements between the parties, including their letter of intent dated October 10, 1995, and is intended as a complete and exclusive statement of the terms of their understanding.

23. **AMENDMENTS.** Amendments, if any, shall be in writing and valid only when signed by all parties.

24. **ASSIGNABILITY.** No party may assign this Agreement without the written consent of the other parties; provided, however, that either party may assign this Agreement without such consent to any majority-owned or controlled affiliate or subsidiary.

25. **SEVERABILITY.** In the event that any provision of this Agreement is held invalid by the final judgment of any court of competent jurisdiction, the remaining provisions shall remain in full force and effect as if such invalid provision had not been included herein.

26. **REMEDIES.** The parties acknowledge that money damages may not be an adequate remedy for any breach of the provisions of this Agreement and that, in addition to any other relief afforded by law, an injunction against such violation may be issued against it and every other person concerned thereby, it being understood that both damages and an injunction shall be proper modes of relief and are not to be considered mutually exclusive remedies. In the event of any such violation, the parties agree to pay, in addition to the actual damages sustained by the other parties as a result thereof, the reasonable attorneys' fees incurred by such party in pursuing any of its rights under this Agreement.

27. **ACTION FOR BREACH.** The time within which Manufacturer or Distributor may bring an action for breach of this Agreement shall be one year from the date of knowledge of such breach. No action may be commenced after that one-year period.

28. **DISPUTES: APPLICABLE LAW AND FORUM SELECTION.** Except as altered or expanded by this Agreement, the substantive law (and not the law of conflicts) of the State of Minnesota shall govern this Agreement in all respects as to the validity, interpretation, construction and enforcement of this Agreement and all aspects of the relationship between the parties hereto. Any disputes between the parties hereto relating to any provision hereof shall be settled by submission for arbitration at the Minneapolis, Minnesota office of the American Arbitration Association under the then current rules of the American Arbitration Association. Notwithstanding the foregoing, nothing herein shall prevent a party from seeking and obtaining equitable relief in a court of competent jurisdiction solely for the purpose of protecting such party's rights, pending a final decree of the arbitrator.

IN WITNESS WHEREOF, the parties have herunto set their hands ^I as of the day and year first above written

LECTEC CORPORATION

NATUS CORPORATION

By: /s/Thomas E. Brunelle  
Thomas E. Brunelle, Ph.D.  
Chairman, President and CEO

By: /s/Kathleen A. Billings  
Kathleen A. Billings, President and CEO

CNS, INC.

By: /s/Richard J. Jahnke  
Richard J. Jahnke, President and COO

*PRICES*

*The initial price for the Product shall be (\*) per patch based on packaging of five patches per box. The price shall be subject to change based on future negotiation*