TRUST AGREEMENT

This Trust Agreement ("Trust Agreement") entered into this _____day of _____ by and among Francis J. Civille, SmithKline Beecham plc ("SB"), and Glaxo Wellcome plc ("GW") (where "Respondents," as used herein, means SB and GW, individually and collectively), provides as follows:

WHEREAS, the United States Federal Trade Commission (the "Commission") has accepted or will shortly accept for Public Comment an *Agreement Containing Consent Orders* incorporating a Decision and Order ("Decision and Order") and an Order to Maintain Assets, with SB and GW (collectively, the "Orders"), which, among other things, require Respondents to divest or transfer certain defined assets and maintain those assets pending such divestiture or transfer, and provide for the appointment of one or more Monitor Trustees to ensure that Respondents comply with their obligations under the Orders;

WHEREAS, the Commission may appoint Francis J. Civille as such trustee (the "Monitor Trustee") pursuant to the Orders to monitor Respondents' compliance with the terms of the Consent Agreement and Orders and with each of the Divestiture Agreements referenced in the Orders, and to monitor the efforts of certain of the Commission-approved Acquirers (as defined in the Orders) to obtain all necessary FDA approvals, as applicable, and Francis J. Civille has consented to such appointment;

WHEREAS, the Orders further provide or will provide that Respondents shall execute a trust agreement, subject to the prior approval of the Commission, conferring all the rights, powers and authority necessary to permit the Monitor Trustee to carry out such duties and responsibilities pursuant to the Orders;

WHEREAS, this Trust Agreement, although executed by the Monitor Trustee and SB and GW is not effective for any purpose, including but not limited to imposing rights and responsibilities on Respondents or the Monitor Trustee under the Orders, until it has been approved by the Commission; and

WHEREAS, the parties to this Trust Agreement intend to be legally bound;

NOW, THEREFORE, the parties agree as follows:

1. Capitalized terms used herein and not specifically defined herein shall have the respective definitions given to them in the Consent Agreement and the Orders. The term "Trust Assets" means the assets identified in Paragraphs II.A., III.A., IV.A., V.A., VI.A., VII.A., VIII.A., and IX.A. of the Decision and Order. The term "Approval Assets" means the Kytril Assets, the Famciclovir and Penciclovir Assets, and the Tazicef Assets.

2. The Monitor Trustee shall have all of the powers and responsibilities conferred upon the

Monitor Trustee by the Orders.

3. Respondents hereby agree that, no later than three (3) Business Days after the Commission approves this Trust Agreement, Respondents will fully comply with all terms of the Orders requiring them to confer all rights, powers, authority and privileges upon the Monitor Trustee, or to impose upon themselves any duties or obligations with respect to the Monitor Trustee, to enable the Monitor Trustee to perform the duties and responsibilities of the Monitor Trustee thereunder.

4. Respondents further agree that:

   a. they will use their best efforts to ensure that Roche, Novartis, and Abbott Labs, or any Commission-approved Acquirer that is acquiring assets pursuant to Paragraphs II., III., and VI. of the Decision and Order (or as otherwise specified by the Commission) enters into an agreement in substantially the same form as Attachments 1, 2, and 3 of this Agreement with the Monitor Trustee prior to the Closing Date on the divestiture by Respondents to the Commission-approved Acquirer of the relevant Trust Assets;

   b. no later than ten (10) Business Days after the Commission approves this Trust Agreement, they will provide the Monitor Trustee with:

      (1) a complete inventory and description of the Trust Assets, identifying, in particular, those Trust Assets which may require actions to maintain their viability and marketability, and the person(s) responsible for taking those actions;

      (2) a complete inventory of all existing FDA approvals and pending FDA approvals for the Products included in the Approval Assets identifying actions required to maintain or complete such approvals and identifying the person(s) responsible for taking such actions;

      (3) a complete inventory of all activities or operations worldwide that relate to the manufacture of the Products relating to the Approval Assets, and which relate to Respondents' compliance with the Orders, including processes and process validations which are under development, identifying the person(s) responsible for maintaining or pursuing such activities and giving an inventory of materials and records relating to such manufacture;

      (4) full and complete details of all dealings with any future Commission-approved Acquirer for the Approval Assets (other than Roche, Novartis, Abbott Labs, or any other entity excepted by the Commission), including copies of all correspondence and written reports of all contacts and discussions with any such future Commission-approved Acquirer and any draft and/or executed complete agreements, including any attached exhibits, schedules and appendices; and

(5) a complete inventory of all Patents included in the Trust Assets related to the manufacture or sale of the related Products in the United States, identifying actions needed to maintain such Patents and the person(s) responsible for such actions;

c. they will provide a written list of the principal individuals involved in the transitioning of the Trust Assets to the Commission-approved Acquirers, together with their location, telephone numbers, electronic mail address (if available), and responsibilities, and will provide the Monitor Trustee with written notice of any changes in such personnel occurring thereafter;

d. they will use their best efforts to provide the Monitor Trustee with prompt notification of significant meetings, including date, time and venue, scheduled after the execution of this Trust Agreement, relating to the development, manufacture, registration, regulatory approvals, marketing, sale and divestiture of the Approval Assets, and such meetings may be attended by the Monitor Trustee or his representative, at the Monitor Trustee's option or at the request of the Commission or staff of the Commission;

e. they will provide the Monitor Trustee the minutes of the above-referenced meetings as soon as practicable and, in any event, not later than those minutes are available to any employee of the Respondents;

f. they will provide the Monitor Trustee with all correspondence, meeting minutes, reports, sent to or received from the FDA relating to the Approval Assets;

g. they will provide the Monitor Trustee with hard copies of all reports submitted to the Commission pursuant to the Consent Agreement and the Orders, simultaneous with the submission of such reports to the Commission;

h. to the extent not reflected in the reports submitted to the Commission pursuant to the Consent Agreement and the Orders, they will provide every (3) months commencing one (1) month after the Consent Agreement is accepted by the Commission for public comment, or as requested by the Monitor Trustee, full and detailed hard copy reports to the Monitor Trustee as to all of Respondents' activities and obligations under the Orders concerning the Trust Assets including, without limitation to the extent applicable:

(1) all activities involving the research and development, pre-clinical and clinical studies and the pursuit and maintenance of FDA clearance or approvals relating to the Approval Assets;

(2) all activities concerned with the manufacture, supply and technology transfer of

the relevant Products that are identified in the Approval Assets, including, without limitation, negotiation and operation of supply agreements, actual supply and inventory;

(3) all minutes and records of meetings, action plans, and follow-ups to actions plans and meetings, with the Commission-approved Acquirers related to the manufacture, supply, and technology transfer of the Products identified in the Approval Assets;

(4) all activities concerning the assistance, advice and consultation provided to any Commission-approved Acquirer generally as provided in Paragraphs II, III, IV and VI of the Decision and Order; and

(5) on request, Respondents will provide the Monitor Trustee with any and all records that relate to the manufacture of the Products identified in the Approval Assets with the right to use them to achieve the purposes of the Orders;

Provided, however, that, at the time the Decision and Order becomes final, the reports described in this paragraph shall be due to the Monitor Trustee either, as requested by the Monitor Trustee, or within five (5) Business Days of the date that Respondents file the Respondents' reports with the Commission as required pursuant to Paragraph XII of the Decision and Order.

i. they will comply with the Monitor Trustee's reasonable requests for onsite visits and audits of Respondents' facilities (or any Contract Manufacturer's facility) used to manufacture the Products identified in the Approval Assets;

j. they will comply with the Monitor Trustee's reasonable requests for follow-up discussions or supplementary information concerning any reports provided to or requested by the Monitor Trustee pursuant to this Agreement, including meetings and discussions with the principal staff involved in any activities relating to the research, development, manufacture, sale and/or divestiture of the Approval Assets or any Product comprised therein and, further including, actions necessary to maintain all necessary FDA or other foreign regulatory agency equivalent approvals to manufacture and sell any of the Approval Assets, to maintain the viability and marketability of the Approval Assets, as well as the tangible assets of the facilities used to manufacture and sell all of the Approval Assets, and to prevent the destruction, removal, wasting, deterioration or impairment of the Approval Assets, and will provide the Monitor Trustee with access to and hard copies of all other data, records or other information that the Trustee reasonably believes are necessary to the proper discharge of his responsibilities under the Orders; and

k. they will provide prompt notice of any meetings, activities or events affecting or likely

to affect the maintenance of the Approval Assets including, but not limited to, any and all meetings or communications with the FDA;

5. Respondents shall promptly notify the Monitor Trustee of any significant written or oral communication that occurs after the date of this Trust Agreement between the Commission and Respondents related to the Orders or this Trust Agreement, together with hard copies (or, in the case of oral communications, summaries) of such communications.

6. Respondents and the Monitor Trustee understand and agree that the Commission or its staff may request, pursuant to and consistent with the Orders, that the Monitor Trustee monitor, investigate and/or audit the Respondents compliance with the Respondents' obligations to maintain assets pursuant to the Orders, and submit such additional written or oral reports, under applicable confidentiality restrictions, to the Commission as the Commission or its staff may at any time request concerning the Respondents' compliance with the Respondents' obligations to maintain assets pursuant to the Orders.

7. The Monitor Trustee shall maintain the confidentiality of all information provided to the Monitor Trustee by Respondents. Such information shall be used by the Monitor Trustee only in connection with the performance of the Monitor Trustee's duties pursuant to this Agreement. Such information shall not be disclosed by the Monitor Trustee to any third party other than:

   a. persons employed by, or working with, the Monitor Trustee under this Agreement, or

   b. persons employed at the Commission and working on this matter.

8. The Monitor Trustee shall maintain a record and inform the Commission of all persons (other than representatives of the Commission) to whom confidential information related to this Agreement has been disclosed.

9. Upon termination of the Monitor Trustee's duties under this Trust Agreement, the Monitor Trustee shall promptly return to Respondents all material provided to the Monitor Trustee by Respondents and shall destroy any material prepared by the Monitor Trustee that contains or reflects any confidential information of Respondents. Nothing herein shall abrogate the Monitor Trustee's duty of confidentiality, including the obligation to keep such information confidential for a period of five (5) years after the termination of this Trust Agreement;

10. In addition, the Monitor Trustee shall keep confidential for a period of five (5) years all other aspects of the performance of his duties under this Trust Agreement and shall not disclose any confidential or proprietary information relating thereto. To the extent that the Monitor Trustee wishes to retain any employee, agent, consultant or any other third party to assist the Monitor Trustee in accordance with the Orders, the Monitor Trustee shall ensure that, prior to being retained, such persons execute a confidentiality agreement in a form agreed upon by

the Monitor Trustee and Respondents.

For the purposes of this Section, information shall not be considered confidential or proprietary to the extent that it is or becomes part of the public domain (other than as the result of any action by the Monitor Trustee or by any employee, agent, affiliate or consultant of the Monitor Trustee), or to the extent that the recipient of such information can demonstrate that such information was already known to the recipient at the time of receipt from a source other than Respondents or any director, officer, employee, agent, consultant or affiliate of Respondents when such source is entitled to make such disclosure to such recipient.

11. Nothing in this Trust Agreement shall require Respondents to disclose any material or information that is subject to a legally recognized privilege or that Respondents are prohibited from disclosing by reason of law or an agreement with a third party.

12. Each party shall be reasonably available to the other to discuss any questions or issues that either party may have concerning compliance with the Orders as it relates to Respondents.

13. **[REDACTED]**

14. Respondents hereby confirms their obligation to indemnify the Monitor Trustee and hold the Monitor Trustee harmless in accordance with and to the extent required by the Orders (and, upon direction by the Commission to the Monitor Trustee to divest any Trust Assets). Respondents shall indemnify the Monitor Trustee and any subcontractor and their respective agents, partners, principals, officers and employees (the "Indemnified Parties") and hold the Indemnified Parties harmless (regardless of form of action, whether in contract, statutory law, tort or otherwise) against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Monitor Trustee's duties and obligations including all reasonable fees of counsel and other expenses incurred in connection with the reasonable preparation for, or defense of any claim, whether or not resulting in liability, except to the extent that such liabilities, losses, damages, claims or expenses are finally judicially determined to result from misfeasance, gross negligence, willful or wanton acts or misconduct, recklessness, bad faith, fraud or willful default by the Monitor Trustee. The Monitor Trustee shall have no liability to Respondents for the Monitor Trustee's negligence.

15. The Monitor Trustee's maximum liability to the Respondents relating to services rendered pursuant to this Agreement (regardless of the form of the action, whether in contract, statutory law, tort, or otherwise) shall be limited to the total sum of the fees paid to the Monitor Trustee by Respondents, except to the extent resulting from the misfeasance, gross negligence, willful or wanton misconduct, bad faith, fraud, or willful default by the Monitor Trustee, in which case the liability is not so limited. In no event shall the Monitor Trustee, its partners, principals, or employees be liable for consequential, special, indirect, incidental, punitive or exemplary damages or losses (including, without limitation, lost profits and

opportunity costs).

16. Respondents agree that the Respondents' obligations to indemnify the Monitor Trustee extend to any agreement that is entered between the Monitor Trustee and any Commission-approved Acquirer and relates to the Monitor Trustee's responsibilities under the Trust Agreement and/or the Orders.

17. Upon this Trust Agreement becoming effective, the Monitor Trustee shall be permitted, and Respondents shall be required, to notify all current Commission-approved Acquirers and potential future Acquirers with respect to his appointment as Monitor Trustee.

18. In the event of a disagreement or dispute between Respondents and the Monitor Trustee concerning Respondents' obligations under the Orders and, in the event that such disagreement or dispute cannot be resolved by the parties, either party may seek the assistance of the individual in charge of the Commission's Compliance Division to resolve this issue. In the case of any disagreement or dispute between Respondents and the Monitor Trustee not relating to Respondents' obligations under the Orders, and in the event that such disagreement or dispute cannot be resolved by the parties, the parties shall submit the matter to binding arbitration before the American Arbitration Association under its Commercial Arbitration Rules. Binding arbitration shall not be available, however, to resolve any disagreement or dispute concerning the Respondents' obligations pursuant to the Orders.

19. This agreement shall be subject to the substantive law of the State of New Jersey (regardless of any other jurisdiction's choice of law principles).

20. This Trust Agreement shall terminate when the last obligation under the relevant Divestiture Agreement(s) has been fully performed or the Commission has appointed a substitute trustee pursuant to the Orders, provided however, that the Commission may extend this Trust Agreement as may be necessary or appropriate to accomplish the purposes of the Orders.

21. In the event that, during the term of this Trust Agreement, the Monitor Trustee becomes aware that he has or may have a conflict of interest that may affect or could have the appearance of affecting the performance by the Monitor Trustee of any of his duties under this Trust Agreement, the Monitor Trustee shall promptly inform both Respondents and the Commission of such conflict or potential conflict.

22. In the performance of his functions and duties under this Trust Agreement, the Monitor Trustee shall exercise the standard of care and diligence that would be expected of a reasonable person in the conduct of his own business affairs.

23. This Agreement is for the sole benefit of the Parties hereto and their permitted assigns and the Commission, and nothing herein express or implied shall give or be construed to give any other person any legal or equitable rights hereunder.

24. Any notices or other communication required to be given hereunder shall be deemed to have been properly given if sent by mail or fax (with acknowledgment of receipt of such fax having been received), to the applicable party at its address below (or to such other address as to which such party shall hereafter notify the other party):

    If to the Monitor Trustee, to:

    Francis J. Civille
    44 Brentwood Drive
    East Hanover, New Jersey 07936
    Telephone: (973)887-5543
    Facsimile: (973)887-1718

If Respondents, to:

SmithKline Beecham Corporation
P.O. Box 7929, Mail Code 2360
Philadelphia, Pennsylvania 19101-7929

Attention: Edward J. Buthusiem,
Vice President & Associate General Counsel
Telephone: (215)751-7001
Facsimile: (215) 751-3144

Glaxo Wellcome plc
Glaxo Wellcome House
Berkeley Avenue
Greenford, Middlesex, UB6 ONN, England

Attention: Jeremy Strachan
Executive Director

Telephone: (011) 442-08-966-8750
Facsimile: (011) 442-08-966-8663

If to the Commission, to:

Federal Trade Commission
Attn: David von Nirschl, Esq.
600 Pennsylvania Avenue, N.W.
Washington, DC 20580
Telephone: (202) 326-3213
Facsimile: (202) 326-2655

25. Respondents agree that, upon notification by staff of the Commission, the definition of "Approval Assets" shall immediately include the Zofran Assets and/or the DISC-HSV Prophylactic Assets for all purposes under this Agreement.

26. This Trust Agreement shall not become binding until it has been approved by the Commission and the Orders have been accepted for public comment.

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

SMITHKLINE BEECHAM PLC

By: _____

Its: _____

GLAXO WELLCOME PLC

By: _____

Its: _____

MONITOR TRUSTEE

_____