

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

In re:

Vyera Pharmaceuticals, LLC, *et al.*,¹

Debtors.

Chapter 11, Subchapter V

Case No. 23-10605 (JKS)

(Jointly Administered)

Related D.I. 171, 186, 192

ORDER (A) APPROVING THE SALE TO TILDE SCIENCES LLC; (B) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN CONNECTION WITH THE SALE; AND (C) GRANTING RELATED RELIEF

Upon the motion [D.I. 171] (the “Sale Motion”)² of Vyera Pharmaceuticals, LLC and its affiliated debtors and debtors in possession in the above-captioned subchapter V cases (collectively, the “Debtors”), pursuant to sections 105(a), 363, 365, and 503 of title 11 of the United States Code (the “Bankruptcy Code”), rules 2002, 6004, 6006, 9006, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rules 2002-1, 6004-1, and 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), seeking, among other things, entry of an order authorizing and approving the sale of substantially all of the Debtors’ assets and the assumption and assignment of certain executory contracts and unexpired leases; and this Court having held a hearing on August 10, 2023 (the “Bidding Procedures Hearing”) and having taken into consideration this Court’s prior order, dated August 10, 2023 [D.I. 192] (the “Bidding

¹ The Debtors in these subchapter V cases, along with the last four digits of each Debtor’s federal tax identification number, if applicable, are as follows: Vyera Pharmaceuticals, LLC (1758); Oakrum Pharma, LLC (3999); SevenScore Pharmaceuticals, LLC (2598); Phoenixus AG (1091); Dermelix Biotherapeutics, LLC (4711); and Orpha Labs AG. The Debtors’ headquarters and the mailing address for the Debtors is 600 3rd Avenue, 19th Floor, New York, NY 10016.

² Capitalized terms used but not otherwise defined in this Order have the meanings ascribed to such terms in the Sale Motion or the Asset Purchase Agreement (defined below), as applicable.

Procedures Order”), approving the bidding procedures (the “Bidding Procedures”) for certain of the Debtors’ assets (the “Purchased Assets”), and granting related relief; and Tilde Sciences LLC (the “Buyer”) having submitted the highest or otherwise best bid, pursuant to that certain Asset Purchase Agreement, dated as of July 28, 2023, attached hereto as **Exhibit 1** (the “Asset Purchase Agreement”) for the Purchased Assets and the Debtors having declared the Buyer the Successful Bidder (as defined in the Bidding Procedures Order); and this Court having conducted a hearing to consider the Sale Transaction (defined below) on September 13, 2023 (the “Sale Hearing”), during which time all interested parties were offered an opportunity to be heard with respect to the Sale Motion; and this Court having reviewed and considered (i) the Sale Motion and the exhibits and supplements thereto; (ii) the Asset Purchase Agreement, whereby, among other things, the Debtors have agreed to sell and the Buyer have agreed to purchase the Purchased Assets and the Debtors have agreed to assume and assign to the Buyer certain executory contracts and unexpired leases (the “Sale Transaction”); (iii) the Bidding Procedures Order and the record of the Bidding Procedures Hearing; (iv) the *Declaration of Mark Belanger* [D.I. 186] in support of the Sale Motion (the “Sale Declaration”); (v) the *Declaration of Buyer Representative Akeel Mithani in Support of Sale* [D.I. 254] (the “Buyer Declaration”); and (vi) the presentations of counsel made, and the evidence proffered or adduced, at the Sale Hearing; and due notice of the Sale Motion, the Sale Hearing, and the form of this Order having been provided; and all objections to the Sale Transaction and the Sale Order having either been withdrawn, resolved, or overruled; and it appearing that the relief granted in this Order is in the best interests of the Debtors, their estates, creditors, and all parties in interest in these subchapter V cases; and upon the record of the Sale Hearing and these subchapter V cases; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. **Bankruptcy Rule 7052.** The findings and conclusions set forth in this Order constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. **Jurisdiction and Venue.** This Court has jurisdiction over the Sale Motion, the Asset Purchase Agreement, the Sale Transaction, property of the Debtors' estates, including the Purchased Assets, and this proceeding pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of these subchapter V cases and the Sale Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

C. **Statutory and Rule Predicates.** The statutory and other legal predicates for the relief granted in this Order are sections 105, 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, and 9014, and Local Rules 2002-1, 6004-1, and 9006-1.

D. **Notice and Opportunity to Object.** A fair and reasonable opportunity to object to, and be heard with respect to, the Sale Motion and the Sale Transaction has been given to all parties entitled to notice pursuant to the Bidding Procedures Order.

E. **Final Order.** This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a).

F. **Sound Business Purpose.** The Debtors have demonstrated good, sufficient, and sound business purposes and justifications for approval of and entry into the Asset Purchase Agreement, as well as the other agreements, documents, and instruments deliverable thereunder, attached thereto, or referenced therein (collectively, the "Transaction Documents"), and approval

of the Sale Transaction. The Debtors' entry into and performance under the Transaction Documents (i) constitute a sound and reasonable exercise of the Debtors' business judgment consistent with the Debtors' fiduciary duties, (ii) provides value to and are beneficial to the Debtors' estates, and are in the best interests of the Debtors and their stakeholders, and (iii) is reasonable and appropriate under the circumstances.

G. **Compliance with Bidding Procedures Order.** On August 10, 2023, the Court entered the Bidding Procedures Order, among other things, approving the Bidding Procedures for the Purchased Assets. The Bidding Procedures provided a full, fair, and reasonable opportunity for any entity or person to make an offer to purchase the Purchased Assets. The Debtors and the Buyer complied with the Bidding Procedures and the Bidding Procedures Order in all respects. The Debtors subjected the Buyer's bid to competitive bidding in accordance with the Bidding Procedures and designated the Buyer as the Successful Bidder (as defined in the Bidding Procedures) for the Purchased Assets in accordance with the Bidding Procedures and the Bidding Procedures Order.

H. **Marketing Process.** As demonstrated by (a) the Sale Motion, (b) the Sale Declaration, (c) the testimony and other evidence presented or adduced at the Bidding Procedures Hearing and the Sale Hearing, and (d) the representations of counsel made on the record at the Bidding Procedures Hearing and the Sale Hearing, in light of the exigent circumstances presented: (i) the Debtors and their investment banker, Alvarez & Marsal Securities, LLC., engaged in a robust and extensive marketing and sale process, both prior to the Petition Date and through the postpetition sale process pursuant to the Bidding Procedures Order and the Bidding Procedures; (ii) the Debtors and their advisors conducted a fair and open sale process; (iii) the sale process, and the Bidding Procedures were non-collusive, duly noticed, and provided a full, fair, and

reasonable opportunity for any entity to make an offer to purchase the Purchased Assets; and (iv) the process conducted by the Debtors pursuant to the Bidding Procedures Order and the Bidding Procedures obtained the highest and best value for the Purchased Assets for the Debtors and their estates, and there was no other transaction available or presented that would have yielded as favorable an economic result for the Purchased Assets.

I. **Fair Consideration; Highest or Otherwise Best Value.** The consideration to be provided by the Buyer under the Asset Purchase Agreement is fair and reasonable consideration for the Purchased Assets and constitutes (i) reasonably equivalent value under the Bankruptcy Code and the Uniform Fraudulent Transfer Act, (ii) fair consideration under the Uniform Fraudulent Conveyance Act, and (iii) reasonably equivalent value, fair consideration, and fair value under any other applicable laws of the United States, any state, territory, or possession, or the District of Columbia. Such consideration constitutes the highest or otherwise best bid for the Purchased Assets. Prompt approval of the Sale Transaction is the only means to preserve and maximize the value of the Purchased Assets.

J. **No Successor or Other Derivative Liability.** Except as otherwise provided expressly in this Order, upon the Closing, and to the greatest extent allowed by applicable law, the Buyer shall not have any liability (including, without limitation, any successor liability) or other obligation of any of the Debtors, including any liability or obligation arising under or related to the sale and transfer of the Purchased Assets to the Buyer or with respect to the Excluded Liabilities (as defined in the Asset Purchase Agreement), provided, that, upon Closing, the Buyer shall remain liable for any Assumed Liabilities. The Buyer is not, and the consummation of the Sale Transaction will not render the Buyer, a mere continuation, and Buyer is not holding itself out as a mere continuation, of any of the Debtors or their respective estates, enterprises, or operations,

and there is no continuity or common identity between Buyer and the Debtors. As a result, the Sale Transaction does not amount to a consolidation, merger, or de facto merger of the Buyer with or into any of the Debtors or their estates and the Buyer is not, and shall not be deemed, as a result of the consummation of the Sale Transaction: (i) to be a successor to any of the Debtors or their estates, (ii) to be the successor of or successor employer (as described under COBRA and applicable regulations thereunder) to the Debtors, including, without limitation, with respect to any collective bargaining agreements and any employee benefit plans and any common law successorship liability, including with respect to withdrawal liability, (iii) to be the successor of or successor employer to the Debtors, and shall instead be, and be deemed to be, a new employer with respect to any and all federal or state unemployment laws, including any unemployment compensation or tax laws, or any other similar federal or state laws, (iv) to be a mere continuation or substantial continuation of the Debtors or the enterprise(s) of the Debtors, or (v) to be liable for any acts or omissions of the Debtors in the conduct of their businesses or arising under or related to the Purchased Assets, other than as set forth in the Asset Purchase Agreement. Without limiting the generality of the foregoing, and except as otherwise provided in the Asset Purchase Agreement, the parties intend that the Buyer shall not be liable for any claims (other than the Assumed Liabilities) against the Debtors or any of its predecessors or affiliates, and the Buyer shall have no successor or vicarious liability of any kind or character whatsoever, whether known or unknown as of the Closing, whether now existing or hereafter arising, whether asserted or unasserted, or whether fixed or contingent, with respect to the Debtors' businesses, the Purchased Assets or any liabilities of any Debtor. The Buyer would not have agreed to acquire the Purchased Assets but for the foregoing protections against potential claims based upon successor liability theories.

K. **Good Faith.** The Transaction Documents and the Sale Transaction were negotiated, proposed, and entered into, and are being undertaken by the Debtors and the Buyer in good faith, without collusion, and from arm's-length bargaining positions. Likewise, the value that the Debtors and their estates will receive upon consummation of the Sale Transaction is the product of arm's-length negotiations among the Debtors, the Buyer, and their respective representatives and advisors. The Buyer is a "good faith purchaser" within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all the protections afforded thereby. The Buyer has proceeded in good faith in all respects in that, among other things, (i) the Buyer agreed to subject the Purchased Assets to higher or better offers; (ii) the Buyer complied with the provisions of the Bidding Procedures Order, including compliance with the confidentiality obligations and restrictions under the Bidding Procedures and any applicable non-disclosure or confidentiality agreement; (iii) the Buyer's bid was subject to competitive Bidding Procedures as set forth in the Bidding Procedures Order; and (iv) all consideration to be provided by the Buyer and all other material agreements or arrangements entered into by the Buyer and the Debtors in connection with the Sale Transaction have been disclosed and are appropriate. Other than agreements among the Debtors and the Buyer, as reflected in the Asset Purchase Agreement and in this Order, the Purchase Price with respect to the Purchased Assets was not controlled by any agreement among potential bidders. Neither the Debtors nor the Buyer have engaged in any conduct that would cause or permit the Asset Purchase Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code. The Transaction Documents were not entered into and the Sale Transaction is not being consummated for the purpose of hindering, delaying, or defrauding present or future creditors of the Debtors. All consideration to be provided by the Buyer in connection with the Sale Transaction has been disclosed. Neither the

Debtors nor the Buyer is entering into the Transaction Documents, or proposing to consummate the Sale Transaction, fraudulently, for the purpose of statutory or common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof, or the District of Columbia.

L. **Cure Notice.** As evidenced by the affidavits of service regarding the Cure Notice filed with this Court by the Debtors' Court-approved claims and noticing agent, and in accordance with the Bidding Procedures Order, the Debtors have served, prior to the Sale Hearing, the Cure Notice, which provided adequate and sufficient notice of the Debtors' executory contracts and unexpired leases available for assumption and assignment to the Buyer and of the related proposed Cure Costs upon each non-Debtor counterparty to such contracts. The service of the Cure Notice was timely, proper, sufficient, and appropriate under the circumstances and no further notice need be given with respect to the Cure Costs for the assumption and assignment of such available contracts. All non-Debtor counterparties to the available contracts have had a reasonable opportunity to object both to the Cure Costs listed on the applicable Cure Notice, as applicable, and to the assumption and assignment to the Buyer of any available contract. No defaults exist in the Debtors' performance under the Assigned Contracts as of the date of this Order other than the failure to pay the Cure Costs, as may be required, or such defaults that are not required to be cured. The list of available contracts may be updated by the Debtors from time to time to add additional Contracts or Leases. Following any such update, the Debtors shall file and serve a supplemental notice in accordance with the terms of the Bidding Procedures Order on any counterparty to a Contract or Lease that was added to the list of available contracts.

M. **Satisfaction of Section 363(f) Standards.**

i. Except as otherwise provided expressly in this Order, the Debtors are authorized to sell the Purchased Assets to the Buyer free and clear of all liens, claims (including those constituting a “claim” as defined in section 101(5) of the Bankruptcy Code), property interests, rights, liabilities, encumbrances, pledges, and other interests of any kind or nature whatsoever against the Debtors or the Purchased Assets, included, without limitation, all Excluded Liabilities and any debts, claims, rights, causes of action, or suits arising under or relating to any acts, omissions, obligations, demands, guaranties, rights, contractual commitments, restrictions, product liability claims, environmental liabilities, employee retirement or benefit plan claims, severance claims, retiree healthcare or life insurance claims, or claims for taxes of or against the Debtors or the Purchased Assets to the maximum extent available under applicable law, and any derivative, vicarious, transferee, or successor liability claims, rights, or causes of action (whether in law or in equity, under any law, statute, rule, or regulation of the United States, any state, territory, or possession thereof or the District of Columbia), whether arising prepetition or postpetition, whether known or unknown, whether fixed or contingent, whether anticipated or unanticipated, whether accrued or unaccrued, and whether imposed by agreement, understanding, law, equity, or otherwise arising under or relating to the Debtors, the Debtors’ ownership of the Purchased Assets, the Debtors’ operation of their businesses before the Closing, or the transfer of the Debtors’ ownership in the Purchased Assets to the Buyer (collectively, all such liens, claims, encumbrances, or other interests, but excluding any Assuming Liabilities, the “Claims”), because, in each case, one or more of the standards set forth in section 363(f)(1)–(5) of the Bankruptcy Code have been satisfied. The holders of Claims who did not object (or who ultimately withdrew their objections, if any) to the Sale Transaction or the Sale Motion have either consented to or are

deemed to have consented to the Sale Transaction pursuant to section 363(f)(2) of the Bankruptcy Code. In addition, one or more of the other subsections of section 363(f) of the Bankruptcy Code apply and, therefore, holders of Claims with an interest in the Purchased Assets are adequately protected by having their Claims that constitute interests in the Purchased Assets attach solely to the proceeds of the Sale Transaction in the same order of priority and with the same extent, validity, force, and effect that such holders had prior to the Sale Transaction and by providing for the distributions provided for in this Order. All Persons having Claims of any kind or nature whatsoever against the Debtors or the Purchased Assets shall be forever barred, estopped, and permanently enjoined from pursuing or asserting such Claims against the Buyer or any of its assets, property, affiliates, successors, assigns, or the Purchased Assets.

ii. The Buyer would not have entered into the Transaction Documents and would not consummate the transactions contemplated thereby, to the detriment of the Debtors and their estates and creditors, (i) if the sale of the Purchased Assets was not free and clear of all Claims, liens, encumbrances, and other interests, including, without limitation, any rights or Claims based on any successor or transferee liability (other than with respect to the Assumed Liabilities) pursuant to section 363(f) of the Bankruptcy Code, or (ii) if the Buyer would, or in the future could, be liable for any such Claims, liens, encumbrances, or other interests, including, without limitation, any rights or Claims based on successor or transferee liability (other than, in each case, the Assumed Liabilities).

iii. The total consideration to be provided under the Asset Purchase Agreement reflects the Buyer's reliance on this Order to provide the Buyer with title to and possession of the Purchased Assets free and clear of all Claims pursuant to sections 105(a) and 363(f) of the Bankruptcy Code.

N. **Assumption and Assignment of Assigned Contracts.**

i. The subset of Assigned Contracts to be assumed by the Debtors and assigned to the Buyer at the Closing are listed on **Exhibit 2** to this Order. The assumption and assignment of the Assigned Contracts is integral to the Sale Transaction, is in the best interests of the Debtors and their estates and represents a valid and reasonable exercise of the Debtors' business judgment. Specifically, the assumption and assignment of the Assigned Contracts (i) is necessary to sell the Purchased Assets to the Buyer, (ii) is an integral part of the Purchased Assets being purchased by the Buyer, (iii) limits the losses suffered by non-Debtor counterparties to the Assigned Contracts, and (iv) maximizes the recoveries to other creditors of the Debtors by limiting the amount of claims against the Debtors' estates by avoiding the rejection of the Assigned Contracts; and, in light of the foregoing, such assumption and assignment of the Assigned Contracts is reasonable and enhances the value of the relevant Debtors' estates.

ii. With respect to each of the Assigned Contracts, the Debtors have met all requirements of section 365(b) of the Bankruptcy Code because, among other things, the Debtors have agreed to cure or will cure either on or before the Closing Date, as applicable, any monetary default required to be cured under section 365(b)(1) of the Bankruptcy Code and the Buyer has provided adequate assurance of future performance under the Assigned Contracts in satisfaction of sections 365(b) and 365(f) of the Bankruptcy Code to the extent required. Accordingly, the Assigned Contracts may be assumed by the Debtors and assigned to the Buyer as provided for in the Asset Purchase Agreement and in this Order.

iii. The assumption and assignment of each Assigned Contract is approved notwithstanding any provision in such Assigned Contract or other restrictions prohibiting its assignment or transfer. The applicable Cure Notice or Notice of Assumption and Assignment

provided by the Debtors is sufficient to advise the non-Debtor counterparties to each Assigned Contract that, pursuant to the Asset Purchase Agreement, the Buyer's decision on which executory contracts and unexpired leases will be assumed and assigned may not be made until after entry of this Order. The authority set forth in this Order for the Debtors to assume and assign any Assigned Contract to the Buyer includes the authority to assume and assign an Assigned Contract, as amended.

O. **Validity of Transfer.**

i. The transfer of the Purchased Assets to the Buyer shall be deemed a legal, valid, and effective transfer of the Purchased Assets, and will vest the Buyer with all legal, equitable, and beneficial right, title, and interest of the applicable Debtors in and to the Purchased Assets, free and clear of all Claims (other than Assumed Liabilities). The consummation of the Sale Transaction is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105(a), 363(b), 363(f), 363(m), 365(b), and 365(f) of the Bankruptcy Code, and all of the applicable requirements of such sections have been complied with in respect of the Sale Transaction.

ii. The Debtors (i) have full corporate power and authority to execute the Asset Purchase Agreement and all other documents contemplated thereby, and the Sale Transaction has been duly and validly authorized by all necessary corporate action of the Debtors; and (ii) have all corporate power and authority necessary to consummate the transactions contemplated by the Asset Purchase Agreement. Upon entry of this Order, other than as set forth in the Asset Purchase Agreement, the Debtors need no consent or approval from any other Person to consummate the Sale Transaction.

iii. The Transaction Documents are valid and binding contracts among the Debtors and the Buyer and shall be enforceable pursuant to their terms. Neither the Debtors nor the Buyer have entered into the Asset Purchase Agreement or have proposed to consummate the Sale Transaction for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any territory, possession, or the District of Columbia. The Transaction Documents, the Sale Transaction itself, and the consummation thereof, shall be enforceable against and binding upon the applicable Debtors and any chapter 7 or chapter 11 trustee appointed in these subchapter V cases, and shall not be subject to rejection or avoidance by the foregoing parties or any other Person. Neither the Debtors nor the Buyer entered into the Asset Purchase Agreement or proposed to consummate the Sale Transaction fraudulently for the purpose of statutory or common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, or any other applicable jurisdiction with laws substantially similar to any of the foregoing.

P. **Waiver of Bankruptcy Rules 6004(h) and 6006(d)**. Time is of the essence in consummating the Sale Transaction, and the Debtors and the Buyer intend to close the Sale Transaction as soon as reasonably practicable. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the Sale Transaction as contemplated by the Asset Purchase Agreement. There is sufficient cause to lift the stay contemplated by Bankruptcy Rules 6004(h) and 6006(d).

Q. **Legal and Factual Bases.** The legal and factual bases set forth in the Sale Motion, the Sale Declaration, the Buyer Declaration, and at the Sale Hearing establish just cause for the relief granted in this Order.

NOW THEREFORE, IT IS ORDERED THAT:

1. **Motion is Granted.** To the extent not already approved pursuant to the Bidding Procedures Order, the Sale Motion and the relief requested therein is GRANTED and APPROVED, as set forth in this Order.

2. **Objections Overruled.** All objections, reservations of rights, or other responses, if any, to the Sale Motion or the relief granted in this Order that have not been previously overruled, withdrawn, waived, or settled are hereby overruled on the merits and with prejudice.

3. **Notice.** Notice of the Sale Motion and the Sale Hearing was adequate, appropriate, fair, and equitable under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 6006, Local Rules 2002-1, 6004-1, and 9006-1, and the Bidding Procedures Order. *See* D.I. 179, 209.

4. **Fair Purchase Price.** The consideration provided by the Buyer under the Asset Purchase Agreement is fair and reasonable, is the highest or otherwise best offer for the Purchased Assets, and constitutes (i) reasonably equivalent value under the Bankruptcy Code and the Uniform Fraudulent Transfer Act, (ii) fair consideration under the Uniform Fraudulent Conveyance Act, and (iii) reasonably equivalent value, fair consideration, and fair value under any other applicable laws of the United States, any state, territory or possession or the District of Columbia.

5. **Approval of the Transaction Documents.** The Debtors and the Buyer are authorized to enter into the Transaction Documents and all of the transactions contemplated

thereby. The failure specifically to include any particular provision of the Transaction Documents in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the relevant Debtors' entry into the Transaction Documents be authorized and approved in its entirety.

6. **Consummation of Sale Transaction.**

i. Pursuant to sections 105(a), 363(b), 363(f), and 365 of the Bankruptcy Code, the Debtors are authorized and empowered to transfer the Purchased Assets in accordance with the terms of the Asset Purchase Agreement and the terms of this Order. The relevant Debtors, as well as their directors, officers, employees, and agents, are authorized to execute, deliver, and perform their obligations under and comply with the terms of the Transaction Documents and to consummate the Sale Transaction, including by taking any and all actions as may be reasonably necessary or desirable to implement the Sale Transaction and each of the transactions contemplated thereby pursuant to and in accordance with the terms and conditions of the Transaction Documents and this Order. For the avoidance of doubt, all Persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Debtors to transfer the Purchased Assets to the Buyer in accordance with the Asset Purchase Agreement and this Order.

ii. The relevant Debtors, their affiliates, and their respective directors, officers, employees, and agents are authorized to execute and deliver, and are authorized to perform under, consummate, and implement all additional notices, assumptions, conveyances, releases, acquittances, instruments, and documents that may be reasonably necessary or desirable to implement the Transaction Documents, including the transfer and, as applicable, assignment of the Purchased Assets, the assumption of the Assumed Liabilities, and the assumption and assignment

of all the Assigned Contracts, and to take all further actions as may be (i) reasonably requested by the Buyer for the purpose of assigning, transferring, granting, conveying, and conferring to the Buyer, or reducing to the Buyer's possession, the Purchased Assets or (ii) necessary or appropriate to the performance of the obligations contemplated by the Transaction Documents, all without further order of the Court.

iii. All Persons that are currently in possession of some or all of the Purchased Assets are hereby directed to surrender possession of such Purchased Assets to the Buyer upon the Closing Date or at such later time as the Buyer reasonably requests.

iv. All Persons are prohibited from taking any action to adversely affect or interfere with the ability of the Debtors to transfer the Purchased Assets to the Buyer in accordance with the Asset Purchase Agreement and this Order, provided, that the foregoing restriction shall not prevent any party from appealing this Order in accordance with applicable law or opposing any appeal of this Order.

v. The Buyer has provided or will provide, as applicable, adequate assurance of future performance of and under the Assigned Contracts, within the meaning of sections 365(b)(1) and 365(f)(2) of the Bankruptcy Code. Except as otherwise expressly provided in this Order, the Debtors' creditors and the holders of any Claims are authorized and directed to execute such documents and take all other actions as may be necessary to terminate, discharge, or release their Claims in the Purchased Assets, if any, as such Claims may otherwise exist.

vi. Each and every federal, state, local, or foreign government or governmental or regulatory authority, agency, board, bureau, commission, court, department, or other governmental entity is hereby authorized to accept any and all documents and

instruments necessary and appropriate to consummate the transactions contemplated by the Transaction Documents.

7. **Transfer of Purchased Assets Free and Clear; Injunction.**

i. Pursuant to sections 105(a), 363(b), 363(f), and 365 of the Bankruptcy Code, the Debtors are authorized to transfer the Purchased Assets in accordance with the terms of the Asset Purchase Agreement and this Order. The transfer of the Purchased Assets to the Buyer in accordance with the Asset Purchase Agreement shall: (i) be valid, legal, binding, and effective; (ii) vest the Buyer with all right, title, and interest of the Debtors in and to the Purchased Assets; and (iii) be free and clear of all Claims against the Debtors and the Purchased Assets (except as otherwise expressly provided in this Order and excluding Assumed Liabilities) in accordance with section 363(f) of the Bankruptcy Code.

ii. Except as otherwise provided in the Asset Purchase Agreement or in this Order, all Persons (and their respective successors and assigns) including, without limitation, the Debtors, the Debtors' estates, all debt security holders, equity security holders, governmental tax and regulatory authorities, lenders, customers, vendors, employees, former employees, litigation claimants, trustees, trade creditors, and any other creditors (or agent of any of the foregoing) who may or do hold Claims (whether legal or equitable, secured or unsecured, matured or unmatured, accrued or unaccrued, contingent or noncontingent, senior or subordinated) against the Debtors or the Purchased Assets, arising under or relating to the Debtors, the Purchased Assets, the operation or ownership of the Purchased Assets by the Debtors prior to the Closing, or the Sale Transaction, are hereby forever barred, estopped, and permanently enjoined from asserting or pursuing such Claims against the Buyer, its affiliates, successors, assigns, its property, or the Purchased Assets, including, without limitation, taking any of the following actions with respect to any Claims:

(i) commencing or continuing in any manner any action, whether at law or in equity, in any judicial, administrative, arbitral, or any other proceeding, against the Buyer, its affiliates, successors, assigns, assets (including the Purchased Assets), or properties; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against Buyer, its Affiliates, successors, assigns, assets (including the Purchased Assets), or properties; (iii) creating, perfecting, or enforcing any Claim against the Buyer, its affiliates, any of their respective successors, assigns, assets (including the Purchased Assets), or properties; (iv) asserting a Claim as a setoff or right of subrogation against any obligation due against the Buyer, its affiliates or any of their respective successors or assigns; or (v) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Order or the agreements or actions contemplated or taken in respect thereof. No such Person shall assert or pursue against the Buyer or its affiliates, successors or assigns any such Claim.

iii. Except as expressly set forth in the Asset Purchase Agreement and the Transaction Documents, this Order (i) shall be effective as a determination that, as of the Closing all Claims have been unconditionally released, discharged, and terminated as to the Buyer and the Purchased Assets and that the conveyances and transfers described in this Order and in the Asset Purchase Agreement and the Transaction Documents have been effected, and (ii) is and shall be binding upon and govern the acts of all Persons, including all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, county and local officials and all other Persons who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments that reflect that the Buyer is the assignee and owner of the Purchased Assets, free and

clear of all Claims, or who may be required to report or insure any title or state of title in or to any lease (collectively, the “Recording Officers”). All Recording Officers are authorized to strike recorded encumbrances, claims, liens, and other interests against the Purchased Assets recorded prior to the date of this Order. A certified copy of this Order may be filed with the appropriate Recording Officers to evidence cancellation of any recorded encumbrances, claims, liens, pledges, and other interests against the Purchased Assets recorded prior to the date of this Order. All Recording Officers are hereby authorized to accept for filing any and all of the documents and instruments necessary, advisable, or appropriate to consummate the transactions contemplated by the Asset Purchase Agreement.

iv. Except as otherwise provided expressly in this Order, following the Closing, no holder of any Claim shall interfere with the Buyer’s title to or use or enjoyment of the Purchased Assets based on or related to any Claim or based on any actions or omissions by the Debtors, including any actions or omissions the Debtors may take in these subchapter V cases.

v. Except as expressly set forth in the Asset Purchase Agreement and the Transaction Documents, the Buyer and each of its affiliates, successors, assigns, members, partners, officers, directors, principals, and shareholders shall have no liability whatsoever for any Claims, whether known or unknown as of the Closing, now existing or hereafter arising, whether fixed or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether asserted derivatively or vicariously, whether asserted based on Buyer’s status as a transferee, successor, or otherwise, of any kind, nature, or character whatsoever, including Claims based on, relating to, or arising under, without limitation: (i) any employment, labor, or collective bargaining agreement, or any employee pension or welfare plan participation agreement, employee pension or benefit plan trust agreement; (ii) any pension, multiemployer plan (as such term is used in

Section 3(37) or Section 4001(a)(3) of ERISA), health or welfare, compensation or other employee plan, agreements, practices, and programs, including, without limitation, any pension or employee plan (including any Employee Benefit Plan) of or related to any of the Debtors or any Debtor's affiliates or predecessors or any current or former employees of any of the foregoing; (iii) the Debtors' business operations or the cessation thereof; (iv) any litigation involving one or more of the Debtors; (v) any employee, workers' compensation, occupational disease or unemployment or temporary disability related law, including, without limitation, any claims, rights, or causes of action that might arise under or pursuant to (a) ERISA, (b) the Multi-Employer Pension Plan Amendments Act of 1980, including all amendments thereto, (c) the Fair Labor Standards Act, (d) Title VII of the Civil Rights Act of 1964, (e) the Federal Rehabilitation Act of 1973, (f) the National Labor Relations Act, (g) the Worker Adjustment and Retraining Notification Act of 1988, (h) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, (i) the Americans with Disabilities Act of 1990, (j) the Consolidated Omnibus Budget Reconciliation Act of 1985, (k) state and local discrimination laws, (l) state and local unemployment compensation laws or any other similar state and local laws, (m) state workers' compensation laws, or (n) any other state, local, or federal employee benefit laws, regulations or rules or other state, local or federal laws, regulations or rules relating to, wages, benefits, employment, or termination of employment with any or all Debtors or any of their predecessors; (vi) any antitrust laws; (vii) any product liability or similar laws, whether state, federal, or otherwise; (viii) any environmental laws, rules, or regulations, including, without limitation, under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601, et seq., or similar state statutes; (ix) any bulk sales or similar laws; (x) any federal, state, or local tax statutes, rules, regulations, or ordinances, including, without limitation, the Internal

Revenue Code of 1986, as amended; and (xi) any federal or state common law doctrine of de facto merger, successor, transferee, or vicarious liability, substantial continuity liability, successor-in-interest liability theory, or any other theory of or related to successor liability; and (xii) any Excluded Liabilities. For the avoidance of doubt, the Buyer shall not have (i) any liability with respect to any defined benefit pension plan, or (ii) any withdrawal liability or liability with respect to any multiemployer plan, whether under a collective bargaining agreement or otherwise.

vi. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may deny, revoke, suspend, or refuse to renew any permit, license, or similar grant relating to the operation of the Purchased Assets sold, transferred, or conveyed to Buyer on account of the filing or pendency of these subchapter V cases or the consummation of the Sale Transaction contemplated by the Asset Purchase Agreement and the Transaction Documents.

vii. On the Closing Date, this Order shall be considered and constitute for any and all purposes a full and complete general assignment, conveyance and transfer of the Purchased Assets, transferring good and marketable, indefeasible title, and interest in all of the Purchased Assets to the Buyer with effect at Closing of the Sale Transaction in accordance with the Transaction Documents.

viii. To the maximum extent available under applicable law and to the extent provided for under the Asset Purchase Agreement, the Buyer shall be authorized, as of the Closing, to operate under any license, permit, registration, and governmental authorization or approval of the Debtors with respect to the Purchased Assets and, to the maximum extent available under applicable law and to the extent provided for under the Transaction Documents, all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been transferred to Buyer as of the Closing. All existing licenses or permits applicable to the

business shall remain in place for the Buyer's benefit until either new licenses and permits are obtained or existing licenses and permits are transferred in accordance with applicable administrative procedures.

ix. Notwithstanding any provision in the Sale Motion, the Asset Purchase Agreement, this Order, and the Transaction Documents (collectively, the "Sale Documents"), nothing shall: (1) authorize the assumption, sale, assignment, or other transfer to Buyer of any federal (i) grants, (ii) grant funds, (iii) federal contracts, such as, but not limited to, Federal Supply Schedule Contract 36F79722D0229, (iv) property, including, but not limited to, intellectual property and patents, leases, agreements (including, but not limited to, any Medicare Coverage Gap Discount Program Agreement), certifications, applications or other interests of the federal government (collectively, "Federal Interests") in each case without compliance by the Debtors and Buyer with all terms of the Federal Interests and with all applicable non-bankruptcy law; (2) be interpreted to set cure amounts or to require the government to novate, approve, or otherwise consent to the assumption, sale, assignment, or other transfer of any Federal Interests; (3) waive, alter, or otherwise limit the United States' property rights, including, but not limited to, inventory, inventions, records, patents, intellectual property, licenses, and data; (4) affect the setoff or recoupment rights or defenses of a governmental unit (as defined in section 101(27) of the Bankruptcy Code; (5) authorize the assumption, transfer, sale, or assignment of any governmental unit's license, permit, registration, authorization, or approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements, obligations, and approvals under non-bankruptcy laws; (6) release, nullify, preclude, or enjoin the enforcement of any police of regulatory liability to a governmental unit that any entity would be subject to as the owner or operator of property; (7) confer exclusive jurisdiction to the Court except to the extent

set forth in 28 U.S.C. § 1334 (as limited by any other provisions of the United States Code); (8) divest any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Order or to adjudicate any defense asserted under this Order; or (9) expand the scope of section 525 of the Bankruptcy Code. For the avoidance of doubt and without limiting the foregoing, notwithstanding any provision in the Sale Documents, nothing shall impair, affect, alter, or modify any statutes (including, but not limited to, the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act), regulations, rules, guidelines, standards, policies, and procedures of the Department of Veterans Affairs and the Department of Health and Human Services, including, but not limited to, the Food and Drug Administration. Nothing contained in the Sale Documents shall be deemed to bind the United States to any characterization of any transaction for tax purposes, or to determine tax liability, including, but not limited to, any discharge of indebtedness income, or withholding obligations of any person or entity, including, but not limited to, the Debtors, the Debtors' estates, or Buyer, nor shall the Sale Documents be deemed to have determined the federal tax treatment of any item, distribution, or entity, including the federal tax consequences of the Sale Order.

8. **No Successor or Other Derivative Liability.** By virtue of the Sale Transaction, neither the Buyer nor any of its affiliates shall be deemed to: (i) be a legal successor, or otherwise deemed to be a successor, to any of the Debtors under any theory of law or equity; (ii) have, de facto or otherwise, merged with or into any or all Debtors or their estates; (iii) have a common identity or a continuity of enterprise with the Debtors; or (iv) be a mere continuation or substantial continuation, or be holding itself out as a mere continuation, of the Debtors or any business, enterprise, or operation of the Debtors; (v) to be the successor of or successor employer (as described under COBRA and applicable regulations thereunder) to the Debtors, including, without

limitation, with respect to any collective bargaining agreements and any employee benefit plans and any common law successorship liability, including with respect to withdrawal liability, (vi) be the successor of or successor employer to the Debtors, and shall instead be, and be deemed to be, a new employer with respect to any and all federal or state unemployment laws, including any unemployment compensation or tax laws, or any other similar federal or state laws, or (vii) to be liable for any acts or omissions of the Debtors in the conduct of their businesses or arising under or related to the Purchased Assets, other than as set forth in the Asset Purchase Agreement. To the maximum extent available under applicable law, the Buyer's acquisition of the Purchased Assets shall be free and clear of any "successor liability" claims and other types of transferee liability of any nature whatsoever, whether known or unknown, whether accrued or unaccrued, and whether asserted or unasserted at the time of the Closing (other than, to the extent applicable, any Assumed Liabilities), and the Purchased Assets shall not be subject to any Claims arising under or in connection with any Excluded Liability. The operations of the Buyer and its affiliates shall not be deemed a continuation of the Debtors' business as a result of the acquisition of the Purchased Assets.

9. **Assumption and Assignment of Assigned Contracts.**

i. Except as otherwise expressly provided herein, the Debtors are hereby authorized in accordance with sections 105(a) and 365 of the Bankruptcy Code to assume and assign the Assigned Contracts to the Buyer free and clear of all Claims, and to execute and deliver to the Buyer such documents or other instruments as may be necessary to assign and transfer the Assigned Contracts to the Buyer as provided in the Asset Purchase Agreement. Upon the assumption and assignment to the Buyer of the applicable Assigned Contract at the Closing and the payment of the applicable Cure Costs, the Buyer shall be fully and irrevocably vested with all

right, title, and interest of the relevant Debtors in, to, and under the Assigned Contracts and, pursuant to section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Assigned Contracts, except as provide in the Asset Purchase Agreement and the Transaction Documents. The Buyer acknowledges and agrees that, from and after the Closing, it shall comply with the terms of each Assigned Contract in its entirety; provided, however, that the Buyer's rights under the Assigned Contracts on a post-Closing basis are expressly reserved and preserved.

ii. All Cure Costs that have not been waived shall be determined in accordance with the Bidding Procedures Order or this Order and paid by the Debtors in accordance with the terms of the Asset Purchase Agreement. The assumption and payment of the Cure Costs by the Debtors shall be in full satisfaction and cure of any and all monetary defaults under the Assigned Contracts and is deemed to fully satisfy the Debtors' obligations under sections 365(b) and 365(f) of the Bankruptcy Code. Upon the assumption by a Debtor and the assignment to the Buyer of any Assigned Contract, and the payment of any applicable Cure Costs, each non-Debtor counterparty to the Assigned Contracts is forever barred, estopped, and permanently enjoined from (i) asserting against the Debtors or the Buyer, their affiliates, successors, or assigns, or the property of any of them, any default existing as of the effective date of such assumption and assignment, and (ii) exercising any rights or remedies against any Debtor or the Buyer based on an asserted default that occurred on, prior to, or as a result of, the effective date of such assumption and assignment, including the type of default specified in section 365(b)(1)(A) of the Bankruptcy Code. The Buyer has provided adequate assurance of future performance under the Assigned Contracts within the meaning of sections 365(b)(1)(c) and 365(f)(2)(B) of the Bankruptcy Code. Accordingly, all of the requirements of sections 365(b) and 365(f) of the Bankruptcy Code have

been satisfied for the assumption by the Debtors, and the assignment by the Debtors to the Buyer, of each of the Assigned Contracts. For the avoidance of doubt and notwithstanding anything to the contrary contained in this Order or in the Asset Purchase Agreement, the Buyer shall be liable for all obligations and liabilities under the Assigned Contracts to the extent such obligations or liabilities arise or are (as required by the applicable lease) billed after the Closing. Nothing in the foregoing sentence shall limit the Debtors' obligations to the Buyer under the Asset Purchase Agreement with respect to any charges that accrue prior to Closing.

iii. To the extent a non-Debtor counterparty to the Assigned Contracts has failed to timely object to a Cure Cost, such Cure Cost has been and shall be deemed to be finally determined and any such non-Debtor counterparty shall be prohibited from challenging, objecting to, or denying the validity and finality of the Cure Cost at any time. Consistent with the Bidding Procedures Order, the non-Debtor counterparty to an Assigned Contract is forever bound by the applicable Cure Cost and, upon payment of such Cure Cost as provided in this Order and in the Asset Purchase Agreement, is hereby enjoined from taking any action against the Buyer with respect to any claim for cure under the Assigned Contract. To the extent no timely Cure Objection or Adequate Assurance Objection has been filed and served with respect to an Assigned Contract, the non-Debtor counterparty to such Assigned Contract is deemed to have consent to the assumption and assignment of the Assigned Contract to the Buyer.

iv. At the Closing, the Debtors shall assume and assign to the Buyer each Assigned Contract designated by the Buyer for assumption at the Closing, and which initially Assigned Contracts are set forth on **Exhibit 2** to this Order.

v. The assignments of each of the Assigned Contracts are made in good faith under sections 363(b) and (m) of the Bankruptcy Code.

10. **Ipso Facto Clauses.** Except as otherwise specifically provided for by order of this Court, the Assigned Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Buyer in accordance with their respective terms, including all rights of the Buyer as the assignee of the Assigned Contracts, notwithstanding any provision in any Assigned Contract (including, without limitation, those of the type described in sections 365(e)(1) and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer, including any provision that prohibits or conditions the assignment or sublease of a Assigned Contract (including without limitation, the granting of a lien therein) or allows the non-Debtor counterparty thereto to terminate, recapture, impose any penalty, condition on renewal or extension, or modify any term or condition upon such assignment or sublease, which shall constitute an unenforceable anti-assignment provision that is void and of no force and effect in connection with the transactions contemplated pursuant to this Order and the Asset Purchase Agreement. There shall be no, and all non-Debtor counterparties to any Assigned Contract are forever barred and permanently enjoined from raising or asserting against the Debtors or the Buyer any default, breach, termination, claim, penalty, pecuniary loss, rent or other acceleration of amount due thereunder, escalation, assignment fee, increase, or any other fee charged to the Buyer or the Debtors as a result of (i) any Debtor's financial condition, bankruptcy, or failure to perform any of its obligations under the relevant Assigned Contracts; or (ii) the assumption or assignment of the Assigned Contracts in accordance with this Order and the Asset Purchase Agreement. The failure of the Debtors or the Buyer to enforce at any time one or more terms or conditions of any of the Assigned Contracts shall not be a waiver of such terms or conditions, or of the Debtors' and the Buyer's rights to enforce every term and condition of the Assigned Contracts.

11. **Good Faith.** The transactions contemplated by the Asset Purchase Agreement and the other Transaction Documents are undertaken by the Buyer without collusion and in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and were negotiated by the parties at arm's-length. Accordingly, the reversal or modification on appeal of the authorization provided herein of the Sale Transaction shall neither affect the validity of the Sale Transaction nor the transfer of the Purchased Assets to the Buyer free and clear of Claims, unless such authorization is duly stayed before the Closing Date pending such appeal. The Buyer is a good faith purchaser of the Purchased Assets and is entitled to all of the benefits and protections afforded by section 363(m) of the Bankruptcy Code. The Debtors and Buyer will be acting in good faith if they proceed to consummate the Sale Transaction at any time after entry of this Order.

12. **No Avoidance of Asset Purchase Agreement.** Neither the Debtors nor the Buyer has engaged in any conduct that would cause or permit the Asset Purchase Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code. Accordingly, the Asset Purchase Agreement and the Sale Transaction shall not be avoidable under section 363(n) of the Bankruptcy Code, and no party shall be entitled to any damages or other recovery pursuant to section 363(n) of the Bankruptcy Code in respect of the Asset Purchase Agreement or the Sale Transaction.

13. **Modification of Asset Purchase Agreement.** Subject to the terms of the Transaction Documents, including the Asset Purchase Agreement, and any related agreements, documents, or other instruments, may be modified, amended, or supplemented by the parties thereto, in a writing signed by the party against whom enforcement of any such modification, amendment, or supplement is sought, and in accordance with the terms thereof, without further order of this Court; provided, that notwithstanding any such modification, amendment, or

supplement, the sale of the Purchased Assets to the Buyer will still comply with the requirements of section 363 of the Bankruptcy Code; and, provided, further, that no material modifications, amendments or supplements adversely affecting the Debtors' estates shall be made without notice to the Court and only such material modifications, amendments, or supplements shall be subject to Court order while these subchapter V cases remain pending.

14. **Class Action Plaintiffs' and States' Interests.** For the avoidance of doubt, and notwithstanding anything to contrary herein, upon the consummation of, and later of, (i) the consummation of the transactions contemplated under the Daraprim Sale and (ii) the Effective Date of the Plan, the Debtors shall deposit into the Global Settlement Fund 20% of the "Net Proceeds" (as such term is defined in the Class Action Settlement Agreement and Consent Order) from the Daraprim Sale. For the avoidance of doubt, neither Debtors nor the Liquidating Trustee, as applicable, may use or otherwise distribute such funds during the interim between the consummation of the of the transactions contemplated under the Daraprim Sale and the Effective Date of the Plan.

15. **Waiver of Bankruptcy Rules 6004(h) and 6006(d).** Notwithstanding any provision of Bankruptcy Rules 6004(h) and 6006(d) or any applicable provisions of the Local Rules, this Order shall not be stayed after the entry of this Order, but shall be effective immediately and enforceable upon its entry, and the 14-day stay provided in the Bankruptcy Rules is hereby expressly waived and shall not apply.

16. **Binding Effect of this Order.** The terms and provisions of the Asset Purchase Agreement and this Order shall be binding in all respects upon, or shall inure to the benefit of, the Debtors, their estates and their creditors, the Buyer and its affiliates, successors, and assigns, and any affected third parties, including all Persons asserting Claims, notwithstanding any subsequent

appointment of any trustee, examiner, or receiver under any chapter of the Bankruptcy Code or any other law, and all such provisions and terms shall likewise be binding on such trustee, examiner, or receiver and shall not be subject to rejection or avoidance by the Debtors, their estates, their creditors or any trustee, examiner, or receiver. Any trustee appointed for the Debtors under any provision of the Bankruptcy Code, whether the Debtors are proceeding under chapter 7 or chapter 11 of the Bankruptcy Code, shall be authorized to (i) operate the business of the Debtors to the fullest extent necessary to permit compliance with the terms of the Transaction Documents and (ii) perform under the Transaction Documents without the need for further order of this Court.

17. **Conflicts; Precedence.** In the event there is a direct conflict between the terms of this Order and the terms of the Transaction Documents, the terms of this Order shall control.

18. **Automatic Stay.** The Buyer shall not be required to seek or otherwise obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the Transaction Documents or any other sale-related document. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the provisions of this Order.

19. **Provisions Non-Severable.** The provisions of this Order are non-severable and mutually dependent.

20. **Discharge of Indebtedness.** Any discharge of indebtedness that might otherwise be recognized for U.S. income tax purposes as income from discharge of indebtedness by the Debtors as a result of the performance of any obligation or taking of any other action contemplated by the Asset Purchase Agreement, and any discharge or release of indebtedness as result of the Asset Purchase Agreement, is hereby granted by the Court.

21. **Retention of Jurisdiction.** This Court shall retain jurisdiction to, among other things, (i) interpret, enforce, and implement the terms and provisions of this Order and the Asset Purchase Agreement (including all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection therewith) and (ii) adjudicate disputes related to this Order and the Asset Purchase Agreement (including all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection therewith).

Dated: September 14th, 2023
Wilmington, Delaware


J. KATE STICKLES
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Asset Purchase Agreement

ASSET PURCHASE AGREEMENT

Dated as of July 28, 2023

By and Between

TILDE SCIENCES LLC

as Buyer,

and

VYERA PHARMACEUTICALS, LLC

and

PHOENIXUS AG

as Sellers

TABLE OF CONTENTS

ARTICLE I. PURCHASE AND SALE OF THE PURCHASED ASSETS; ASSUMPTION OF THE ASSUMED LIABILITIES..... 2

 1.1. Purchase and Sale of the Purchased Assets 2

 1.2. Excluded Assets 3

 1.3. Post-Closing Liabilities 4

 1.4. Assumption/Rejection of Certain Contracts 4

 1.5. Allocation of Purchase Price 5

 1.6. Intended Tax Treatment 5

 1.7. Withholding Tax 5

ARTICLE II. CONSIDERATION..... 5

 2.1. Purchase Price 5

 2.2. Deposit..... 5

ARTICLE III. CLOSING AND TERMINATION 6

 3.1. Closing..... 6

 3.2. Closing Deliverables by Seller..... 6

 3.3. Closing Deliverables by Buyer 7

 3.4. Termination of Agreement..... 8

 3.5. Procedures Upon Termination. 9

 3.6. Effect of Termination. 10

ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF THE SELLER..... 10

 4.1. Organization and Qualification 10

 4.2. Authorization of Agreement..... 10

 4.3. Conflicts; Consents; Compliance with Law..... 11

 4.4. Title to Purchased Assets 11

 4.5. Contracts 11

 4.6. Intellectual Property..... 12

 4.7. Legal Proceedings 12

 4.8. Regulatory Submissions & Permits..... 12

 4.9. Certain Transactions 12

 4.10. No Other Representations or Warranties 12

ARTICLE V. REPRESENTATIONS AND WARRANTIES OF THE BUYER. 13

 5.1. Organization and Qualification 13

5.2. Authority 13

5.3. No Inconsistent Obligations 13

5.4. No Litigation..... 13

5.5. Conflicts; Consents..... 14

5.6. Brokers 14

5.7. Adequate Assurances Regarding Assigned Contracts 14

5.8. No Litigation..... 14

5.9. Due Diligence 14

ARTICLE VI. BANKRUPTCY COURT MATTERS 15

6.1. Approval of Bid Protections 15

6.2. Competing Bid and Other Matters..... 15

6.3. Sale Order 16

6.4. Sale Free and Clear 16

ARTICLE VII. COVENANTS AND AGREEMENTS 16

7.1. Conduct of the Seller 16

7.2. Access to Information 17

7.3. Assignability of Certain Contracts..... 18

7.4. Further Assurances 18

7.5. Notification of Certain Matters 18

7.6. Material Adverse Effect 19

7.7. No Successor Liability 19

7.8. Transfer of Regulatory Submissions & Permits 19

7.9. Seller Release 19

7.10. Non-Competition 20

ARTICLE VIII. CONDITIONS TO CLOSING..... 20

8.1. Conditions Precedent to the Obligations of Buyer and Seller. 20

8.2. Conditions Precedent to the Obligations of the Seller 20

8.3. Conditions Precedent to the Obligations of the Buyer..... 21

ARTICLE IX. ADDITIONAL DEFINITIONS..... 21

9.1. Definitions..... 21

ARTICLE X. MISCELLANEOUS 27

10.1. Payment of Expenses..... 27

10.2. Survival of Representations and Warranties; Survival of Confidentiality 27

10.3. Entire Agreement; Amendments and Waivers..... 27

10.4. Execution of Agreement; Counterparts; Electronic Signatures 28

10.5. Governing Law 28

10.6. Jurisdiction; Waiver of Jury Trial 28

10.7. Notices 28

10.8. Binding Effect; Assignment 29

10.9. Severability 30

10.10. Certain Interpretive Matters 30

INDEX OF EXHIBITS & SCHEDULES

EXHIBIT A	FORM OF BILL OF SALE AND ASSUMPTION AND ASSIGNMENT AGREEMENT
EXHIBIT B	FORM OF IP ASSUMPTION AND ASSIGNMENT AGREEMENT
EXHIBIT C	BIDDING PROCEDURES ORDER
SCHEDULE 1.1(d)	TRADEMARKS
SCHEDULE 1.1(g)	ASSIGNED CONTRACTS
SCHEDULE 1.4(a)	CONTRACTS
SCHEDULE 1.5	ALLOCATION SCHEDULE
SCHEDULE 4.3(b)	COMPLIANCE WITH APPLICABLE LAW
SCHEDULE 4.6	INTELLECTUAL PROPERTY REGISTRATIONS
SCHEDULE 4.7	LEGAL PROCEEDINGS

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this “Agreement”) is entered into as of July 28, 2023 by and among Vyera Pharmaceuticals, LLC, a Delaware limited liability company (“Vyera”), Phoenixus AG, a Swiss corporation (“Phoenixus”), and Tilde Sciences LLC, a Delaware limited liability company (the “Buyer”). Phoenixus and Vyera are each referred to in this Agreement as a “Seller” or “Debtor” (as applicable) and collectively referred to herein as the “Sellers” or “Debtors”. Sellers and Buyer are collectively referred to in this Agreement as the “Parties” and individually as a “Party”. Oakrum Pharma, LLC, SevenScore Pharmaceuticals, LLC, Dermelix Biotherapeutics, LLC, and Orpha Labs AG (collectively, the “Additional Debtor Parties”) join this Agreement for the limited purpose set forth in Section 7.10. For purposes of this Agreement, capitalized terms used herein shall have the meanings set forth herein or in Article IX.

RECITALS

WHEREAS, on May 9, 2023 (the “Petition Date”), the Debtors, along with certain of their affiliated debtors and debtors in possession, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) and elected to proceed under subchapter V thereunder, thereby commencing case number 23-10605 (JKS) in the Bankruptcy Court (the “Bankruptcy Case”);

WHEREAS, the Debtors are managing their properties and operating their business as a “debtor in possession” in the Bankruptcy Case under the jurisdiction of the Bankruptcy Court and in accordance with the applicable provisions of the Bankruptcy Code;

WHEREAS, the Debtors are engaged primarily in the development, commercialization, and sale of pharmaceutical products with a focus on developing therapies for patients suffering from serious and neglected diseases, often referred to as “orphan” diseases;

WHEREAS, the Buyer wishes to purchase the Purchased Assets and take assignment of the Assigned Contracts from the Sellers and the Sellers wish to sell, convey, assign, and transfer to the Buyer the Purchased Assets (including the Assigned Contracts), all in the manner and subject to the terms and conditions set forth in this Agreement and in accordance with sections 105, 363, and 365 of the Bankruptcy Code, along with other applicable provisions of the Bankruptcy Code;

WHEREAS, the Purchased Assets and Assigned Contracts shall be purchased and assumed and assigned by the Buyer pursuant to a Sale Order approving such sale, free and clear of all Claims, Liens, Encumbrances, and other interests, pursuant to sections 105, 363, and 365 of the Bankruptcy Code, and Rules 6004 and 6006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), all in the manner and subject to the terms and conditions set forth in this Agreement and the Sale Order and in accordance with other applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”); and

WHEREAS, the Sellers have determined that it is advisable and in the best interests of the Sellers and their stakeholders to enter into this Agreement and to consummate the transactions contemplated hereby (this “Sale Transaction”), subject to entry of a Sale Order, and such governing body has approved of same.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, covenants, and agreements set forth in this Agreement, and for good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Sellers and Buyer hereby agree as follows:

ARTICLE I.

PURCHASE AND SALE OF THE PURCHASED ASSETS; ASSUMPTION OF THE ASSUMED LIABILITIES

1.1. Purchase and Sale of the Purchased Assets. Pursuant to sections 105, 363, and 365 of the Bankruptcy Code, and on the terms and subject to the conditions set forth in this Agreement, at the Closing, Sellers shall sell, transfer, assign, convey, and deliver to Buyer, and Buyer (or a designee of the Buyer in the Buyer’s sole discretion) shall purchase, acquire, and accept from the Sellers, free and clear of all Encumbrances and other interests of any nature whatsoever, all of the Sellers’ right, title, and interest in and to the assets, rights, and properties of Sellers relating to the following (collectively, the “Purchased Assets”):

- (a) Daraprim (NDA #008578) (“Daraprim”);
- (b) Vecamyl (ANDA #204054) (“Vecamyl” and, together with Daraprim, the “Portfolio”);
- (c) all existing inventory of Daraprim and Vecamyl (including all drug substances, drug product, clinical inventory lots, reference standards, reserve samples, patient samples, inventories of active pharmaceutical ingredients, intermediates, raw materials, components, consumables, work-in-process, finished goods, supplies, parts, and packaging materials);
- (d) all Intellectual Property in and to the Portfolio (the “Portfolio Intellectual Property”), including
 - (i) the trademarks set forth on Schedule 1.1(d) and all applications and registrations with respect thereto,
 - (ii) all inventions, domains and domain names, licenses, and all applications and registrations with respect thereto,
 - (iii) any analytical methods utilized by the Sellers in the manufacture of the Portfolio and the design and packaging of the Portfolio, and

(iv) all trade secrets, know-how, and confidential information related to the Portfolio (including processes, specifications, test methods, instructions, master formulas, validation reports, stability data, analytical methods, records of complaints, and annual product reviews).

(e) any and all pending or approved regulatory approvals, registrations, distribution licenses, permits, or authorizations (including, without limitation, NDAs, ANDAs, INDS, or any foreign equivalents) issued by a Governmental Body with respect to the development, importation, manufacture, marketing, use, distribution, promotion, sale, and commercialization of the Portfolio in any territory in the world (“Regulatory Submissions & Permits”);

(f) all (i) technological, scientific, biological, pharmacological, toxicological, regulatory, clinical trial, and other documentation, records, data, information (including adverse drug experience information) and materials underlying the Regulatory Submissions & Permits or otherwise associated with to the Portfolio, (ii) information concerning the Portfolio prepared for health care professionals, (iii) marketing, advertising, training materials, and other similar materials, including market access and patient support materials, and (iv) pharmacovigilance databases and any other records relating to safety reporting or data contained or referenced in or supporting any of the foregoing, in any format;

(g) the Contracts listed on Schedule 1.1(g) (the “Assigned Contracts”), including all rights and benefits thereunder; and

(h) all goodwill and other intangible assets associated with the Purchased Assets (to the extent transferable).

1.2. Excluded Assets.

(a) Notwithstanding anything to the contrary in this Agreement or any other writing, in no event shall the Sellers be deemed to sell, transfer, assign, or convey, and the Sellers shall retain all right, title, and interest to, in, and under any assets, properties, interests, and rights of the Sellers other than the Purchased Assets (collectively, the “Excluded Assets”).

(b) Buyer shall have the right, exercisable in Buyer’s sole discretion at any time prior to Closing to (i) designate any Contract of Sellers related to the Portfolio but not included on Schedule 1.1(g) as an Assigned Contract as of the date of this Agreement (and the parties shall update Schedule 1.1(g) accordingly), and (ii) designate any Assigned Contract set forth on Schedule 1.1(g) of the Disclosure Schedule as an Excluded Asset; *provided, however*, that if Buyer exercises Buyer’s right under this Section 1.2(b) to change the designation of any Contract, the Purchase Price shall either be increased by an amount equal to the Cure Costs paid by the Sellers with respect to any Contract(s) added to Schedule 1.1(g) or reduced by an amount equal to the Cure Costs no longer required to be paid by Sellers with respect to any Contract(s) removed from Schedule 1.1(g), as applicable.

1.3. Post-Closing Liabilities.

(a) Subject to the terms and conditions in this Agreement, the Buyer (or a designee of Buyer in Buyer's sole discretion) acknowledges that the Buyer shall be responsible for only the following Liabilities of Sellers after the Closing (the "Assumed Liabilities"): (i) all Liabilities and obligations relating to the Buyer's ownership or use of, or right to use, the Purchased Assets after the Closing Date, including, without limitation, all taxes arising out of or relating to the Purchased Assets incurred with respect to all tax periods beginning after the Closing Date; and (ii) Liabilities arising under or relating to the Assigned Contracts, but solely to the extent such Liabilities and obligations are to be performed on or after the Closing. For the avoidance of doubt, Buyer shall be responsible for all post-Closing costs incurred in connection with re-labeling the Portfolio under the labeler code assigned to Buyer by the FDA.

(b) Buyer will not assume and will not be responsible to pay, perform, or discharge any Liabilities of the Sellers or any of Sellers' Affiliates of any kind or nature whatsoever, except to the extent such Liabilities are Assumed Liabilities (the "Excluded Liabilities"). For the avoidance of doubt, the term "Excluded Liabilities" shall include (and these Liabilities and obligations shall not in any event be Assumed Liabilities): (i) any and all Liabilities of Sellers under an Assigned Contract arising prior to the Closing; (ii) all Liabilities arising from the Excluded Assets; (iii) all Liabilities for any and all taxes for which Sellers or any of their Affiliates or direct or indirect partners, shareholders, or members is or may be liable, regardless of the taxable period to which such taxes relate, and any and all taxes relating to or imposed or payable in connection with the Purchased Assets to the extent attributable to (or payable in respect of) any pre-Closing tax periods, in each instance regardless of whether such taxes are assessed or determined to be due or payable on, before or after the Closing; (iv) any indebtedness or obligation for borrowed money of Seller; (v) any and all Liability for (1) costs and expenses incurred by Sellers or owed in connection with the administration of the Bankruptcy Case and (2) all costs and expenses of Sellers incurred in connection with the negotiation, execution, and consummation of the transactions contemplated under this Agreement; (vi) any and all Liabilities arising from or related to the operation or condition of the Purchased Assets or the Assumed Liabilities prior to the Closing or facts, actions, omissions, circumstances, or conditions existing, occurring or accruing with respect to the Purchased Assets or the Assumed Liabilities prior to the Closing; (vii) any Liabilities arising out of or in connection with claims, litigation and proceedings (whether instituted prior to or after Closing) for acts or omissions that occurred, or arise from events that occurred, prior to the Closing Date; (viii) any Liabilities with respect to any Encumbrances which will be removed pursuant to the Sale Order; (ix) Rebate Liabilities; or (x) the Pre-Closing Maintenance Fees.

1.4. Assumption/Rejection of Certain Contracts

(a) Assumption and Assignment at Closing. Schedule 1.4(a) sets forth a list of all executory Contracts to which a Seller is a party as of the date hereof with respect to the Purchased Assets and the Seller's good faith estimate of the Cure Costs. Sellers intend to assume and assign to Buyer, and Buyer intends to take assignment from Sellers, the Assigned Contracts under section 365 of the Bankruptcy Code, subject to Sellers' payment of the Cure Costs.

(b) At or prior to the Closing, the Sellers shall take any and all actions required to assume and assign the Assigned Contracts to the Buyer, including, without limitation, facilitating any negotiations with the counterparties to such Assigned Contracts and obtaining an Order containing a finding that the proposed assumption and assignment of the Assigned Contracts to the Buyer satisfies all applicable requirements of section 365 of the Bankruptcy Code.

(c) At Closing, (x) Sellers shall, pursuant to the Sale Order, assume and assign to the Buyer each of the Assigned Contracts that is capable of being assumed and assigned and promptly pay all Cure Costs, and (y) the Buyer shall thereafter perform and discharge any post-Closing obligations thereunder.

1.5. Allocation of Purchase Price. The Purchase Price and the Assumed Liabilities shall be allocated among the Purchased Assets for all purposes (including tax and financial accounting) as shown on the allocation schedule set forth on Schedule 1.5 (the “Allocation Schedule”). The Buyer shall prepare the Allocation Schedule in accordance with Section 1060 of the Internal Revenue Code of 1986, as amended. Buyer and Sellers shall file all returns, declarations, reports, information returns and statements, and other documents relating to taxes (including amended returns and claims for refund) in a manner consistent with the Allocation Schedule.

1.6. Intended Tax Treatment. The parties acknowledge and agree that for federal and applicable state, local, and foreign income tax purposes the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities (a) is a taxable sale under Section 1001 of the Code, and (b) is not a “reorganization” within the meaning of Section 368(a)(1)(G) of the Code. The Parties, unless otherwise required by applicable tax Law, shall prepare and file all tax returns in a manner consistent with the intended tax treatment and shall take no position in any tax return, proceeding, action, audit, or otherwise that is inconsistent with the intended tax treatment.

1.7. Withholding Tax. Buyer shall be entitled to deduct and withhold from the Purchase Price all taxes that Buyer may be required to deduct and withhold under any provision of applicable Law. All such deducted and withheld amounts that are paid over to the relevant Governmental Body will be treated as delivered to Seller hereunder. In the event Buyer determines that it is required to deduct and withhold and pay taxes, Buyer shall notify Seller of such requirement and the basis for such requirement at least five (5) days prior to any deduction and withholding. Buyer and Seller shall cooperate, as reasonably requested by Seller, to reduce the amount of deduction and withholding taxes imposed on the Purchase Price.

ARTICLE II.

CONSIDERATION

2.1. Purchase Price. The aggregate consideration (the “Purchase Price”) to be paid for the sale and transfer of the Purchased Assets and the assignment of the Assigned Contracts shall be (i) \$650,000 in immediately available funds (the “Cash Consideration”) *plus* (ii) the assumption of the Assumed Liabilities.

2.2. Deposit. No later than two (2) Business Days following the execution of this Agreement and the Escrow Agreement, the Buyer shall make an earnest money deposit in the

amount of US\$65,000 (the “Deposit”) to an escrow account established by Epiq Corporate Restructuring, LLC (“Epiq”) pursuant to an Escrow Agreement. If the Closing occurs, the Deposit shall be applied against payment of the Purchase Price on the Closing Date. If this Agreement is terminated pursuant to Sections 3.4, 3.5, and 3.6 hereof (except with respect to termination pursuant to Section 3.4(f), in which case the Deposit shall be released to Seller in accordance with Section 3.5), or in the event that any Person other than the Buyer otherwise purchases all or any portion of the Purchased Assets, then upon delivery of written instruction by Buyer to Epiq, Epiq shall return the Deposit to the Buyer promptly, and in no event later than two (2) Business Days after the date of such request by Buyer (subject to Buyer’s obligations as back-up bidder set forth in Section 6.2(c), in which case Epiq shall return the Deposit to Buyer contemporaneously with the closing of the Alternative Transaction).

ARTICLE III.

CLOSING AND TERMINATION

3.1. Closing. Subject to the satisfaction or waiver of the conditions set forth in Article VIII, the closing of the purchase and sale of the Purchased Assets, the payment of the Purchase Price and the consummation of the other transactions contemplated by this Agreement (the “Closing”) shall occur as soon as practicable following the satisfaction or waiver of all conditions set forth in this Agreement (other than those conditions that by their terms are to be satisfied at the Closing). The Closing shall take place by telephone and/or videoconference and electronic exchange of documents. Unless otherwise agreed by the Parties in writing, the Closing shall be deemed effective and all right, title, and interest of the Sellers in the Purchased Assets to be acquired by the Buyer hereunder shall be deemed to have passed to the Buyer as of 12:01 a.m. prevailing Eastern Time on the Closing Date.

3.2. Closing Deliverables by Seller. At or prior to the Closing, the Sellers shall deliver to the Buyer:

(a) a bill of sale and assumption and assignment agreement in the form of Exhibit A or such other form as is agreed to by the Buyer (the “Bill of Sale and Assumption and Assignment Agreement”), duly executed by the Sellers;

(b) an intellectual property assumption and assignment agreement in the form of Exhibit B or such other form as is agreed to by the Buyer (the “IP Assumption and Assignment Agreement”), duly executed by the Sellers;

(c) a trademark assignment agreement in the form acceptable to Buyer, duly executed by the Sellers, assigning to Buyer the “Vecamyl” trademark, U.S. Trademark Registration No. 4,358,457, registered on June 25, 2013 in the United States Patent and Trademark Office and all rights and goodwill associated therewith;

(d) a copy of the Sale Order;

(e) a copy of the resolutions adopted by the sole manager of the Sellers evidencing the authorization of the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby;

(f) possession of the Purchased Assets, as applicable;

(g) satisfactory evidence of Sellers' payment of Cure Costs;

(h) right, title, and interest of the Sellers in, to, or under any or all of the Purchased Assets;

(i) an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of each Seller certifying that the conditions set forth in Section 8.3 have been satisfied;

(j) a Form W-9 from Sellers, which shall serve as a certificate of non-foreign person status for purposes of Section 1445(b)(2) of the Code and Treasury Regulation Section 1.1445-2(b); and

(k) such other documents as the Buyer may reasonably request that are not inconsistent with the terms of this Agreement and customary for a transaction of this nature and necessary to evidence or consummate the transactions contemplated by this Agreement.

3.3. Closing Deliverables by Buyer. At the Closing, the Buyer shall deliver to the Sellers:

(a) the Bill of Sale and Assumption and Assignment Agreement, duly executed by the Buyer;

(b) the IP Assumption and Assignment Agreement, duly executed by the Buyer;

(c) the Cash Consideration *minus* the Deposit *minus* the unpaid Pre-Closing Maintenance Fees;

(d) an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of the Buyer certifying that the conditions set forth in this Section 8.2 have been satisfied;

(e) all other certificates, agreements, and other documents required by this Agreement; and

(f) such other documents as the Buyer may reasonably request that are not inconsistent with the terms of this Agreement and customary for a transaction of this nature and necessary to evidence or consummate the transactions contemplated by this Agreement.

3.4. Termination of Agreement. This Agreement may be terminated only in accordance with this Section 3.4. This Agreement may be terminated at any time prior to the Closing, as follows:

- (a) by the mutual written consent of the Sellers and the Buyer;
- (b) by written notice of either the Sellers or the Buyer to such other Party, if the Closing shall not have been consummated prior to August 31, 2023 (the “Outside Date”); provided, however, that the Outside Date may be extended by the mutual written consent of the Sellers and the Buyer, for a period of up to thirty (30) days to the extent that all conditions to Closing set forth in this Agreement are capable of being satisfied as of such time; provided, further, that a Party shall not be permitted to terminate this Agreement pursuant to this Section 3.4 if the failure of the Closing to occur prior to the Outside Date is a result of the failure of the Party seeking to terminate this Agreement to materially perform any of its obligations or covenants under this Agreement required to be performed by it at or prior to the Closing;
- (c) by written notice from the Buyer to the Sellers if (i) the Sellers seek to have the Bankruptcy Court enter an Order (1) dismissing the Debtor’s subchapter V case, (2) converting the Debtor’s subchapter V case to a case under chapter 7 of the Bankruptcy Code, (3) appointing a chapter 11 trustee, responsible officer, or examiner over the Debtor’s estate and/or business or the expansion of the powers of the subchapter V trustee; or (ii) an Order of dismissal, conversion, the appointment of a trustee or examiner, or expanding the powers of the subchapter V trustee is entered for any reason and is not reversed or vacated within fourteen (14) days after entry thereof;
- (d) automatically (subject to Buyer’s obligations as back-up bidder set forth in Section 6.2(c)), if the Sellers have initiated proceedings regarding the approval by the Bankruptcy Court of a sale of all or a portion of the Purchased Assets to a Person other than the Buyer (an “Alternative Transaction”), or if proceedings related to an Alternative Transaction have otherwise been initiated, provided, however, the Sellers may conduct discussions with a Person other than the Buyer regarding an Alternative Transaction as the Sellers deem necessary in their sole discretion to fulfill their fiduciary duties as debtors-in-possession in their Bankruptcy Cases;
- (e) automatically upon the closing of an Alternative Transaction;
- (f) by written notice from the Sellers to the Buyer, if, prior to the Closing, the Buyer shall have materially breached, or failed to materially perform in any respect, any representations, warranties, or covenants of the Buyer contained in this Agreement and such breach or failure to perform: (i) would give rise to the failure of a condition to the Closing, (ii) cannot be or has not been cured within fourteen (14) days following delivery of notice to the Buyer of such breach or failure to perform, and (iii) has not been waived by the Seller;
- (g) by written notice from Buyer to Sellers, if, prior to the Closing, the Sellers shall have materially breached, or failed to materially perform in any respect, any representations, warranties, or covenants of the Sellers contained in this Agreement and such breach or failure to perform: (i) would give rise to the failure of a condition to the Closing, (ii) cannot be cured or has

not been cured within fourteen (14) days following delivery of notice to the Sellers of such breach or failure to perform, and (iii) has not been waived by the Buyer;

(h) by written notice from Buyer to Sellers if Buyer is not the winning bidder in the Auction (subject to Buyer's obligations as back-up bidder set forth in Section 6.2(c));

(i) by written notice from Buyer to Sellers in the event that (i) there is any Law that makes consummation of the transactions contemplated by this Agreement illegal or otherwise prohibited or (ii) any Governmental Body issues an order restraining or enjoining the transactions contemplated by this Agreement, and such order has become final and non-appealable;

(j) by written notice from Buyer to Sellers if the Bidding Procedures Order or the Sale Order is modified in any material manner adverse to Buyer without the prior written consent of Buyer (which consent may be withheld in Buyer's sole discretion); or

(k) by written notice from Buyer to Sellers if the Sellers shall fail to file the Bidding Procedures Motion within five (5) Business Days after the execution and delivery of this Agreement.

Each condition set forth in this Section 3.4, pursuant to which this Agreement may be terminated, shall be separate and distinct from each other such condition. If more than one of the termination conditions set forth in this Section 3.4 is applicable, the applicable Party shall have the right to choose the termination condition pursuant to which this Agreement is to be terminated. Sellers shall not amend, supplement, or modify, or cause to be amended, supplemented, or modified, either or both the Sale Order or the Bidding Procedures Order, in any manner materially adverse to Buyer without Buyer's prior written consent.

3.5. Procedures Upon Termination.

(a) In the event of termination and abandonment by the Sellers and the Buyer, or both such Parties, pursuant to Section 3.4 of this Agreement, written notice thereof shall forthwith be given to the other Party, and this Agreement shall terminate, and the purchase of the Purchased Assets and the assumption and assignment of the Assigned Contracts hereunder shall be abandoned, without further action by the Buyer or the Seller.

(b) If this Agreement is terminated pursuant to Section 3.4(d), Section 3.4(e), Section 3.4(f), Section 3.4(h), or Section 3.4(j), in addition to the return of the Deposit pursuant to procedures in Section 2.2, the Sellers shall pay to the Buyer the Expense Reimbursement and the Break-Up Fee by wire transfer of immediately available funds, directly from such proceeds actually received by the Sellers, before distribution of such proceeds to any other party.

(c) If this Agreement is terminated pursuant to Section 3.4(f), Sellers shall be entitled to retain the Deposit as liquidated damages and not as a penalty. Sellers' receipt and retention of the Deposit shall be the sole and exclusive remedy against Buyer in the event that Sellers terminate this Agreement pursuant to Section 3.4(f) as a result of a breach by Buyer, except in the event of Buyer's fraud or willful misconduct.

(d) The Parties acknowledge and agree that the terms and conditions set forth in this Agreement with respect to the payment of the Break-Up Fee and Expense Reimbursement shall become operative only at such time as the Bidding Procedures Order becomes a Final Order of the Bankruptcy Court.

3.6. Effect of Termination. In the event of termination of this Agreement pursuant to Section 3.4, this Agreement shall forthwith become null and void and there shall be no liability on the part of any Party or any of its partners, officers, directors, shareholder, Affiliates, or members; provided, however, that (a) this Section 3.6, the Seller's obligation, if any, to pay the Bid Protections pursuant to Section 3.5, and the Bidding Procedures Order (if entered) shall survive any such termination, (b) no termination of this Agreement pursuant to Section 3.4 hereof shall relieve any Party of any liability for fraud, and (c) the provisions of this Section 3.6, Article X, and any related definitions set elsewhere in this Agreement shall survive any such termination of this Agreement. Each Party acknowledges that the agreements contained in this Section 3.6 and in Section 3.5 are an integral and material part of the transactions contemplated by this Agreement, that without these agreements, such Party would not have entered into this Agreement, and that any amounts payable pursuant to this Section 3.6 and Section 3.5 do not constitute a penalty.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES OF THE SELLER

Subject to the exceptions noted in the Schedules delivered by the Sellers contemporaneously herewith or at the Closing, Sellers, jointly and severally, represent and warrant to the Buyer as follows as of the date of this Agreement and as of the Closing Date:

4.1. Organization and Qualification. Each Seller is a legal entity duly organized, validly existing, and in good standing under the Laws of the jurisdiction of its formation. Each Seller has all requisite power and authority to own, lease, and operate its assets and properties and to carry on its business as it is now being conducted, subject to the provisions of the Bankruptcy Code and entry by the Bankruptcy Court of the Sale Order. Each Seller is not in violation of any of the provisions of its Organizational Documents. Each Seller is duly qualified or licensed to do business and is in good standing in each jurisdiction where it does business.

4.2. Authorization of Agreement. Subject to entry of the Sale Order, each Seller has all requisite power and authority to execute and deliver this Agreement and each of the Ancillary Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution and delivery by each Seller of this Agreement and each Ancillary Document to which it is a party, the performance by such Seller of its obligations hereunder and thereunder and the consummation by such Seller of the transactions contemplated hereby and thereby have been duly authorized by any necessary action on the part of such Seller. This Agreement has been duly executed and delivered by each Seller, and (assuming due authorization, execution, and delivery by Buyer) this Agreement constitutes a legal, valid, and binding obligation of each Seller enforceable against each Seller in accordance with its terms, subject to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or effecting creditors' rights and to general principles of equity.

4.3. Conflicts; Consents; Compliance with Law.

(a) To the extent set forth in the Sale Order, the execution, delivery, and performance by the Sellers of this Agreement or any Ancillary Document to which it is a party, the compliance by the Sellers with any of the provisions hereof or thereof, the consummation of the transactions contemplated hereby and thereby and the taking by the Sellers of any other action contemplated hereby or thereby, do not and will not: (i) contravene, violate, or conflict with any term or provision of their respective Organizational Documents; (ii) conflict with or result in any breach or violation of or constitute a default or change of control under, or give rise to a right of, or result in, termination, modification, cancellation, first offer, first refusal, or acceleration of any obligation or to the loss of a benefit under any Contract; (iii) result in the creation or imposition of any Encumbrance on any Purchased Asset; (iv) conflict with or violate any Order or Law applicable to a Seller or its properties, rights, or assets (including the Purchased Assets); or (v) require the consent of, or notice to, any Person, except as may be required by the Bankruptcy Code, Bankruptcy Rules, or applicable local rules, except in the case of the foregoing clauses (ii), (iii), and (iv), for breaches, violations, defaults, rights, creations, or impositions that are excused by or unenforceable as a result of the entry or effectiveness of the Sale Order.

(b) Except as set forth on Schedule 4.3(b), to the extent set forth in the Sale Order, the Sellers are in material compliance, in all material respects, with all applicable Orders and Laws. The Sellers have not received any outstanding written notice from any Governmental Body regarding any actual or possible violation of, or failure to compliance in any respect with, any Order or Law. No Seller is in default in any material respect with any order, writ, injunction, judgment, or decree applicable to the Sellers' business or the Purchased Assets.

(c) To the extent set forth in the Sale Order, the Sellers are in material compliance, in all material respects, with all reporting requirements, government approvals, clearances, and consents under non-bankruptcy Law.

4.4. Title to Purchased Assets. The Sellers have good title to and all rights to use all of the Purchased Assets and, at the Closing, the Buyer, pursuant to and to the extent set forth in the Sale Order, shall acquire good and marketable title in and under all of such Purchased Assets, in each case free and clear of all Encumbrances and other interests to the fullest extent permissible under sections 363(f) and 365 of the Bankruptcy Code and Bankruptcy Rules 6004 and 6006. To the best of Sellers' Knowledge, the Purchased Assets constitute all of the assets and properties used or held for use with respect to the Portfolio.

4.5. Contracts. To the Knowledge of Sellers, Schedule 1.4(a) lists each Contract to which a Seller is a party or by which the Purchased Assets are bound that is material to the Portfolio. Sellers have delivered or made available to Buyer a correct and complete copy of each written Contract listed on Schedule 1.4(a). Each Assigned Contract is valid and binding on Sellers in accordance with its terms and is in full force and effect. Subject to (A) the Bankruptcy Case, and (B) payment of the Cure Costs, (i) there are no material defaults under the Assigned Contracts by Seller, (ii) to the Knowledge of Sellers, there are no material defaults under the Assigned Contracts by any other Person, and (iii) to the Knowledge of Sellers, no event has occurred (with

the giving of notice, or lapse of time, or both) which would constitute a material default by any party to such Contract.

4.6. Intellectual Property. Schedule 4.6 sets forth a complete and accurate list of as of the date hereof of all Intellectual Property registrations in the name of a Seller for all Portfolio Intellectual Property. All registrations for the Portfolio Intellectual Property are subsisting, valid, and enforceable in their respective jurisdictions of registration in accordance with the applicable Laws of such jurisdiction. All filing, examination, issuance, and post-registration fees associated or required with the Portfolio Intellectual Property that were due prior to the Closing have been timely paid. Subject to entry of the Sale Order, each Seller has the full right, power, and authority to sell, assign, transfer, and convey all of such Seller's right, title, and interest in and to the Portfolio Intellectual Property. No Portfolio Intellectual Property is involved in, or since January 1, 2020, have been involved in, any opposition, cancellation, or similar proceeding and Sellers have not received written notice that any such proceeding is currently threatened. To the Knowledge of Seller, Sellers are not infringing, misappropriating, or otherwise violating the Intellectual Property rights of any other Person.

4.7. Legal Proceedings. Except as set forth on Schedule 4.7, there are no Actions pending or, to the Knowledge of Sellers, threatened in writing against or by Seller or any Affiliate of any Seller (i) relating to or affecting the Purchased Assets or the Assumed Liabilities; or (ii) that challenge or seek to prevent, enjoin, or otherwise delay the transactions contemplated by this Agreement. To the Knowledge of Sellers, no event has occurred or circumstances exist that may give rise or serve as a basis for any such Action. Except as set forth on Schedule 4.7, Sellers are not subject to any outstanding Order relating to any Purchased Asset or Assumed Liability.

4.8. Regulatory Submissions & Permits. To the Knowledge of Sellers, all Regulatory Submissions & Permits filed with a Governmental Body were true, correct, and complete in all material respects at the time of submission. The Regulatory Submissions & Permits are valid and in full force and effect, and are not subject to any proceeding for suspension or revocation. All fees required to be paid to any Governmental Body prior to the Closing with respect to any Regulatory Submissions & Permits have been paid. Subject to the filing of transfer letters with the FDA by the Parties as contemplated by Section 7.8, the Regulatory Submissions & Permits include all necessary permits, distribution licenses, and authorizations to enable Buyer to manufacture, supply, distribute, store, market, and sell the Portfolio on a commercial basis in the United States after the Closing.

4.9. Certain Transactions. Neither Seller nor any subsidiary of a Seller has made any payment in violation of Law to, or provided any illegal or improper benefit or inducement, including for or to any official of any Governmental Body, supplier, customer, or other Person, in an attempt to influence any such Person to take or to refrain from taking any action relating to the Purchased Assets, or to engage in any action by or on behalf of Seller or its subsidiary in any way, or paid any bribe, payoff, influence payment, kickback, or other unlawful payment.

4.10. No Other Representations or Warranties. EXCEPT AS PROVIDED IN THIS AGREEMENT OR ANY CERTIFICATE OR DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES

WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE PURCHASED ASSETS. WITHOUT LIMITING THE FOREGOING, SELLER HEREBY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO ANY PORTION OF THE PURCHASED ASSETS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE FOREGOING LIMITATIONS SHALL NOT APPLY TO, AND NOTHING HEREIN SHALL LIMIT, THE BUYER'S REMEDIES IN THE EVENT OF FRAUD.

ARTICLE V.

REPRESENTATIONS AND WARRANTIES OF THE BUYER

Subject to the exceptions noted in the schedules delivered by the Buyer contemporaneously herewith, the Buyer represents and warrants to the Seller as follows as of the date of this Agreement and as of the Closing Date:

5.1. Organization and Qualification. The Buyer is duly organized, validly existing, and in good standing under the Laws of its jurisdiction of incorporation. The Buyer has all requisite power and authority to own, lease, and operate its properties and to carry on its business as it is now being conducted.

5.2. Authority. The Buyer has the requisite power and authority to execute and deliver this Agreement and each of the Ancillary Documents to which it is a party, to perform its obligations hereunder and thereunder, to consummate the transactions contemplated hereby and thereby and to assume and perform the Assumed Liabilities. The execution and delivery of this Agreement by the Buyer and each of the Ancillary Documents to which it is a party, the performance by the Buyer of its obligations hereunder and thereunder, the consummation of the transactions contemplated hereby and thereby, and the and performance of the post-Closing Liabilities have been duly and validly authorized by all necessary actions on the part of the Buyer.

5.3. No Inconsistent Obligations. Neither the execution and delivery of this Agreement or any other documents contemplated hereby, nor the consummation of the transactions contemplated herein or therein in accordance with the Sale Order, will, to the Buyer's Knowledge, result in a violation or breach of, or constitute a default under, (a) the Organizational Documents of the Buyer, (b) any applicable, material ruling or order of any Governmental Body, (c) any material term or provision of any contract or agreement to which the Buyer is a party, (d) any material writ, order, judgment, decree, Law, rule, regulation, or ordinance, applicable to the Buyer, or (e) any other commitment or restriction to which the Buyer is a party, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Buyer's ability to consummate the transactions contemplated hereby.

5.4. No Litigation. To the Buyer's Knowledge, there are no actions, suits, claims, investigations, hearings, or proceedings of any type (except for proceedings or objections pending before the Bankruptcy Court which may be filed in connection with the Debtor's subchapter V case) instituted against the Buyer challenging the legality of the transactions contemplated in this Agreement, except as would not reasonably be expected to have, individually or in the

aggregate, a Material Adverse Effect on the Buyer's ability to consummate the transactions contemplated hereby.

5.5. Conflicts; Consents. The execution, delivery and performance by Buyer of this Agreement or any Ancillary Document to which it is a party, the compliance by Buyer with any of the provisions hereof or thereof, the consummation of the transactions contemplated hereby or thereby and the taking by Buyer of any other action contemplated hereby or thereby, do not and will not contravene, violate or conflict with any term or provision of its Organizational Documents, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Buyer's ability to consummate the transactions contemplated hereby. Further, no consent, waiver, approval, order or authorization of, or registration, qualification, designation or filing with any Person or Governmental Body is required in connection with the execution, delivery and performance by Buyer of this Agreement or the Ancillary Documents to which it is a party, the compliance by Buyer with any of the provisions hereof or thereof, the consummation of the transactions contemplated hereby or thereby, or the taking by Buyer of any other action contemplated hereby or thereby, other than such filings, notices or consents, the failure of which to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Buyer's ability to perform its obligations under this Agreement and the Ancillary Documents to which it is a party or to consummate on a timely basis the transactions contemplated hereby or thereby.

5.6. Brokers. No Person has acted, directly or indirectly, as a broker, finder or financial advisor for Buyer in connection with the transactions contemplated by this Agreement and Sellers are not and will not become obligated to pay any fee or commission or like payment to any broker, finder, or financial advisor as a result of the consummation of the transactions contemplated by this Agreement based upon any arrangement made by or on behalf of Buyer.

5.7. Adequate Assurances Regarding Assigned Contracts. As of the Closing, Buyer will be capable of satisfying the adequate assurance of future performance conditions contained in sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Assigned Contracts.

5.8. No Litigation. There are no actions, suits, claims, investigations, hearings, or proceedings of any type pending, threatened, or instituted against Buyer challenging the legality of the transactions contemplated in this Agreement (other than with respect to any objection which may be filed in connection with the Bankruptcy Case), except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Buyer's ability to consummate the transactions contemplated hereby.

5.9. Due Diligence. BUYER HEREBY ACKNOWLEDGES AND AGREES THAT, EXCEPT AS PROVIDED IN THIS AGREEMENT OR ANY CERTIFICATE OR DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT, SELLERS MAKE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE PURCHASED ASSETS. WITHOUT LIMITING THE FOREGOING, SELLERS HEREBY DISCLAIM ANY WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO ANY PORTION OF THE PURCHASED ASSETS. NOTWITHSTANDING

ANYTHING HEREIN TO THE CONTRARY, THE FOREGOING LIMITATIONS SHALL NOT APPLY TO, AND NOTHING HEREIN SHALL LIMIT, THE BUYER'S REMEDIES IN THE EVENT OF FRAUD.

ARTICLE VI.

BANKRUPTCY COURT MATTERS

6.1. Approval of Bid Protections. Subject to the entry of the Bidding Procedures Order, in consideration for the Buyer having expended considerable time and expense in connection with this Agreement and the negotiation hereof, the identification and qualification of assets of the Sellers, and the Buyer's foregoing of other opportunities, the Sellers shall pay the Bid Protections to the Buyer promptly in accordance with, and only to the extent provided in, the provisions of Section 3.5, and the Bidding Procedures Order. The obligations of the Sellers to pay the Bid Protections, if any, (i) shall be entitled to super-priority administrative expense claim status under sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code, (ii) shall not be subordinated to any other administrative expense claim against the Seller, and (iii) shall survive the termination of this Agreement in accordance with Section 3.6.

6.2. Competing Bid and Other Matters.

(a) As soon as reasonably practicable, but in no event later than July 31, 2023, the Sellers shall file with the Bankruptcy Court a motion seeking approval of (i) the Bidding Procedures Order, (ii) the Bid Protections; (iii) the form of this Agreement (a true and complete copy of which shall be attached to such motion without schedules), and (iv) the Seller's authority to enter into this Agreement (the "Bidding Procedures Motion").

(b) This Agreement and the transactions contemplated hereby are subject to the Sellers' right and ability to consider higher or otherwise better competing bids with respect to the Purchased Assets (or a material portion thereof) pursuant to the Bidding Procedures Order (each, a "Competing Bid"). The Sellers shall provide Notice to Buyer within two (2) business days of receiving a Competing Bid. In no event shall Sellers seek approval of bid protections (in the form of a break-up fee, expense reimbursement, or otherwise) for any purchaser of the Purchased Assets other than Buyer. Sellers may seek approval of bid protections for purchasers of assets not subject to this Agreement.

(c) If an Auction is conducted, and Buyer is not the prevailing party at the conclusion of such Auction, Buyer shall, if its bid is determined to be the next highest bid, serve as a back-up bidder and keep Buyer's bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) open and irrevocable until 5:00 p.m. (prevailing Eastern time) on the date which is thirty (30) days after the date of the Sale Hearing.

(d) Upon the conclusion of an Auction, if one is conducted, the Sellers shall select the highest or otherwise best Competing Bid for the Purchased Assets.

(e) The Buyer shall cause its counsel to enter an appearance in the Bankruptcy Case and thereafter obtain and receive electronic service of and notification of all documents filed in the Bankruptcy Case pursuant to the Court's ECF system.

6.3. Sale Order. The Sale Order shall be entered by the Bankruptcy Court on or before August 28, 2023. Without limiting the provisions in the Sale Order, which shall be satisfactory in form and substance to the Buyer, the Sale Order shall, among other things: (i) approve, pursuant to sections 105, 363, and 365 of the Bankruptcy Code, (A) the execution, delivery, and performance by the Sellers of this Agreement, (B) the sale of the Purchased Assets to the Buyer on the terms set forth herein, free and clear of all Encumbrances and other interests, (C) authorize the performance by the Sellers of their obligations under this Agreement, and (D) the assumption and assignment of the Assigned Contracts and establish the Cure Amounts to be paid by Sellers at Closing; (ii) find that the Buyer is a "good faith" buyer within the meaning of section 363(m) of the Bankruptcy Code, that the Buyer is not a successor to the Sellers, that the Buyer did not engage in any collusion and the sale and Purchase Price was not controlled by any collusion in violation of section 363(n) of the Bankruptcy Code; and (iii) grant the Buyer the protections of section 363(m) of the Bankruptcy Code. The Parties shall promptly take such actions as are reasonably requested, necessary, or desirable to assist in obtaining Bankruptcy Court approval of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of demonstrating the Buyer is a "good faith" purchaser under section 363(m) of the Bankruptcy Code.

6.4. Sale Free and Clear. The Sale Order shall provide that, on the Closing Date and concurrently with the Closing, all then existing or thereafter arising obligations, Liabilities, Claims, and Encumbrances of, against, or created by the Sellers or their bankruptcy estates, to the fullest extent permitted by section 363 of the Bankruptcy Code, shall be fully released from and with respect to the Purchased Assets. On the Closing Date, the Sellers shall transfer the Purchased Assets to the Buyer free and clear of all Encumbrances and other interests to the fullest extent permitted by section 363 of the Bankruptcy Code and the Sale Order.

ARTICLE VII.

COVENANTS AND AGREEMENTS

7.1. Conduct of the Seller. During the pre-Closing period, the Sellers shall use commercially reasonable efforts, except as otherwise required, authorized, or restricted pursuant to the Bankruptcy Code or an Order of the Bankruptcy Court, to (A) maintain the Purchased Assets and (B) continue to operate the Purchased Assets in compliance with all Orders and Laws applicable to the Sellers and their business in the ordinary course of business. Without limiting the generality of the foregoing, and except, (i) as otherwise expressly provided in or contemplated

by this Agreement, (ii) required, authorized, or restricted pursuant to the Bankruptcy Code or an Order of the Bankruptcy Court, on or prior to the Closing Date, the Sellers shall:

(a) maintain the properties and assets included in the Purchased Assets in the same condition as they were on the date of this Agreement;

(b) take all actions necessary or appropriate to maintain the Regulatory Submissions & Permits;

(c) not sell, transfer, abandon or otherwise dispose of any of the Purchased Assets;

(d) defend and protect the properties and assets included in the Purchased Assets from infringement or usurpation;

(e) not (i) amend, modify, waive, terminate, reject, or seek to reject any Assigned Contract (or any right thereunder), (ii) take or omit to take any action that would result (with notice or lapse of time or both) in a breach under any Assigned Contract, or (iii) enter into any new Contract in respect of the Purchased Assets;

(f) not mortgage, pledge, or subject to Encumbrances the Purchased Assets or other assets (or any part thereof) of Seller;

(g) not license any Portfolio Intellectual Property;

(h) perform all of obligations arising after the Petition Date under all Assigned Contracts;

(i) not sell any inventory outside of the ordinary course, consistent with past practice;

(j) comply in all material respects with all Laws applicable to the ownership and use of the Purchased Assets; and

(k) unless otherwise approved or ordered by the Bankruptcy Court in the Bankruptcy Case, not initiate, waive, release, assign, settle, or compromise any (i) Action in respect of the Purchased Assets or the Assumed Liabilities, (ii) Action that could give rise to Liabilities or impose any binding obligation whether contingent or realized) on the Seller, or (iii) waive or release any claims or rights included in or related to the Purchased Assets.

7.2. Access to Information. The Sellers agree that, between the date of this Agreement and the earlier of the Closing Date and the date on which this Agreement is terminated in accordance with Section 3.4, the Buyer shall be entitled, through its officers, employees, legal counsel, accountants, and other authorized representatives, agents, and contractors (the “Buyer Representatives”), to have such access to and make such investigation and examination of the books and records, properties, businesses, assets, employees, accountants, auditors, counsel, and

operations of the Sellers (the “Seller Representatives”) as the Buyer’s Representatives may reasonably request. Any such investigations shall be conducted during normal business hours upon reasonable advance notice. The Sellers shall use commercially reasonable efforts to cause the Seller Representatives to cooperate with the Buyer and the Buyer Representatives in connection with such investigations and examinations, and the Buyer shall use its commercially reasonable efforts to cause the Buyer Representatives to, cooperate reasonably with the Sellers and the Seller Representatives.

7.3. Assignability of Certain Contracts. To the extent that the assignment to Buyer of any Assigned Contract pursuant to this Agreement is not permitted (or if Buyer’s rights under such Assigned Contract would be impaired) without the consent of a non-Seller counterparty and such restriction cannot be overridden effectively or canceled by the Sale Order or other related order of the Bankruptcy Court, then this Agreement will not be deemed to constitute an assignment of or an undertaking or attempt to assign such Contract or any right or interest therein unless and until such consent is obtained; provided, however, that the Parties will use their commercially reasonable efforts, before the Closing, to obtain all such consents. Sellers, to the maximum extent permitted by Law and the applicable Contract, shall act after the Closing as Buyer’s agent in order to obtain for it the benefits thereunder and shall cooperate, to the maximum extent permitted by Law and the applicable Contract, with Buyer in any other reasonable arrangement designed to provide the benefits thereunder to Buyer.

7.4. Further Assurances. Each Party shall execute and cause to be delivered to each other Party such instruments and other documents, and shall take such other actions, as such other Party may reasonably request (prior to, at, or after the Closing) for the purpose of carrying out or evidencing any of the transactions contemplated by this Agreement. If, following the Closing, a Seller receives or becomes aware that it holds any assets, property, or right which constitutes a Purchased Asset, then such Seller shall transfer such asset, property, or right to the Buyer and/or, as applicable, one or more designees of the Buyer as promptly as practicable for no additional consideration. If, following the Closing, the Buyer receives or becomes aware that it holds any asset, property, or right which constitutes an Excluded Asset, then the Buyer shall transfer such asset, property, or right to the Seller as promptly as practicable for no additional consideration.

7.5. Notification of Certain Matters. The Sellers shall give prompt notice to the Buyer, and the Buyer shall give prompt notice to the Sellers, including furnishing promptly the other Party with copies of notices or other communications received by the Sellers or the Buyer or by any of the Seller Representatives or the Buyer Representatives, from any third party or any Governmental Body with respect to the transactions contemplated by this Agreement, of (i) any notice or other communication from any Person alleging that the consent of such Person which is or may be required in connection with the transactions contemplated by this Agreement or the Ancillary Documents is not likely to be obtained prior to the Closing, (ii) any written objection or proceeding that challenges the transactions contemplated hereby or the entry of the Bidding Procedures Order or the Sale Order, (iii) the status of matters relating to the completion of the transactions contemplated hereby, (iv) any notice or other communication from any Governmental Body in connection with the Purchased Assets, the Assumed Liabilities, or the transactions contemplated by this Agreement, or (vi) any fact, circumstance, or event the existence or occurrence of which (1) has or could reasonably be expected to result in any representation or warranty made by such

Party not be true and correct or (2) has resulted in or could reasonably be expected to result in the failure of any condition in Article VIII necessary for Closing.

7.6. Material Adverse Effect. The Sellers shall promptly inform the Buyer in writing of the occurrence of any event that has had, or is reasonably expected to have, a Material Adverse Effect. For purposes of this Agreement, “Material Adverse Event” means any event, change, occurrence, or state of facts that has had, or is reasonably likely to have, individually or in the aggregate, a material adverse effect on the Purchased Assets or Assigned Contracts, taken as a whole.

7.7. No Successor Liability. The Parties agree that, upon the Closing, the Buyer shall not be deemed to: (i) be the successor of the Seller, (ii) have, *de facto*, or otherwise, merged with or into the Sellers, (iii) be a mere continuation or substantial continuation of the Sellers or the enterprise of the Sellers, or (iv) be liable for any acts or omissions of the Sellers in the conduct of the Sellers’ business or arising under or related to the Purchased Assets other than as set forth in this Agreement. Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement, the Parties agree that the Buyer shall not be liable for any Encumbrance against the Sellers or any of the Sellers’ predecessors or Affiliates, and the Buyer shall have no successor or vicarious liability of any kind or character whether known or unknown as of the Closing Date, whether now existing or hereafter arising, or whether fixed or contingent, with respect to the Seller’s business, the Purchased Assets, or any Liabilities of the Sellers arising prior to the Closing Date.

7.8. Transfer of Regulatory Submissions & Permits. As promptly as practical after the Closing, Sellers and Buyer shall file with each applicable Governmental Body the notices and information required pursuant to any applicable Law to transfer the Regulatory Submissions & Permits included in the Purchased Assets to Buyer. The Parties shall further use commercially reasonable efforts and cooperate in good faith to take any and all other actions necessary to effect the transfer of the Regulatory Submissions & Permits from Sellers to Buyer. Without limiting the generality of the foregoing, Sellers and Buyer shall timely submit the necessary filings to the FDA in order for the Sellers to transfer to Buyer, and Buyer to accept from Sellers, NDA #008578.

7.9. Seller Release. Sellers, for themselves and their respective successors and assigns, beneficiaries, executors, trustees, administrators, subrogees, agents, representatives, employees, officers, directors, members, owners, managers, and Affiliates (collectively, the “Releasers”), effective as of the Closing, do hereby irrevocably and absolutely release and forever discharge Buyer and its Affiliates, and their respective successors, assigns, beneficiaries, executors, trustees, administrators, subrogees, agents, representatives, employees, officers, directors, managers, members, shareholders, subsidiaries and Affiliates (collectively, the “Released Parties”) of and from any and all claims, demands, obligations, debts, actions, and causes of action of every nature, character, and description, known or unknown, which the Releasers now own or hold, or have at any time heretofore owned or held, or may at any time own or hold against the Released Parties, solely arising from or related to this Sale Transaction, arising prior to and including the Closing Date; provided, however, that no Releaser releases or discharges any Released Party from any claim, demand, obligation, debt, action, or cause of action under this Agreement.

7.10. Non-Competition. Sellers and each of the Additional Debtor Parties agree, in connection with the sale of the Purchased Assets, and in exchange for good and valuable consideration, that for a period of 5 years commencing on the Closing Date (the “Restricted Period”), Sellers and the Additional Debtor Parties shall not, directly or indirectly: (i) engage in or assist others in engaging in the development, commercialization, or supply of any pharmaceutical product for the same indications as the Portfolio (the “Restricted Activity”) in the United States (the “Territory”); or (ii) have an interest in any Person that engages directly or indirectly in the Restricted Activity in the Territory in any capacity, including as a partner, shareholder, director, member, manager, employee, principal, agent, trustee, or consultant. Notwithstanding the foregoing, Sellers and the Additional Debtor Parties may own, directly or indirectly, solely as an investment, securities of any Person traded on any national securities exchange if Sellers or the Additional Debtor Parties are not a controlling Person of, or a member of a group which controls, such Person and does not, directly or indirectly, own five percent (5%) or more of any class of securities of such Person.

ARTICLE VIII.

CONDITIONS TO CLOSING

8.1. Conditions Precedent to the Obligations of Buyer and Seller. The respective obligations of each Party to this Agreement to consummate the transactions contemplated by this Agreement are subject to the satisfaction (or to the extent permitted by Law, written waiver by each of the Sellers and the Buyer) on or prior to the Closing Date, of each of the following conditions:

(a) the Bankruptcy Court shall have entered the Bidding Procedures Order and the Sale Order (as provided in Article VI) and each of such orders shall be in form and substance reasonably satisfactory to the Sellers and the Buyer, which orders shall not have been reversed, modified, amended, or stayed.

(b) No Governmental Body having enacted, issued, promulgated, enforced or entered any Order that it is in effect of making the transactions contemplated by this Agreement illegal, or otherwise restraining or prohibiting consummation of such transactions that are not otherwise satisfied, resolved, or preempted by the Sale Order.

8.2. Conditions Precedent to the Obligations of the Seller. The obligations of the Sellers to consummate the transactions contemplated by this Agreement are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions, any of which may be waived in writing by Sellers in their sole discretion:

(a) the representations and warranties made by the Buyer in this Agreement or in any Ancillary Document shall be true and correct in all respects;

(b) the Buyer shall have performed and complied in all respects with all obligations and agreements required by this Agreement to be performed or complied with by the Buyer on or prior to the Closing Date;

(c) the Buyer shall have delivered, or caused to be delivered, to the Sellers all of the items set forth in Section 3.2.

8.3. Conditions Precedent to the Obligations of the Buyer. The obligations of the Buyer to consummate the transactions contemplated by this Agreement are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions, any of which may be waived in writing by the Buyer in its sole discretion:

(a) the representations and warranties made by the Sellers in this Agreement and in any Ancillary Document that are not qualified by “Material Adverse Effect” or other materiality qualifiers shall be true and correct in all material respects;

(b) the Sellers shall have performed and complied in all material respects with all obligations and agreements required in this Agreement to be performed or complied with by the Sellers on or prior to the Closing Date;

(c) from the date hereof, there shall not have occurred any Material Adverse Effect, nor will any event or events have occurred since the Effective Date that, individually or in the aggregate, with or without the lapse of time, will result in a Material Adverse Effect;

(d) the Sellers shall have delivered, or caused to be delivered, to the Buyer, all of the items set forth in Section 3.2;

(e) the Sellers have delivered, or caused to be delivered to the Buyer all consents required for the assignment of the Assigned Contracts, including, without limitation the LGM License Agreement;

(f) the Sellers have delivered, or caused to be delivered, to the Buyer all consents required for the assignment of each of the Trademark Sublicense Agreement and the Manufacturing Know-How Sublicense Agreement to Buyer; and

(g) the Sellers shall have complied with the sale process deadlines set forth in the Bidding Procedures Order.

ARTICLE IX.

ADDITIONAL DEFINITIONS

9.1. Definitions. As used herein:

“Action” means any action, claim, complaint, grievance, summons, suit, litigation, arbitration, mediation, proceeding (including any civil, criminal, administrative, investigative, or appellate proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination, or investigation by or before any Governmental Body.

“Affiliate” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The

term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

“Agreement” shall have the meaning set forth in the Preamble.

“Alternative Transaction” shall have the meaning set forth in Section 3.4(d).

“Ancillary Documents” means any certificate, agreement, document, or other instrument (other than this Agreement) to be executed and delivered by a Party in connection with the consummation of the transactions contemplated by this Agreement.

“Auction” shall have the meaning ascribed to such term by the Bidding Procedures Order.

“Bankruptcy Code” shall have the meaning set forth in the Recitals.

“Bankruptcy Court” shall have the meaning set forth in the Recitals.

“Bankruptcy Rules” shall have the meaning set forth in the Recitals.

“Bid Protections” means the Expense Reimbursement and the Break-Up Fee.

“Bidding Procedures Motion” shall have the meaning set forth in Section 6.2(a).

“Bidding Procedures Order” means an order, substantially in the form attached to this Agreement as Exhibit C, and otherwise in form and substance reasonably satisfactory to the Sellers and the Buyer.

“Bill of Sale and Assumption and Assignment Agreement” shall have the meaning set forth in Section 3.2(a).

“Break-Up Fee” means a cash amount equal to \$19,500, which amount shall: (i) constitute an allowed administrative expense of Sellers under sections 503(b) or 507(a)(2) of the Bankruptcy Code that shall not be subordinate to any other administrative expense claim against Sellers; and (ii) becomes due and payable as provided in Section 3.5 subject to approval by the Bankruptcy Court.

“Business Day” means any day other than a Saturday, Sunday, or other day on which banks in New York City, New York are authorized or required by Law to be closed.

“Buyer” shall have the meaning set forth in the Preamble.

“Buyer Representative” shall have the meaning set forth in Section 7.2.

“Claim” has the meaning given to that term in section 101(5) of the Bankruptcy Code and includes, among other things, all rights, claims, causes of action, defenses, debts, demands, damages, offset rights, setoff rights, recoupment right, obligations, and liabilities of any kind or nature under contract, at law or in equity, known or unknown, contingent or matured, liquidated or unliquidated, and all rights and remedies with respect thereto.

“Closing” shall have the meaning set forth in Section 3.1.

“Closing Date” means the date on which the Closing occurs.

“Competing Bid” shall have the meaning set forth in Section 6.2(b).

“Code” means the Internal Revenue Code of 1986, as amended.

“Contract” means any written or oral contract, purchase order, service order, sales order, indenture, bond, lease, sublease, license, understanding, instrument, or other agreement, arrangement, or commitment that is binding upon a Person or its property, whether express or implied. Notwithstanding the immediately preceding sentence, any and all promissory notes on which a Seller is obligated, including to all Persons and entities identified on the Debtor’s schedules as creditors, are not included in the definition of “Contract”.

“Cure Costs” means costs that must be paid and obligations that must be satisfied under section 365 of the Bankruptcy Code in connection with the assumption and/or assignment of any Assigned Contracts as agreed to among the various counterparties or as determined by the Bankruptcy Court.

“Debtor” shall have the meaning set forth in the Preamble.

“Deposit” shall have the meaning set forth in Section 2.2.

“Encumbrance” means any Lien (as defined in section 101(37) of the Bankruptcy Code) (statutory or other), encumbrance, Claims (as defined in section 101(5) of the Bankruptcy Code), right, demand, charge, mortgage, deed of trust, option, pledge, security interest or similar interests, title, defects, hypothecations, easements, rights of way, restrictive covenants, encroachments, rights of first refusal, preemptive rights, judgments, conditional sale or other title retention agreements and other impositions, imperfections, or defects of title or restrictions on transfer or use of any nature whatsoever.

“Escrow Agreement” means an escrow agreement by and among the Buyer, the Sellers, and Epiq, in form and substance satisfactory to the Buyer and the Sellers, by which Epiq shall hold in escrow the Deposit, subject to release pursuant to the terms of this Agreement.

“Excluded Assets” shall have the meaning set forth in Section 1.2.

“Expense Reimbursement” means all actual, documented, and reasonable out of pocket costs, fees, and expenses incurred by Buyer in connection with the transactions contemplated

hereby (including the investigation, evaluation, negotiation, and documentation of such transactions), up to an aggregate amount of \$125,000, which amount shall: (i) constitute an allowed administrative expense of Sellers under sections 503(b) or 507(a)(2) of the Bankruptcy Code that shall not be subordinate to any other administrative expense claim against the Sellers; and (ii) become due and payable as provided in Section 3.5.

“Excluded Liabilities” shall have the meaning set forth in Section 1.3.

“FDA” means the United States Food and Drug Administration and any successor agency thereto.

“Final Order” means any Order or judgment of the Bankruptcy Court or any other court of competent jurisdiction, which has not been modified, amended, reversed, vacated, or stayed and as to which (a) the time to appeal, petition for certiorari, or move for a new trial, re-argument or rehearing has expired and as to which no appeal, petition for *certiorari* or motion for new trial, re-argument, or rehearing shall then be pending or (b) if an appeal, writ of certiorari new trial, re-argument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court or other court of competent jurisdiction shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, re-argument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari*, or move for a new trial, re-argument or rehearing shall have expired, as a result of which such order shall have become final in accordance with Rule 8002 of the Federal Rules of Bankruptcy Procedure; provided, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed relating to such order, shall not cause such order not to be a Final Order.

“Governmental Body” means any government, quasi-governmental entity, or other governmental or regulatory body, agency, or political subdivision thereof of any nature, whether national, international, multi-national, supra-national, federal, state, or local, or any agency, branch, department, official, entity, instrumentality, or authority thereof, or any court or arbitrator (public or private) of applicable jurisdiction.

“Intellectual Property” means any and all worldwide rights in and to all intellectual property rights or assets (whether arising under statutory or common Law, contract, or otherwise), which include all of the following items: (i) inventions, discoveries, processes, designs, tools, molds, techniques, developments, and related improvements whether or not patentable; (ii) patents, patent applications, industrial design registrations and applications therefor, divisions, divisionals, continuations, continuations-in-part, reissues, substitutes, renewals, registrations, confirmations, re-examinations, extensions, and any provisional applications, or any such patents or patent applications, and any foreign or international equivalent of any of the foregoing; (iii) trademarks (whether registered, unregistered, or pending), historical trademark files, trade dress, service marks, service names, trade names, brand names, product names, logos, domain names, internet rights (including IP Addresses, IPv4 addresses and AS numbers), social media accounts, social media identifiers, corporate names, fictitious names, other names, symbols (including business symbols), slogans, translations of any of the foregoing and any foreign or international equivalent of any of the foregoing and all goodwill associated therewith and (to the extent transferable by

Law) any applications or registrations in connection with the foregoing and all advertising and marketing collateral including any of the foregoing; (iv) work specifications, tech specifications, databases, and artwork; (v) technical scientific and other know-how and information (including promotional material), trade secrets, confidential information, methods, processes, practices, formulas, designs, design rights, patterns, assembly procedures, and specifications; (vi) drawings, prototypes, molds, models, tech packs, artwork, archival materials, advertising materials, copy, commercials, images, artwork, and samples; (vii) rights associated with works of authorship including copyrights, moral rights, design rights, rights in databases, copyright applications, copyright registrations, rights existing under any copyright Laws and rights to prepare derivative works; (viii) work for hire; (ix) all tangible embodiments of, and all intangible rights in, the foregoing; (x) all goodwill related to the foregoing; (xi) the right to sue for infringement and other remedies against infringement of any of the foregoing; and (xii) rights to protection of interests in the foregoing under the Laws of all jurisdictions.

“Knowledge” means the actual knowledge of a natural person, or, with respect to a Person that is not a natural person, the actual knowledge of the officers or management of any person, in each case, after due inquiry and including facts of which any such individual should be aware in the reasonably prudent exercise of his or her duties.

“Law” means any federal, state, local, municipal, multinational, or other law, treaty, statute, constitution, principle of common law, resolution, ordinance, code, edict, decree, rule, regulation, ruling, or requirement issued, enacted, adopted, promulgated, implemented, or otherwise put into effect by or under the authority of any Governmental Body, in each case as in effect as of the Closing Date.

“Liability” means, as to any Person, any debt, adverse claim, liability (including any liability that results from, relates to or arises out of tort or any other product liability claim), duty, responsibility, obligation, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution, or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed.

“Lien” has the meaning given to that term in section 101(37) of the Bankruptcy Code.

“LGM License Agreement” means that certain Amended and Restated License and Manufacturing Agreement dated as of March 8, 2022, by and between LGM Pharma Solutions, LLC, a Delaware limited liability company, and Phoenixus, as amended.

“Material Adverse Effect” shall have the meaning set forth in Section 7.6.

“Manufacturing Know-How Sublicense Agreement” means that certain Manufacturing Know-How Sublicense Agreement dated as of August 7, 2015, by and between Phoenixus AG (f/k/a Turing Pharmaceuticals AG) and Corepharma, L.L.C., pursuant to which Sellers received a royalty-free, fully-paid, nonexclusive, worldwide, and perpetual sublicense to use information and

know-how owned or controlled by GlaxoSmithKline LLC and used in the manufacture of Daraprim to make Daraprim for sale in the United States.

“Order” means any award, writ, injunction, judgment, order, ruling, decision, subpoena, mandate, precept, command, directive, consent, approval, award, decree or similar determination, or finding entered, issued, made, or rendered by any Governmental Body.

“Organizational Documents” means, with respect to a particular entity Person, (i) if a corporation, the articles or certificate of incorporation and bylaws, (ii) if a general partnership, the partnership agreement and any statement of partnership, (iii) if a limited partnership, the limited partnership agreement and certificate of limited partnership, (iv) if a limited liability company, the articles or certificate of organization or formation and any limited liability company or operating agreement, (v) if another type of Person, all other charter and similar documents adopted or filed in connection with the creation, formation or organization of the Person, and (vi) all amendments or supplements to any of the foregoing.

“Outside Date” shall have the meaning set forth in Section 3.4(b).

“Party” shall have the meaning set forth in the Preamble.

“Person” means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization, labor union, estate, Governmental Body, or other entity or group.

“Petition Date” shall have the meaning set forth in the Recitals.

“Pre-Closing Maintenance Fees” means the pro rata portion of quarterly vendor maintained fees payable to each of LGM Pharma Solutions, LLC and Novitium Pharma LLC with respect to the portion of then-current quarter ending on and including the Closing Date to the extent such amounts are not Cure Costs.

“Purchase Price” shall have the meaning set forth in Section 2.1.

“Purchased Assets” shall have the meaning set forth in Section 1.1.

“Rebate Liabilities” means all Liabilities for rebates pursuant to any government rebate programs with respect to Governmental Body claims for products, commercial rebate programs, chargeback claims, or product returns related to sales of the Portfolio by Sellers under Sellers’ labeler code prior to Closing.

“Sale Order” means an Order of the Bankruptcy Court in form and substance acceptable to the Buyer, pursuant to, *inter alia*, Sections 105, 363 and 365 of the Bankruptcy Code authorizing and approving the transactions contemplated by this Agreement.

“Seller” shall have the meaning set forth in the Preamble.

“Seller Intellectual Property” shall have the meaning set forth in Section 1.1.

“Seller Representative” shall have the meaning set forth in Section 7.2.

“Trademark Sublicense Agreement” means that certain Trademark Sublicense Agreement dated as of August 7, 2015, by and between Phoenixus AG (f/k/a Turing Pharmaceuticals AG) and Corepharma, L.L.C., pursuant to which Sellers received a fully-paid, royalty-free, perpetual, sublicensable sublicense to use U.S. Trademark Registration No. 571,968, and all common law rights in the United States to the trademark “DARAPRIM”.

ARTICLE X

MISCELLANEOUS

10.1. Payment of Expenses. Except as otherwise provided in this Agreement (including, but not limited to, Section 3.5) and whether or not the transactions contemplated hereby are consummated, the Sellers and the Buyer shall bear their own expenses incurred or to be incurred in connection with the negotiation and execution of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby.

10.2. Survival of Representations and Warranties; Survival of Confidentiality. The Parties agree that the representations and warranties contained in this Agreement shall expire upon the Closing Date. The Parties agree that the covenants contained in this Agreement to be performed at or after the Closing shall survive in accordance with the terms of the particular covenant or until fully performed.

10.3. Entire Agreement; Amendments and Waivers. This Agreement, together with the Ancillary Documents, represents the entire understanding and agreement between the Parties with respect to the subject matter hereof. This Agreement may be amended, supplemented, or changed, and any provision hereof may be waived, only by written instrument making specific reference to this Agreement signed by the Party against whom enforcement of any such amendment, supplement, modification, or waiver is sought; provided, that, notwithstanding the foregoing, the schedules hereto may be amended upon the written consent of the Parties. No action taken pursuant to this Agreement, including any investigation by or on behalf of any Party shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, condition, covenant, or agreement contained herein. The waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any Party to exercise, and no delay in exercising, any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power, or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by applicable Law.

10.4. Execution of Agreement; Counterparts; Electronic Signatures.

(a) This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Party; it being understood that each Party need not sign the same counterpart.

(b) The exchange of copies of this Agreement and of signature pages by facsimile or electronic mail in “portable document format” (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes.

10.5. Governing Law. THIS AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE, AND WHERE STATE LAW IS IMPLICATED, THE LAWS OF THE STATE OF DELAWARE SHALL GOVERN, WITHOUT GIVING EFFECT TO CHOICE OF LAW PRINCIPLES THEREOF (EXCEPT FOR ANY LAWS OF THAT STATE WHICH WOULD RENDER SUCH CHOICE OF LAWS INEFFECTIVE), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY, AND PERFORMANCE.

10.6. Jurisdiction; Waiver of Jury Trial

(a) THE BANKRUPTCY COURT WILL HAVE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN THE PARTIES, WHETHER AT LAW OR IN EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT OR TRANSACTION CONTEMPLATED HEREBY; PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTE, THE COURTS OF THE STATE OF DELAWARE AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN MASSACHUSETTS WILL HAVE SOLE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN THE PARTIES, WHETHER AT LAW OF IN EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT OR TRANSACTION CONTEMPLATED HEREBY.

(b) EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

10.7. Notices. Unless otherwise set forth in this Agreement, any notices, consents, waivers, or other communications required or permitted by this Agreement shall be in writing and with a copy delivered by email to the persons set forth below, and shall be deemed given to a Party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid) or (b) sent by email, if sent during the normal business hours of the recipient, with confirmation of transmission confirmed, in the case of each of clauses (a) and (b), to the following addresses or email addresses and marked to the attention of the person (by name

or title) designated below (or to such other address, email address, or person as a Party may designate by notice to the other Party):

If to Seller, to:

Lawrence Perkins
Chief Restructuring Officer
600 Third Avenue
19th Floor
New York, NY 10016
lperkins@scpllc.com

With a copy (which shall not constitute effective notice) to:

John Lyons
DLA Piper LLP
444 West Lake Street
Suite 900
Chicago, IL 60606
john.lyons@us.dlapiper.com

If to Buyer, to:

Tilde Sciences LLC
101 Hudson Street, 21st Floor
Jersey City, NJ 07303
Attn: Robert Antoine, CEO
Email: Robert@tildesciences.com

With a copy (which shall not constitute effective notice) to:

Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
Attn: Matthew G. Summers, Esq. & Ryan J. Udell, Esq.
Email: summersm@ballardspahr.com
udellr@ballardspahr.com

10.8. Binding Effect; Assignment. This Agreement shall be binding upon the Buyer and, subject to entry of the Bidding Procedures Order (with respect to the matters covered thereby) and the Sale Order, upon the Seller, and shall inure to the benefit of the Parties and their respective successors and permitted assigns, including any trustee or estate representative appointed in the Debtor's subchapter V case or any successor chapter 7 case. No assignment of this Agreement or of any rights or obligations hereunder may be made by the Sellers or the Buyer (by operation of

law or otherwise) without the prior written consent of the other Party, which consent shall not be unreasonably withheld, and any attempted assignment without such required consents shall be void.

10.9. Severability. Whenever possible, each provision or portion of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable Law. However, if any provision or portion of any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect under any applicable Law in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision or portion of any provision in such jurisdiction.

10.10. Certain Interpretive Matters. The information contained in the Schedules are disclosed solely for the purposes of this Agreement and may include items or information not required to be disclosed under this Agreement. No information contained in any Schedule shall be deemed to (i) be an admission by any party hereto to any third Person of any matter whatsoever, including an admission of any violation of any Laws or breach of any agreement, (ii) be deemed to be material (whether individually or in the aggregate) to the business, assets, liabilities, financial position, operations, or results of operations of the Seller, (iii) impose Liabilities on the Buyer in contravention of the express provisions of this Agreement, or (iv) give rise to circumstances which may result in a Material Adverse Effect solely by reason of it being disclosed. Information contained in a section, subsection, or individual Schedule (or expressly incorporated therein) of the Schedules shall qualify the representations and warranties made in the identically numbered section or subsection. For the avoidance of doubt, nothing disclosed in the Schedules is intended to broaden any representation or warranty contained in Article IV or V of this Agreement.

[Signature Pages Follow]

IT WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered as of the date first above written.

SELLERS:

VYERA PHARMACEUTICALS, LLC

DocuSigned by:
Lawrence Perkins
55DE923E64D44A6...
By: Lawrence Perkins
Its: CRO

PHOENIXUS AG

DocuSigned by:
Lawrence Perkins
55DE923E64D44A6...
By: Lawrence Perkins
Its: CRO

BUYER:

TILDE SCIENCES LLC

By: Robert Antoine
Its: Chief Executive Officer

IT WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered as of the date first above written.

SELLERS:

VYERA PHARMACEUTICALS, LLC

By:
Its:

PHOENIXUS AG

By:
Its:

BUYER:

TILDE SCIENCES LLC

DocuSigned by:
Robert Antoine
ACF23A35C5C0436...

By: Robert Antoine
Its: Chief Executive Officer

For the limited purpose of agreeing to be subject to Section 7.10 hereof:

ADDITIONAL DEBTOR PARTIES:

OAKRUM PHARMA, LLC

DocuSigned by:
Lawrence Perkins
55DE923E64D44A6...
By: Lawrence Perkins
Its: CRO

SEVENSCORE PHARMACEUTICALS, LLC

DocuSigned by:
Lawrence Perkins
55DE923E64D44A6...
By: Lawrence Perkins
Its: CRO

DERMELIX BIOTHERAPEUTICS, LLC

DocuSigned by:
Lawrence Perkins
55DE923E64D44A6...
By: Lawrence Perkins
Its: CRO

ORPHA LABS AG

DocuSigned by:
Lawrence Perkins
55DE923E64D44A6...
By: Lawrence Perkins
Its: CRO

EXHIBIT 2

Assigned Contracts

Assigned Contracts

No.	Contract Title²	Counterparty	Date	Estimated Cure Cost
1	Master Services Agreement	Optime Care Inc.	8/6/2018	\$11,302
2	Technology Transfer and Supply Agreement	Novitium Pharma LLC	9/30/2019	\$0
3	Master Services Agreement	Fukuzyu Pharmaceutical Company, LTd.	1/25/2017	\$0
4	Amended and Restated License and Manufacturing Agreement	LGM Pharma Solutions, LLC	3/8/2022	\$33,000
5	Purchase Agreement	Waldun Pharmaceuticals, LLC	2/13/2015	\$11,268
6	Development and Supply Agreement	Piramal Enterprises LTD	6/15/2020	\$0
7	Rebate Program Agreement	Ascent Health Services LLC	1/1/2020	\$0
8	Preferred Savings Grid Rebate Program Agreement	Express Scripts, Inc.	1/1/2018	\$18,990
9	Trademark Sublicense	Corepharma, L.L.C.	8/7/2015	\$0
10	Manufacturing Know-How Sublicense Agreement	Corepharma L.L.C.	8/7/2015	\$0

² For the avoidance of doubt, such Contracts listed in this Exhibit include all amendments, modifications, or other revisions thereto.