



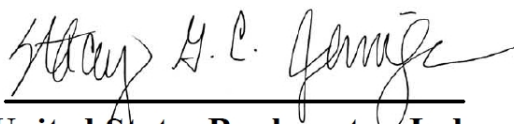
CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed August 21, 2024


United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

EIGER BIOPHARMACEUTICALS, INC., *et al.*¹

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

**REVISED ORDER (I) AUTHORIZING
THE SALE OF THE LONAFARNIB AND LAMBDA ASSETS FREE
AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS,
(II) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES, (III) GRANTING THE PURCHASER THE
PROTECTIONS AFFORDED TO A GOOD FAITH PURCHASER, (IV) APPROVING
PURCHASER PROTECTIONS IN CONNECTION WITH THE SALE OF THE
LONAFARNIB AND LAMBDA ASSETS, AND (V) GRANTING RELATED RELIEF**

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor's federal tax identification number, are: Eiger BioPharmaceuticals, Inc. (1591); EBPI Merger Inc. (9986); EB Pharma LLC (8352); Eiger BioPharmaceuticals Europe Limited (N/A); and EigerBio Europe Limited (N/A). The Debtors' service address is 2100 Ross Avenue, Dallas, Texas 75201.

Upon consideration of the Motion² of the debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) for entry of an order (this “Revised LonaFarnib/Lambda Sale Order”), pursuant to sections 105(a), 363, and 365 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2002, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 9013-1 of the Bankruptcy Local Rules for the Northern District of Texas (the “Bankruptcy Local Rules”), and Section E of the *Procedures for Complex Chapter 11 Cases in the Northern District of Texas* (the “Complex Case Procedures”), authorizing (a) the Debtors’ sale of certain of their property free and clear of liens, claims, encumbrances, and interests on the terms set forth in that certain (i) *Asset Purchase Agreement by and between Eiger InnoTherapeutics, Inc., as Purchaser, and Eiger BioPharmaceuticals, Inc., as Seller, Dated as of August 1, 2024* for the sale of the LonaFarnib Assets (the “LonaFarnib APA”) attached hereto as **Exhibit A** and (ii) *Asset Purchase Agreement by and between Eiger InnoTherapeutics, Inc., as Purchaser, and Eiger BioPharmaceuticals, Inc., as Seller, Dated as of August 1, 2024* for the sale of the Lambda Assets (the “Lambda APA” and together with the LonaFarnib APA, the “LonaFarnib/Lambda APAs”) attached hereto as **Exhibit B**; (b) the assumption and assignment of the Assigned Contracts in connection with the LonaFarnib/Lambda APAs; and (c) granting related relief, all as more fully set forth in the Motion; and this Court having previously entered the *Order (I)(A) Approving the Bid Procedures*;

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the *Debtors’ Emergency Motion for the Entry of an Order (I) Authorizing the Sale of the LonaFarnib and Lambda Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests, (II) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases, (III) Granting the Purchaser the Protections Afforded to a Good Faith Purchaser, (IV) Approving Purchaser Protections in Connection With the Sale of the LonaFarnib and Lambda Assets, and (V) Granting Related Relief* [Docket No. 490] (the “Motion”) or the LonaFarnib/Lambda APAs. If there are any inconsistencies between the defined terms in the LonaFarnib/Lambda APAs and the Motion, the defined terms of the LonaFarnib/Lambda APAs shall control.

(B) Authorizing the Debtors to Select Sentynt Therapeutics, Inc. as the Zokinvy Stalking Horse Purchaser & Approving Bid Protections; (C) Approving the Bid Protections Relating to the Remaining Assets Stalking Horse Purchaser(s), if any; (D) Establishing Bid Deadlines, Auction(s), and Sale Hearing(s); (E) Approving the Form and Manner of Sale Notice; (F) Approving Assignment and Assumption Procedures; (G) Approving the Form and Manner of Potential Assumption and Assignment Notice; (II)(A) Authorizing the Sale of the Assets Free and Clear; and (B) Approving the Assumption and Assignment of Designated Contracts; and (III) Granting Related Relief [Docket No. 94] (the “Bid Procedures Order”); and the Debtors having filed the Notice of Cancellation of Auction(s), Designation of Winning Bid for the Lonafarnib Sale Transaction, and Transition To Private Sale Process for Lonafarnib/Lambda Sale Transactions [Docket No. 489] (the “Lonafarnib/Lambda Sale Notice”) selecting Eiger InnoTherapeutics, Inc. (“Inno”) as the highest and best bidder for the Transferred Assets (the “Purchaser”) pursuant to the Lonafarnib/Lambda APAs with the Purchaser having submitted the highest and best offer for the Transferred Assets to be sold to the Purchaser as identified in the Lonafarnib/Lambda APAs, as reflected in the Lonafarnib/Lambda APAs and as from time to time may be amended in accordance with this Revised Lonafarnib/Lambda Sale Order or further order of this Court, including by the Lonafarnib/Lambda APAs, pursuant to which the Debtors have agreed, among other things, to sell the Transferred Assets to the Purchaser, including the Assigned Contracts that will be assumed and assigned to the Purchaser on the terms and conditions set forth in the Lonafarnib/Lambda APAs inclusive of the Lonafarnib Purchase Price (the “Lonafarnib Sale Transaction”) and Lambda Purchase Price (the “Lonafarnib Sale Transaction” and together with the Lonafarnib Sale Transaction, the “Lonafarnib/Lambda Sale Transactions”); and the Debtors having filed the Notice of Cure Amounts and Potential Assumption and Assignment of Executory Contracts and Unexpired

Leases in Connection with the Remaining Sale Transaction(s) [Docket No. 313] (the “Cure Notice”) and the *Amended Notice of Cure Amounts and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with the Remaining Assets Sale Transaction(s)* [Docket No. 351] (the “Amended Cure Notice”) and served the *Lonafarnib Assigned Contracts and Cure Amounts* [Lonafarnib/Lambda Sale Notice, Ex. A] and the *Lambda Assigned Contracts and Cure Amounts* [Lonafarnib/Lambda Sale Notice, Ex. B] (the “Assignment Notice”); and this Court having conducted the hearing to consider approval of the Lonafarnib/Lambda Sale Transactions (the “Lonafarnib/Lambda Sale Hearing”), at which time all interested parties were offered an opportunity to be heard with respect to the Lonafarnib/Lambda Sale Transactions; and this Court having reviewed and considered (i) the Motion and the exhibits thereto, (ii) the First Day Declaration [Docket No. 27], (iii) and the *Declaration of J. Scott Victor in Support of the Debtors’ Emergency Motion for the Entry of an Order (I) Authorizing the Sale of the Lonafarnib and Lambda Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests, (II) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases, (III) Granting the Purchaser the Protections Afforded to a Good Faith Purchaser, (IV) Approving Purchaser Protections in Connection With the Sale of the Lonafarnib and Lambda Assets, and (V) Granting Related Relief* [Docket No. 491], and the arguments and representations of counsel made, and the evidence proffered or adduced at the Lonafarnib/Lambda Sale Hearing; and it appearing that due and proper notice of the Motion, the Lonafarnib/Lambda APAs, the Cure Notice, the Amended Cure Notice, and the Assignment Notice having been provided; and all objections, if any, to approval of the Lonafarnib/Lambda Sale Transactions having been withdrawn, resolved (including by separate agreement between the objecting party and the Debtors), adjourned, or overruled as provided in this Revised Lonafarnib/Lambda Sale Order; and

it appearing entry of this Revised Lonafarnib/Lambda Sale Order and consummation of the Lonafarnib/Lambda Sale Transactions are in the best interests of the Debtors, their estates and creditors, and all parties in interest in these chapter 11 cases; and upon the record of the Lonafarnib/Lambda Sale Hearing and these chapter 11 cases; and after due deliberation thereon; and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. **Fed. R. Bankr. P. 7052.** The findings and conclusions set forth herein 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. This Court's findings shall also include any oral findings of fact and conclusions of law made by this Court during or at the conclusion of the Lonafarnib/Lambda Sale Hearing. To the extent of any conflict, the oral rulings control.

B. **Jurisdiction and Venue.** This Court has jurisdiction over the Motion and the Lonafarnib/Lambda Sale Transactions described therein, and in the Lonafarnib/Lambda APAs, including, without limitation, the sale of the Transferred Assets, pursuant to 28 U.S.C. §§ 157 and 1334. Venue for these Chapter 11 Cases is proper pursuant to 28 U.S.C. § 1408. This Court may enter a final order consistent with Article III of the United States Constitution. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

C. **Statutory Predicates.** The statutory authorization for the relief granted herein is found in sections 105(a), 363, and 365 of the Bankruptcy Code; Bankruptcy Rules 2002, 6004,

and 9014; Rule 9013-1 of the Bankruptcy Local Rules; and Section E of the Complex Case Procedures.

D. This Revised Lonafarnib/Lambda Sale Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Time is of the essence in closing the Lonafarnib/Lambda Sale Transactions referenced herein, and the Debtors and the Purchaser intend to close the Lonafarnib/Lambda Sale Transactions as soon as practicable in accordance with the Lonafarnib/Lambda APAs, and there is no just reason for delay in the implementation of this Revised Lonafarnib/Lambda Sale Order. Specifically, the Lonafarnib/Lambda Sale Transactions must be approved and consummated promptly in accordance with the Lonafarnib/Lambda APAs to preserve the viability of the business in the hands of the Purchaser as a going concern, and to maximize the value to the Debtors, their estates, their creditors, and all other parties in interest. Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, the Court expressly finds that there is no just reason for delay in the implementation of this Revised Lonafarnib/Lambda Sale Order in accordance with the Lonafarnib/Lambda APAs, waives any stay, and expressly directs entry of judgment as set forth herein.

E. **Marketing Process.** The Debtors and their professionals adequately marketed the Transferred Assets to all Potential Bidders in accordance with the Bid Procedures Order. The sale process set forth in the Bid Procedures Order afforded all Potential Bidders (as defined in the Bid Procedures, attached as Exhibit 1 to the Bid Procedures Order and revised in that *Notice of Filing of Revised Bidding Procedures*, filed on April 15, 2024 [Docket No. 119]), as modified by the *Revised Notice of Sale, Bid Procedures, Auction, and Sale Hearing* [Docket No. 331], as further

modified by the *Further Revised Notice of Bid Deadlines* [Docket No. 422], a full, fair, and reasonable opportunity to submit a higher or otherwise better offer to purchase the Transferred Assets and participate in the sale process. On August 2, 2024 the Debtors filed the Lonafarnib/Lambda Sale Notice that cancelled the Auctions. The value provided by the Purchaser pursuant to the Lonafarnib/Lambda APAs, which reflect (i) the final bid of a Base Price in the amount of \$5,200,000 *plus* the Purchaser Cure Amounts and Assumed Liabilities (collectively, the “Lonafarnib Purchase Price”) and (ii) the final bid of a Base Price in the amount of \$1,000,000 *plus* the Purchaser Cure Amounts and Assumed Liabilities (collectively, the “Lambda Purchase Price” and together with the Lonafarnib Purchase Price, the “Purchase Price”) provides the greatest value to the Debtors for the Transferred Assets. The Purchase Price constitutes the highest and best bid for the Transferred Assets. The marketing process was robust and sufficiently tested the market to determine the highest and best offer for the Transferred Assets.

F. **Purchaser Protections.** The Purchaser Protections contained in the Lambda APA and the Lonafarnib APA (i) were necessary to preserve the value of the Debtors’ estates by inducing the Purchaser to enter into the Lambda APA and the Lonafarnib APA, and (ii) are in compliance with the Bid Procedures and authorized by the Bid Procedures Order.

G. **Sale Hearing.** This Court conducted the Lonafarnib/Lambda Sale Hearing on August 20, 2024, at which time this Court considered the Motion, the evidence and testimony presented, and the statements and argument of counsel, as applicable, in support of the Motion, the Lonafarnib/Lambda APAs, and the Lonafarnib/Lambda Sale Transactions. Except as otherwise expressly provided in this Revised Lonafarnib/Lambda Sale Order, all objections to the Lonafarnib/Lambda Sale Transactions and the relief requested in the Motion, whether timely or untimely and whether written or made orally at the Lonafarnib/Lambda Sale Hearing, if any, were

heard and considered by this Court. All such objections, if any, were either overruled by this Court, are resolved by the terms hereof or by separate agreement between the objecting party and the Debtors, or were adjourned or withdrawn as a result of an agreement between the objecting party and the Debtors.

H. **Sound Business Purpose.** The Debtors have demonstrated good, sufficient, and sound business purposes and justifications for consummation of the Lonafarnib/Lambda Sale Transactions pursuant to the Lonafarnib/Lambda APAs and all other agreements, instruments, certificates, and other documents to be entered into or delivered by any party in connection with the Lonafarnib/Lambda Sale Transactions, including, without limitation, any assumption and assignment agreements entered into in connection therewith and any agreement entered into or to be entered into by the Purchaser with Merck Sharp & Dohme LLC (“Merck”) contemplated by the Lonafarnib APA (collectively, the “Transaction Documents”), outside of the ordinary course of business and in accordance with the requirements of section 363(b) of the Bankruptcy Code. Consummation of the Lonafarnib/Lambda Sale Transactions prior to and not as part of a chapter 11 plan is (i) justified under the circumstances, (ii) an appropriate exercise of the Debtors’ business judgment, and (iii) in the best interests of the Debtors, their estates, and their creditors.

I. Following a robust marketing process, the Lonafarnib/Lambda APAs and the Purchase Price constitute the highest and best offer for the Transferred Assets. No other person, or group of persons, has offered to purchase the Transferred Assets for an amount that would give greater value to the Debtors than the value provided by the Purchase Price. The Lonafarnib/Lambda Sale Transactions are the best means available to the Debtors to maximize the return to their creditors and limit the losses to counterparties to the Assigned Contracts. No

alternative to the Lonafarnib/Lambda Sale Transactions exists that would provide a greater value to the Debtors, their creditors, or other parties in interest.

J. Approval of the Lonafarnib/Lambda Sale Transactions is necessary to maximize the value the Debtors' estates will receive for the Transferred Assets. It is important to the Debtors' customers and suppliers that the transition from the Debtors to the Purchaser occurs smoothly and without unnecessary delay, so that any customer and vendor issues may be minimized. It is also important that the Lonafarnib/Lambda Sale Transactions be consummated as expeditiously as possible to avoid any disruption to the ongoing development of the Lonafarnib/Lambda Assets and so there is no uncertainty about the future of the Lonafarnib/Lambda Assets.

K. Accordingly, the sale of the Transferred Assets pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code upon the terms and conditions set forth in the Lonafarnib/Lambda APAs is the optimal means to create value for the benefit of the Debtors' estates. The Lonafarnib/Lambda Sale Transactions maximize the value of the Transferred Assets because the Transferred Assets are being sold as part of a going concern, thereby preserving the continuity and remaining goodwill value associated with the Transferred Assets. Unless the sale is concluded expeditiously, as provided for in the Motion and the Lonafarnib/Lambda APAs, creditor recoveries may be substantially diminished.

L. **Fair Purchase Price.** The Purchase Price provided by the Purchaser (i) is fair and adequate; (ii) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia (including the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, and similar laws); and (iii) will provide an equal or greater recovery for the Debtors' creditors

than would be provided by any other available alternative. The terms of the Lonafarnib/Lambda APAs, the Transaction Documents, and the Lonafarnib/Lambda Sale Transactions are fair and reasonable under the circumstances of the Debtors' chapter 11 cases, and the Debtors' determination to proceed with such transaction constitutes a valid and sound exercise of the Debtors' business judgment.

M. **Adequate and Reasonable Notice.** As evidenced by the affidavits of service filed with this Court [Docket Nos. 42, 114, 128, 140, 319, 320, 324, 509, 512], and based upon the record of the Lonafarnib/Lambda Sale Hearing, (i) due, proper, timely, adequate, and sufficient notice of the Motion, the Lonafarnib/Lambda Sale Notice, the Lonafarnib/Lambda Sale Hearing, the Lonafarnib/Lambda APAs, and the Lonafarnib/Lambda Sale Transactions has been provided to all parties in interest, (ii) such notice was and is good, sufficient, and appropriate under the circumstances, and reasonably calculated to reach and apprise all holders of Liens, claims, encumbrances, and other Interests (as defined herein), including, without limitation, rights or claims based on any successor, transferee, derivative, or vicarious liabilities, and was provided in accordance with the applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, the Bankruptcy Local Rules, the Complex Case Procedures, and the procedural due process requirements of the United States Constitution, and (iii) no other or further notice of the Motion, the Lonafarnib/Lambda Sale Hearing, the Lonafarnib/Lambda APAs, the Lonafarnib/Lambda Sale Transactions, or of the entry of this Revised Lonafarnib/Lambda Sale Order is necessary or shall be required.

N. In accordance with the Bid Procedures Order, the Debtors filed with this Court and served the Cure Notice and Amended Cure Notice, containing (i) the list of all Contracts to potentially be assigned in connection with the Lonafarnib/Lambda Sale Transactions,

(ii) information necessary and appropriate to provide notice of the relevant proposed assumption and assignment of Potentially Assigned Contracts (as defined in the Cure Notice and Amended Cure Notice) and rights thereunder, (iii) Cure Amounts, where applicable, and (iv) the procedures for objecting thereto, on all counterparties to such Potentially Assigned Contracts and any party that has requested notice pursuant to Bankruptcy Rule 2002 (“Rule 2002 Notice List”), and caused such notice to be published on the website of the Debtors’ noticing agent, Kurtzman Carson Consultants LLC dba Verita Global (“Verita”) [Docket No. 313]. The Cure Notice and Amended Cure Notice (a) included the Debtors’ good faith calculation of the Cure Amounts with respect to each Potentially Assigned Contract; (b) stated that assumption or assignment of any Potentially Assigned Contract is not guaranteed and is subject to this Court’s approval; and (c) prominently displayed the deadline to file a Cure Objection (as defined herein). The service and provision of the Cure Notice and Amended Cure Notice were good, sufficient, and appropriate under the circumstances, and no other or further notice need be given.

O. The Debtors also served the Assignment Notice on the counterparties to the Assigned Contracts, which contained (i) the list of Assigned Contracts selected by the Purchaser, (ii) information necessary and appropriate to provide notice of the relevant proposed assumption and assignment of the Assigned Contracts and rights thereunder, (iii) the Cure Amounts, and (iv) the procedures for requesting adequate assurance of future performance. The Debtors also served the [Notice of Lonafarnib/Lambda Sale Hearing] [Docket No. 509] (the “Notice of Lonafarnib/Lambda Sale Hearing”) on the counterparties to the Assigned Contracts. The service and provision of the Assignment Notice and Notice of Lonafarnib/Lambda Sale Hearing was good, sufficient, and appropriate under the circumstances, and no other or further notice need be given in connection with the assumption and assignment of the Assigned Contracts.

P. A reasonable opportunity to object and to be heard with respect to the sale of the Transferred Assets, the assumption and assignment of the Assigned Contracts, and the determination of defaults and Cure Amounts related thereto, as well as the Lonafarnib/Lambda APAs and the entry of this Revised Lonafarnib/Lambda Sale Order, has been given to all interested Persons.

Q. **Good Faith Purchaser.** The Debtors, the Purchaser, and their respective principals, counsel, and advisors have negotiated, proposed, and entered into the Lonafarnib/Lambda APAs, the Transaction Documents, and each of the transactions contemplated therein in good faith, without collusion and from arm's-length bargaining positions. The Purchaser is a "good faith purchaser" and is acting in good faith within the meaning of section 363(m) of the Bankruptcy Code in connection with the Lonafarnib/Lambda Sale Transactions and, as such, is entitled to all the protections afforded thereby. The Purchaser has proceeded in good faith in all respects. The terms of the Lonafarnib/Lambda Sale Transactions, including the Purchase Price, were not controlled by any agreement among Potential Bidders and neither the Debtors nor the Purchaser have engaged in collusion or any conduct that would cause or permit the Lonafarnib/Lambda APAs to be challenged, avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code or any other law of the United States, any state, territory, possession thereof, or the District of Columbia, or any other applicable law. The Lonafarnib/Lambda APAs were not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under laws of the United States, any state, territory, or possession, or the District of Columbia, or any other applicable law. Neither the Debtors nor the Purchaser entered into the Lonafarnib/Lambda APAs or are consummating the Lonafarnib/Lambda Sale Transactions with any fraudulent or otherwise improper purpose. The

Purchaser is not an “insider” or “affiliate” of any of the Debtors, as those terms are defined in section 101 of the Bankruptcy Code, and no common identity of incorporators, directors, or controlling stockholders exists between the Purchaser and the Debtors.

R. The Lonafarnib/Lambda Sale Transactions, which include the sale of the Transferred Assets pursuant to the Lonafarnib/Lambda APAs and all covenants in and conditions thereto, is an integrated transaction, meaning that each component is an essential part of every other component and that the Lonafarnib/Lambda Sale Transactions can be consummated only if all of the components are consummated. Accordingly, each component of the Lonafarnib/Lambda Sale Transactions is subject to, and is protected by, the provisions of section 363(m) of the Bankruptcy Code.

S. **Sale Free and Clear under Section 363(f).** The Purchaser would not have entered into the Lonafarnib/Lambda APAs and would not consummate the Lonafarnib/Lambda Sale Transactions without entry of this Revised Lonafarnib/Lambda Sale Order approving the Lonafarnib/Lambda Sale Transactions pursuant to section 363(f) of the Bankruptcy Code. Except as expressly provided otherwise in the Lonafarnib/Lambda APAs or this Revised Lonafarnib/Lambda Sale Order, the Debtors have satisfied the standard set forth in section 363(f) of the Bankruptcy Code for selling the Transferred Assets free and clear of all of the following (collectively, “Interests”): Liens (including Permitted Liens), claims (including, but not limited to, those that constitute a “claim” as defined in section 101(5) of the Bankruptcy Code), encumbrances, obligations, liabilities, pledges, charges, demands, guarantees, actions, suits, defenses, deposits, credits, allowances, options, rights, restrictions, limitations, contractual commitments, rights of first refusal, rights of setoff or recoupment, royalties, hypothecations, preferences, debts, easements, suits, licenses, rights of recovery, judgments, orders and decrees of

any court or foreign or domestic governmental entity, taxes (including foreign, state, and local taxes), covenants, indentures, instruments, leases, claims for reimbursement or subrogation, contribution, indemnity or exoneration, encumbrances, or interests of any kind or nature whatsoever against the Debtors, or any of the Transferred Assets, including, without limitation, any debts arising under or out of, in connection with, or in any way relating to, any acts or omissions, obligations, demands, guaranties, rights, contractual commitments, restrictions, product liability claims, environmental liabilities, employment or labor law claims or liabilities, employee pension or benefit plan claims, multiemployer benefit plan claims, retiree healthcare or life insurance claims or claims for taxes of or against the Debtors or against any property of the Debtors, claims arising under state or federal antitrust laws, any indemnification claim or liabilities relating to any act or omission of the Debtors or any other person prior to the Closing Date or any Excluded Liabilities, any derivative, vicarious, transferee or successor liability claims, alter ego claims, de facto merger claims, rights or causes of action (whether known or unknown, legal or equitable, contingent, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, choate or inchoate, filed or unfiled, scheduled or unscheduled, perfected or unperfected, allowed or disallowed, noticed or unnoticed, recorded or unrecorded, material or non-material, statutory or non-statutory, and asserted or unasserted), whether arising prior to or subsequent to the commencement of the Debtors' chapter 11 cases (other than the Assumed Liabilities), whether imposed by agreement, understanding, law, equity or otherwise, including without limitation (i) those Interests that purport to give to any party a right or option to effect a setoff against or any forfeiture, modification, or termination of the Debtors' interests in the Transferred Assets, or any similar rights, if any, (ii) those Interests arising under all mortgages, deeds of trust, security interests, conditional sale or other title retention agreements, pledges,

hypothecations, liens, judgments, demands, encumbrances, rights of first refusal or charges of any land or nature, if any, (iii) those Interests that are Excluded Liabilities as set forth in the Lonafarnib/Lambda APAs, (iv) those Interests held by the Prepetition Term Loan Lenders (as defined in the Final Cash Collateral Order) as provided in the order entered by the Court at Docket No. 161 (the “Final Cash Collateral Order”), and (v) those Interests arising under or out of, in connection with, or in any way related to the Debtors or any of the Debtors’ predecessors, Affiliates, or representatives, any of the Debtors’ interests in the Transferred Assets, or the operation of any of the Debtors’ businesses before the applicable Closing Date, including, without limitation, Interests based on successor liability, transferee liability, derivative liability, vicarious liability, de facto merger, continuation or continuity, or any similar theories under applicable state or federal law or otherwise. Each holder of an Interest in the Transferred Assets (a) has, subject to the terms and conditions of this Revised Lonafarnib/Lambda Sale Order, consented or shall be deemed to have consented to the relief requested in the Motion and with respect to the Lonafarnib/Lambda Sale Transactions, (b) could be compelled in a legal or equitable proceeding to accept money satisfaction of such Interest, or (c) otherwise falls within the provisions of section 363(f) of the Bankruptcy Code. Those holders of Interests that did not object to, or withdrew their objections, if any, to, the relief requested in the Motion, the Lonafarnib/Lambda APAs, the Lonafarnib/Lambda Sale Transactions, the Cure Notice, the Amended Cure Notice, or the Assignment Notices are deemed to have consented to the relief requested in the Motion, including, without limitation, the sale of the Transferred Assets and the assumption and assignment of the Assigned Contracts to the Purchaser, pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of Interests that did object that have an Interest in the Transferred Assets could be compelled in a legal or equitable proceeding to accept money satisfaction of such Interest pursuant

to section 363(f)(5) of the Bankruptcy Code or fall within one or more of the other subsections of 363(f) of the Bankruptcy Code and, therefore, are adequately protected by having their Interests that constitute interests in the Transferred Assets, if any, attach solely to the proceeds of the Lonafarnib/Lambda Sale Transactions ultimately attributable to the property in which they have an Interest, in the same order of priority and with the same validity, force, and effect that such holders had prior to the Lonafarnib/Lambda Sale Transactions, subject to any defenses of the Debtors.

T. Except as expressly provided otherwise in the Lonafarnib/Lambda APAs or this Revised Lonafarnib/Lambda Sale Order, neither the Purchaser nor any of the Purchasers' Affiliates (including any subsidiary of the Purchaser, any person or entity that could be treated as a single employer with the Purchaser pursuant to Section 4001(b) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") or Section 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986, as amended ("IRC"), and any of their respective managed funds or accounts, any of their respective lenders or investors, and, in each case of the foregoing, each of their respective former, current, or future, shareholders, equity holders, owners, members, managers, employees, representatives, officers, limited or general partners, directors, agents, professionals, successors, affiliates, or permitted assignees) (collectively with the Purchaser, the "Purchaser Group") shall be responsible for any Interests, including in respect of, based on, relating to, or arising under, without limitation, the following: (i) any labor, collective bargaining, or employment agreements; (ii) any mortgages, deeds of trust, or security interests; (iii) any intercompany loans and receivables between one or more of the Seller and any Debtor; (iv) any pension, multiemployer (as such term is defined in Section 3(37) or Section 4001(a)(3) of ERISA), health or welfare plan participation or benefit trust, compensation or other employee benefit plans,

agreements, practices and programs (including any Employee Benefit Plan) of or related to any of the Debtors or any of the Debtors' Affiliates or predecessors or any current or former employees of any of the foregoing, including, without limitation, any pension plan of any of the Debtors or any multiemployer plan to which the Debtors have at any time contributed to or had any liability or potential liability; (v) the Debtors' business operations or cessation thereof; (vi) any litigation involving one or more of the Debtors; (vii) any other employee, worker's compensation, occupational disease or unemployment or temporary disability related claim, including, without limitation, claims that might otherwise arise under or pursuant to (a) ERISA, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the Multi-Employer Pension Plan Amendments Act of 1980, including all amendments thereto, (f) the Worker Adjustment and Retraining Notification Act of 1988 or any similar state or local law ("WARN"), (g) the Americans with Disabilities Act of 1990, (h) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the IRC and of any similar state law (collectively, "COBRA"), (i) the National Labor Relations Act, (j) the Age Discrimination and Employment Act of 1967 and Age Discrimination in Employment Act, as amended, (k) state harassment, discrimination, or retaliation laws, (l) state unemployment compensation laws or any other similar state laws, or (m) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors, or relating to any wages, benefits, employment, or termination of employment with any or all Debtors or any of their predecessors; (viii) any liabilities arising under any Environmental Laws with respect to any assets owned or operated by any of the Debtors or any corporate predecessor of any of the Debtors at any time prior to the applicable Closing Date; (ix) any product liability law; (x) any antitrust laws;

(xi) any bulk sales or similar law; (xii) any tax statutes or ordinances, including, without limitation, the IRC; and (xiii) any Excluded Liabilities.

U. **No Successor, Transferee, or Similar Liability.** Except for the Assumed Liabilities, as expressly set forth in the Lonafarnib/Lambda APAs or this Revised Lonafarnib/Lambda Sale Order, the Purchaser has not expressly or impliedly assumed any obligation of the Debtors, or any other party, with respect to the Interests and the Excluded Liabilities, whether at law or in equity, whether by payment, setoff, recoupment, or otherwise, directly or indirectly, and whether from the Transferred Assets or otherwise, including, without limitation, based on successor, transferee, derivative, or vicarious liability.

V. The Lonafarnib/Lambda Sale Transactions described by the Lonafarnib/Lambda APAs and the Transaction Documents does not amount to a consolidation, merger, or de facto merger of the Purchaser and any of the Debtors and/or any of the Debtors' estates.

W. There is no continuity between the Purchaser and any of the Debtors. The Purchaser is not holding itself out to the public as a continuation of any of the Debtors or their respective estates, businesses, or operations. The Purchaser is not a mere continuation of any of the Debtors or their respective estates, businesses, or operations. There is no common identity between any of the Debtors and the Purchaser. The Purchaser does not constitute a successor or a successor in interest to any of the Debtors or their estates.

X. The Purchaser and the Debtors are not entering into the Lonafarnib/Lambda APAs and Transaction Documents or consummating the Lonafarnib/Lambda Sale Transactions for the fraudulent purpose of escaping liability for the Debtors' obligations or to defraud creditors in any way.

Y. **Sale Free and Clear and Continuation of Existing Approvals Required by the Purchaser.** The Purchaser expressly negotiated for the protection of obtaining the Transferred Assets free and clear of all Interests, including, without limitation, any potential successor liability claims (other than the Assumed Liabilities). The total consideration to be provided under the Lonafarnib/Lambda APAs reflects the Purchaser's reliance on this Revised Lonafarnib/Lambda Sale Order to provide it, pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, with title to and possession of the Transferred Assets free and clear of all Interests of any kind or nature whatsoever (including, without limitation, any potential successor liability claims (other than the Assumed Liabilities)). The Purchaser would not have entered into the Lonafarnib/Lambda APAs and would not consummate the Lonafarnib/Lambda Sale Transactions if the sale of the Transferred Assets to the Purchaser and the assumption and assignment of the Assigned Contracts to the Purchaser by the Debtors were not free and clear of all Interests of any kind or nature whatsoever (other than the Assumed Liabilities), as contemplated by this Revised Lonafarnib/Lambda Sale Order, or if the Purchaser would, or in the future could, be liable for any of the Interests, including, without limitation, rights or claims based on any successor, transferee, derivative, or vicarious liabilities. The Purchaser would not have entered into the Lonafarnib/Lambda APAs and would not consummate the Lonafarnib/Lambda Sale Transactions if the Purchaser would not be authorized, as of the Closing Date, to operate under or renew any license, permit, registration, and governmental authorization or approval of the Debtors with respect to the Transferred Assets (subject, in each case, to the terms and conditions of the Lonafarnib/Lambda APAs); if such licenses, permits, registrations, and governmental authorizations or approvals would not be deemed to have been transferred to the Purchaser as of the Closing Date; or if existing licenses or

permits applicable to the business would not remain active and in place for the Purchaser's benefit until either new licenses and permits are obtained or existing licenses and permits are transferred.

Z. **Assumption and Assignment of the Assigned Contracts.** The Assumption and Assignment of the Assigned Contracts are integral to the Lonafarnib/Lambda APAs, do not constitute unfair discrimination, are in the best interests of the Debtors, their estates and creditors, and all other parties in interest, and are based on the reasonable exercise of sound business judgment by the Debtors. At the Closing and pursuant to Section 365 of the Bankruptcy Code and this Revised Lonafarnib/Lambda Sale Order, the Debtors shall assume and, subject to the terms in the Lonafarnib/Lambda APAs, assign to the Purchaser, and Purchaser shall take assignment from the Debtors of, the Assigned Contracts.

AA. On or after the Closing Date, the Purchaser will pay all Purchaser Cure Amounts for Assigned Contracts (if any), and the Seller will pay all Seller Cure Amounts (if any) for Assigned Contracts, including with respect to the Assigned Contracts proposed to be resolved after the Closing Date in accordance with Paragraph 19 hereof. Accordingly, the Debtors or the Purchaser, as applicable, will have, to the extent necessary, (i) cured any default existing prior to the Closing with respect to the Assigned Contracts, and (ii) provided compensation, if any, to each counterparty to an Assigned Contract for any actual pecuniary loss to such party resulting from a default prior to the Closing with respect to the Assigned Contract with such counterparty, all within the meaning of sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code.

BB. Pursuant to section 365(f) of the Bankruptcy Code, each Assigned Contract required to be assumed and assigned under the Lonafarnib/Lambda APAs shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Purchaser, in accordance with their respective terms, notwithstanding any provision in such contract or other restrictions

prohibiting its assignment or transfer. No section of any of the Assigned Contracts that would directly or indirectly prohibit, restrict, or condition the assumption or assignment of any of the Assigned Contracts or would permit termination or modification of such Assigned Contracts, or rights and obligations thereunder, by a party other than the Debtors, on account of assignment of such shall have any force or effect in connection with the Transferred Assets.

CC. The assumption and assignment of the Assigned Contracts (i) are necessary to sell the Transferred Assets to the Purchaser, (ii) allow the Debtors to sell the Transferred Assets to the Purchaser as a going concern, (iii) limit the losses suffered by counterparties to the Assigned Contracts, and (iv) maximize the recoveries to other creditors of the Debtors by limiting the number of claims against the Debtors' estates by avoiding the rejection of the Assigned Contracts. For these reasons, the Debtors have exercised sound business judgment in assuming and assigning the Assigned Contracts and such assumption and assignment is in the best interests of the Debtors' estates.

DD. **Adequate Assurance of Future Performance.** Counterparties to the Assigned Contracts were provided with the Assignment Notice and had the opportunity to request and review information with respect to the Purchaser's adequate assurance of future performance (*see* Lonafarnib/Lambda Sale Notice). No counterparties to Assigned Contracts filed any objections to the Purchaser's ability to provide adequate assurance of future performance as contemplated under sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(1) of the Bankruptcy Code (each, an "Adequate Assurance Objection") prior to the Lonafarnib/Lambda Sale Hearing. Counterparties to Assigned Contracts that failed to timely file an Adequate Assurance Objection are hereby forever barred from objecting to the assumption and assignment of Assigned Contracts on the grounds of a failure to provide adequate assurance of future performance. Based

on evidence adduced at the Lonafarnib/Lambda Sale Hearing and based on the record in these chapter 11 cases, to the extent necessary, the Debtors have satisfied the requirements of section 365 of the Bankruptcy Code, including sections 365(b)(1)(A), 365(b)(1)(B), 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f) of the Bankruptcy Code, in connection with the sale and assumption and assignment of the Assigned Contracts to the extent provided under the Lonafarnib/Lambda APAs. Accordingly, subject to payment of the Cure Amounts, the Assigned Contracts may be assumed by the Debtors and assigned to the Purchaser as provided under the Lonafarnib/Lambda APAs and this Revised Lonafarnib/Lambda Sale Order.

EE. **Revised Lonafarnib/Lambda Sale Order Required by the Purchaser.** Entry of this Revised Lonafarnib/Lambda Sale Order approving the Lonafarnib/Lambda APAs is a requirement of the Lonafarnib/Lambda APAs and such requirement is a reasonable and appropriate condition precedent to the Purchaser's consummation of the Lonafarnib/Lambda Sale Transactions.

FF. **Transferred Assets Property of the Estates.** The Transferred Assets constitute property of the selling Debtors' estates and title thereto is vested in the selling Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code. The selling Debtors have all title, interest, and/or rights in the Transferred Assets required to transfer and to convey the Transferred Assets to the Purchaser, as required by the Lonafarnib/Lambda APAs.

GG. **Corporate Authority.** Subject to the entry of this Revised Lonafarnib/Lambda Sale Order, (i) the Debtors have full corporate power and authority to perform all of their obligations under the Lonafarnib/Lambda APAs and the Transaction Documents, and the Debtors' prior execution and delivery of, and performance of obligations under, the Lonafarnib/Lambda APAs and the Transaction Documents is hereby ratified, (ii) the Debtors have all of the corporate

power and authority necessary to consummate the Lonafarnib/Lambda Sale Transactions, (iii) the Debtors have taken all corporate actions necessary to authorize, approve, execute, and deliver the Lonafarnib/Lambda APAs and the Transaction Documents and to consummate the Lonafarnib/Lambda Sale Transactions, except for the closing conditions expressly provided in the Lonafarnib/Lambda APAs and the Transaction Documents, and (iv) no consents or approvals are required to consummate the Lonafarnib/Lambda Sale Transactions or otherwise perform the obligations under the Lonafarnib/Lambda APAs or the Transaction Documents, except for the closing conditions expressly provided herein or therein.

HH. **Sale in Best Interests.** The relief requested in the Motion and set forth in this Revised Lonafarnib/Lambda Sale Order is in the best interests of the Debtors, their respective creditors, estates, and all other parties in interest in the Debtors' chapter 11 cases.

II. **Prompt Consummation.** To maximize the value of the Transferred Assets, it is essential that the Lonafarnib/Lambda Sale Transactions occur within the timeframe set forth in the Lonafarnib/Lambda APAs. Time is of the essence in consummating the Lonafarnib/Lambda Sale Transactions. Accordingly, there is cause to lift the stays established by Bankruptcy Rules 6004 and 6006 with regards to the Lonafarnib/Lambda Sale Transactions and the assignment of the Assigned Contracts.

NOW, THEREFORE, IT IS ORDERED THAT:

1. **Motion Is Granted.** The Motion and the relief requested therein, and entry into and performance under the Lonafarnib/Lambda APAs, is GRANTED and APPROVED, as set forth herein.

2. **Objections Overruled.** Except as stated otherwise herein, all objections to, or reservation of rights regarding, the relief requested in the Motion, the entry of this Revised

Lonafarnib/Lambda Sale Order, or the relief granted herein, including, without limitation, any objections to the assumption or assignment of the Assigned Contracts (including Cure Amounts related thereto) or relating to the cure of any defaults under any of the Assigned Contracts or to the assumption and assignment of any of the Assigned Contracts to the Purchaser by the Debtors, that have not been withdrawn, waived, settled, or adjourned as provided in Paragraphs 17-19 below or otherwise, or that have not otherwise been resolved pursuant to the terms hereof are hereby denied and overruled on the merits with prejudice. All Persons that failed to timely object, or withdrew their objections, to the Motion or the entry of this Revised Lonafarnib/Lambda Sale Order are deemed to consent to the relief granted herein for all purposes, including, without limitation, pursuant to section 363(f)(2) of the Bankruptcy Code.

3. **Notice.** Notice of the Motion, the Lonafarnib/Lambda Sale Hearing, and the assumption and assignment of Assigned Contracts was adequate, appropriate, fair, and equitable under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, and 6006, and the Bankruptcy Local Rules, and as such no further or other notice is required.

4. **Approval and Authorization.** The sale of the Transferred Assets to the Purchaser on the terms and conditions contained in the Lonafarnib/Lambda APAs and the Transaction Documents, including, without limitation, the Closing of the Lonafarnib/Lambda Sale Transactions as required by the Lonafarnib/Lambda APAs, is hereby approved in all respects pursuant to sections 105(a), 363(b), 363(f), 363(m), and 365 of the Bankruptcy Code and Bankruptcy Rules 6004 and 6006. Pursuant to sections 105, 363, and 365 of the Bankruptcy Code, the Debtors are authorized to perform all obligations under and make all payments required by the Lonafarnib/Lambda APAs and the Transaction Documents as and when due thereunder without

further order of this Court. The Debtors, the Purchaser, and each of their respective officers, employees, and agents are hereby authorized to (i) execute the Lonafarnib/Lambda APAs and the Transaction Documents, including the Lonafarnib/Lambda APAs, and any prior execution of such agreements, documents, and instruments, including the Transaction Documents, is hereby ratified, (ii) perform all obligations under the Lonafarnib/Lambda APAs and the Transaction Documents, to consummate each of the foregoing, including, without limitation, deeds, assignments, and other instruments of transfer, and to consummate the Lonafarnib/Lambda Sale Transactions, and any prior performance of such obligations or any prior consummation of such Lonafarnib/Lambda Sale Transactions is hereby ratified, (iii) assume and assign the Assigned Contracts to the Purchaser, and (iv) take all other and further actions as may be reasonably necessary to consummate and implement the Lonafarnib/Lambda Sale Transactions and to perform all obligations under the Lonafarnib/Lambda APAs and the Transaction Documents and the consummation thereof, without any further corporate action or order of this Court. The Purchaser shall not be obligated to proceed with the Closing under the Lonafarnib/Lambda APAs until all conditions precedent to its obligation to do so thereunder have been satisfied or waived.

5. **No Sub Rosa Plan.** The sale of the Transferred Assets, including, without limitation, the assignment of the Assigned Contracts, pursuant to the Lonafarnib/Lambda APAs outside a chapter 11 plan neither impermissibly restructures the rights of the Debtors' creditors nor impermissibly dictates the terms of the Debtors' subsequent chapter 11 plan. Neither the Lonafarnib/Lambda APAs nor the Lonafarnib/Lambda Sale Transactions constitute a sub rosa chapter 11 plan.

6. **Valid Transfer.** As of the Closing, the consummation of the Lonafarnib/Lambda Sale Transactions shall effect a legal, valid, and enforceable sale and transfer of the Transferred

Assets to the Purchaser, and shall vest the Purchaser with all legal, equitable, and beneficial right, title, and interest in and to the Transferred Assets free and clear of all Interests of any kind or nature whatsoever. The Lonafarnib/Lambda APAs and the Transaction Documents are valid and binding contracts between the Debtors and the Purchaser and shall be enforceable pursuant to their terms. The Lonafarnib/Lambda APAs, the Transaction Documents, and the Lonafarnib/Lambda Sale Transactions themselves, and the consummation thereof, shall be specifically enforceable against and binding upon (without posting any bond) the Debtors and their respective Affiliates and subsidiaries and such parties' successors and assigns, the Debtors' estates, all creditors thereof (whether known or unknown), all holders of equity interests in any Debtor, holders of Interests in, against, or on all or any portion of the Transferred Assets, all non-Debtor parties to the Assigned Contracts, the Purchaser and its respective successors and assigns, any chapter 11 trustee appointed in these chapter 11 cases or any chapter 7 trustee appointed upon a conversion of these chapter 11 cases to cases under chapter 7 of the Bankruptcy Code, and shall not be subject to rejection or avoidance by the foregoing parties or any other Person.

7. **Free and Clear.** Except as expressly provided for in the Lonafarnib/Lambda APAs or this Revised Lonafarnib/Lambda Sale Order, pursuant to sections 105(a), 363(b), 363(f), 365(b), and 365(f) of the Bankruptcy Code, the Debtors are authorized and directed to transfer the Transferred Assets to the Purchaser and, upon the Closing, other than the Purchaser's assumption of the Assumed Liabilities and the Purchaser's obligations under the Lonafarnib/Lambda APAs and the Assigned Contracts, the Purchaser shall have and take title to and possession of the Transferred Assets free and clear of and shall have no obligation with respect to all Interests (other than the Assumed Liabilities) of any kind or nature whatsoever, including, without limitation, rights or claims based on any successor, transferee, derivative, or vicarious liabilities; de facto

merger, continuation or continuity, or any similar theories under applicable state or federal law or otherwise. All holders of Interests fall within one or more of the subsections of section 363(f) of the Bankruptcy Code and are adequately protected by having their Interests attach to the net proceeds ultimately received by the Debtors and attributable to the Transferred Assets against or in which such Interests are asserted, subject to the terms of such Interests, with the same validity, force, and effect, and in the same order of priority that such Interests now have against the Transferred Assets or their proceeds as of Closing, subject to any rights, claims, and defenses the Debtors or their estates, as applicable, may possess with respect thereto, in addition to any limitations on the use of such proceeds pursuant to any provision of this Revised Lonafarnib/Lambda Sale Order. This Revised Lonafarnib/Lambda Sale Order: (a) is and shall be effective as a determination that, other than Assumed Liabilities or as otherwise provided herein, upon the applicable Closing in accordance with the Lonafarnib/Lambda APAs, all claims of any kind or nature whatsoever existing as to Transferred Assets, and any tax liability, prior to the applicable Closing have been unconditionally released, discharged, and terminated, and that the conveyances described herein have been effected, with such Interests and liens attaching in order of priority to the proceeds of the Lonafarnib/Lambda Sale Transactions, and (b) is and shall be binding upon and shall authorize all entities, including without limitation all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies or units, governmental departments or units, secretaries of state, federal, state and local officials and all other persons and entities 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, or who may be required to report or insure any title or state of title in or to the Transferred Assets conveyed to the Purchaser. All recorded Interests against the

Transferred Assets from their records, official and otherwise, shall be deemed stricken upon the Closing in accordance with the Lonafarnib/Lambda APAs and the terms of this Revised Lonafarnib/Lambda Sale Order without the need for further action on the part of either the Purchaser or the Seller. The conditions of section 363(f) of the Bankruptcy Code have been satisfied in full; therefore, the Debtor is authorized and directed to sell the Transferred Assets free and clear of any liens, claims, and/or interests (other than the Assumed Liabilities).

8. Those holders of Interests or claims who did not object (or who ultimately withdrew their objections, if any) to the Lonafarnib/Lambda Sale Transactions are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of Interests or claims who did object that have an interest in the Transferred Assets fall within one or more of sections 363(f)(1), 363(f)(3), 363(f)(4), or 363(f)(5) of the Bankruptcy Code and are therefore adequately protected by having their Interests or claims that constitute interests in the Transferred Assets, if any, attach solely to the proceeds of the Lonafarnib/Lambda Sale Transactions ultimately attributable to the property in which they have an interest, in the same order of priority and with the same validity, force, and effect that such holders had prior to the Lonafarnib/Lambda Sale Transactions, subject to any defenses of the Debtors.

9. **Release of Interests.** Any and all Persons that have filed a financing statement, mortgage, mechanic's lien, *lis pendens*, or other document or agreement evidencing an Interest against or in the Transferred Assets shall deliver to the Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases, and/or any other similar documents necessary for the purpose of documenting all Interests that such Person has against or in the Transferred Assets. For any Person who has not delivered such termination statements to the Debtors prior to the Closing, (i) the

Debtors and/or the Purchaser are hereby authorized to execute and file such statements, instruments, releases, and/or other similar documents on behalf of such Person with respect to the Transferred Assets, (ii) the Purchaser is hereby authorized to file, register, or otherwise record a certified copy of this Revised Lonafarnib/Lambda Sale Order that, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Interests of any kind or nature against or in the Transferred Assets, and (iii) the Purchaser may seek in this Court, or any other court of appropriate jurisdiction, to compel the appropriate parties to execute termination statements, instruments of satisfaction, releases, and/or other similar documents with respect to all Interests that such Person has against or in the Transferred Assets. This Revised Lonafarnib/Lambda Sale Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department, or office. Notwithstanding the foregoing, the provisions of this Revised Lonafarnib/Lambda Sale Order authorizing the sale and assignment of the Transferred Assets free and clear of all Interests shall be self-executing, and neither the Debtors nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate, and implement the provisions of this Revised Lonafarnib/Lambda Sale Order.

10. **Surrender of Transferred Assets.** All Persons that are presently or on the Closing Date may be in possession of some or all of the Transferred Assets are directed to surrender possession of such Transferred Assets to the Purchaser as of the Closing Date.

11. **Continuation of Existing Approvals.** The Purchaser shall be authorized, as of the Closing Date, to operate under any license, permit, registration, and governmental authorization or approval of the Debtors with respect to the Transferred Assets (subject, in each case, to the

terms of the Lonafarnib/Lambda APAs), and all such licenses, permits, registrations, and governmental authorizations or any other approvals are deemed to have been, and hereby are, directed to be transferred to the Purchaser as of the Closing Date. All existing licenses or permits applicable to the business shall remain active, in place, and, as applicable, shall be renewed for the Purchaser's benefit until either new licenses and permits are obtained or existing licenses and permits are transferred in accordance with applicable administrative procedures. To the maximum extent permitted by section 525(a) of the Bankruptcy Code, no governmental unit (as defined in Bankruptcy Code § 101(27)) or any representative thereof may revoke or suspend, or in any way challenge or fail to consent to any renewal of any permit or license relating to the operation of the Transferred Assets because of the filing or pendency of the Debtors' chapter 11 cases or the consummation of the Lonafarnib/Lambda Sale Transactions.

12. **Injunction.** All Persons are hereby prohibited and enjoined from taking any action that would adversely affect or interfere with, or that would be inconsistent with, the ability of the Debtors to sell and transfer the Transferred Assets to the Purchaser in accordance with the terms of the Lonafarnib/Lambda APAs, the Transaction Documents, or this Revised Lonafarnib/Lambda Sale Order. Except as expressly permitted by the Lonafarnib/Lambda APAs with respect to Assumed Liabilities or this Revised Lonafarnib/Lambda Sale Order, all Persons (and their respective successors and assigns), including, without limitation, all holders of claims or Interests, lenders, debt security holders, governmental, tax and regulatory authorities, parties to executory contracts and unexpired leases, creditors, contract counterparties, customers, landlords, licensors, employees and former employees, litigation claimants, pension plans, labor unions, trade creditors, and other Persons holding Interests of any kind or nature whatsoever against or in the Debtors or the Transferred Assets (whether known or unknown, legal or equitable, matured or unmatured,

contingent or non-contingent, liquidated or unliquidated, asserted or unasserted, whether arising prior to or subsequent to the commencement of the Debtors' chapter 11 cases, whether imposed by agreement, understanding, law, equity, or otherwise), arising under or out of, in connection with, or in any way relating to, the Debtors, the operation of the Debtors' businesses prior to the Closing, the Transferred Assets, or the transfer of the Transferred Assets to the Purchaser (including, without limitation, any rights or claims based on any successor, transferee, derivative, or vicarious liabilities), shall be and hereby are forever barred, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing any Interests against the Purchaser, any of its Affiliates, officers, directors, members, partners, principals, or shareholders, any of their respective representatives, successors, designees, or assigns, the property of the foregoing, and the Transferred Assets transferred to the Purchaser or interests of the Debtors in such Transferred Assets (other than the Assumed Liabilities). Following the Closing, no holder of an Interest against the Debtors shall interfere with the Purchaser's title to or use and enjoyment of the Debtors' former interests in the Transferred Assets, including, without limitation, taking any of the following actions with respect to or based on any Interest relating to the Transferred Assets or the transfer of the Transferred Assets to the Purchaser (other than Assumed Liabilities): (a) commencing or continuing in any manner any action or other proceeding against the Purchaser or its successors or assigns, assets or properties; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the Purchaser or its successors or assigns, assets, or properties; (c) creating, perfecting, or enforcing any Interest against the Purchaser, its successors or assigns, assets (including the Transferred Assets), or properties; (d) asserting any Interest as a setoff, right of subrogation, or recoupment of any kind against any obligation due Purchaser or its successors or assigns; (e) commencing or continuing any action in any manner or place that does

not comply or is inconsistent with the provisions of this Revised Lonafarnib/Lambda Sale Order or the agreements or actions contemplated or taken in respect thereof; (f) interfering with, preventing, restricting, prohibiting, or otherwise enjoining the consummation of the Sale Transactions; or (g) enforcing any provision of any Assigned Contract that prohibits, restricts or conditions, or which purports to terminate or modify, or permits a party other than the Debtors to terminate or modify, any such Assigned Contract, or any right or obligation under such Assigned Contract, because of the assumption and assignment of such Assigned Contract by the Debtors to the Purchaser. For the avoidance of doubt, and without limiting the generality of the foregoing or the operability of any other relief obtained pursuant to this Revised Lonafarnib/Lambda Sale Order, any provision in an Assigned Contract, any other document, or any applicable law that purports to prohibit, restrict, modify or otherwise impair assignment of the Assigned Contracts or the Purchaser's ability to utilize the Transferred Assets in Purchaser's business is hereby void and of no force and effect with respect to the Lonafarnib/Lambda Sale Transactions, including without limitation any provision that (a) terminates or modifies any right or obligation of the Purchaser under such Assigned Contract; (b) cross-defaults to or from any other lease or executory contract that is not an Assigned Contract; (c) contains operating covenants or "go-dark" provisions that would purport to terminate or modify any Assigned Contract before assumption and assignment to the Purchaser; (d) requires a third party's consent prior to assignment of the Assigned Contract to the Purchaser; or (e) restricts the Purchaser's use or assignment of any licenses or similar permits if transferred.

13. **General Assignment.** As of the Closing, this Revised Lonafarnib/Lambda Sale Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer of the Transferred Assets and/or a bill of sale or assignment

transferring indefeasible title and interest in the Transferred Assets, including the Assigned Contracts, to the Purchaser. Each and every federal, state, and local governmental agency or department is hereby authorized and directed to accept any and all documents and instruments necessary and appropriate to consummate the Lonafarnib/Lambda Sale Transactions and to reflect the effectiveness of the Lonafarnib/Lambda Sale Transactions.

14. **No Successor, Transferee, or Similar Liability.** The Purchaser, its Affiliates, and any of their respective officers, directors, members, partners, principals, employees, independent contractors, and shareholders (or equivalent) and any of their respective representatives, agents, predecessors, successors, or assigns shall not be and shall not be deemed, as a result of the consummation of the Lonafarnib/Lambda Sale Transactions or otherwise, (i) to be a successor of, successor employer of, successor entity of, to have successorship obligations relating to, or to otherwise be deemed a successor, to the Debtors or the Debtors' estates, including with respect to any labor, employment, employee, personnel, or worker related matter, law, or agreement, including any collective bargaining agreement, works council agreement, union agreement, area labor agreement, multiemployer agreement, project labor agreement, construction agreement, contractor agreement, building agreement, regional agreement, work standards agreement, or other labor Contract (collectively, a "Collective Bargaining Agreement"), any employee benefit plans, any defined benefit pension plan, or any multiemployer plans, and the Purchaser and/or its Affiliates, as applicable, shall instead be, and be deemed to be, a new employer, including with respect to, among other things, any and all federal or state unemployment laws, including the Fair Labor Standards Act, any employee wage and hour law, privacy law, worker classification law, minimum wage law, overtime law, compensation or benefit law, meal or rest break law, time keeping law, employee record or documentation law, workers compensation law, unemployment

compensation or tax law, or any other similar federal or state law (provided that the Purchaser shall pay employee-related liabilities solely to the extent expressly included in the Assumed Liabilities); (ii) to have any common law successorship liability in relation to any Collective Bargaining Agreement, union, multiemployer organization, employee benefit plan, or multiemployer plan, including with respect to withdrawal liability or contribution obligations; (iii) to have, de facto or otherwise, merged or consolidated with or into any of the Debtors or any of the Debtors' estates, (iv) to be the successor of or a successor employer (as defined under COBRA and applicable regulations thereunder, common law, or otherwise) to the Debtors; (v) to have a common identity with the Debtors; (vi) to be an alter ego, joint employer, single employer, a continuation or substantial continuation, or to be holding itself out as a mere continuation, of any of the Debtors or their respective estates, or any enterprise of any of the Debtors, (vii) to be liable for any acts or omissions of the Seller or any of the other Debtors in connection with any Collective Bargaining Agreement, personnel, worker, employee, independent contractor, the conduct of the business, or the operation, funding, or administration of the employee benefit plans or multiemployer plans or arising under or related to the Transferred Assets other than as expressly set forth in the Lonafarnib/Lambda APAs; (viii) to have any successor liability, transferee liability, derivative liability, vicarious liability, or any similar theories of any kind or character including, without limitation, under any theory of foreign, federal, state, or local antitrust, environmental, successor, tax, ERISA, assignee or transferee liability, labor, product liability, employment, de facto merger, substantial continuity, or other law, rule, regulation, or doctrine, whether known or unknown as of the Closing Date, whether now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, liquidated or unliquidated; (ix) except as expressly set forth in the Lonafarnib/Lambda APAs, to have any successor liability, transferee liability, derivative, liability,

vicarious liability, for any similar theories of any kind or character including under any pending, threatened, or potential claim, litigation, arbitration, settlement, investigation, fact circumstance, or event disclosed in the Transaction Documents; in each case whether known or unknown as of the Closing Date, whether now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, liquidated or unliquidated, except to the extent solely and expressly provided for in the Lonafarnib/Lambda APAs. The Purchaser shall not assume, or be deemed to assume, or in any way be responsible for any liability or obligation of any of the Debtors and/or their respective estates, or any of their predecessors or Affiliates. The so-called “bulk sales,” “bulk transfer,” or other similar laws shall be waived in all necessary jurisdictions, including those relating to Taxes. Except as expressly set forth in the Lonafarnib/Lambda APAs with respect to Assumed Liabilities, the Purchaser, its Affiliates, officers, directors, members, partners, principals, and shareholders (or equivalent) and any of their respective representatives, successors, or assigns, or the Transferred Assets shall have no liability or responsibility whatsoever with respect to, or be required to satisfy in any manner, whether at law or in equity, whether by payment, setoff or otherwise, directly or indirectly (w) any Interest against the Debtors or against an insider of the Debtors, (x) any Interest or Excluded Liabilities, (y) the Debtors except as expressly set forth in the Lonafarnib/Lambda APAs and the Transaction Documents.

15. **Good Faith of the Purchaser.** The Lonafarnib/Lambda Sale Transactions specified in the Lonafarnib/Lambda APAs are undertaken by the Purchaser without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and, accordingly, neither the reversal nor modification on appeal of the authorization provided in this Revised Lonafarnib/Lambda Sale Order to consummate the sale shall affect the validity of the Lonafarnib/Lambda Sale Transactions, including, without limitation, the assumption and

assignment of the Assigned Contracts, unless such authorization and consummation of the sale are duly and properly stayed pending such appeal. The Purchaser is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code.

16. **No Avoidance of the Lonafarnib/Lambda APAs.** Neither the Debtors nor the Purchaser have engaged in any conduct that would cause or permit the Lonafarnib/Lambda APAs to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code. Accordingly, the Lonafarnib/Lambda APAs and the Lonafarnib/Lambda Sale Transactions 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 Lonafarnib/Lambda APAs or the Lonafarnib/Lambda Sale Transactions. Specifically, the Purchaser has not acted in a collusive manner with any person or entity and the Purchase Price was not controlled by any agreement among bidders.

17. **Payment of Cure Amounts and Cure Dispute Resolution.** All defaults or other obligations of the Debtors under the Assigned Contracts arising prior to the Closing (without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) as to which no objections were interposed, or as to which an objection was interposed but which do not remain pending as of the date of this Revised Lonafarnib/Lambda Sale Order, are deemed satisfied by the payment of the proposed amount necessary, if any, to cure all monetary defaults, if any, under such Assigned Contract in those amounts set forth in the Assignment Notice, and which were satisfied, or shall be satisfied as soon as practicable. For all Assigned Contracts listed on the Assignment Notice for which the Cure Notice or Amended Cure Notice was served, the Purchaser is authorized and directed to pay all

Purchaser Cure Amounts, and the Seller is authorized and directed to pay all Seller Cure Amounts, as soon as practicable after the Closing. Any non-Debtor counterparty to an Assigned Contract that has not filed an objection on or before the deadline as set forth in the relevant Cure Notice or Amended Cure Notice, or received an informal extension by the Debtors, shall be barred from objecting or asserting monetary or non-monetary defaults with respect to any such Assigned Contract other than the applicable amount set forth in the Assignment Notice, and such Assigned Contract shall be deemed assumed by the Debtors and assigned to the Purchaser on the Closing Date.

18. With respect to the Assigned Contracts, subject to the terms of the Lonafarnib/Lambda APAs, and subject to the entry of this Revised Lonafarnib/Lambda Sale Order, Purchaser shall make provision for the payment of the Purchaser Cure Amounts, and Seller shall make provision for the payment of the Seller Cure Amounts, in cash at Closing. The Purchaser's promise to perform the obligations under the Assigned Contracts arising after their assumption and assignment to the Purchaser shall constitute adequate assurance of future performance within the meaning of sections 365(b) and 365(f)(2) of the Bankruptcy Code. On the Closing Date, subject in all respects to the terms of this Revised Lonafarnib/Lambda Sale Order, the Purchaser shall be deemed to be substituted for the Seller (and/or any other Debtor, to the extent any of them hold any rights, title, or interests in any of the Assigned Contracts) as a party to the applicable Assigned Contracts.

19. In the event of an objection by a Contract counterparty to the Cure Amount with regard to any Contract (such contract, a "Disputed Contract"), such Disputed Contract may be conditionally assumed and assigned, with the consent of the Purchaser, pending the entry of a Disputed Contract Order (as defined below). In the event a Disputed Contract remains unresolved

as of the Closing Date, Seller shall either settle the objection of such party or shall litigate such objection under procedures as established by the Bankruptcy Court. In no event shall the Seller settle a Cure Amount objection with regard to any potential Assigned Contract without the express written consent (such consent not to be unreasonably withheld) of Purchaser (with an email consent being sufficient). Upon entry of an Order of the Bankruptcy Court (if necessary) determining any Cure Amount and authorizing the assumption and assignment to Purchaser of such Disputed Contract after the Closing, which order shall be in form and substance acceptable to Purchaser (a “Disputed Contract Order”), Purchaser shall have the option to designate the Disputed Contract as an Assigned Contract or an Excluded Contract (regardless of whether such contract was identified on the Contracts List). If Purchaser elects to designate the Disputed Contract as an Excluded Contract, (a) such Disputed Contract shall automatically be deemed to be an Excluded Contract for all purposes under the Revised Lonafarnib/Lambda Sale Order and the Lonafarnib/Lambda APAs, and (b) Purchaser shall not be obligated to pay any Cure Amount or liabilities associated with such Disputed Contract. If Purchaser elects to designate the Disputed Contract as an Assigned Contract, such Disputed Contract shall be deemed an Assigned Contract for all purposes hereunder and, for the avoidance of doubt, Purchaser shall assume the Disputed Contract and shall be responsible for paying the associated Purchaser Cure Amount (if any) with respect to such Disputed Contract and (if applicable) Seller shall be responsible for paying all related Seller Cure Amounts, which such Cure Amount shall be made as soon as practicable after the Purchaser elects to assume the Disputed Contract. If Purchaser does not designate such Disputed Contract as either an Excluded Contract or an Assigned Contract within five (5) Business Days after the date of the Disputed Contract Order (or such later date as agreed by the Seller and Purchaser), (a) such Disputed Contract shall automatically be deemed to be an Excluded Contract

for all purposes under this Revised Lonafarnib/Lambda Sale Order and the Lonafarnib/Lambda APAs, and (b) Purchaser shall not be obligated to pay any Cure Amount or liabilities associated with such Disputed Contract.

20. **Determination of Cure Amounts.** Unless a counterparty to any Assigned Contract has filed a timely Cure Objection which remains subject to an unresolved Cure Dispute as of the entry of this Revised Lonafarnib/Lambda Sale Order, the Cure Amounts set forth on the Assignment Notice shall constitute findings of this Court and shall be final and binding on the counterparties to the Assigned Contracts and their successors and designees upon the Closing and shall not be subject to further dispute or audit based on performance prior to the time of assumption and assignment, irrespective of the terms and conditions of such Assigned Contracts. Each counterparty to an Assigned Contract (other than a counterparty who filed a timely Cure Objection) shall be forever barred, estopped, and permanently enjoined from (i) asserting against the Purchaser or its property (including, without limitation, the Transferred Assets), any default arising prior to or existing as of the Closing, or any counterclaim, defense, recoupment, setoff, or any other Interest asserted or assertable against the Debtors (except as otherwise provided herein), and (ii) imposing or charging against the Purchaser or its Affiliates, any accelerations, assignment fees, increases, or any other fees or charges as a result of the Debtors' assumption and assignment to the Purchaser of the Assigned Contracts in connection with the Lonafarnib/Lambda Sale Transactions approved by this Revised Lonafarnib/Lambda Sale Order. To the extent a counterparty to any of the Assigned Contracts received notice of the Debtors' proposed Cure Amount and fails to file a Cure Objection by the applicable deadline, such party shall be deemed to have (a) consented to the assumption and assignment of the applicable Assigned Contract and the payment of the Cure Amount provided in the Assignment Notices and (b) waived any right to

assert or collect any other cure amount or enforce any default that may arise or have arisen prior to or as of the Closing.

21. **Cross-Over Contracts.** From the Agreement Date until the Plan Consummation Date, the Debtors shall not, and shall cause its Affiliates not, to reject, amend, modify, sell, assign, license, transfer, convey, deliver or otherwise divest its interests in the Cross-Over Contracts in a manner that adversely affects, or would reasonably be expected to adversely affect, Purchaser's rights or obligations under the Lonafarnib APA, or Purchaser's ability to Develop or Commercialize any Lonafarnib Antiviral Products.

22. Except for those Cross-Over Contracts rejected, transferred, assigned or terminated by the Debtors without violating Paragraph 21 of this Revised Lonafarnib/Lambda Sale Order, the Debtors shall, upon Purchaser's written request, transfer and assign, and hereby transfers and assigns, automatically and without further notice, to the Purchaser, each other Cross-Over Contract, effective on the date that is the earliest to occur of (a) the date that each and every Cross-Over Contract Benefited Party of such Cross-Over Contract obtains (i) a new agreement with the applicable counterparty of such Cross-Over Contract for substantially the same services as those then being provided to Seller by such counterparty under such Cross-Over Contract, or (ii) an agreement with a Third Party such that such services then being provided under such Cross-Over Contract to such Cross-Over Benefited Party are no longer needed by such Cross-Over Benefited Party, (b) the date Purchaser and all Cross-Over Contract Benefited Parties of such Cross-Over Contract agree to such transfer and assignment of such Cross-Over Contract, and (c) the date all Cross-Over Benefited Parties are no longer receiving any services under such Cross-Over Contract; and upon such transfer and assignment, such Cross-Over Contract shall be deemed an Assigned Contract for all purposes under the Lonafarnib APA. Purchaser shall be responsible for

paying the associated Purchaser Cure Amount (if any) with respect to such Cross-Over Contract, and (if applicable) Seller shall be responsible for paying all associated Seller Cure Amounts.

23. Notwithstanding the foregoing Paragraphs 21 and 22, (x) the IQVIA Contracts shall be Assigned Contracts upon the occurrence of the Satisfactory IQVIA Cure Resolution, and (y) the Cross-Over Contracts that are not IQVIA Contracts (the “Other Cross-Over Contracts”) shall be Assigned Contracts upon the occurrence of the Satisfactory Other Cure Resolution, provided that if the Satisfactory IQVIA Cure Resolution does not occur by the Plan Consummation Date, the IQVIA Contracts shall be Excluded Contracts, and if the Satisfactory Other Cure Resolution does not occur by the Plan Consummation Date, the Other Cross-Over Contracts shall be Excluded Contracts. In the event that a Cross-Over Contract becomes an Excluded Contract, Seller shall use commercially reasonable efforts to preserve the Transferred Data, including the Global Safety Databases, and fully transfer and transition the Transferred Data and Transferred Regulatory Information to Purchaser, and shall not instruct the counterparties to the IQVIA Contracts to delete or remove the Transferred Data from the Global Safety Databases.

24. **Previously Unknown Contracts.** If at any time, prior to the earlier of confirmation of a plan in the Chapter 11 Cases or entry of an order dismissing the Chapter 11 Cases, it is discovered that a Contract material to the operation of the Business should have been identified on the Assumption Notice but was not so listed (any such Contract, a “Previously Unknown Contract”), Seller shall, promptly following the discovery thereof (but in no event later than five (5) Business Days following the discovery thereof), notify Purchaser in writing of such Previously Unknown Contract and provide Purchaser with a copy of such Previously Unknown Contract and the Cure Amount (if any) in respect thereof. Purchaser shall thereafter deliver written notice to Seller (email being sufficient), no later than ten (10) Business Days following such notice of such

Previously Unknown Contract from Seller, if Purchaser elects for such Previously Unknown Contract to be an Assigned Contract. If Purchaser elects for a Previously Unknown Contract to be an Assigned Contract in accordance with this Paragraph 24, then to the extent not previously filed and served, Seller shall file and serve an assignment and assumption notice on the Contract counterparty to such Previously Unknown Contract (a “Supplemental Assignment Notice”) notifying such Contract counterparty of Seller’s intention to assume and assign to Purchaser such Previously Unknown Contract, including the proposed Cure Amount (if any). Such notice shall state that such Contract counterparty shall have fourteen (14) days to object to the assumption and assignment of the Contract to Purchaser (the “Supplemental Assignment Notice Objection Deadline”). Following expiration of the Supplemental Assignment Notice Objection Deadline and, if no objections are received, Seller shall submit a proposed order (in form and substance reasonably acceptable to Purchaser) to the Bankruptcy Court under certification of counsel authorizing the assumption and assignment of such Contract to Purchaser and, upon the entry of such an order, such Contract shall be deemed an Assigned Contract for all purposes under the Lonafarnib/Lambda APAs and this Revised Lonafarnib/Lambda Sale Order. If such Contract counterparty objects to the proposed assumption and assignment, the Contract at issue shall be deemed a Disputed Contract for all purposes under the Lonafarnib/Lambda APAs.

25. **Previously Excluded Contract.** At any time prior to the earlier of confirmation of a plan in the Chapter 11 Cases or entry of an order dismissing the Chapter 11 Cases, Purchaser may elect to take an assignment of any Excluded Contract that has not yet been assumed and assigned pursuant to an order of the Bankruptcy Court (a “Previously Excluded Contract”) by sending a written notice to Seller (email being sufficient) of such election. If Purchaser elects for a Previously Excluded Contract to be an Assigned Contract in accordance with this Paragraph 25,

then to the extent not previously filed and served, Seller shall file and serve a Supplemental Assignment Notice on the Contract counterparty to such Previously Excluded Contract. Such Supplemental Assignment Notice Objection Deadline shall state that such Contract counterparty shall have fourteen (14) days to object to the assumption and assignment of the Contract to Purchaser. Following expiration of the Supplemental Assignment Notice Objection Deadline and if no objections are received, Seller shall submit a proposed order (in form and substance reasonably acceptable to Purchaser) to the Bankruptcy Court under certification of counsel authorizing the assumption and assignment of such Contract to Purchaser and, upon the entry of such an order, such Contract shall be deemed an Assigned Contract for all purposes under the Lonafarnib/Lambda APAs and this Revised Lonafarnib/Lambda Sale Order, and, subject to paragraphs 21-23 of this Revised Lonafarnib/Lambda Sale Order and Section 7.15 of the Lonafarnib APA with respect to Cross-Over Contracts, the Purchaser shall be responsible for satisfying or paying any Cure Amounts or other Liabilities with respect to such Contract, whether or not such Cure Amounts or other Liabilities exceed the Purchaser Cure Amounts. For the avoidance of doubt, the Cross-Over Contracts are not Previously Excluded Contracts. If such Contract counterparty objects to the proposed assumption and assignment, the Contract at issue shall be deemed a Disputed Contract for all purposes under the Lonafarnib/Lambda APAs.

26. **Bristol-Myers Squibb (“BMS”) License Agreement.** From and after the closing in connection with the Lambda APA, BMS shall be deemed to have consented to the assumption and assignment of the BMS License Agreement (as defined in the Lambda APA) to the Purchaser, and the BMS License Agreement shall be deemed assumed and assigned to Purchaser, with Purchaser being substituted for Debtor Eiger BioPharmaceuticals, Inc. under such BMS License

Agreement for all purposes thereunder. Notwithstanding anything to the contrary set forth in this

Revised Lonafarnib/Lambda Sale Order or the Lambda APA:

- i. The assumption and assignment of the BMS License Agreement to Purchaser pursuant to the Lambda APA shall not constitute any Sublicense (as defined in the BMS License Agreement) or assignment of rights to the BMS Patents, the Licensed Compounds and/or Licensed Products (each, as defined in the BMS License Agreement) under Section 8.3 of the BMS License Agreement, and shall not require Debtor Eiger BioPharmaceuticals, Inc. or Purchaser to pay or owe BMS any share of Sublicense Revenues (as defined in the BMS License Agreement) received by Debtor Eiger BioPharmaceuticals, Inc. in connection with such assumption and assignment;
- ii. except as provided in clause i. above, neither the Revised Lonafarnib/Lambda Sale Order nor the Lambda APA shall be deemed to modify any rights, intellectual property licenses, benefits or other obligations (including but not limited to any royalty, revenue sharing, milestone payment obligations, or indemnification obligations) owed to Bristol-Myers Squibb Company (“BMS”) under the BMS License Agreement; and
- iii. except as provided in clause i. above, from and after the closing in connection with the Lambda APA, Purchaser and BMS shall each be (a) obligated to continue to perform as set forth in and pursuant to the terms of the BMS License Agreement, and (b) bound by the terms of the BMS License Agreement; provided, however, that from and after the closing with respect to the Lambda APA, the Purchaser and BMS may consensually enter into a side-letter or other agreement (a “Modification Agreement”) modifying any provisions, rights, benefits, obligations and/or requirements under the terms of the BMS License Agreement, but unless and until such Modification Agreement shall have been mutually executed by Purchaser and BMS, all provisions, rights, benefits, obligations and requirements related to the BMS License Agreement shall remain in full force and effect.

27. **Purchaser Protections.** The Purchaser shall be entitled to the Purchaser Protections under the Lambda APA and the Lonafarnib APA, as applicable.

28. **Ipsso Facto Clauses Ineffective.** Upon the Debtors’ assumption and assignment of the Assigned Contracts to the Purchaser pursuant to this Revised Lonafarnib/Lambda Sale Order and the payment of the Cure Amounts in accordance with this Revised Lonafarnib/Lambda Sale

Order and the Lonafarnib/Lambda APAs, no default shall exist under any Assigned Contract and no counterparty to any such Assigned Contract shall be permitted to declare or enforce a default by the Debtors or the Purchaser thereunder or otherwise take action against the Purchaser as a result of any Debtor's financial condition, change in control, bankruptcy, or failure to perform any of its obligations under the applicable Assigned Contract. For the avoidance of doubt, and without limiting the generality of the foregoing or the operability of any other relief obtained pursuant to this Revised Lonafarnib/Lambda Sale Order, any provision in a Assigned Contract that prohibits or conditions, whether directly or indirectly, the assignment of such Assigned Contract (including, without limitation, the granting of an Interest therein) or allows the counterparty thereto to terminate, recapture, impose any penalty, condition on renewal or extension, or modify any term or condition upon such assignment shall be deemed an unenforceable anti-assignment provision that is void and of no force and effect with respect to the Lonafarnib/Lambda Sale Transactions as approved by this Revised Lonafarnib/Lambda Sale Order. The failure of the Debtors or the Purchaser to enforce at any time one or more terms or conditions of any Assigned Contract shall not be a waiver of such terms or conditions or of the Debtors' or the Purchaser's right, as applicable, to enforce every term and condition of such Assigned Contract.

29. **Binding Effect.** This Revised Lonafarnib/Lambda Sale Order and the Lonafarnib/Lambda APAs shall be binding upon and shall govern the acts of all entities, including, without limitation, 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 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, or who may be required to report or

insure any title or state of title in or to any of the Transferred Assets. The terms and provisions of the Lonafarnib/Lambda APAs, the Transaction Documents, and this Revised Lonafarnib/Lambda Sale Order shall be binding in all respects upon the Debtors and their respective Affiliates and subsidiaries and such parties' successors and assigns, the Debtors' estates, all creditors thereof (whether known or unknown), all holders of equity interests in any Debtor, holders of Interests in, against, or on all or any portion of the Transferred Assets, all non-Debtor parties to the Assigned Contracts, the Purchaser and its respective successors and assigns, and any and all third parties, notwithstanding any subsequent appointment of any trustee, examiners, "responsible persons" or other fiduciaries (collectively, the "Trustee") of the Debtors under any chapter of the Bankruptcy Code, as to which Trustee such terms and provisions likewise shall be binding, and the Lonafarnib/Lambda APAs (including the Assigned Contracts) shall not be subject to rejection or avoidance under any circumstances.

30. **Merck License Agreement.** Other than as expressly set forth in any agreement entered into or to be entered into by the Purchaser with Merck contemplated by the Lonafarnib APA, nothing herein or in any other Transaction Document shall constitute a determination or modification of or alter, impair or otherwise affect the rights, title, and interest, whether legal, equitable or contractual, of Merck in, to, and under the Merck License Agreement (as defined in the Lonafarnib/Lambda APAs), including Merck's rights with respect to any payments made or to be made to Merck under the Merck License Agreement or pursuant to any agreement entered into or to be entered into by the Purchaser with Merck contemplated by the Lonafarnib APA. Payments made to Merck in connection with the Lonafarnib/Lambda Sale Transactions shall not be subject to surcharge, reduction, set-off, claw-back, disgorgement or avoidance for any reason. Nothing contained in any Chapter 11 plan confirmed by the Debtors or in any subsequent order of this

Court, including any order confirming any plan, any order authorizing the sale of assets of the Debtors pursuant to any section of the Bankruptcy Code or any order approving wind-down or dismissal of any Debtor's Chapter 11 case or any subsequent Chapter 7 case shall change, supersede, abrogate, nullify, restrict or conflict with or in any way prevent or interfere with the consummation or performance of any agreement entered into or to be entered into by the Purchaser with Merck contemplated by the Lonafarnib APA.

31. **Release, Discharge, and Termination of Interests.** This Revised Lonafarnib/Lambda Sale Order shall be effective as a determination that, on the Closing, all Interests of any kind or nature whatsoever existing prior to the Closing have been unconditionally released, discharged, and terminated solely as to the Transferred Assets (other than the Assumed Liabilities), and that the conveyances described herein have been effected.

32. **No Material Modifications.** The Lonafarnib/Lambda APAs and the Transaction Documents may be modified, amended, or supplemented by the Debtors and the Purchaser, in a writing signed by such parties, and in accordance with the terms thereof, without further order of this Court; *provided*, that (i) any such modification, amendment, or supplement does not have a material adverse effect on the Debtors' estates or its creditors, and (ii) has been agreed to between the Seller and the Purchaser (with respect to the Seller, such consent not to be unreasonably withheld) and approved by the Prepetition Term Loan Administrative Agent. Any material modification, amendment, or supplement to the Lonafarnib/Lambda APAs and the Transaction Documents adversely affecting the Debtors' estates must be filed on the docket and served on all interested parties. Interested parties shall have five business days to file an objection to any such material modification, amendment, or supplement. If no objections are received within five

business days or the Court overrules such filed objections, the modified Lonafarnib/Lambda APAs and Transaction Documents shall be effective.

33. **Subsequent Orders and Plan Provisions.** Nothing contained in any chapter 11 plan confirmed in the Debtors' chapter 11 cases or any subsequent order of this Court, including, without limitation, any order confirming any such chapter 11 plan, any order authorizing the sale of assets of the Debtors pursuant to any section of the Bankruptcy Code, and any order approving wind-down or dismissal of any Debtor's chapter 11 case or any subsequent chapter 7 case shall change, supersede, abrogate, nullify, restrict, or conflict with the provisions of the Lonafarnib/Lambda APAs, the Transaction Documents, or this Revised Lonafarnib/Lambda Sale Order, or in any way prevent or interfere with the consummation or performance of the Lonafarnib/Lambda Sale Transactions.

34. **Failure to Specify Provisions.** The failure to specify or include any particular provisions of the Lonafarnib/Lambda APAs or the Transaction Documents in this Revised Lonafarnib/Lambda Sale Order shall not diminish or impair the effectiveness of such provisions, it being the intent of this Court that the Lonafarnib/Lambda APAs, the Transaction Documents, and the Lonafarnib/Lambda Sale Transactions be authorized and approved in their entirety.

35. **Automatic Stay.** The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby lifted solely to the extent necessary to (i) allow the Purchaser to deliver any notice provided for in the Lonafarnib/Lambda APAs and the Transaction Documents, and (ii) allow the Purchaser to take any and all actions permitted under the Lonafarnib/Lambda APAs and the Transaction Documents in accordance with the terms and conditions thereof. The automatic stay imposed by section 362 of the Bankruptcy Code shall be modified solely to the

extent necessary to implement the preceding sentence, and this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

36. **Bankruptcy Rules Satisfied or Waived.** The requirements set forth in Bankruptcy Rules 6004 and 6006 have been satisfied or are otherwise deemed to be waived. As provided by Bankruptcy Rule 9014, the terms of this Revised Lonafarnib/Lambda Sale Order shall be effective and enforceable immediately upon entry and shall not be subject to stay provisions contained in Bankruptcy Rules 6004(h) and 6004(d). Time is of the essence in closing the Lonafarnib/Lambda Sale Transactions and the Debtors and the Purchaser intend to close the sale as soon as possible.

37. **Conflicts Between the Revised Lonafarnib/Lambda Sale Order and Lonafarnib/Lambda APAs.** To the extent anything contained in this Revised Lonafarnib/Lambda Sale Order conflicts with a provision in the Lonafarnib/Lambda APAs or Transaction Documents, this Revised Lonafarnib/Lambda Sale Order shall govern and control. Notwithstanding the foregoing, nothing in this Revised Lonafarnib/Lambda Sale Order shall modify or waive any closing conditions or termination rights in the Lonafarnib/Lambda APAs, and all such conditions and rights shall remain in full force and effect in accordance with their terms.

38. **Provisions Nonseverable and Mutually Dependent.** The provisions of this Revised Lonafarnib/Lambda Sale Order, the Lonafarnib/Lambda APAs, and the Transaction Documents are non-severable and mutually dependent.

39. **Retention of Jurisdiction.** This Court shall retain exclusive jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of the Lonafarnib/Lambda APAs, the Transaction Documents, and this Revised Lonafarnib/Lambda Sale Order, and each of

the agreements executed in connection therewith to which the Debtors are a party or which has been assigned to the Purchaser by the Debtors, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Lonafarnib/Lambda Sale Transactions. This Court retains jurisdiction to compel delivery of the Transferred Assets, to protect the Purchaser and its assets, including the Transferred Assets, against any Interests or successor or transferee liability and to enter orders, as appropriate, pursuant to sections 105(a), 363, or 365 (or other applicable sections) of the Bankruptcy Code necessary to transfer the Transferred Assets and the Assigned Contracts to the Purchaser. In the event this Court abstains from exercising or declines to exercise jurisdiction with respect to any matter referenced in this paragraph or is without jurisdiction, such abstention, refusal, or lack of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter.

40. The Purchaser has standing to seek to enforce any terms of this Revised Lonafarnib/Lambda Sale Order, the Lonafarnib/Lambda APAs, and the Transaction Documents in this Court or any other court with competent jurisdiction.

41. All time periods set forth in this Revised Lonafarnib/Lambda Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

Submitted By:

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