

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D. C. 20549

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FORM 8-K

CURRENT REPORT  
Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act Of 1934

December 22, 2005  
Date of Report (Date of earliest event reported)

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**ACURA PHARMACEUTICALS, INC.**  
(Exact Name of Registrant as Specified in Charter)

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State of New York  
(State of Other Jurisdiction  
of Incorporation)

1-10113  
(Commission File Number)

11-0853640  
(I.R.S. Employer  
Identification Number)

616 N. North Court, Suite 120  
Palatine, Illinois 60067  
(Address of principal executive offices) (Zip Code)

(847) 705-7709  
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17CFR240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17CFR 240.13e-4(c))
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**Item 1.01            Entry into a Material Definitive Agreement.**

On December 22, 2005, the Company entered into amendments (the “Amendments”) to the Executive Employment Agreements between the Company and each of Andrew Reddick, President and Chief Executive Officer, Ron Spivey, Senior Vice President and Chief Scientific Officer, and Peter A. Clemens, Senior Vice President and Chief Financial Officer (collectively, the “Executive Employment Agreements”). The Amendments provide for (i) the extension of the term of the Executive Employment Agreements to December 31, 2006, (ii) an adjustment to the bonus provisions to provide for the Company’s payment of an annual cash bonus (subject to the achievement of such target, conditions or parameters as will be agreed upon by the Employee and the Board of Directors) of up to 100% (formerly up to 35%) of the Employee’s then current Base Salary, (iii) the payment of a cash bonus for fiscal 2006 equal to 100% of the Employee’s then current Base Salary (the “2006 Cash Bonus”) upon the Company’s receipt of aggregate gross proceeds of at least \$15.0 million on or before March 31, 2007 from an offering of the Company’s equity securities or from license fees and milestone payments from third-party licensing or similar transactions (subject to the payment of a pro-rata portion of the 2006 Cash Bonus, provided the Company receives aggregate gross proceeds from such transactions of at least \$11.0 million on or before March 31, 2007), (iv) the Company’s commitment to amend the Company’s 1998 Stock Option Plan to conform with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (“Section 409A”), (v) the inclusion of certain restrictions on the time period in which the Employee may exercise his vested stock options upon a termination of employment, in order to comply with Section 409A, (vi) the Company’s commitment to issue to the Employee a non-qualified stock option agreement prepared in compliance with Section 409A, in replacement of the current non-qualified stock option agreements issued to the Employee, and (vii) the acknowledgement that the Company has issued Restricted Stock Units (the “RSU Awards”) to the Employee pursuant to terms of the Company’s 2005 Restricted Stock Unit Award Plan (the “RSU Plan”) and the Restricted Stock Unit Award Agreements reflecting such grants (the “RSU Award Agreement”). The RSU Awards provide for the Company’s issuance of up to 8,250,000, 6,600,000 and 4,400,000 shares of the Company’s Common Stock to Messrs. Reddick, Spivey and Clemens, respectively, subject to the terms and conditions, including the vesting and distribution requirements, of the RSU Plan and the RSU Award Agreements. The Amendment to Mr. Spivey’s Executive Employment Agreement also reflects the Company’s recent grant to Mr. Spivey of a non-qualified stock option award exercisable for 4,000,000 shares of the Company’s Common Stock at an exercise price of \$0.13 per share.

**Item 9.01            Financial Statements and Exhibits.**

- 10.1            Third Amendment to Executive Employment Agreement dated December 22, 2005 between Acura Pharmaceuticals, Inc. and Andrew D. Reddick
  - 10.2            Amendment to Executive Employment Agreement dated December 22, 2005 between Acura Pharmaceuticals, Inc. and Ron J. Spivey
  - 10.3            Third Amendment to Executive Employment Agreement dated December 22, 2005 between Acura Pharmaceuticals, Inc. and Peter A. Clemens
  - 10.4            2005 Restricted Stock Unit Award Plan
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**SIGNATURES**

Pursuant to the requirements 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.

**ACURA PHARMACEUTICALS, INC.**

By: /s/ Peter A. Clemens

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Peter A. Clemens  
Senior Vice President & Chief Financial Officer

Date: December 23, 2005

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**Exhibit Index**

<b><u>Exhibit No.</u></b>	<b><u>Description</u></b>
10.1	Third Amendment to Executive Employment Agreement dated December 22, 2005 between Acura Pharmaceuticals, Inc. and Andrew D. Reddick
10.2	Amendment to Executive Employment Agreement dated December 22, 2005 between Acura Pharmaceuticals, Inc. and Ron J. Spivey
10.3	Third Amendment to Executive Employment Agreement dated December 22, 2005 between Acura Pharmaceuticals, Inc. and Peter A. Clemens
10.4	2005 Restricted Stock Unit Award Plan

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## THIRD AMENDMENT TO EXECUTIVE EMPLOYMENT AGREEMENT

THIS **THIRD AMENDMENT TO EXECUTIVE EMPLOYMENT AGREEMENT** (this "**Amendment**") made this 22nd day of December, 2005 by and between **ACURA PHARMACEUTICALS, INC.**, (formerly Halsey Drug Co., Inc.), a New York corporation (the "**Corporation**"), with offices at 616 N. North Court, Suite 120, Palatine, Illinois 60067 and **ANDREW D. REDDICK**, residing at 297 North Cote Circle, Exton, Pennsylvania 19341 (the "**Employee**").

## R E C I T 6 0 : A L S

A. The Corporation and the Employee executed an employment agreement dated as of August 26, 2003, which agreement was amended in writing on each of May 27, 2004 and May 24, 2005 (as so amended, the "**Employment Agreement**").

B. The Corporation and the Employee now desire to further amend the Employment Agreement as provided herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and undertakings herein contained, the parties agree as follows:

1. Section 2 of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

"The term of the Employee's employment under this Agreement shall commence on the date of this Agreement and shall expire on December 31, 2006 (the "**Initial Term**"), unless sooner terminated pursuant to Section 7 of this Agreement; provided, however, that the term of the Employee's employment hereunder shall automatically be extended for successive one (1) year periods (each, a "**Renewal Period**" and together with the Initial Term, the "**Term**") unless either the Corporation or the Employee provides written notice of non-renewal of the Employee's employment with the Corporation ninety (90) days prior to the expiration of the Initial Term or any Renewal Period."

2. Section 3(b) of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

"(b) Annual Bonus. During the Term, the Employee will be eligible to receive from the Corporation an annual bonus (the "**Bonus**") in the amount of up to one hundred percent (100%) of the Employee's then current annual Base Salary during the fiscal year (or portion thereof) for which the Bonus may be awarded. The Bonus will be based upon the achievement of such targets, conditions or parameters (the "**Bonus Criteria**") as will be agreed upon by the Employee and the Board of Directors or the Compensation Committee of the Board of Directors of the Corporation within sixty (60) days of (before or after) the beginning of each fiscal year during the Term. The Bonus shall be paid at the same time as the bonuses are paid to other executive officers, but in any event within seventy five (75) days following the end of the Corporation's fiscal year.

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Notwithstanding the foregoing, with respect to the Corporation's fiscal year ending December 31, 2006 ("**Fiscal 2006**"), in the event the Corporation completes one or more Funding Transactions during Fiscal 2006 which results in the Corporation's receipt of aggregate gross Funding Proceeds of at least Fifteen Million Dollars (\$15,000,000)(the "**Minimum Funding Threshold**"), the Corporation shall pay the Employee a bonus in an amount equal to one hundred percent (100%) of the Employee's then current annual Base Salary not later than thirty (30) calendar days following the Corporation's receipt of Funding Proceeds satisfying the Minimum Funding Threshold. For purposes of this Section 3(b) "**Funding Transaction**" shall mean (a) any equity financing, and/or (b) any licensing or similar arrangement (including, by means of a joint venture, option or similar arrangement) whereby the Corporation licenses or otherwise grants any interest in or to any of the Corporation's intellectual property rights, technology, know-how or similar property rights (whether existing now or hereafter) to a non-affiliated third party, or any similar transaction. "**Funding Proceeds**" shall mean and include (a) in the case of a Funding Transaction comprising an equity financing, the gross proceeds received by the Corporation from the issuance or sale of its equity securities, and (b) in the case of a Funding Transaction comprising a licensing or similar arrangement, the gross proceeds (consisting of signing fees, upfront fees, license fees, sublicense fees, milestone payments or any similar fees or payments, but expressly excluding any royalty payments, profit sharing payments or similar payments calculated based on the sale of products incorporating the Company's technology) received by the Corporation with respect to such arrangement, and (c) in each case, the gross proceeds are received by the Corporation on or before March 31, 2007 with respect to a Funding Transaction pursuant to a definitive agreement executed on or before December 31, 2006 by the Corporation and the other party to such transaction.

In the event the Corporation does not satisfy the Minimum Funding Threshold, but receives Funding Proceeds of at least Eleven Million Dollars (\$11,000,000) on or before March 31, 2007, the Corporation shall pay the Employee a Bonus in an amount equal to a percentage of the Employee's then current annual Base Salary in an amount equal to the product of (x) 100%, multiplied by (y) the quotient of (A) the Funding Proceeds received by the Corporation on or before March 31, 2007, divided by (B) Fifteen Million Dollars (\$15,000,000)."

3. Section 5(b) of the Employment Agreement is hereby amended to add the following at the end of such Section:

“Reference is made to Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (“**Section 409A**”). For purposes of this Agreement, the portion of the Option which vests prior to January 1, 2005 shall be referred to as the “**Pre-409A Option Portion**” and the portion of the Option which vests on or after January 1, 2005 shall be referred to as the “**Post-409A Option Portion**.” The Corporation will promptly amend the Corporation’s 1998 Stock Option Plan to comply with Section 409A and prepare and issue to the Employee an amended and restated non-qualified stock option agreement conforming to the requirements of Section 409A with respect to the Post-409A Option Portion, in form and substance satisfactory to the parties, in replacement of the Non-Qualified Stock Option Agreement dated May 26, 2004 (the “Existing Option”). The Corporation acknowledges and agrees that shareholder approval of the Existing Option has been obtained and that the shares underlying the Existing Option have been duly registered.”

4. Section 5(c) of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

“(c) Restricted Stock Units. Simultaneously with the execution of the Third Amendment to Executive Employment Agreement dated December 22, 2005, the Corporation granted to the Employee a Restricted Stock Units Award Agreement which, subject to its terms and the terms of the Corporation’s 2005 Restricted Stock Unit Award Plan, provides for the Corporation’s issuance of up to Eight Million, Two Hundred Fifty Thousand (8,250,000) shares of the Corporation’s common stock, \$.01 par value per share (the “Restricted Stock Units”). Notwithstanding anything to the contrary contained in this Employment Agreement, the grant, vesting and distribution relating to the Restricted Stock Units will be governed solely by Corporation’s Restricted Stock Units Award Plan dated December 22, 2005 and the Restricted Stock Unit Award Agreement dated December 22, 2005 between the Corporation and the Employee. The shares underlying the Restricted Stock Units shall be duly registered under a registration statement on Form S-8 filed by the Corporation with the Securities and Exchange Commission promptly following the grant of such Restricted Stock Units.”

5. Section 6 of the Employment Agreement (regarding vacation) is hereby amended by deleting “four weeks” each time it appears in such section, and inserting in lieu thereof “five weeks.”

6. The last sentence of Section 7.1 of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

“Additionally, notwithstanding any language to the contrary contained in any option agreements with the Employee (or any other applicable agreement or plan), the Employee’s Designees shall be entitled to exercise (i) the Pre-409A Option Portion during the twelve (12) month period following the date of termination under this Section 7.1, and (ii) the vested portion of the Post-409A Option Portion during the lesser of (A) the twelve (12) month period following the date of termination under this Section 7.1, or (B) the maximum exercise period permitted under Section 409A. At the expiration of the applicable exercise period, the unexercised stock options shall terminate.”

7. The last sentence of the first paragraph of Section 7.2 of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

“Additionally, notwithstanding any language to the contrary contained in any option agreements with the Employee (or any other applicable agreement or plan), the Employee’s Designees shall be entitled to exercise (i) the Pre-409A Option Portion during the twelve (12) month period following the date of termination under this Section 7.2, and (ii) the vested portion of the Post-409A Option Portion during the lesser of (A) the twelve (12) month period following the date of termination under this Section 7.2, or (B) the maximum exercise period permitted under Section 409A. At the expiration of the applicable exercise period, the unexercised stock options shall terminate.”

8. Section 7.3 of the Employment agreement is hereby amended to add the following at the end of such Section:

“In the event the Employee is terminated for Cause, the Employee shall be entitled to exercise (i) the Pre-409A Option Portion within forty (40) days of such termination, and (ii) the vested portion of the Post-409A Option Portion within the forty (40) day period commencing upon the end of any applicable holding period under Section 409A following such termination.

In the event the Employee resigns other than for Good Reason (as defined in Section 7.5), the Employee shall be entitled to exercise (i) the Pre-409A Option Portion during the twelve (12) months following the date of resignation, and (ii) the vested portion of the Post-409A Option Portion during the lesser of (A) the twelve (12) month period following the date of resignation, or (B) the maximum exercise period permitted under Section 409A.

At the expiration of the applicable exercise period, the unexercised stock options shall terminate.”



9. Section 7.6(c) of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

“(c) Stock Options.” In the event of a termination of the Employee’s employment by the Corporation without Cause or if the Employee resigns for Good Reason, the Corporation shall accelerate fully the vesting of any outstanding stock options to purchase shares of stock of the Corporation granted to the Employee. In connection therewith, the Corporation shall cause all restrictive legends, stop transfer orders or similar restrictions to be removed from such stock options and the underlying shares, except as required by applicable law. Additionally, notwithstanding any language to the contrary contained in any stock option agreements with the Employee (or any other applicable agreement or plan), the Employee shall be entitled to exercise (i) the Pre-409A Option Portion during the twelve (12) month period following the date of termination or resignation, and (ii) the vested portion of the Post-409A Option Portion during an exercise period commencing upon the end of any applicable holding period under Section 409A following the date of termination or resignation, such exercise period being the lesser of (A) the twelve (12) month period following the date of termination or resignation, or (B) the maximum exercise period permitted under Section 409A. At the expiration of the applicable exercise period, the unexercised stock options shall terminate.”

10. The Employment Agreement is hereby amended to add a new Section 8.7 as follows:

“8.7 Assignment of Invention. All discoveries, inventions, improvements and innovations, whether patentable or not (including all data and records pertaining thereto), which Employee may have invented, discovered, originated or conceived of during the Term of his employment with the Corporation prior to the date of the Third Amendment to Executive Employment Agreement dated December 22, 2005, or may invent, discover, originate or conceive during the Term of this Agreement and which directly relate to the business of the Corporation or any of its subsidiaries as described in the Corporation’s filings with the Securities and Exchange Commission, shall be the sole and exclusive property of the Corporation. Employee shall promptly and fully disclose each and all such discoveries, inventions, improvements or innovations to the Corporation. Employee shall assign to the Corporation his entire right, title and interest in and to all of his discoveries, inventions, improvements and innovation described in this Section 8.7 and any related U.S. or foreign patent and patent applications, shall execute any instruments reasonably necessary to convey or perfect the Corporation’s ownership thereof, and shall assist the Corporation in obtaining, defending and enforcing its rights therein. The Corporation shall bear all expenses it authorizes to be incurred in connection with such activity and shall pay the Employee reasonable compensation for time spent by the Employee in performing such duties at the request of the Corporation after the termination of his employment, for a period not to exceed three (3) years.”

11. The Corporation shall reimburse the Employee (or pay directly) for the reasonable out-of-pocket fees and expenses incurred by the Employee (including, without limitation, legal and tax consulting fees and expert opinion fees) for review, analysis, advice and negotiation relating to this Amendment, and the matters referred to herein, not to exceed \$15,000, on or before thirty (30) days following the date of execution of this Amendment. The Employee shall provide the Corporation with reasonable documentation evidencing such expenses.

12. Except as expressly amended by this Amendment, the Employment Agreement remains in full force and effect. Capitalized terms used herein shall have the same meaning as in the Employment Agreement unless otherwise defined herein. This Amendment shall be governed and construed and enforced in accordance with the local laws of the State of New York applicable to agreements made and to be performed entirely in New York.

13. This Amendment may be executed in one or more facsimile or original counterparts, each of which shall be deemed an original, but all of which taken together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

ATTEST:

ACURA PHARMACEUTICALS, INC.

\_\_\_\_\_

By: /s/ Peter A. Clemens  
Peter A. Clemens,  
Senior Vice President and  
Chief Financial Officer

WITNESS:

EMPLOYEE

\_\_\_\_\_

By: /s/ Andrew D. Reddick  
Andrew D. Reddick

## AMENDMENT TO EXECUTIVE EMPLOYMENT AGREEMENT

THIS AMENDMENT TO EXECUTIVE EMPLOYMENT AGREEMENT (this "**Amendment**") made this 22nd day of December, 2005 by and between **ACURA PHARMACEUTICALS, INC.**, (formerly Halsey Drug Co., Inc.), a New York corporation (the "**Corporation**"), with offices at 616 N. North Court, Suite 120, Palatine, Illinois 60067 and **RON J. SPIVEY**, residing at 3514 Bimini Avenue, Cooper City, Florida 33026 (the "**Employee**").

### R E C I T ; ; A L S

- A. The Corporation and the Employee executed an employment agreement dated as of April 5, 2004 (the "**Employment Agreement**").
- B. The Corporation and the Employee now desire to amend the Employment Agreement as provided herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and undertakings herein contained, the parties agree as follows:

1. Section 2 of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

"The term of the Employee's employment under this Agreement shall commence on the date of this Agreement and shall expire on December 31, 2006 (the "**Initial Term**"), unless sooner terminated pursuant to Section 7 of this Agreement; provided, however, that the term of the Employee's employment hereunder shall automatically be extended for successive one (1) year periods (each, a "**Renewal Period**" and together with the Initial Term, the "**Term**") unless either the Corporation or the Employee provides written notice of non-renewal of the Employee's employment with the Corporation ninety (90) days prior to the expiration of the Initial Term or any Renewal Period."

2. Section 3(b) of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

(b) Annual Bonus. During the Term, the Employee will be eligible to receive from the Corporation an annual bonus (the "**Bonus**") in the amount of up to one hundred percent (100%) of the Employee's then current annual Base Salary during the fiscal year (or portion thereof) for which the Bonus may be awarded. The Bonus will be based upon the achievement of such targets, conditions or parameters (the "**Bonus Criteria**") as will be agreed upon by the Employee and the Board of Directors or the Compensation Committee of the Board of Directors of the Corporation within sixty (60) days of (before or after) the beginning of each fiscal year during the Term. The Bonus shall be paid at the same time as the bonuses are paid to other executive officers, but in any event within seventy five (75) days following the end of the Corporation's fiscal year.

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Notwithstanding the foregoing, with respect to the Corporation's fiscal year ending December 31, 2006 ("**Fiscal 2006**"), in the event the Corporation completes one or more Funding Transactions during Fiscal 2006 which results in the Corporation's receipt of aggregate gross Funding Proceeds of at least Fifteen Million Dollars (\$15,000,000)(the "**Minimum Funding Threshold**"), the Corporation shall pay the Employee a bonus in an amount equal to one hundred percent (100%) of the Employee's then current annual Base Salary not later than thirty (30) calendar days following the Corporation's receipt of Funding Proceeds satisfying the Minimum Funding Threshold. For purposes of this Section 3(b) "**Funding Transaction**" shall mean (a) any equity financing, and/or (b) any licensing or similar arrangement (including, by means of a joint venture, option or similar arrangement) whereby the Corporation licenses or otherwise grants any interest in or to any of the Corporation's intellectual property rights, technology, know-how or similar property rights (whether existing now or hereafter) to a non-affiliated third party, or any similar transaction. "**Funding Proceeds**" shall mean and include (a) in the case of a Funding Transaction comprising an equity financing, the gross proceeds received by the Corporation from the issuance or sale of its equity securities, and (b) in the case of a Funding Transaction comprising a licensing or similar arrangement, the gross proceeds (consisting of signing fees, upfront fees, license fees, sublicense fees, milestone payments or any similar fees or payments, but expressly excluding any royalty payments, profit sharing payments or similar payments calculated based on the sale of products incorporating the Company's technology) received by the Corporation with respect to such arrangement, and (c) in each case, the gross proceeds are received by the Corporation on or before March 31, 2007 with respect to a Funding Transaction pursuant to a definitive agreement executed on or before December 31, 2006 by the Corporation and the other party to such transaction.

In the event the Corporation does not satisfy the Minimum Funding Threshold, but receives Funding Proceeds of at least Eleven Million Dollars (\$11,000,000) on or before March 31, 2007, the Corporation shall pay the Employee a Bonus in an amount equal to a percentage of the Employee's then current annual Base Salary in an amount equal to the product of (x) 100%, multiplied by (y) the quotient of (A) the Funding Proceeds received by the Corporation on or before March 31, 2007, divided by (B) Fifteen Million Dollars (\$15,000,000)."

3. Section 5(b) of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

“(b) **Stock Options.** Upon execution of this Agreement, the Employee is hereby granted stock options to purchase 3,000,000 shares of the Corporation’s common stock, \$.01 par value per share at an exercise price of \$0.13 per share (the “**Execution Date Option**”). Upon the execution of the Amendment to Executive Employment Agreement dated December 22, 2005 between the Corporation and the Employee, (the “**Amendment**”) the Employee is granted stock options to purchase 4,000,000 shares of the Corporation’s common stock at an exercise price of \$0.13 per share (the “**Amendment Date Option**”, and collectively with the Execution Date Option, the “**Option**”). The Option shares shall vest and be exercisable as follows: (i) 1,000,000 Option shares on October 1, 2004; (ii) 333,333 Option shares on each of January 1, 2005, April 1, 2005, July 1, 2005 and October 1, 2005; (iii) 3,888,667 Option shares on January 1, 2006; and (iv) 778,001 Option shares on April 1, 2006. for purposes of this Employment Agreement, the portion of the Option which vests prior to January 1, 2005 shall be referred to as the “**Pre-409A Option Portion**,” and the portion of the Option which vests on or after January 1, 2005 shall be referred to as the “**Post-409A Option Portion**.” The Option shall have a ten (10) year term, subject to earlier termination as set forth in Section 7 upon the termination of the Employee’s employment with the Corporation. The Execution Date Option is evidenced by the Non-Qualified Stock Option Agreement in the form of Exhibit A hereto. The Company covenants and agrees to promptly prepare a Non-Qualified Stock Option Agreement for execution by the Corporation and the Employee that will (i) consolidate the Execution Date Option and the Amendment Date Option, and (ii) provide for compliance with Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (“**Section 409A**”). The Employee and the Corporation agree that the Option shall be issued pursuant to the Corporation’s 1998 Stock Option Plan, as amended, as such Plan shall be further amended in accordance with this Section 5(b) to comply with Section 409A. The Employee will also be eligible in the future to receive option grants based on performance or on achievement of milestones as determined by the Board of Directors or the Compensation Committee.

The Corporation will promptly amend the Corporation’s 1998 Stock Option Plan to comply with Section 409A and prepare and issue to the Employee an amended and restated non-qualified stock option agreement conforming to the requirements of Section 409A with respect to the Post-409A Option Portion, in form and substance satisfactory to the parties, in replacement of the Execution Date Option. The Corporation acknowledges and agrees that shareholder approval of the Option has been obtained and that the shares underlying the Option have been duly registered.”

4. Section 5(c) of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

“(c) Restricted Stock Units. Simultaneously with the execution of the Amendment, the Corporation granted to the Employee a Restricted Stock Units Award Agreement which, subject to its terms and the terms of the Corporation’s 2005 Restricted Stock Unit Award Plan, provides for the Corporation’s issuance of up to Six Million Six Hundred Thousand (6,600,000) shares of the Corporation’s common stock, \$.01 par value per share (the “**Restricted Stock Units**”). Notwithstanding anything to the contrary contained in this Employment Agreement, the grant, vesting and distribution relating to the Restricted Stock Units will be governed solely by Corporation’s Restricted Stock Units Award Plan dated December 22, 2005 and the Restricted Stock Unit Award Agreement dated December 22, 2005 between the Corporation and the Employee. The shares underlying the Restricted Stock Units shall be duly registered under a registration statement on Form S-8 filed by the Corporation with the Securities and Exchange Commission promptly following the grant of such Restricted Stock Units.”

5. The last sentence of Section 7.1 of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

“Additionally, notwithstanding any language to the contrary contained in any option agreements with the Employee (or any other applicable agreement or plan), the Employee’s Designees shall be entitled to exercise (i) the Pre-409A Option Portion during the twelve (12) month period following the date of termination under this Section 7.1, and (ii) the vested portion of the Post-409A Option Portion during the lesser of (A) the twelve (12) month period following the date of termination under this Section 7.1, or (B) the maximum exercise period permitted under Section 409A. At the expiration of the applicable exercise period, the unexercised stock options shall terminate.”

6. The last sentence of the first paragraph of Section 7.2 of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

“Additionally, notwithstanding any language to the contrary contained in any option agreements with the Employee (or any other applicable agreement or plan), the Employee’s Designees shall be entitled to exercise (i) the Pre-409A Option Portion during the twelve (12) month period following the date of termination under this Section 7.2, and (ii) the vested portion of the Post-409A Option Portion during the lesser of (A) the twelve (12) month period following the date of termination under this Section 7.2, or (B) the maximum exercise period permitted under Section 409A. At the expiration of the applicable exercise period, the unexercised stock options shall terminate.”

7. Section 7.3 of the Employment Agreement is hereby amended to add the following at the end of such Section:

“In the event the Employee is terminated by the Corporation for Cause or if the Employee resigns other than for Good Reason (as defined in Section 7.5), the Employee shall be entitled to exercise (i) the Pre-409A Option Portion within forty (40) days of such termination or resignation, and (ii) the vested portion of the Post-409A Option Portion within the forty (40) day period commencing upon the end of the applicable holding period under Section 409A following such termination or resignation. At the expiration of the applicable exercise period, the unexercised stock options shall terminate.”

8. Section 7.6(c) of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

“(c) Stock Options.” In the event of a termination of the Employee’s employment by the Corporation without Cause or if the Employee resigns for Good Reason, the Corporation shall accelerate fully the vesting of any outstanding stock options to purchase shares of stock of the Corporation granted to the Employee. In connection therewith, the Corporation shall cause all restrictive legends, stop transfer orders or similar restrictions to be removed from such stock options and the underlying shares, except as required by applicable law. Additionally, notwithstanding any language to the contrary contained in any stock option agreements with the Employee (or any other applicable agreement or plan), the Employee shall be entitled to exercise (i) the Pre-409A Option Portion during the twelve (12) month period following the date of termination, and (ii) the vested portion of the Post-409A Option Portion during an exercise period commencing upon the end of any applicable holding period under Section 409A following the date of termination, such exercise period being the lesser of (A) the twelve (12) month period following the date of termination, or (B) the maximum exercise period permitted under Section 409A. At the expiration of the applicable exercise period, the unexercised stock options shall terminate.”

9. The Employment Agreement is hereby amended to add a new Section 8.7 as follows:

“8.7 Assignment of Invention. All discoveries, inventions, improvements and innovations, whether patentable or not (including all data and records pertaining thereto), which Employee may have invented, discovered, originated or conceived of during the Term of his employment with the Corporation prior to the date of the Amendment or may invent, discover, originate or conceive during the Term of this Agreement and which directly relate to the business of the Corporation or any of its subsidiaries as described in the Corporation’s filings with the Securities and Exchange Commission, shall be the sole and exclusive property of the Corporation. Employee shall promptly and fully disclose each and all such discoveries, inventions, improvements or innovations to the Corporation. Employee shall assign to the Corporation his entire right, title and interest in and to all of his discoveries, inventions, improvements and innovation described in this Section 8.7 and any related U.S. or foreign patent and patent applications, shall execute any instruments reasonably necessary to convey or perfect the Corporation’s ownership thereof, and shall assist the Corporation in obtaining, defending and enforcing its rights therein. The Corporation shall bear all expenses it authorizes to be incurred in connection with such activity and shall pay the Employee reasonable compensation for time spent by the Employee in performing such duties at the request of the Corporation after the termination of his employment, for a period not to exceed three (3) years.”



10. Except as expressly amended by this Amendment, the Employment Agreement remains in full force and effect. Capitalized terms used herein shall have the same meaning as in the Employment Agreement unless otherwise defined herein. This Amendment shall be governed and construed and enforced in accordance with the local laws of the State of New York applicable to agreements made and to be performed entirely in New York.

11. This Amendment may be executed in one or more facsimile or original counterparts, each of which shall be deemed an original, but all of which taken together will constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties have executed this Amendment as of the date first above written.

ATTEST:

\_\_\_\_\_

ACURA PHARMACEUTICALS, INC.

By: /s/ Andrew D. Reddick  
Andrew D. Reddick  
President and  
Chief Executive Officer

WITNESS:

\_\_\_\_\_

EMPLOYEE

By: /s/ Ron J. Spivey  
Ron J. Spivey

### THIRD AMENDMENT TO EXECUTIVE EMPLOYMENT AGREEMENT

THIS **THIRD AMENDMENT TO EXECUTIVE EMPLOYMENT AGREEMENT** (this "**Amendment**") made this 22<sup>nd</sup> day of December, 2005 by and between **ACURA PHARMACEUTICALS, INC.**, (formerly Halsey Drug Co., Inc.), a New York corporation (the "**Corporation**"), with offices at 616 N. North Court, Suite 120, Palatine, Illinois 60067 and **PETER A. CLEMENS**, residing at 20860 Valley Road, Kildeer, Illinois 60047 (the "**Employee**").

#### R E C I T : A L S

- A. The Corporation and the Employee executed an employment agreement dated as of March 10, 1998, which agreement was amended in writing on each of June 28, 2000 and January, 2005 (as so amended, the "**Employment Agreement**").
- B. The Corporation and the Employee now desire to further amend the Employment Agreement as provided herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and undertakings herein contained, the parties agree as follows:

- 1. Section 2 of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

"The term of the Employee's employment under this Agreement shall commence on the date of this Agreement and shall expire on December 31, 2006 (the "**Initial Term**"), unless sooner terminated pursuant to Section 7 of this Agreement; provided, however, that the term of the Employee's employment hereunder shall automatically be extended for successive one (1) year periods (each, a "**Renewal Period**" and together with the Initial Term, the "**Term**") unless either the Corporation or the Employee provides written notice of non-renewal of the Employee's employment with the Corporation ninety (90) days prior to the expiration of the Initial Term or any Renewal Period."

- 2. Section 3(b) of the Employment Agreement is hereby deleted in its entirety and the following is inserted in its place:

"(b) Annual Bonus. During the Term, the Employee will be eligible to receive from the Corporation an annual bonus (the "**Bonus**") in the amount of up to one hundred percent (100%) of the Employee's then current annual Base Salary during the fiscal year (or portion thereof) for which the Bonus may be awarded. The Bonus will be based upon the achievement of such targets, conditions or parameters (the "**Bonus Criteria**") as will be agreed upon by the Employee and the Board of Directors or the Compensation Committee of the Board of Directors of the Corporation within sixty (60) days of (before or after) the beginning of each fiscal year during the Term. The Bonus shall be paid at the same time as the bonuses are paid to other executive officers, but in any event within seventy five (75) days following the end of the Corporation's fiscal year.

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Notwithstanding the foregoing, with respect to the Corporation's fiscal year ending December 31, 2006 ("**Fiscal 2006**"), in the event the Corporation completes one or more Funding Transactions during Fiscal 2006 which results in the Corporation's receipt of aggregate gross Funding Proceeds of at least Fifteen Million Dollars (\$15,000,000)(the "**Minimum Funding Threshold**"), the Corporation shall pay the Employee a bonus in an amount equal to one hundred percent (100%) of the Employee's then current annual Base Salary not later than thirty (30) calendar days following the Corporation's receipt of Funding Proceeds satisfying the Minimum Funding Threshold. For purposes of this Section 3(b) "**Funding Transaction**" shall mean (a) any equity financing, and/or (b) any licensing or similar arrangement (including, by means of a joint venture, option or similar arrangement) whereby the Corporation licenses or otherwise grants any interest in or to any of the Corporation's intellectual property rights, technology, know-how or similar property rights (whether existing now or hereafter) to a non-affiliated third party, or any similar transaction. "**Funding Proceeds**" shall mean and include (a) in the case of a Funding Transaction comprising an equity financing, the gross proceeds received by the Corporation from the issuance or sale of its equity securities, and (b) in the case of a Funding Transaction comprising a licensing or similar arrangement, the gross proceeds (consisting of signing fees, upfront fees, license fees, sublicense fees, milestone payments or any similar fees or payments, but expressly excluding any royalty payments, profit sharing payments or similar payments calculated based on the sale of products incorporating the Company's technology) received by the Corporation with respect to such arrangement, and (c) in each case, the gross proceeds are received by the Corporation on or before March 31, 2007 with respect to a Funding Transaction pursuant to a definitive agreement executed on or before December 31, 2006 by the Corporation and the other party to such transaction.

In the event the Corporation does not satisfy the Minimum Funding Threshold, but receives Funding Proceeds of at least Eleven Million Dollars (\$11,000,000) on or before March 31, 2007, the Corporation shall pay the Employee a Bonus in an amount equal to a percentage of the Employee's then current annual Base Salary in an amount equal to the product of (x) 100%, multiplied by (y) the quotient of (A) the Funding Proceeds received by the Corporation on or before March 31, 2007, divided by (B) Fifteen Million Dollars (\$15,000,000)."

3. Section 5(b) of the Employment Agreement is hereby amended to add the following at the end of such Section:

The Corporation will promptly amend the Corporation's 1998 Stock Option Plan to comply with Section 409A and prepare and issue to the Employee an amended and restated non-qualified stock option agreement conforming to the requirements of Section 409A with respect to the Post-409A Option Portion, in form and substance satisfactory to the parties in replacement of the Non-Qualified Stock Option Agreement granted to the Employee on August 13, 2004 (the "Existing Option"). The Corporation acknowledges and agrees that shareholder approval of the Existing Option has been obtained and that the shares underlying the Existing Option have been duly registered. All references in this Employment Agreement to the "Option" and "Option Shares" shall be deemed to include all stock options granted by the Corporation to the Employee during the term of this Agreement."

4. Section 5(c) of the Employment Agreement is hereby deleted in its entirety and replaced with the following:

"(c) Restricted Stock Units. Simultaneously with the execution of the Third Amendment to Executive Employment Agreement dated December 22, 2005, the Corporation granted to the Employee a Restricted Stock Units Award Agreement which, subject to its terms and the terms of the Corporation's 2005 Restricted Stock Unit Award Plan, provides for the Corporation's issuance of up to Four Million Four Hundred Thousand (4,400,000) shares of the Corporation's common stock, \$.01 par value per share (the "Restricted Stock Units"). Notwithstanding anything to the contrary contained in this Employment Agreement, the grant, vesting and distribution relating to the Restricted Stock Units will be governed solely by Corporation's Restricted Stock Units Award Plan dated December 22, 2005 and the Restricted Stock Unit Award Agreement dated December 22, 2005 between the Corporation and the Employee. The shares underlying the Restricted Stock Units shall be duly registered under a registration statement on Form S-8 filed by the Corporation with the Securities and Exchange Commission promptly following the grant of such Restricted Stock Units."

5. Section 8.1 of the Employment Agreement is hereby amended to add the following at the end of such Section:

"Additionally, notwithstanding any language to the contrary contained in any option agreements with the Employee (or any other applicable agreement or plan), the Employee's Designees shall be entitled to exercise (i) the Pre-409A Option Portion during the twelve (12) month period following the date of termination under this Section 7.1, and (ii) the vested portion of the Post-409A Option Portion during the lesser of (A) the twelve (12) month period following the date of termination under this Section 7.1, or (B) the maximum exercise period permitted under Section 409A. At the expiration of the applicable exercise period, the unexercised stock options shall terminate."

6. Section 8.2 of the Employment Agreement is hereby amended to add the following at the end of the first paragraph of such Section:

“Additionally, notwithstanding any language to the contrary contained in any option agreements with the Employee (or any other applicable agreement or plan), the Employee’s Designees shall be entitled to exercise (i) the Pre-409A Option Portion during the twelve (12) month period following the date of termination under this Section 7.2, and (ii) the vested portion of the Post-409A Option Portion during the lesser of (A) the twelve (12) month period following the date of termination under this Section 7.2, or (B) the maximum exercise period permitted under Section 409A. At the expiration of the applicable exercise period, the unexercised stock options shall terminate.”

7. Section 7.3 of the Employment agreement is hereby amended to add the following at the end of such Section:

“In the event the Employee is terminated by the Company for Cause or if the Employee resigns other than for Good Reason (as defined in Section 7.5), the Employee shall be entitled to exercise (i) the Pre-409A Option Portion within forty (40) days of such termination or resignation, and (ii) the vested portion of the Post-409A Option Portion within the forty (40) days period commencing upon the end of any applicable holding period under Section 409A following such termination or resignation. At the expiration of the applicable exercise period, the stock options shall terminate.”

8. Section 8.6 of the Employment Agreement is hereby amended to add the following at the end of such Section:

“(c) Stock Options.” In the event of a termination of the Employee’s employment with the Corporation without Cause or a termination by the Employee of his Employment with the Corporation for Good Reason, during the Term, notwithstanding any language to the contrary contained in any stock option agreements with the Employee (or any other applicable agreement or plan), the Employee shall be entitled to exercise (i) the Pre-409A Option Portion during the twenty-four (24) month period following the date of termination without Cause or for Good Reason, and (ii) the vested portion of the Post-409A Option Portion during an exercise period commencing upon the end of any applicable holding period under Section 409A following the date of termination, such exercise period being the lesser of (A) the twelve (12) month period following the date of termination, or (B) the maximum exercise period permitted under Section 409A. At the expiration of the applicable exercise period, the unexercised stock options shall terminate.”

9. Section 8.7 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

**"8.7** Change of Control. In the event that (i) a Change of Control (as hereinafter defined) occurs during the Term and (ii) the Employee's employment with the Corporation is terminated by the Corporation other than for Cause or the Employee resigns or terminates his employment hereunder for any reason by giving sixty (60) days prior written notice to the Corporation subsequent to the date of closing of the Change of Control transaction, the Employee shall be entitled to the accrued salary, unused vacation, bonus, termination payment, benefits, and stock option treatment as are provided in Sections 8.6(a), (b), and (c) above, except, that upon termination or resignation under this Section 8.7, the Corporation shall accelerate fully the vesting of any outstanding stock options to purchase shares of stock of the Corporation granted to the Employee, such that all stock options shall vest in their entirety.

For purposes of this Section 8.7, the term "**Change of Control**" means the occurrence of any of the following, in one or a series of related transactions: (v) the sale or transfer of fifty percent (50%) or more of the Outstanding Shares of the Corporation to any person or entity other than (i) a transfer to a wholly-owned subsidiary of the Corporation or (ii) a transfer by a holder or holders of the Corporation's common stock or convertible securities as of the date hereof to Affiliates (as defined below), or (w) the sale, lease, license or other transfer of all or substantially all of the assets or earning power of the Corporation to any person or entity other than (i) a wholly-owned subsidiary of the Corporation or (ii) an Affiliate whereby the purpose or effect of such transfer is to provide for the transfer by a holder or holders of the Corporation's common stock or convertible securities as of the date hereof of such holders' direct or indirect interests in the assets of the Corporation to Affiliates and so long as such transfer does not result in a transaction described by one of the other clauses of this paragraph of Section 8.7; or (x) merger, consolidation, reorganization, recapitalization, share exchange, business combination or a similar transaction which results in any person or entity (other than the persons who are shareholders or security holders of the Corporation immediately prior to such transaction (or their Affiliates as of the date of such transaction)) owning fifty percent (50%) or more of the Outstanding Shares or combined voting power of the Corporation, (y) merger, consolidation, reorganization, business combination or a similar transaction in which the Corporation is not the surviving entity; or (z) a transaction commonly known as "going private" whereby the Corporation engages one or a series of transactions which results in the Corporation not being required to file periodic reports with the Securities and Exchange Commission, unless the Employee is a participant in such transaction. "**Outstanding Shares**" shall mean the total number of common shares and common share equivalents of the Corporation outstanding at the time the Change of Control. "**Affiliate**" shall mean (i) any person or entity controlling, controlled by or under the common control of the existing holders of common stock or convertible securities of the Corporation and (ii) any partner, shareholder or member of the existing holders of common stock or convertible securities of the Corporation. For the purposes hereof, "**control**" shall mean the direct or indirect ownership of at least fifty (50%) percent of the outstanding shares or other voting rights of the subject entity or if it possesses, directly or indirectly, the power to direct or cause the direction of management and policies of such other entity.

In the event that the Employee resigns or terminates his employment following a Change of Control as described above, the Employee acknowledges and agrees that upon the request of the Corporation, he will execute and deliver a release in customary form releasing all claims of the Employee arising out of his employment with the Corporation except for the obligations of the Corporation under this Agreement.”

10. The Employment Agreement is hereby amended to add a new Section 9.7 as follows:

“9.7 Assignment of Invention. All discoveries, inventions, improvements and innovations, whether patentable or not (including all data and records pertaining thereto), which Employee may have invented, discovered, originated or conceived of during the Term of his employment with the Corporation prior to the date of the Third Amendment to Executive Employment Agreement dated December \_\_, 2005, or may invent, discover, originate or conceive during the Term of this Agreement and which directly relate to the business of the Corporation or any of its subsidiaries as described in the Corporation’s filings with the Securities and Exchange Commission, shall be the sole and exclusive property of the Corporation. Employee shall promptly and fully disclose each and all such discoveries, inventions, improvements or innovations to the Corporation. Employee shall assign to the Corporation his entire right, title and interest in and to all of his discoveries, inventions, improvements and innovation described in this Section 8.7 and any related U.S. or foreign patent and patent applications, shall execute any instruments reasonably necessary to convey or perfect the Corporation’s ownership thereof, and shall assist the Corporation in obtaining, defending and enforcing its rights therein. The Corporation shall bear all expenses it authorizes to be incurred in connection with such activity and shall pay the Employee reasonable compensation for time spent by the Employee in performing such duties at the request of the Corporation after the termination of his employment, for a period not to exceed three (3) years.”

11. Except as expressly amended by this Amendment, the Employment Agreement remains in full force and effect. Capitalized terms used herein shall have the same meaning as in the Employment Agreement unless otherwise defined herein. This Amendment shall be governed and construed and enforced in accordance with the local laws of the State of New York applicable to agreements made and to be performed entirely in New York.

12. This Amendment may be executed in one or more facsimile or original counterparts, each of which shall be deemed an original, but all of which taken together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

ATTEST:

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ACURA PHARMACEUTICALS, INC.

By: /s/ Andrew D. Reddick  
Andrew D. Reddick  
President and  
Chief Executive Officer

WITNESS:

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EMPLOYEE

By: /s/ Peter A. Clemens  
Peter A. Clemens



**1. General Description.**

The Plan provides for grants of restricted stock units to employees and Non-Employee Directors of the Company and its Subsidiaries.

The purpose of the Plan is to attract, motivate and retain experienced and knowledgeable employees by offering additional stock based compensation and incentives to defer and potentially enhance their compensation and to encourage stock ownership in the Company and to attract and retain qualified directors.

This Plan is intended to comply with Section 409A of the Internal Revenue Code of 1986, as amended, in order to avoid compensation deferred under the Plan which is subject to Code Section 409A from being included in the gross income of Participants under Code Section 409A and the Plan shall be interpreted consistent with such intent.

**2. Definitions.**

The following definitions shall be applicable throughout the Plan:

"Board" means the Board of Directors of the Company.

"Cause" means, with respect to termination of a Participant's employment, or service as a Non-Employee Director, the occurrence of any one or more of the following:

(a) in the case of a (A) Non-Employee Director or (B) an employee where there is no employment, change in control or similar agreement in effect between the Participant and the Company or a Subsidiary at the time of the grant of the Restricted Stock Unit award, or where there is such an agreement but the agreement does not define "cause" (or similar words), the finding by the Board or the Committee, in the exercise of good faith and reasonable judgment, that: (1) except in the case of a Non-Employee Director, Participant breached his or her employment or service contract or any other agreement (whether verbal or written) with the Company, (2) Participant has been engaged in disloyalty to the Company, including, without limitation, fraud, embezzlement, theft, or proven dishonesty in the course of his or her employment or service with the Company; (3) Participant has been convicted of a felony; (4) Participant has committed gross negligence or willful misconduct in the course of his or her employment or service with the Company, or (5) Participant has disclosed trade secrets or confidential information of the Company to persons not entitled to receive such information.

(b) in the case of an employee where there is a written employment, change in control or similar agreement in effect between the Participant and the Company or a Subsidiary at the time of the grant of the Restricted Stock Unit award that defines "cause" (or similar words) the termination of an employment arrangement that is or would be deemed to be for "cause" (or similar words) as defined in such agreement.

"Change in Control - Plan" means in one or a series of related transactions any of the following: (a) the acquisition (other than solely from the Company) by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act) other than the Company or any Subsidiary of the beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of more than sixty-six and 2/3 percent (66.66%) of the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the "Voting Securities"); (b) a reorganization, merger, consolidation, share exchange, recapitalization, business combination or similar combination involving the Company or its capital stock (a "Business Combination"), other than a Business Combination in which more than thirty-three and 1/3 percent (33.33%) of the combined voting power of the outstanding voting securities of the surviving or resulting entity immediately following the Business Combination is held by the persons who, immediately prior to the Business Combination, were the holders of the Voting Securities; (c) a sale or other transfer (other than license) of all or substantially all of the Company's assets (measured by the value or earning power of the assets), including, without limitation, the sale by the Company of its rights under license agreements or similar agreements relating to its technology (including the sale of royalty payment amounts payable to the Company or its shareholders under such agreements); (d) the license or similar agreement by the Company to a third party or third parties, in one or more transactions, of all rights in and to the Company's technology and, as a result of such transactions, all or substantially all of the Company's activities consist of monitoring such arrangements and collecting fees and payments due thereunder; or (e) a complete liquidation or dissolution of the Company.

"Change in Control - Section 409A" shall mean a Change in Control - Plan, except to the extent that (and only to the extent that) such Change in Control - Plan does not qualify as a change (a) in the ownership or effective control of the Company, or (b) in the ownership of a substantial portion of the assets of the Company, under Section 409A of the Code.

"Code" means the Internal Revenue Code of 1986, as amended.

"Committee" shall mean the Committee, if any, appointed by the Board under Section 4 hereof.

"Company" means Acura Pharmaceuticals, Inc. and its successors.

"Disability" means

(a) in the case of a (A) Non-Employee-Director or (B) an employee where there is no employment, change in control or similar agreement in effect between the Participant and the Company or a Subsidiary at the time of the grant of the Restricted Stock Unit award, or where there is such an agreement but the agreement does not define "disability" (or similar words), then "Disability" means the Participant: (1) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months; (2) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, receiving income replacement benefits for a period of not less than three (3) months under an accident and health plan covering employees and/or directors of the Company; (3) is determined to be totally disabled by the Social Security Administration; or (4) any other permitted definition of disability under Section 409A of the Code and the regulations promulgated thereunder, and

(b) in the case where there is a written employment, change in control or similar agreement in effect between the Participant and the Company or a Subsidiary at the time of the grant of the Restricted Stock Unit award that defines "disability" (or similar words) the termination of an employment arrangement that is or would be deemed to be for "disability" (or similar words) as defined in such agreement.

"Effective Date" shall be the date this Plan is adopted by the Board.

"Eligible Participant" means a Non-Employee Director serving as a director on the date of grant or an employee employed by the Company or its Subsidiaries on the date of grant.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" means the average of the closing bid and closing ask price of the Stock as reported on the OTC Bulletin Board or any successor principal market for the Stock on the applicable date, or if the Stock is not trading on the OTC Bulletin Board or an established securities market (within the meaning of Section 409A of the Code and the regulations promulgated thereunder), the fair market value of the Stock for the applicable date as determined by a reasonable valuation method selected by the Board or the Committee.

"Non-Employee Director" has the definition set forth in Rule 16b-3(b)(3)(i) of the Exchange Act.

"Participant" means each person who has been granted a Restricted Stock Unit award.

"Plan" means the Acura Pharmaceuticals, Inc. 2005 Restricted Stock Unit Award Plan, as set forth herein and as it may be amended from time to time.

"Restricted Stock Unit Award Agreement" means an agreement described in Section 5(a).

"Restricted Stock Units" or "RSUs" means an award of Stock Units credited pursuant to Section 5, which Stock Units are subject to vesting and other restrictions as set forth herein.

"Securities Act" means the Securities Act of 1933, as amended.

"Stock" means shares of common stock, par value \$.01 per share, of the Company, including any rights attendant thereto upon issuance of the shares, together with any restrictions, limitations or conditions of and to such rights and such other stock or other securities or property into which the Stock (or such rights) may be converted or for which it is exchanged or substituted (and any credits thereon), pursuant to Section 10.

"Stock Unit" means a non-voting unit of measurement that is (a) deemed for bookkeeping purposes to be equivalent to one outstanding share of Stock solely for purposes of determining benefits under the Plan, (b) credited to a Participant's Stock Unit Account pursuant to the grant of Restricted Stock Units under Section 5; and (c) payable solely in a share of Stock, on a one-for-one basis.

"Stock Unit Account" means the bookkeeping account maintained by the Company for each Eligible Participant that is credited with Stock Units in accordance with the Plan.

"Subsidiary" means any entity of which a majority of the outstanding voting stock or voting power is beneficially owned directly or indirectly by the Company.

### **3. Effective Date; Duration.**

The Effective Date shall be the date on which the Board adopts this Plan. The Plan shall continue in effect until all matters relating to Stock Units and the administration of the Plan have been completed and all payments of such compensation have been made.

### **4. Administration.**

The Company's Board of Directors or a Committee appointed by the Board shall administer the Plan. If appointed by the Board, the Committee shall be constituted so as to permit the Plan to continue to comply with Rule 16b-3, as currently in effect or as hereafter modified or amended. The Committee appointed by the Board of Directors shall consist of not less than two members of the Board of Directors, to administer the Plan on behalf of the Board of Directors, subject to such terms and conditions as the Board of Directors may prescribe. Once appointed, the Committee shall continue to serve until otherwise directed by the Board of Directors. From time to time, the Board of Directors may increase the size of the Committee and appoint additional members thereof, remove members (with or without cause), and appoint new members in substitution therefor, fill vacancies however caused, or remove all members of the Committee and thereafter directly administer the Plan; provided, however, that at no time shall a Committee of less than two members administer the Plan. Notwithstanding anything to the contrary contained herein, no member of the Committee shall serve as such under this Plan unless such person is a "Non-Employee Director" within the meaning of Rule 16b-3(b)(3)(i) of the Exchange Act.

A majority of the entire Committee shall constitute a quorum, and the action of the majority of the Committee members present at any meeting at which a quorum is present shall be the action of the Committee. The Committee shall have all of the powers and duties set forth herein, as well as such additional powers and duties as the Board of Directors may delegate to it; provided, however, that the Board of Directors expressly retains the right in its sole discretion (i) to elect and to replace the members of the Committee, and (ii) to terminate or amend this Plan in any manner consistent with applicable law.

The Committee shall have the authority, subject to the provisions of this Plan, to establish, adopt and revise such rules, regulations and forms and agreements and to interpret the Plan and make all such determinations relating to the Plan as it may deem necessary or advisable. The Committee shall also have the authority, subject to the provisions of the Plan, to delegate ministerial, day-to-day administrative details and non-discretionary duties and functions to officers and employees of the Company. The Committee's interpretation of the Plan or any awards granted pursuant hereto and all decisions and determinations by the Committee with respect to the Plan shall be final, binding, and conclusive on all parties. Notwithstanding any provisions of this Plan or any Restricted Stock Unit Award Agreement to the contrary, all discretionary interpretations, decisions or determinations of the Board or the Committee with respect to the Plan and all RSUs awarded under the Plan shall be made in accordance with the express terms of the Plan and applicable Restricted Stock Unit Award Agreement in the exercise of good faith and reasonable judgment.

Notwithstanding any contrary provision of this Section 4, the Board shall administer the Plan, and the Committee shall exercise no discretion with respect to any grants to Non-Employee Directors. In the administration of the Plan with respect to Non-Employee Directors, the Board shall have all of the authority and discretion otherwise granted to the Committee with respect to the administration of the Plan.

## **5. Restricted Stock Units.**

(a) Restricted Stock Units may be granted at any time and from time to time as determined by the Board or the Committee. Each Restricted Stock Units grant will be evidenced by a Restricted Stock Award Agreement that will specify such other terms and conditions as Board or the Committee, in its sole discretion, will determine, including all other applicable terms, conditions and restrictions related to the grant, vesting and the number of Restricted Stock Units not otherwise set forth in this Plan.

(b) Vesting Period. The Board or the Committee shall determine the vesting of a Restricted Stock Unit award granted under Section 5(a), and shall set forth such vesting in the Restricted Stock Unit Award Agreement.

(c) Acceleration of Vesting. Notwithstanding Section 5(b), unless expressly provided otherwise in the Restricted Stock Unit Award Agreement, each Restricted Stock Unit award shall become fully and immediately vested and nonforfeitable to the Participant upon the occurrence of any of the following events:

(1) a Participant's service as an employee of the Company is terminated by the Company without Cause or due to Participant's death or Participant's Disability, or in the case of a Non-Employee Director, Participant's death or Disability or Participant is not renominated as a director (other than for "Cause" or refusal to stand for re-election) or is not elected by the Company's stockholders, if nominated; or

(2) a Change in Control - Plan.

## **6. Dividend and Voting Rights.**

Unless expressly provided for in a Participant's Restricted Stock Unit Award Agreement, a Participant shall have no rights as a stockholder of the Company, no dividend rights and no voting rights, with respect to the RSUs and any shares of Common Stock underlying or issuable in respect of such RSUs until such shares of Common Stock are actually issued to and held of record by the Participant. No adjustments will be made for dividends or other rights of a holder for which the record date is prior to the date of issuance of the stock certificate for such RSU.

## **7. Restrictions, Distributions and Changes to Distributions; Payment of Units.**

(a) Time and Manner of Distribution. Payment of vested Stock Units in a Participant's Stock Unit Account in accordance with Section 7(b) shall be made on the earlier of (i) a Change in Control - Section 409A, or (ii) January 1, 2011. In the event of a payment pursuant to a Change in Control - Section 409A under Section 7(a)(i), such payment shall be made in a lump sum payment as soon as administratively practicable following consummation of said Change in Control - Section 409A. In the event of a payment due to Section 7(a)(ii), such payment shall be made in four equal installments (twenty-five percent on each installment) on each of January 1, 2011, January 1, 2012, January 1, 2013 and January 1, 2014; provided, however, that in the event of a Change in Control - Section 409A at any time after January 1, 2011 but prior to payment of all of Participant's Stock Units in the Participant's Stock Unit Account, all of Participant's undistributed Stock Units as of consummation of said Change in Control - Section 409A shall be paid to Participant in a lump sum as soon as administratively practicable.

(b) **Payment of Units.** Upon the occurrence of the distribution events set forth in Section 7(a), the Company shall deliver a number of shares of Stock equal to the number of vested Stock Units to which the Participant is then entitled under the terms of the Plan and the Restricted Stock Unit Award Agreement upon receipt from Participant of the par value of such shares of Stock. In lieu of requiring cash payment of such par value, the Company may, in the Participant's sole discretion, accept payment of any such par value by withholding from Stock payments a number of whole shares of Stock whose value is equal to the amount of such par value. Valuation for this purpose shall be the Fair Market Value on the date of distribution.

(c) **Forfeiture of Unvested Units.** Except as provided in Section 5(c) of the Plan or in a Participant's Restricted Stock Unit Award Agreement, to the extent any portion or a Participant's RSUs have not become vested upon the date the Participant's services as an employee terminate, such RSUs shall be forfeited and the unvested portion of the RSU award shall automatically terminate without any other action by the Participant or the Participant's Beneficiary as the case may be and without payment of consideration by the Company.

## **8. Shares Subject To The Plan; Share Limits.**

**Shares Available for Issuance.** Subject to adjustment under Section 10, the aggregate number of shares of Stock that may be issued under the Plan shall not exceed thirty million (30,000,000) shares. Stock delivered by the Company to satisfy payment provisions under Section 7 of the Plan shall be shares of authorized and unissued shares of Stock and/or previously issued Stock held as treasury shares and shall be fully paid and non-assessable when issued. Shares issuable on payment of Stock Units shall be reserved for issue, and to the extent that awards terminate or are forfeited without payment in shares, the shares will be available for subsequent awards.

## **9. General.**

(a) **Government and Other Regulations.** The obligation of the Company to credit Stock Units, issue or deliver Stock or otherwise make payments under the Plan are subject to compliance with all applicable laws, rules, and regulations (including, without limitation, federal and state securities laws), and to such approvals by any listing, agency, or regulatory or governmental authorities as may, in the opinion of counsel for the Company, be necessary or advisable in connection therewith. Any securities issued or delivered under the Plan shall be subject to such restrictions, and the person acquiring such securities shall, if requested by the Company, provide such assurances and representations to the Company, as the Company may deem necessary or advisable to assure compliance with all applicable legal requirements.

(b) **Tax and Withholding.** The Company has the right to require the person receiving Stock to pay to the Company the amount of any federal, state and local taxes which the Company is required to withhold upon the delivery of Stock. In lieu of requiring cash payment of any such taxes, the Company shall, in the Participant's sole discretion, instead withhold from said Participant's Stock payments a number of shares of Stock whose value is equal to the amount of such taxes. Valuation for this purpose shall be the Fair Market Value on the date of distribution.

(c) **Beneficiaries.**

(1) **Beneficiary Designation.** Each Eligible Participant may designate in writing the Beneficiary or Beneficiaries (as defined in Section 9(c)(2)) whom such Eligible Participant desires to receive any amounts payable under the Plan after his or her death. Beneficiary designations shall be effective on the date such written designation is received by the Corporate Secretary. An Eligible Participant may from time to time change his or her designated Beneficiary or Beneficiaries without the consent of such Beneficiary or Beneficiaries by filing a new designation in writing with the Corporate Secretary. However, if a married Eligible Participant wishes to designate a person other than his or her spouse as Beneficiary, such designation shall be consented to in writing by the spouse. The Eligible Participant may change any election designating a Beneficiary or Beneficiaries without any requirement of further spousal consent if the spouse's consent so provides. Notwithstanding the foregoing, spousal consent shall not be necessary if it is established that the required consent cannot be obtained because the spouse cannot be located or because of other circumstances prescribed by the Board or the Committee. The Company and the Board or the Committee may rely on the Eligible Participant's designation of a Beneficiary or Beneficiaries last filed in accordance with the terms of the Plan.

(2) Definition of Beneficiary. An Eligible Participant's "Beneficiary" or "Beneficiaries" shall be the person, persons, trust or trusts so designated by the Eligible Participant or, in the absence of such designation, entitled by will or the laws of descent and distribution to receive the Eligible Participant's benefits under the Plan in the event of the Eligible Participant's death, and shall mean the Eligible Participant's executor or administrator if no other Beneficiary is identified and able to act under the circumstances.

(d) Non-transferability. Except as provided in Section 9(c), a Participant's rights and interests under the Plan in respect of Stock Units, including Stock deliverable under or in respect thereof, may not be assigned, pledged, or transferred.

(e) Expenses. All expenses incurred by the Company associated with adoption and administration of this Plan, including all legal expenses related to drafting this Plan and related documents, shall be borne solely by the Company.

(f) Titles and Headings. The titles and headings of the sections in the Plan are for convenience of reference only, and in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control.

(g) Governing Law. The validity of the Plan or any of its provisions and any agreements entered into under the Plan shall be construed, administered and governed in all respects under the laws of the State of New York. If any provisions of the Plan shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions hereof shall continue to be fully effective.

(h) Limitation on Participants' Rights; Unfunded Plan. Participation in the Plan shall not give any person the right to continued employment or any rights or interests other than as expressly provided herein. No Participant shall have any right to any payment or benefit hereunder except to the extent provided herein. The Plan shall create only a contractual obligation on the part of the Company as to such amounts and shall not be construed as creating a trust or fiduciary relationship between the Company, the Board, the Committee, and any Participant or other person. Participants and their Beneficiaries shall have no legal or equitable rights, claims, or interest in any specific property or assets of the Company. No assets of the Company shall be held under any trust, or held in any way as collateral security for the fulfilling of the obligations of the Company under this Plan. Any and all of the Company's assets shall be, and remain, the general unpledged, unrestricted assets of the Company. The Company's obligation under the Plan shall be merely that of an unfunded and unsecured promise of the Company to pay benefits in the future, and the rights of the Participants and Beneficiaries shall be no greater than those of unsecured general creditors.

(i) Rights with Respect to Stock Units. A Participant's Stock Unit Account shall be a memorandum account on the books of the Company. The Stock Units credited to such account shall be used solely as a device to determine the number of shares of Stock to be eventually distributed to the Participant, subject to applicable vesting requirements, in accordance with the Plan. The Stock Units shall not be treated as property or as a trust fund of any kind. No Participant shall be entitled to any voting dividend, or other stockholder rights with respect to Stock Units credited under the Plan.

(j) Restricted Stock Unit Award Agreements. Each Restricted Stock Unit award granted to an Eligible Participant under the Plan shall be evidenced by a writing approved by the Board or the Committee and will contain the terms and conditions consistent with the Plan as approved by the Board or the Committee relating to the RSUs. This Plan and each Restricted Stock Unit Award Agreement granted to an Eligible Participant under the Plan shall be binding upon, and inure to the benefit of, any successor or successors of the Company, except to the extent that the Board or the Committee and each Participant having executed a Restricted Stock Unit Award Agreement determine otherwise as evidenced by a writing signed by both parties.

(k) Plan Construction. By its approval of the Plan, the Board intends that the transactions contemplated by the Plan satisfy and be interpreted in a manner that satisfies the applicable requirements of Rule 16b-3 promulgated under the Exchange Act so that, among other transactions, the crediting of Stock Units and payment in Stock will be entitled to the benefits of Rule 16b-3 or other exemptive rules under Section 16 of the Exchange Act.

(l) Notices. Any notice to be given under the terms of this Plan shall be in writing and addressed to the Company at its principal office, to the attention of the Corporate Secretary, and to the Participant at his or her last address of record, or at such other address as either party may designate in writing to the other for the purposes of notices in respect of RSUs.

**10. Changes in Capital Structure.**

Upon or in contemplation of any reclassification, recapitalization, stock split (including a stock split in the form of a stock dividend) or reverse stock split; any merger, combination, consolidation or other reorganization; any split-up; spin-off, or similar extraordinary dividend distribution in respect of the Stock (whether in the form of securities or property); any exchange of Stock or other securities of the Company, or any similar, unusual or extraordinary corporate transaction in respect of the Stock; or a sale of substantially all the assets of the Company as an entirety; then the Board shall, in such manner, to such extent (if any) and at such time as it deems appropriate and equitable in the circumstances in the Board's exercise of good faith and reasonable judgment, proportionately adjust any or all of (a) the number and type of shares of Stock (or other securities or property) that thereafter may be made the subject of Stock Units and Stock Unit Accounts (including the specific maximum and numbers of shares set forth elsewhere in the Plan), (b) the number, amount and type of shares of Stock (or other securities or property) payable in respect of Stock Units, and (c) and the number and type of Stock Units (both credited and vested) under the Plan.

**11. Amendments and Termination.**

The Board shall have the right to amend the Plan (including outstanding awards) in whole or in part from time to time or may at any time suspend or terminate the Plan; provided, however, that no amendment or termination shall cancel or otherwise adversely affect in any way, without his or her written consent, any Participant's rights with respect to Stock Units credited to his or her Stock Unit Account and no amendment or termination shall accelerate payment of any benefit which is subject to the rules of Section 409A of the Code in a manner that would violate the distribution rules of Section 409A of the Code. Notwithstanding the foregoing, Participant consent shall not be required to the extent that the Board determines that applicable law requires amendment or termination of the Plan to preserve the intended tax benefits to the Participants and the Company hereunder. Any amendments authorized hereby shall be stated in an instrument in writing, and all Participants (subject to any applicable consent requirement above) shall be bound thereby upon receipt of notice thereof. Changes contemplated by Section 10 shall not be deemed to constitute changes or amendments for purposes of this Section 11.

