FORM 8-K

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

FORM 8-K

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

Date of Report (Date of earliest event reported): July 16, 2013

Talon Therapeutics, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation)

001-32626	**32-0064979**
(Commission File Number)	(IRS Employer Identification No.)

400 Oyster Point Blvd., Suite 200
South San Francisco, CA 94080
(Address of principal executive offices and Zip Code)

(650) 588-6404
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-14(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement.

On July 17, 2013 (the "Closing Date"), pursuant to the terms of a Securities Purchase Agreement dated as of July 16, 2013 (the "Stockholder Purchase Agreement"), Eagle Acquisition Merger Sub, Inc. (the "Purchaser"), a wholly-owned subsidiary of Spectrum Pharmaceuticals, Inc. ("Spectrum"), purchased from entities affiliated with Warburg Pincus & Co. ("WP") and Deerfield Management, LLC ("Deerfield"), the two principal stockholders (the "Principal Stockholders") of Talon Therapeutics, Inc. (the "Company"), shares of the Company's common stock, $0.001 par value (the "Common Stock"), owned by the Principal Stockholders, which represented approximately 89% of the outstanding shares of Common Stock, for a purchase price equal to the Per Share Merger Consideration (as defined below). Immediately prior to the closing of the purchase, the Principal Stockholders converted all of their shares of the Company's Series A-1, Series A-2 and Series A-3 Convertible Preferred Stock (the "Preferred Stock") owned by them into shares of Common Stock in accordance with the terms of the certificate of designation for each applicable series of Preferred Stock. In addition to the shares of Common Stock purchased from the Principal Stockholders, the Purchaser also purchased certain warrants to purchase shares of Common Stock owned by Deerfield.

The conversion of the shares of the Preferred Stock by the Principal Stockholders was accomplished in accordance with the terms of a Waiver Agreement dated as of July 16, 2013, among the Company and the Principal Stockholders (the "Waiver Agreement"). Pursuant to the Waiver Agreement, the Principal Stockholders agreed to convert all of their shares of Preferred Stock into shares of Common Stock at the applicable conversion prices for each series of Preferred Stock. Further, the Principal Stockholders agreed to waive, among other rights, all of their rights to receive (i) the liquidation preference to which they would otherwise have been entitled under the terms of the Preferred Stock, (ii) accelerated accretion with respect to their Preferred Stock through the fifth anniversary of the issuance of such shares, and (iii) an additional payment upon a change of control transaction relating to the value of the shares of Series A-3 Preferred Stock that remained available for purchase by such holders pursuant to that certain Investment Agreement dated January 9, 2012, as amended, among the Company and the Principal Stockholders (the "Investment Agreement"). Instead, for each share of Common Stock sold by the Principal Stockholders to Purchaser pursuant to the Stockholder Purchase Agreement, the Principal Stockholders received the same per share consideration as all other holders of Common Stock are entitled to receive in the Merger.

Also on the Closing Date, pursuant to the terms of a Stock Purchase Agreement dated July 16, 2013 (the "Company Purchase Agreement"), entered into among the Company, the Purchaser and Spectrum, the Company sold 20,100,000 newly issued shares of Common Stock (the "Purchased Shares") to the Purchaser at a price per share of $0.37. Purchaser paid for the Purchased Shares by delivery of (i) $20,100.00 in cash, an amount equal to the par value of the Purchased Shares; and (ii) a promissory note in the principal amount of $7,416,900. The acquisition of the Purchased Shares, together with the acquisition of the shares of Common Stock from the Principal Stockholders pursuant to the Stockholder Purchase Agreement, resulted in the ownership by the Purchaser of an amount of shares in excess of 90% of the then outstanding shares of Common Stock. On the Closing Date, in accordance with the terms of the Company Purchase Agreement, the Purchaser consummated a "short form" merger with the Company in which Purchaser merged with and into the Company, with the Company remaining as the surviving corporation and a wholly-owned subsidiary of Spectrum (the "Merger"). The Merger was consummated without a vote or meeting of the Company's stockholders in accordance with Section 253 of the Delaware General Corporation Law.

As a result of the Merger, each issued and outstanding share of Common Stock (other than shares of Common Stock owned by the Purchaser or by Spectrum, and shares of Common Stock for which the holder thereof demands and perfects such holder's right to an appraisal (the "Dissenting Shares") in accordance with the applicable provisions of the DGCL) were converted into the right to receive (A) $0.05609 in cash per share, without interest and subject to applicable withholding (the "Cash Portion"), and (B) one contingent value right ("CVR" and, together with the Cash Portion, the "Per Share Merger Consideration") entitling the holder to receive, subject to the terms of the CVR Agreement (as defined below), a pro rata portion of contingent cash payments from Spectrum totaling up to $195 million (without duplication) upon the achievement of the following specific milestones:

- $5,000,000 upon the achievement of net sales of Marqibo® (vincristine sulfate liposome injection) in excess of $30,000,000 in any calendar year;
- $10,000,000 upon the achievement of net sales of Marqibo in excess of $60,000,000 in any calendar year;
- $25,000,000 upon the achievement of net sales of Marqibo in excess of $100,000,000 in any calendar year;
- $50,000,000 upon the achievement of net sales of Marqibo in excess of $200,000,000 in any calendar year;
- $100,000,000 upon the achievement of net sales of Marqibo in excess of $400,000,000 in any calendar year; and
- $5,000,000 upon the receipt of marketing authorization from the FDA regarding Menadione Topical Lotion.

The terms and conditions regarding any payments under the CVRs are governed by the Contingent Value Rights Agreement, entered into among the Company, Spectrum and Corporate Stock Transfer, Inc., as rights agent, dated as of July 16, 2013 (the "CVR Agreement"). Each CVR will be unregistered and will be non-transferable, subject to limited exceptions. There can be no assurance as to the actual value, if any, of a CVR.

The Purchaser paid an aggregate of $11,300,000 to fund the Cash Portion of the Per Share Merger Consideration and approximately $3,800,000 on the Closing Date to satisfy certain outstanding obligations and transaction-related and other expenses of Talon.

The Company Purchase Agreement, the CVR Agreement and the Waiver Agreement, and the transactions contemplated thereby, were unanimously approved by the Company's Board of Directors based, in part, upon the unanimous recommendation of a special committee of the Board (the "Special Committee"), consisting solely of independent directors of the Board. On behalf of the Company, the Special Committee negotiated the Waiver Agreement with the Principal Stockholders.

The foregoing description of the Company Purchase Agreement, the Waiver Agreement, the CVR Agreement and related transactions does not purport to be complete and is qualified in its entirety by reference to the full text of the Company Purchase Agreement, the Waiver Agreement and the CVR Agreement, copies of which are filed as Exhibits 2.1, 4.1 and 2.2, respectively, to this report and are incorporated herein by reference.

The Company Purchase Agreement has been attached as an exhibit to this Current Report to provide investors with information regarding its terms. It is not intended to provide any other factual information about the Company, Purchaser or Spectrum, their respective businesses, or the actual conduct of their respective businesses during the period prior to the effective time of the Merger.

The Company Purchase Agreement contains representations and warranties that (i) are the product of negotiations among the parties thereto and (ii) the parties made to, and solely for the benefit of, each other as of specified dates. The assertions embodied in those representations and warranties are subject to qualifications and limitations agreed to by the respective parties and are also qualified in part by confidential disclosure schedules delivered in connection with the Company Purchase Agreement. The representations and warranties may have been made for the purpose of allocating contractual risk between the parties to the agreements instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors.

Item 1.02 Termination of a Material Definitive Agreement.

In connection with the entry into the Company Purchase Agreement and the Stockholder Purchase Agreement described in Item 1.01, on the Closing Date, each of the following agreements of the Company were terminated: (i) the Investment Agreement (ii) the Investment Agreement, dated June 7, 2010, as amended, by and among the Company and the Principal Stockholders, (iii) the Registration Rights Agreement, dated June 7, 2010, as amended, by and among the Company and the Principal Stockholders, and (iv) the Facility Agreement, dated October 30, 2007, as amended, between the Company and Deerfield.

Item 2.01 Completion of Acquisition or Disposition of Assets.

The information set forth under Item 1.01 is incorporated by reference herein.

Item 3.02 Unregistered Sale of Equity Securities.

The information set forth under Item 1.01 is incorporated by reference herein.

The Company offered and sold the Purchased Shares in a private placement pursuant to an exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended, as a transaction by an issuer not involving a public offering.

Item 3.03 Material Modification to Rights of Security Holders.

The information set forth in Items 1.01, 2.01, 3.02 and 5.01 of this report is incorporated by reference into Item 3.03.

At the effective time of the Merger, each outstanding share of Common Stock (other than shares held by the Purchaser or Spectrum and Dissenting Shares) was converted into the right to receive the Per Share Merger Consideration.

Item 5.01 Changes in Control of Registrant.

The information set forth in Items 1.01, 2.01, 3.02, 3.03 and 5.02 of this report is incorporated by reference into Item 5.01.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

In connection with the Merger, and as contemplated by the Company Purchase Agreement, each of Howard Furst, Paul Maier, Howard Pien, Leon Rosenberg, Robert Spiegel and Elizabeth Weatherman voluntarily resigned from the Board effective as of the effective time of the Merger (the "Effective Time"). Pursuant to the terms of the Company Purchase Agreement, as of the Effective Time, Rajesh C. Shrotriya, M.D., was appointed a director of the Company. Dr. Shrotriya is currently President, Chief Executive Officer and Chairman of Spectrum. One of the Company's existing directors, Steven R. Deitcher, remained on the Board following the Effective Time.

The Company entered into a Separation Agreement and Release with Craig W. Carlson (the "Carlson Agreement"). The Carlson Agreement provides that Mr. Carlson will receive severance benefits consisting of (i) severance pay in the gross amount of $346,908.12, less applicable deductions and withholding, representing twelve months of annualized base salary, to be paid in accordance with the Company's regular payroll practices, (ii) health insurance for twelve (12) months; and (iii) $6,550.00, less applicable withholding, to be used for contribution to a health savings account. The Carlson Agreement also includes a waiver and release of claims by Mr. Carlson. The foregoing description of the material terms of the Carlson Agreement does not purport to be complete and is qualified in its entirety by reference to the Carlson Agreement, attached hereto as Exhibit 10.1 and incorporated herein by reference.

The Company entered into a Separation Agreement and Release with Steven R. Deitcher M.D. (the "Deitcher Agreement"). The Deitcher Agreement provides that Dr. Deitcher will receive severance benefits consisting of (i) severance pay in the gross amount of $729,856.80, less applicable deductions and withholding, representing 18 months of annualized base salary, to be paid in accordance with the Company's regular payroll practices, (ii) health insurance for 18 months; (iii) $6,550.00, less applicable withholding, to be used for contribution to a health savings account; (iv) $510,899.84, less applicable deductions and withholding, representing 150% of the bonus which Dr. Deitcher would have been eligible to receive assuming full performance; and (v) acceleration of vesting of unvested options. The Deitcher Agreement also includes a waiver and release of claims by Dr. Deitcher. The foregoing description of the material terms of the Deitcher Agreement does not purport to be complete and is qualified in its entirety by reference to the Deitcher Agreement, attached hereto as Exhibit 10.2 and incorporated herein by reference.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

Pursuant to the Company Purchase Agreement, at the Effective Time, the Company's certificate of incorporation was amended and restated in its entirety (the "Amended and Restated Certificate of Incorporation").

Also pursuant to the Company Agreement, at the Effective Time, the Company's bylaws were amended and restated in their entirety to be identical to the bylaws of Purchaser, as in effect immediately prior to the Effective Time (the "Amended and Restated Bylaws").

The Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws are attached hereto as Exhibits 3.1 and 3.2, respectively, and are incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) *Exhibits*

Exhibit No.	Description
2.1*	Stock Purchase Agreement, dated as of July 16, 2013, between Talon Therapeutics, Inc., Spectrum Pharmaceuticals, Inc. and Eagle Acquisition Merger Sub, Inc.
2.2*	Contingent Value Rights Agreement, dated as of July 16, 2013, among Talon Therapeutics, Inc., Spectrum Pharmaceuticals, Inc., and Corporate Stock Transfer, Inc.
3.1	Amended and Restated Certificate of Incorporation of Talon Therapeutics, Inc.
3.2	Amended and Restated Bylaws of Talon Therapeutics, Inc.
4.1	Waiver Agreement, dated as of July 16, 2013, among Talon Therapeutics, Inc. and certain stockholders.
10.1	Separation Agreement and Release with Craig W. Carlson, dated July 16, 2013.
10.2	Separation Agreement and Release with Steven R. Deitcher, M.D., dated July 16, 2013.

* Schedules omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company agrees to furnish a supplemental copy of any omitted schedule to the SEC upon request.

Forward Looking Statement Disclaimer

This Current Report contains forward-looking statements regarding future events and the future performance of Spectrum Pharmaceuticals, Inc. and Talon Therapeutics, Inc. that involve risks and uncertainties that could cause actual results to differ materially. These statements are based on management's current beliefs and expectations. These statements include, but are not limited to, statements that relate to Spectrum's and Talon's business and future, including the success and strategic fit of Talon within Spectrum, the potential value of the consideration to be received by Talon's stockholders in connection with the acquisition by Spectrum, including, without limitation, the achievement of certain milestones, the ability to develop and commercialize the acquired products, and any statements that relate to the intent, belief, plans or expectations of Spectrum, Talon or their respective management, or that are not a statement of historical fact. Risks that could cause actual results to differ include the possibility that existing and new drug candidates may not prove safe or effective, the possibility that existing and new applications to the FDA and other regulatory agencies may not receive approval in a timely manner or at all, the possibility that existing and new drug candidates, if approved, may not be more effective, safer or more cost efficient than competing drugs, the possibility that efforts to acquire or in-license and develop additional drug candidates may fail, the dependence on third parties for clinical trials, manufacturing, distribution and quality control and other risks that are described in reports filed with the Securities and Exchange Commission by Spectrum and Talon. Neither Spectrum nor Talon plan to update any such forward-looking statements and expressly disclaim any duty to update the information contained in this Current Report except as required by law.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: July 19, 2013

Talon Therapeutics, Inc.

By: /s/ Kurt A. Gustafson
Kurt A. Gustafson
Chief Financial Officer

EXHIBIT INDEX

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* Schedules omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company agrees to furnish a supplemental copy of any omitted schedule to the SEC upon request.

Exhibit 2.1

STOCK PURCHASE AGREEMENT

by and among

SPECTRUM PHARMACEUTICALS, INC.,

TALON THERAPEUTICS, INC.

and

EAGLE ACQUISITION MERGER SUB, INC.

July 16, 2013

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STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement (this "**Agreement**") is made as of July 16, 2013, by and among Spectrum Pharmaceuticals, Inc., a Delaware corporation ("**Parent**"), Talon Therapeutics, Inc., a Delaware corporation (the "**Company**"), and Eagle Acquisition Merger Sub, Inc.**,** a Delaware corporation ("**Purchaser**").

RECITALS

WHEREAS, Parent, Purchaser and certain securityholders of the Company have entered into that certain Securities Purchase Agreement, dated as of the date hereof (the "**Securities Purchase Agreement**"), pursuant to which Purchaser has acquired certain shares of common stock of the Company (the "**Company Common Stock**") and warrants to purchase shares of Company Common Stock owned by the securityholders party to the Securities Purchase Agreement (the "**Securities Purchase**");

WHEREAS, the intent is for Parent to contribute cash to Purchaser to fund Purchaser's purchase of shares of Company Common Stock, however, for purposes of convenience, Parent will transfer funds directly to stockholders and to the Company on behalf of Purchaser;

WHEREAS, if Purchaser does not own at least 90% of the outstanding shares of Company Common Stock following the Securities Purchase, the Company has agreed to issue and sell to Purchaser, and Purchaser has agreed to purchase from the Company, such number of additional shares of Company Common Stock that, when added to the number of shares of Company Common Stock owned by Purchaser following the consummation of the transactions contemplated by the Securities Purchase Agreement, will result in Purchaser owning at least ninety percent (90%) of the outstanding shares of Company Common Stock;

WHEREAS, the Company and Purchaser are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Section 4(2) under the Securities Act of 1933, as amended (the "**Securities Act**"); and

WHEREAS, contemporaneous with the acquisition of the securities under the Securities Purchase Agreement and the Shares (as hereinafter defined) under this Agreement, Purchaser intends to consummate a merger of itself with and into the Company (the "**Merger**") in accordance with Section 253 of the Delaware General Corporation Law (the "**DGCL**").

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, representations, warranties and covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
DEFINED TERMS AND INTERPRETATION

1.1 Certain Definitions. For purposes of this Agreement, the term:

(a) "**Affiliate**" shall mean, with respect to any Person, a Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the first-mentioned Person, where "*control*" (including the terms "*controlled by*" and "*under common control with*") shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of any Equity Interests, by Contract or otherwise.

(b) "**Business Day**" shall mean any day of the year on which national banking institutions in New York and California are open to the public for conducting business and are not required or authorized to be closed.

(c) **"Code"** shall mean the United States Internal Revenue Code of 1986, as amended.

(d) **"Company Bylaws"** shall mean the Amended and Restated Bylaws of the Company, as amended and as in effect as of the date of this Agreement.

(e) **"Company Certificate of Incorporation"** shall mean the Amended and Restated Certificate of Incorporation of the Company, as amended, including the Series A-1 Certificate of Designation, Series A-2 Certificate of Designation and Series A-3 Certificate of Designation, each as in effect as of the date of this Agreement.

(f) **"Company Change of Control Plan"** shall mean the Company's Amended and Restated 2012 Change of Control Payment Plan established effective as of August 10, 2012, as amended prior to the date of this Agreement.

(g) **"Company Disclosure Schedule"** shall mean the disclosure schedule delivered by the Company to Purchaser concurrently with the execution and delivery of this Agreement.

(h) **"Company Financial Advisors"** shall mean Houlihan Lokey Financial Advisors, Inc. and Goldman Sachs.

(i) **"Company Intellectual Property"** shall mean Company Licensed Intellectual Property and Company Owned Intellectual Property collectively.

(j) **"Company Licensed Intellectual Property"** shall mean Intellectual Property that is used by the Company or that is Intellectual Property that the Company exercises a right in pursuant to an Inbound License Agreement.

(k) **"Company Owned Intellectual Property"** shall mean all Intellectual Property owned by the Company as of the date hereof.

(l) **"Company Material Adverse Effect"** shall mean any effect, change, claim, event, development, state of facts, circumstance or occurrence (each an "Event") that, individually or taken together with other Events, is or would reasonably be expected to be or to become materially adverse to, or has, or would reasonably be expected to have or result in, a material adverse effect on the assets, liabilities (whether matured or unmatured, absolute or contingent, or otherwise), business, results of operations or financial condition of the Company; provided that the following Events shall not constitute, either individually or in combination, a "Company Material Adverse Effect," or be taken into account in determining whether a "Company Material Adverse Effect" has occurred or would reasonably be expected to occur: (i) Events affecting the economy or financial or capital markets in the United States or elsewhere in the world generally; (ii) changes in GAAP or in Law, including the rules, regulations and administrative policies of any Health Authority, or any interpretation thereof after the date hereof; (iii) Events relating to acts of God, calamities, terrorism, national political or social conditions including the engagement by any country in hostilities, or the escalation or worsening thereof; (iv) Events affecting the principal industry in which the Company conducts its business; (v) any failure, in and of itself, by the Company to meet any internal or third party estimates, projections or forecasts of revenue, earnings or other financial performance for any period ending (or for which revenues, earnings or other financial results are released) on or after the date hereof; (vi) any change in the trading price or trading volume of Company Common Stock; (vii) any Events directly attributable to the announcement, pendency or consummation of the Merger or any of the other transactions contemplated by this Agreement (provided that the exceptions in this clause (vii) shall not apply to that portion of any representation or warranty contained in this Agreement to the extent that the purpose of such portion of such representation or warranty is to address the consequences resulting from the execution and delivery of this Agreement or the consummation of the Merger or any of the other transactions contemplated by this Agreement or the performance of obligations under this Agreement); or (viii) any Event directly resulting from compliance with the terms of this Agreement; provided, however, that Events set forth in clauses (i), (ii), (iii) and (iv) above may be taken into account in determining whether a "Company Material Adverse Effect" has occurred or would reasonably be expected to occur to the extent that such Events have a materially disproportionate impact on the Company relative to the other participants in the principal industry in which the Company conducts its businesses and then only to the extent of such disproportionality; provided, further, that the underlying causes of any Events set forth in clauses (v) and (vi) that are not otherwise excluded from the definition of a "Company Material Adverse Effect" may be taken into account in determining whether a "Company Material Adverse Effect" has occurred or would reasonably be expected to occur.

(m) **"Company Option"** shall mean any option to acquire Company Common Stock from the Company (whether granted pursuant to any Company Stock Plan, assumed by the Company or otherwise).

(n) **"Company Stock Plans"** shall mean (a) the 2003 Stock Option Plan of the Company, as may be amended from time to time, (b) the 2004 Stock Incentive Plan of the Company, as amended from time to time and (c) the Company's 2010 Equity Incentive Plan, as may be amended from time to time.

(o) **"Company Warrants"** shall mean the Series A Warrants and Series B Warrants and the Roth Warrants.

(p) **"Continuing Employee"** shall mean any Person who continues to be employed by the Surviving Corporation or any of its Affiliates or Subsidiaries immediately following the Effective Time.

(q) **"Contract"** shall mean with respect to a Person any oral or written note, bond, mortgage, indenture, lease, sublease, license, sublicense, purchase order, contract, agreement, arrangement or other understanding or obligation that is legally binding on such Person.

(r) **"Covered Products"** shall mean Marqibo® and Menadione Topical Lotion.

(s) **"CVR"** shall mean a contingent value right representing the right to receive certain contingent cash payments in connection with the achievement of certain milestones as set forth in the CVR Agreement, and in accordance therewith.

(t) **"CVR Agreement"** shall mean a Contingent Value Rights Agreement, in the form attached hereto as Exhibit A entered into concurrently with the execution of this Agreement among Parent, the Company and the CVR Rights Agent, subject to any reasonable revisions thereto requested by the CVR Rights Agent with respect to its obligations as CVR Rights Agent thereunder.

(u) **"CVR Rights Agent"** shall mean Corporate Stock Transfer, Inc.

(v) **"Deerfield Registration Rights Agreement"** shall mean the Registration Rights Agreement, dated as of the same date herewith, by and among Parent, Deerfield Private Design Fund, L.P., Deerfield Special Situation Fund, L.P., Deerfield Special Situations Fund International Limited and Deerfield Private Design International, L.P.

(w) **"Employee Stock Purchase Plan"** means the Company 2006 Employee Stock Purchase Plan, as amended.

(x) **"Environmental Law"** shall mean any Law relating to public health and safety, worker health and safety, pollution, exposure, contamination or cleanup, protection or restoration of the environment or natural resources, or the Release or threatened Release of any materials into the environment, including those related to Hazardous Materials or air emissions or wastewater discharges, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

(y) **"Equity Interest"** shall mean any share, capital stock, partnership, limited liability company, member or similar interest in any Person, and any option, warrant, right or security convertible, exchangeable or exercisable therefor or other instrument, obligation or right the value of which is based on any of the foregoing, in each case issued by such Person.

(z) **"Exchange Act"** shall mean the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(aa) **"Exchange Agreement"** shall mean the Exchange Agreement, dated as of the same date herewith, by and among Parent, the Company, Deerfield Private Design Fund, L.P., Deerfield Special Situation Fund, L.P., Deerfield Special Situations Fund International Limited and Deerfield Private Design International, L.P.

(bb) **"Facility Agreement"** shall mean the Facility Agreement, dated October 30, 2007, among the Company, Deerfield Private Design Fund, L.P., Deerfield Special Situations Fund L.P., Deerfield Special Situations Fund International Limited and Deerfield Private Design International, L.P., as amended by (i) the First Amendment to Facility Agreement, dated June 7, 2010, (ii) the Second Amendment to Facility Agreement, dated January 9, 2012 and (iii) the letter agreement, dated June 27, 2013.

(cc) **"GAAP"** shall mean generally accepted accounting principles as applied in the United States.

(dd) **"Good Clinical Practices"** shall mean, with respect to the Company, statutory and regulatory requirements for clinical trials, including all applicable requirements relating to protection of human subjects, as set forth in the FDCA and applicable regulations promulgated thereunder (including, for example, 21 C.F.R. Parts 50, 54, 56 and 312), as amended from time to time, and all applicable requirements relating to protection of human subjects as are required by Governmental Entities in any other countries in which the Covered Products are sold or currently intended to be sold, to the extent such standards are not less stringent than in the United States.

(ee) **"Good Laboratory Practices"** shall mean, with respect to the Company, requirements for conduct of non-clinical studies set forth in 21 C.F.R. Part 58 and like requirements of other Governmental Entities in any other countries in which such studies are conducted by or for the Company, to the extent such standards are not less stringent than in the United States.

(ff) **"Good Manufacturing Practices"** shall mean, with respect to the Company, the then current standards for the manufacture, processing, packaging, testing, handling and holding of drug products, as set forth in the FDCA and applicable regulations promulgated thereunder, as amended from time to time, and such standards of good manufacturing practices as are required by Governmental Entities in any other countries in which the Covered Products are sold or currently intended to be sold, to the extent such standards are not less stringent than in the United States.

(gg) **"Governmental Entity"** shall mean any United States or foreign governmental authority, including any national, federal, territorial, state, commonwealth, province, territory, county, municipal, district, local governmental jurisdiction of any nature or any other governmental or quasi-governmental authority of any nature (including any governmental department, division, agency, bureau, office, branch, court, arbitrator, commission, tribunal or other governmental instrumentality) or any political or other subdivision or part of any of the foregoing, in each case of competent jurisdiction and with governmental authority to act with respect to the matter in question.

(hh) **"Hazardous Materials"** shall mean any (i) medical, biological or biohazardous material, including any infectious material, biological product, bodily fluid, culture, diagnostic specimen or regulated animal or medical waste, (ii) petroleum products, derivatives or byproducts, radioactive or explosive materials, asbestos or asbestos-containing material, radon gas, urea formaldehyde foam insulation, toxic mold or fungi or polychlorinated biphenyls and (iii) other chemicals, substances, waste or materials that are considered or deemed to be, or regulated as, hazardous, toxic, infectious or dangerous under applicable Environmental Law or for which liability or standards of conduct may be imposed pursuant to any applicable Environmental Law.

(ii) **"Health Authorities"** shall mean the Governmental Entities which administer Health Laws including the FDA, the EMEA and other equivalent agencies.

(jj) **"Health Laws"** shall mean any Law of any Governmental Entity (including multi-country organizations) the purpose of which is to ensure the safety, efficacy and quality of medicines or pharmaceuticals by regulating the research, development, manufacturing and distribution of these products, including Laws relating to Good Laboratory Practices, Good Clinical Practices, investigational use, product marketing authorization, manufacturing facilities compliance and approval, Good Manufacturing Practices, labeling, advertising, promotional practices, safety surveillance, record keeping and filing of required reports such as the U.S. Food, Drug and Cosmetic Act of 1938, as amended (the "FDCA"), and the Public Health Service Act, as amended, in each case including the associated rules and regulations promulgated thereunder and their foreign equivalents.

(kk) **"Inbound License Agreement"** shall mean an agreement entered into by the Company with a Third Party whereby the Company obtains a license right in some or all Company Licensed Intellectual Property.

(ll) **"Intellectual Property"** shall mean any and all of the following in any jurisdiction throughout the world: (i) all patents and patent applications, including provisional applications, together with any reissues, continuations, continuations-in-part, revisions, divisionals, and extensions thereof or foreign counterparts thereto, statutory invention registrations, invention disclosures and inventions; (ii) all trademarks, service marks, trade dress, logos, slogans, trade names, business names, corporate names, Internet domain names and all other indicia of origin; all applications, registrations and renewals in connection therewith and all goodwill associated with any of the foregoing; (iii) any database rights; (iv) all trade secrets, confidential business information, know-how, research and development data (including the results of research into and development of drug or biologic-based products and drug delivery systems), proprietary data in INDs or NDAs and other proprietary information (including technologies, systems, processes, techniques, protocols, methods, formulae, data, algorithms, compositions, industrial models, architectures, layouts, designs, drawings, specifications, methodologies, customer and supplier lists, pricing and cost information and business and marketing plans and proposals); and (v) any works of authorship and copyrightable material, including any software (including source code, executable code, systems, networks tools, data, databases, firmware and related documentation).

(mm) **"Investigational New Drug Application"** or "**IND**" shall mean an application submitted pursuant to FDCA 505(i) and described in 21 C.F.R. §312.23, and amendments and supplements thereto.

(nn) **"Investment Agreements"** shall mean (A) the Investment Agreement dated June 7, 2010 among the Company and the Purchasers named therein, as amended by Amendment No. 1 to Investment Agreement, dated January 9, 2012, and (B) the Investment Agreement, dated January 9, 2012, among the Company and the Persons named therein, as amended by Amendment No. 1 to Investment Agreement, dated July 3, 2012.

(oo) **"IT Systems"** shall mean all computer systems, hardware, networks, software, databases, operating systems, websites and links and equipment used to process, store, maintain and operate data, information and functions owned by the Company.

(pp) **"Knowledge"** shall mean the actual knowledge of Steven R. Deitcher, MD, Craig W. Carlson, Thomas DeZao, Jeffrey A. Silverman, PhD and Thomas J. Tarlow, in each case after reasonable inquiry of their direct reports, and the knowledge such individuals would reasonably be expected to have given their respective titles, positions and day-to-day responsibilities with the Company.

(qq) **"Law"** shall mean any federal, state, local, foreign or international law, statute, treaty, convention or ordinance, common law, or any rule, regulation, code, requirement, ordinance, edict, decree, directive or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Entity.

(rr) **"Leased Real Property"** shall mean all leasehold or subleasehold estates and other rights to use or occupy any land, buildings, structures, improvements, fixtures or other interest in real property held by the Company.

(ss) **"Leases"** shall mean all written leases, subleases, licenses, concessions and other agreements pursuant to which the Company holds any Leased Real Property.

(tt) **"Lien"** shall mean any mortgage, pledge, security interest, restriction, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof).

(uu) **"New Drug Application"** or "**NDA**" shall mean an application submitted pursuant to FDCA Section 505(b) and described in 21 C.F.R §310.50, and amendments and supplements thereto.

(vv) **"Order"** shall mean any order, judgment, writ, stipulation, settlement, award, injunction, decree, arbitration award or finding of any Governmental Entity.

(ww) **"Outbound License Agreement"** shall mean a license agreement entered into between the Company and a Third Party where a Third Party obtains non-exclusive rights in Company Owned Intellectual Property.

(xx) **"Permit"** shall mean any permit, license, franchise, registration, qualification, right, variance, certificate, or certification of any Governmental Entity, other than Regulatory Authorizations.

(yy) **"Permitted Encumbrances"** shall mean: (i) Liens for Taxes not yet due and payable, (ii) mechanics Liens and similar Liens for labor, materials or supplies provided with respect to real property incurred in the ordinary course of business for amounts which are not due and payable or are being contested in good faith, (iii) zoning, building codes and other land use Laws regulating the use or occupancy of real property or the activities conducted thereon which are imposed by any Governmental Entity having jurisdiction over such real property, (iv) easements, covenants, conditions, restrictions and other similar matters of record affecting title to real property which do not materially impair the use of such real property in the operation of the business conducted thereon, (v) Liens with respect to leased equipment, (vi) Liens arising in the ordinary course of business consistent with past practice and (vii) landlord's and other statutory Liens.

(zz) **"Person"** shall mean an individual, corporation, limited liability company, partnership, association, trust, unincorporated organization or other entity.

(aaa) **"Products"** with respect to any Person shall mean biological, pharmaceutical and drug candidates, compounds or products being researched, developed, manufactured, supplied, promoted, tested, distributed, marketed, licensed, commercialized or sold by such Person, including, with respect to the Company, the Covered Products.

(bbb) **"Purchaser Financial Advisor"** shall mean H.C. Wainwright & Co., LLC.

(ccc) **"Registration Rights Agreement"** shall mean the Registration Rights Agreement, dated June 7, 2010, among the Company and the Persons identified therein, as amended by Amendment No. 1 to Registration Rights Agreement, dated January 9, 2012.

(ddd) **"Regulatory Authorizations"** shall mean any approvals, clearances, authorizations, registrations, certifications and licenses granted by any Health Authority, including of any INDs and NDAs.

(eee) **"Release"** shall mean any release, spill, emission, leaking, pumping, emitting, depositing, discharging, injecting, escaping, leaching, dispersing, dumping, pouring, disposing or migrating into, onto or through the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or within any building, structure, facility or fixture.

(fff) **"Representatives"** shall mean, with respect to any Person, such Person's controlled Affiliates and its and their respective directors, officers, employees, members, partners, accountants, consultants, advisors, attorneys, agents and other representatives acting on its behalf.

(ggg) **"Roth Warrants"** shall mean (i) that certain warrant, dated June 7, 2010, of the Company to purchase shares of Company Common Stock and (ii) that certain warrant, dated December 31, 2011, of the Company to purchase shares of Company Common Stock, in each case that are outstanding as of the date of this Agreement.

(hhh) **"Sarbanes-Oxley Act"** shall mean the United States Sarbanes-Oxley Act of 2002, as amended, and the rules and regulations promulgated thereunder.

(iii) **"SEC"** shall mean the United States Securities and Exchange Commission.

(jjj) **"Securities Act"** shall mean the United States Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(kkk) **"Series A Warrants and Series B Warrants"** shall mean (i) those certain Series A Warrants, dated October 8, 2009, of the Company to purchase shares of Company Common Stock and (ii) those certain Series B Warrants, dated October 8, 2009, of the Company to purchase shares of Company Common Stock, in each case that are outstanding as of the date of this Agreement.

(lll) **"Subsidiary"** of any Person shall mean (i) any corporation of which a majority of the Equity Interests entitled to vote generally in the election of directors thereof, at the time as of which any determination is being made, are owned, directly or indirectly, by such Person and (ii) any joint venture, general or limited partnership, limited liability company or other legal entity in which such Person is the record or beneficial owner, directly or indirectly, of a majority of the voting interests or the general partner or the managing member.

(mmm) **"Tax" or "Taxes"** shall mean any and all United States federal, state or local or non-United States taxes, assessments, charges, duties, levies or other similar governmental charges, including all income, franchise, profits, capital gains, capital stock, transfer, sales, use, occupation, property, excise, severance, windfall profits, stamp, stamp duty reserve, license, payroll, withholding, ad valorem, value added, escheat or unclaimed property, alternative or add-on minimum, environmental, premium, customs, social security, unemployment, sick pay, disability, registration and other taxes or other governmental charges and assessments in the nature of a tax, together with any additions to tax, penalties and interest imposed with respect thereto and any obligation to indemnify or assume or succeed to the Tax liability of any other Person.

(nnn) **"Tax Returns"** shall mean any report, filing, election or return (including any information return) or statement required to be filed with any Governmental Entity with respect to Taxes, including any schedules, attachments or amendments thereto.

(ooo) **"Third Party"** shall mean any Person or "group" (as defined under Section 13(d) of the Exchange Act) other than the Company, Purchaser and the respective controlling or controlled Affiliates of the foregoing.

(ppp) **"Treasury Regulations"** shall mean regulations promulgated by the United States Department of the Treasury under the Code.

1.2 Terms Defined Elsewhere. The following terms are defined elsewhere in this Agreement, as indicated below:

Term	**Section**
Action	3.11
Agreement	Preamble
Aggregate Consideration	2.2(b)
Book-Entry Shares	5.2(b)
Cash Portion	5.1(c)(iii)
Certificates	5.2(b)
Change of Control Payment	6.4
Change of Control Trigger Amount	6.4
Closing	2.2(a)
Closing Date	2.2(a)
Company	Preamble
Company Common Stock	Recitals
Company ESPP Rights	6.2
Company Material Contract	3.10(a)
Company Plans	3.12(a)
Company Preferred Stock	3.2
Company Stock	3.2
Company SEC Filings	3.7
D&O Insurance	6.8(d)
DGCL	Recitals
Dissenting Shares	5.1(c)(iii)
Effective Time	5.1(a)
EMEA	3.5
Employee Optionholders	6.1(a)
Enforceability Exception	3.10(b)
ERISA	3.12(a)
ERISA Affiliate	3.12(a)
Exchange Fund	5.2(a)
FDA	3.5
In-the-Money Option	6.1(a)
Indemnified Parties	6.8(a)
IRS	3.12(b)
Material Leased Real Property	3.17
Material Real Property Leases	3.17
Merger	Recitals
Non-Plan Option	6.1(c)
Option Cash Payment	6.1(a)
Option FMV	6.1(a)
Paying Agent	5.2(a)

Term	Section
Per Share Merger Price	5.1(c)(iii)
Purchase Price	2.1
Purchaser	Preamble
Recent SEC Reports	3
Secretary of State	5.1(a)
Securities Act	Recitals
Securities Purchase	Recitals
Securities Purchase Agreement	Recitals
Series A-1 Preferred Stock	3.2
Series A-2 Preferred Stock	3.2
Series A-3 Preferred Stock	3.2
Shares	2.1
Share Purchase Price	2.1
Social Security Act	3.5(b)
Surviving Corporation	5.1(b)
Tail Period	6.8(d)
Takeover Provisions	3.3(b)

1.3 Interpretation. In this Agreement, unless otherwise specified, the following rules of interpretation apply:

(a) references to Sections, Schedules, Annexes, Exhibits, Clauses and Parties are references to sections or sub-sections, schedules, annexes, exhibits and clauses of, and parties to, this Agreement;

(b) references to any Person include references to such Person's successors and permitted assigns;

(c) words importing the singular include the plural and vice versa;

(d) words importing one gender include the other gender;

(e) references to the word "including" do not imply any limitation;

(f) references to months are to calendar months;

(g) the words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement;

(h) references to "$" or "dollars" refer to U.S. dollars; and

(i) a defined term has its defined meaning throughout this Agreement and in each Exhibit and Schedule to this Agreement, regardless of whether it appears before or after the place where it is defined.

ARTICLE 2
AUTHORIZATION; CLOSING DATE; DELIVERY

2.1 Authorization. The Company has authorized the sale and issuance of 20,100,000 shares of Common Stock (the "**Shares**"), at a price per share of $0.37 (the "**Per Share Purchase Price**"). The aggregate purchase price for the Shares shall be referred to as the "**Purchase Price**."

2.2 Closing Date, Delivery.

(a) *Closing Date*. The Closing of the purchase and sale of the Shares hereunder (the "**Closing**") shall be held at the offices of Stradling Yocca Carlson & Rauth, 660 Newport Center Drive, Suite 1600, Newport Beach, California 92660, at 10:00 a.m. local time on the date hereof, subject to the condition that Purchaser and certain stockholders of the Company execute the Securities Purchase Agreement by and among such parties concurrent with the Closing and deliver executed copies thereof to the parties hereto. The date of the Closing is hereinafter referred to as the "**Closing Date**."

(b) *Funding at Closing*. At the Closing, Purchaser shall be capitalized by Parent with at least $20,076,099.51 (the "**Aggregate Consideration**"), which Parent shall cause Purchaser and the Surviving Corporation, as applicable, to apply as follows:

(i) $20,100.00, representing the aggregate par value of the Shares, shall be paid to the Company at the Closing in exchange for such Shares.

(ii) $1,242,327.79 shall be deposited with the Paying Agent at the Closing to fund the consideration payable in the Merger to the holders of Company Common Stock.

(iii) $10,057,672.21 shall be paid at the Closing to certain securityholders of the Company pursuant to the terms of the Securities Purchase.

(iv) $8,755,999.51 shall be paid or reserved for payment in accordance with the flow of funds memorandum on Schedule 2.2(b).

(c) *Delivery*. At the Closing, the Company will deliver or cause to be delivered to Purchaser:

(i) a certificate representing the Shares, registered in Purchaser's name, in exchange for payment of the Purchase Price therefor by Purchaser by (A) wire transfer equal to the aggregate par value of such Shares in immediately available funds to the Company in accordance with the Company's written wiring instructions delivered to Purchaser prior to the execution of this Agreement, and (B) a promissory note, executed jointly by Parent and Purchaser, having a principal amount equal to the balance of such Purchase Price. Any such promissory note shall be on the following terms: (1) the principal amount and accrued interest under the promissory note shall be payable upon the demand of the Company, (2) the unpaid principal amount of the promissory note will accrue simple interest at the per annum rate of three percent (3.0%), (3) the promissory note may be prepaid in whole or in part at any time and from time to time, without premium or penalty or prior notice, and (4) the unpaid principal amount and accrued interest under the promissory note shall immediately become due and payable in the event that (x) Parent or Purchaser fails to make any payment of interest on the promissory note as provided therein and such failure continues for a period of thirty (30) days or (y) Parent or Purchaser files or has filed against it any petition under any bankruptcy or insolvency law or makes a general assignment for the benefit of creditors; and

(ii) a confirmation duly executed and delivered by each person or entity set forth on Schedule A setting forth all amounts due and owing to such persons by the Company for services through the Closing Date which, upon payment, will satisfy in full all obligations and amounts owing to such persons by the Company for services through the Closing Date.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except (a) as set forth in the Company Disclosure Schedule or (b) as expressly disclosed in the Company SEC Filings filed or furnished by the Company with the SEC (but excluding any risk factor disclosures contained under the heading "Risk Factors," any disclosure of risks included in any "forward-looking statements" disclaimer or any other statements that are similarly predictive, cautionary or forward-looking in nature that are contained or referenced therein), in each case on or after December 31, 2012 and prior to the date hereof (the "**Recent SEC Reports**") (it being understood that any information disclosed in any Recent SEC Report shall qualify a specific representation or warranty contained in this Article 3 only to the extent that it is reasonably apparent that such information would be expected to qualify such representation or warranty, and provided that the representations and warranties set forth in Section 3.2 shall not be qualified by any information disclosed in the Recent SEC Reports), the Company represents and warrants to Purchaser as follows:

3.1 Organization and Qualification. The Company is a corporation duly organized and validly existing, and in good standing under the Laws of the State of Delaware. The Company has no subsidiaries. The Company has the requisite corporate power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted, except where the failure to have such power or authority, individually or in the aggregate, would not have a Company Material Adverse Effect. The Company is duly qualified or licensed to do business and, where such concept is recognized, is in good standing, in each jurisdiction where the character of the properties owned, leased or operated by it or the nature of its business makes such qualification, licensing or good standing necessary, except for such failures to be so qualified, licensed or in good standing that, individually or in the aggregate, would not have a Company Material Adverse Effect.

3.2 Capitalization.

(a) The authorized capital stock of the Company consists of 600,000,000 shares of Company Common Stock and 10,000,000 shares of preferred stock, $0.001 par value. As of July 1, 2013, there were (i) 22,147,199 shares of Company Common Stock issued and outstanding, (ii) no shares of Company Common Stock held in the treasury of the Company, (iii) 11,122,358 shares of Company Common Stock issuable upon exercise of outstanding Company Options, of which 70,204 shares are issuable upon exercise of outstanding Company Options under the 2003 Plan, 573,457 shares are issuable upon exercise of outstanding Company Options under the 2004 Plan, 10,418,770 shares are issuable upon exercise of outstanding Company Options under the 2010 Plan, and 59,927 shares are issuable upon exercise of outstanding Company Options issued outside of any Company Plan, (iv) no shares of Company Common Stock issuable upon exercise of outstanding Company ESPP Rights, (v) 1,801,783 shares of Company Common Stock issuable upon exercise of the Company Warrants, (vi) 412,562 shares of Series A-1 Convertible Preferred Stock of the Company, par value $0.001 per share (the "Series A-1 Preferred Stock"), issued and outstanding and 71,974,609 shares of Company Common Stock issuable upon conversion of the Series A-1 Preferred Stock, (vii) 137,156 shares of Series A-2 Convertible Preferred Stock of the Company, par value $0.001 per share (the "Series A-2 Preferred Stock"), issued and outstanding and 51,825,807 shares of Company Common Stock issuable upon conversion of the Series A-2 Preferred Stock, (viii) 180,000 shares of Series A-3 Convertible Preferred Stock of the Company, par value $0.001 per share (the "Series A-3 Preferred Stock", together with the Series A-1 Preferred Stock and the Series A-2 Preferred Stock, the "Company Preferred Stock" and, together with the Company Common Stock, the "Company Stock"), issued and outstanding and 54,838,939 shares of Company Common Stock issuable upon conversion of the Series A-3 Preferred Stock, and (ix) no other shares of preferred stock of the Company issued and outstanding. All of the outstanding shares of capital stock of the Company have been duly authorized and validly issued and are fully paid and nonassessable. All shares of Company Common Stock issuable upon exercise or settlement of Company Options have been duly reserved for issuance by the Company, and upon any issuance of such shares in accordance with the terms of the applicable Company Stock Plan, or otherwise in accordance with the terms of the applicable award agreement, will be duly authorized, validly issued and fully paid and non-assessable.

(b) Except with respect to Equity Interests set forth in Section 3.2(a) or pursuant to the Investment Agreements, as of the date of this Agreement there are no options, warrants or other rights, agreements, arrangements or commitments of any character to which the Company is a party or by which the Company is bound relating to the issued or unissued Equity Interests of the Company or obligating the Company to issue or sell any Equity Interests in the Company. Section 3.2(b) of the Company Disclosure Schedule contains a complete and correct list as of the date of this Agreement of the names of the holders, the number of shares of Company Common Stock, the date of grant, the exercise price and the vesting schedule for each outstanding Company Option. Except with respect to Equity Interests set forth in Section 3.2(a), there are no outstanding contractual obligations of the Company affecting the voting rights of, or requiring the repurchase, redemption, issuance, creation or disposition of, any Equity Interests in the Company. Except as set forth in Section 3.2(b) of the Company Disclosure Schedule, there are no outstanding bonds, debentures, notes or other indebtedness of the Company having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matter on which the stockholders of the Company may vote.

(c) Except as set forth in Section 3.2(c) of the Company Disclosure Schedule, the Company does not own, directly or indirectly, any Equity Interest in any Person. The Company has not entered into any Contract requiring it to contribute capital, loan money or otherwise provide funds or make investments in any other Person. Other than the Investment Agreements and Registration Rights Agreement, there are no shareholder agreements, voting trusts, proxies or other Contracts to which the Company is a party or by which it is bound relating to the voting or registration of any Equity Interests of the Company.

(d) All outstanding shares of Company Common Stock and Company Preferred Stock, and all Company Options and other Equity Interests, have been issued and granted in compliance in all material respects with (i) all applicable securities laws and other Laws and (ii) all requirements set forth in applicable Contracts.

3.3 Corporate Authority and Approval

(a) The Company has all necessary corporate power and authority to execute and deliver this Agreement and the CVR Agreement and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Company, and no other corporate proceedings on the part of the Company are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Company and, assuming this Agreement is a valid and binding obligation of Purchaser, this Agreement constitutes a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to the Enforceability Exception.

(b) The Company has taken all appropriate actions so that the restrictions on business combinations contained in Section 203 of the DGCL will not apply with respect to or as a result of the execution of this Agreement or the consummation of the transactions contemplated hereby. No other state anti-takeover statute or regulation applies to the transactions contemplated by this Agreement (collectively with Section 203 of the DGCL, "**Takeover Provisions**").

(c) issuance and delivery in accordance with this Agreement and payment therefor in accordance with the terms of this Agreement, the Shares will be duly authorized, validly issued, fully paid and non-assessable. The issuance and delivery of the Shares is not subject to preemptive or any other similar rights of any individual or entity, and the Shares will be issued and delivered free and clear of any liens or encumbrances.

3.4 No Conflict; Required Filings and Consents.

(a) The execution and delivery by the Company of this Agreement do not, and the performance by the Company of this Agreement and the transactions contemplated hereby, including the issuance, sale and delivery of the Shares by the Company, will not, (i) conflict with or violate any provision of the Company Certificate of Incorporation or the Company Bylaws, (ii) assuming that all consents, approvals and authorizations described in Section 3.4(b) will have been obtained prior to the Closing Date and all filings and notifications described in Section 3.4(b) will have been made prior to the Closing Date, conflict with or violate any Law or Order applicable to the Company or by which any property or asset of the Company is bound or affected or (iii) require any consent or approval under, result in any breach of or any loss of any benefit under, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any right of termination, vesting, amendment, acceleration or cancellation of, or result in the creation of a Lien (other than a Permitted Encumbrance) on any property or asset of the Company pursuant to, any Contract to which the Company is a party except, with respect to clauses (ii) and (iii), for matters that, individually or in the aggregate, would not have a Company Material Adverse Effect.

(b) The execution and delivery of this Agreement by the Company do not, and the performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby will not, require any consent, approval or authorization of, or filing with or notification to, any Governmental Entity by the Company except (i) for any consent, approval, authorization, filing or notification required under the Securities Act or the Exchange Act or (ii) where the failure to obtain such consents, approvals or authorizations, or to make such filings or notifications, would not, individually or in the aggregate, have a Company Material Adverse Effect.

3.5 Compliance with Laws; Permits. Except with respect to regulatory matters (which are addressed exclusively in Section 3.6), benefits and employee practices matters (which are addressed exclusively in Section 3.12), labor matters (which are addressed exclusively in Section 3.13), intellectual property matters (which are addressed exclusively in Section 3.14), Tax matters (which are addressed exclusively in Section 3.15) and environmental matters (which are addressed exclusively in Section 3.16), (i) the Company is conducting, and since January 1, 2011, has conducted, its business in compliance in all material respects with all Laws applicable to the Company or by which any property or asset of the Company is bound, (ii) the Company holds all material Permits necessary for the Company to conduct its business as currently conducted and to own, lease and operate its properties and assets, and such Permits are in full force and effect, and (iii) since January 1, 2011, the Company has not received any written communication from any Governmental Entity that alleges that (x) the Company is not in compliance in all material respects with any material Permit, Law or Order applicable to the Company or (y) any investigation or review by any Governmental Entity is pending with respect to the Company or any of its properties or assets or that any such investigation or review is currently contemplated.

3.6 Regulatory Compliance.

(a) Section 3.6(a) of the Company Disclosure Schedule sets forth a complete and correct list of all Regulatory Authorizations from the U.S. Food and Drug Administration ("FDA"), European Medicines Agency ("EMEA") and all other Health Authorities held by the Company, and there are no other Regulatory Authorizations required for the Company or the Covered Products in connection with the conduct of the Company's business as currently conducted. All such Regulatory Authorizations held by the Company are, in all material respects, (i) in full force and effect, (ii) validly registered and on file with applicable Health Authorities, (iii) in compliance with all formal filing and maintenance requirements and (iv) in good standing, valid and enforceable. Except as set forth on Section 3.6(a) of the Company Disclosure Schedule, there are no INDs, NDAs or material Regulatory Authorizations in any country held by any Third Party related to any of the Covered Products. The Company has filed all notices and responses to notices, supplemental applications, reports (including adverse experience reports) and other information with the FDA, EMEA and, to the Knowledge of the Company, all other applicable Health Authorities required to be filed by the Company.

(b) (i) Each Covered Product that is or has been researched, developed, manufactured, supplied, promoted, tested, distributed, marketed, licensed, commercialized or sold by the Company is in compliance in all material respects with all applicable Health Laws, (ii) the Company has not received any written notice from any Health Authority (A) placing on "clinical hold" any Product of the Company (which Product is the subject of an active IND) that remains unresolved or (B) alleging any material violation of any Health Law with respect to any Covered Product and (iii) there are no investigations, suits, claims, actions or proceedings by or before any Governmental Entity against the Company relating to or arising under (A) Health Laws, (B) the Social Security Act of 1935, as amended (the "Social Security Act") (or the regulations thereunder) or similar Laws or (C) any applicable Laws relating to government health care programs, private health care plans or the privacy and confidentiality of patient health information.

(c) All preclinical studies and clinical trials being conducted with respect to each Covered Product by or at the direction of the Company have been and are being conducted in material compliance with the applicable requirements of Good Laboratory Practices and Good Clinical Practices and applicable regulations that relate to the conduct of clinical studies, and the Company has not received any written notifications from any institutional review board threatening to suspend any such preclinical study or clinical trial.

(d) The manufacture of any Covered Products by the Company or, to the Knowledge of the Company, any Third Party on behalf of the Company, is being conducted in material compliance with the applicable requirements of current Good Manufacturing Practices. In addition, the Company is in material compliance with all applicable registration and listing requirements, including those set forth in 21 U.S.C. Section 360 and 21 C.F.R. Parts 207 and 807 and all similar applicable Laws and Orders. To the Knowledge of the Company, no Covered Product sold by the Company or held in inventory by the Company has been adulterated or misbranded. With respect to the Covered Products, (i) all labeling is in compliance in all material respects with FDA, EMEA and other Health Authority requirements, and (ii) all advertising and promotional materials of the Company are in compliance in all material respects with FDA, EMEA and other applicable Health Authority requirements.

(e) Neither the Company nor any Representative of the Company has made an untrue statement of a material fact or fraudulent statement to any Health Authority, failed to disclose a material fact required to be disclosed to any Health Authority, or committed an act, made a statement, or failed to make a statement, including with respect to any scientific data or information, that, at the time such disclosure was made or failure to disclose occurred, would reasonably be expected to provide a basis for any Health Authority to invoke the FDA policy respecting "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities", set forth in 56 Fed. Reg. 46191 (September 10, 1991), or any similar policy. Neither the Company nor, to the Knowledge of the Company, any Representative of the Company has been convicted of any crime or engaged in any conduct for which debarment is mandated by 21 U.S.C. § 335a(a) or any similar Laws or authorized by 21 U.S.C. § 335a(b) or any similar Laws. Neither the Company nor, to the Knowledge of the Company, any Representative of the Company has been convicted of any crime or engaged in any conduct for which such person or entity could be excluded from participating in the Federal health care programs under Section 1128 of the Social Security Act or any similar Laws.

3.7 SEC Filings; Financial Statements.

(a) *Company SEC Filings*. The Company has timely filed or furnished all forms, reports and other documents required to be filed or furnished by it under the Securities Act or the Exchange Act, as the case may be, since January 1, 2011 (collectively, the "**Company SEC Filings**"). Each Company SEC Filing (i) as of its date, complied as to form in all material respects with the applicable requirements of the Securities Act, the Exchange Act and the Sarbanes-Oxley Act, as the case may be, as in effect on the date so filed, and (ii) did not, at the time it was filed, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. As of the date hereof, there are no outstanding or unresolved comments in comment letters from the SEC staff with respect to any of the Company SEC Filings. To the Knowledge of the Company, as of the date hereof, none of the Company SEC Filings is the subject of ongoing SEC review, outstanding SEC comment or outstanding SEC investigation.

(b) *Financial Statements*.

(i) Each of the financial statements (including, in each case, any notes thereto) of the Company contained in or incorporated by reference into the Company SEC Filings (collectively, the "**Company Financial Statements**") was prepared in accordance with GAAP applied (except as may be indicated in the notes thereto and, in the case of unaudited quarterly financial statements, as permitted by Form 10-Q under the Exchange Act) on a consistent basis during the periods indicated (except as may be indicated in the notes thereto), and each of the Company Financial Statements presented fairly, in all material respects, the financial position of the Company as of the respective dates thereof and the results of operations, changes in stockholders equity and cash flows of the Company for the respective periods indicated therein (subject, in the case of unaudited statements, to normal adjustments). The books and records of the Company have been maintained in all material respects in a manner that permits the Company to prepare its financial statements in conformity with GAAP.

(ii) The Company is not a party to, nor has any commitment to become a party to, any joint venture, off-balance sheet partnership or similar Contract (including any Contract or arrangement relating to any transaction or relationship between or among the Company, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose or limited purpose entity or Person, on the other hand), or any "off-balance sheet arrangements" (as defined in Item 303(a) of Regulation S-K promulgated by the SEC), where the result, purpose or intended effect of such Contract is to avoid disclosure of any material transaction involving, or material liabilities of, the Company in its published financial statements or other Company SEC Filings.

(iii) Without limiting the generality of Section 3.7(b)(i), since January 1, 2011, (i) BDO USA, LLP has not resigned or been dismissed as independent public accountants of the Company as a result of or in connection with any disagreement with the Company on a matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, (ii) no executive officer of the Company has failed in any respect to make, without qualification, the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act with respect to any form, report or schedule filed by the Company with the SEC since the enactment of the Sarbanes-Oxley Act, and neither the Company nor any of its executive officers has received notice from any Governmental Entity challenging or questioning the accuracy, completeness or manner of the filing of the certification required by the Sarbanes-Oxley Act and made by the Company's principal executive officer and principal financial officer and (iii) no enforcement action has been initiated or, to the Knowledge of the Company, threatened against the Company by the SEC relating to disclosures contained in any Company SEC Filing.

(iv) Except as permitted by the Exchange Act, including Sections 13(k)(2) and (3) or rules of the SEC, since the enactment of the Sarbanes-Oxley Act, neither the Company nor any of its Affiliates has made, arranged or modified (in any material way) any extensions of credit in the form of a personal loan to any executive officer or director of the Company.

(c) *Internal Controls.*

(i) The Company has established and maintains a system of internal control over financial reporting (as defined in Rule 13a-15 under the Exchange Act). Such internal controls are sufficient to provide reasonable assurance regarding the reliability of the Company's financial reporting and the preparation of its financial statements for external purposes in accordance with GAAP. Since January 1, 2011, the Company's principal executive officer and its principal financial officer have disclosed, based on their then most recent quarterly evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the board of directors of the Company (A) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting that are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting.

(ii) The Company has established and maintains disclosure controls and procedures (as such term is defined in Rule 13a-15 under the Exchange Act), and such disclosure controls and procedures are designed to ensure that material information relating to the Company required to be included in reports filed by the Company under the Exchange Act is accumulated and communicated to the Company's management, including its principal executive officer and its principal financial officer as appropriate to allow timely decisions regarding required disclosure.

3.8 No Undisclosed Liabilities. The Company does not have any liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) of a type that would be required to be reflected on a balance sheet of the Company prepared in accordance with GAAP, except for liabilities or obligations (a) that were incurred after December 31, 2012 in the ordinary course of business consistent with past practice, (b) that were set forth on the Company's balance sheet for the year ended December 31, 2012 included in the Company Financial Statements in the Company SEC Filings prior to the date hereof, or (c) that were not, individually or in the aggregate, material to the Company.

3.9 Absence of Certain Changes or Events.

(a) Since January 1, 2013, (A) the Company has conducted its businesses in the ordinary course consistent with past practice and (B) the Company has not, except as set forth in Section 3.9(a) of the Company Disclosure Schedule, directly or indirectly, taken any of the following actions:

(i) amended or otherwise changed the Company Certificate of Incorporation or the Company Bylaws;

(ii) issued, delivered, sold, pledged, transferred, encumbered or otherwise disposed of, or authorized, proposed or agreed to the issuance, delivery, sale, pledge, transfer, encumbrance or disposition of, any shares of its capital stock or other Equity Interests, or securities convertible into or exchangeable for, or options, warrants, calls, commitments or rights of any kind to acquire, any shares of any class or series of its capital stock or other Equity Interests (other than pursuant to the exercise or settlement of Company Options, Company ESPP Rights or Company Warrants or upon the conversion of Company Preferred Stock);

(iii) declared, set aside, established a record date for, made or paid any dividend or other distribution (whether payable in cash, Equity Interests, property or a combination thereof) with respect to any of its Equity Interests;

(iv) reclassified, combined, split, subdivided or redeemed, purchased or otherwise acquired or offered to acquire, directly or indirectly, any of its capital stock or other Equity Interests, or securities convertible or exchangeable into or exercisable for any of its capital stock or other Equity Interests, except pursuant to the exercise or settlement of Company Options, Company ESPP Rights or Company Warrants or the conversion of Company Preferred Stock;

(v) acquired (including by merger, consolidation or acquisition of Equity Interests or assets) any Person or any division thereof, or made any loan, advance or capital contribution to, or investment in, any Person or any division thereof, except any such acquisitions, loans, advances, contributions or investments that are consistent with past practice and are for consideration not in excess of $100,000 individually, or $250,000 for all such transactions by the Company in the aggregate;

(vi) redeemed, repurchased, prepaid, defeased, canceled, incurred or otherwise acquired, or modified the terms of, any indebtedness for borrowed money, other than the incurrence of indebtedness for borrowed money, or issue any debt securities or assume, guarantee or endorse, or otherwise become responsible for, the obligations of any Person for borrowed money;

(vii) granted any Lien on any of its assets other than Permitted Encumbrances;

(viii) (A) entered into or materially amended or modified (other than extensions at the end of a term in the ordinary course of business) any Company Material Contract, or terminated any such Contract other than in the ordinary course of business, or (B) waived any term of or any material default under, or released, settled or compromised any material claim against the Company or liability or obligation owing to the Company under, any Company Material Contract;

(ix) sold, transferred, leased, subleased, exclusively licensed, assigned, abandoned or otherwise disposed of any assets, rights or properties of the Company having a current value in excess of $100,000 individually or $250,000 in the aggregate or any material Company Intellectual Property, other than, in each case, sales of inventory or surplus equipment in the ordinary course of business;

(x) authorized, or made any commitment with respect to, any single capital expenditure in excess of $100,000 or capital expenditures in excess of $250,000 in the aggregate, except for capital expenditures that are contemplated by the Company's existing plan for annual capital expenditures for 2013 previously made available to Purchaser;

(xi) entered into any new line of business outside of its existing business segments;

(xii) (A) except to the extent required by applicable Law or any existing Company Plan, granted or announced any stock option, equity or incentive awards or any increase in the salaries, bonuses or other compensation and benefits payable by the Company (i) to any executive officers or directors of the Company or (ii) other than in the ordinary course of business consistent with past practice, to any other employees, managers or other service providers of or to the Company, (B) hired any new executive officer of the Company, unless such hiring is in the ordinary course of business consistent with past practice or to replace a Company executive officer who terminated employment, (C) except to the extent required by applicable Law or any existing Company Plan, paid or agreed to pay any pension, retirement allowance, termination or severance pay, or bonus to any employee, officer, director, manager, equity holder or other service provider of or to the Company except for agreements with newly hired employees in the ordinary course of business consistent with past practice, (D) except to the extent required by applicable Law or any existing Company Plan, entered into or amended any Contracts of employment or any consulting, bonus, change in control, severance, retention, retirement or similar Contract, except for agreements for newly hired employees in the ordinary course of business consistent with past practice with an annual base salary and incentive compensation opportunity not to exceed $100,000 in the aggregate for any such employee, or (E) except as required to ensure that any Company Plan remains in compliance with applicable Law, entered into or adopted any new, or materially increase benefits under any existing, Company Plan or any collective bargaining agreement;

(xiii) paid, discharged, settled or satisfied any material claims or obligations (absolute, accrued, contingent or otherwise) in an amount in excess of $100,000 individually or $250,000 in the aggregate, other than (A) performance of contractual obligations in accordance with their terms, (B) payment, discharge, settlement or satisfaction in the ordinary course of business or (C) payment, discharge, settlement or satisfaction in accordance with their terms, of claims, liabilities or obligations that have been disclosed in the most recent financial statements of the Company included in the Company SEC Filings filed prior to the date hereof to the extent of such disclosure or incurred since the date of such financial statements in the ordinary course of business;

(xiv) except as may be required by GAAP or as a result of a change in Law, made any material change in accounting principles, policies, practices, procedures or methods;

(xv) changed any material method of Tax accounting, made or changed any material Tax election, filed any material amended Tax Return, settled or compromised any material Tax liability, claim or assessment, agreed to an extension or waiver of the statute of limitations with respect to the assessment or determination of material Taxes, entered into any material closing agreement, or surrendered any right to claim a material Tax refund;

(xvi) settled, released, waived or compromised any pending or threatened Action against the Company (A) for an amount in excess of $100,000 individually or $250,000 in the aggregate, (B) entailing the incurrence of any obligation or liability of the Company in excess of such amount or obligations that would impose any material restrictions on the business or operations of the Company or the use of any Company Intellectual Property, or (C) brought by any current, former or purported holder of any Equity Interests relating to the transactions contemplated by this Agreement;

(xvii) adopted or entered into a plan of complete or partial liquidation, restructuring, recapitalization, dissolution or other reorganization of the Company; or

(xviii) entered into any agreement or arrangement to take any of the foregoing actions.

(b) Since January 1, 2013, no event has occurred which would, individually or in the aggregate, have or reasonably be expected to have a Company Material Adverse Effect.

3.10 Contracts.

(a) Except as disclosed in Section 3.10(a) of the Company Disclosure Schedule and for any Contracts that are listed as an exhibit to a Company SEC Filing and that have been filed with the SEC, the Company is not a party to or bound by any Contract (other than a Material Real Property Lease) that, in each case:

(i) is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K promulgated by the SEC) with respect to the Company;

(ii) relates to any indenture, credit agreement, loan agreement, security agreement, guarantee, note, mortgage or other Contract relating to indebtedness for borrowed money or deferred payment (in either case, whether incurred, assumed, guaranteed or secured by any asset) in excess of $100,000;

(iii) required in the past fiscal year or is reasonably likely to require in the current fiscal year either (A) annual payments from Third Parties to the Company of at least $100,000 in the aggregate or (B) annual payments from the Company to Third Parties of at least $100,000 in the aggregate;

(iv) relates to any acquisition by the Company of a business or any material assets (other than acquisitions of inventory or equipment in the ordinary course of business) pursuant to which the Company has continuing indemnification or other contingent payment or guarantee obligations, in each case, that could result in payments in excess of $100,000;

(v) is a Contract between or among the Company, on the one hand, and any directors, executive officers (as such term is defined in the Exchange Act) or five percent (5%) stockholders of the Company (other than the Company), on the other hand, other than employment, indemnification, stock option or similar Contracts entered into in the ordinary course of business;

(vi) (A) involves any employees of the Company (other than executive officers (as such term is defined in the Exchange Act)) and (x) creates severance, stock, stock option or any similar obligations for the Company (other than pursuant to Company Plans or Company Stock Plans), or (y) requires payment of total annual compensation in excess of $100,000 (excluding any "at will" employment Contracts) or (B) involves any individual consultants and requires payment by its terms of total annual compensation in excess of $100,000;

(vii) provides for exclusivity or any similar requirement or pursuant to which the Company is restricted with respect to the research, development, manufacturing, supply, promotion, testing, distribution, marketing, licensing, commercializing or sale of any Covered Product;

(viii) contains any covenant granting "most favored nation" status with respect to any Covered Product;

(ix) provides for the grant of a material license or receipt of a material license or grant of other material right with respect to Company Intellectual Property which is material to the Company (except for receipt of a license to commercially available off-the-shelf software with a replacement cost and/or annual license fees of less than $100,000);

(x) provides for indemnification by the Company of any Person, except for any such Contract that is not material to the Company, entered into in the ordinary course of business consistent with past practice, or a license by the Company of any Intellectual Property rights entered into in the ordinary course of business consistent with past practice;

(xi) is a settlement, conciliation or similar agreement (x) with any Governmental Entity or (y) which would require the Company to pay consideration of more than $100,000 after the date of this Agreement; or

(xii) is otherwise material to the Covered Products or material to any material Company Intellectual Property related to the Covered Products; or

(xiii) contains any covenant that (A) limits the ability of the Company to engage in any line of business or to compete with any Person or operate at any location, (B) could require the disposition of any material assets or line of business of the Company, or (C) prohibits or limits the right of the Company to research, develop, manufacture, supply, promote, test, distribute, market, license, commercialize or sell any Covered Products or use, transfer, license, distribute or enforce any Company Intellectual Property, in each case, with respect to this clause (C), which is material to the Company.

Each Contract of the type described in Sections 3.10(a)(i) through (xiii) and each Contract that is listed as an exhibit to a Company SEC Filing is referred to herein as a "**Company Material Contract**." The Company has made available to Purchaser prior to the date of this Agreement a complete and correct copy of each Company Material Contract.

(b) Except for matters that, individually or in the aggregate, would not have a Company Material Adverse Effect, (i) each Company Material Contract is a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to (x) bankruptcy, insolvency (including all Laws relating to fraudulent transfers), reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and (y) the effect of rules of law and general principles of equity, including rules of law and general principles of equity governing specific performance, injunctive relief, other equitable remedies (regardless of whether such enforceability is considered in a proceeding in equity or at law), concepts of materiality, reasonableness, good faith and fair dealing and the discretion of the court before which a proceeding is brought (clause (x) and (y) collectively, the "**Enforceability Exception**"), (ii) to the Knowledge of the Company, each Company Material Contract is a valid and binding obligation of the counterparty thereto, enforceable against such counterparty in accordance with its terms, subject to the Enforceability Exception, (iii) the Company is not, and, to the Company's Knowledge, no counterparty is, in breach or violation of, or default under, any Company Material Contract, (iv) to the Company's Knowledge, the Company has not received any written claim of default under any Company Material Contract, and (v) to the Company's Knowledge, the Company has not received any written notice from any Third Party to any Company Material Contract that such Third Party intends to terminate, or not renew, any Company Material Contract.

3.11 Litigation. (a) There is no legal, administrative, arbitral or other suit, formal claim or charge, enforcement action, grievance, mediation, proceeding or formal investigation of any nature (each, an "**Action**") pending or, to the Knowledge of the Company, threatened in writing against the Company or its assets or properties, and (b) none of the Company or any of its respective assets or properties, is subject to or bound by any outstanding Order. Except for matters that, individually or in the aggregate, would not have a Company Material Adverse Effect, (i) no product liability claims have been asserted in writing against the Company or, to the Knowledge of the Company, any Company Partner relating to the Covered Products, and (ii) to the Knowledge of the Company, there is no Order outstanding against the Company or any Company Partner relating to any of the Covered Products, in each case, relating to product liability claims or assessments.

3.12 Company Plans; Employees and Employment Practices.

(a) Section 3.12(a) of the Company Disclosure Schedule sets forth a complete and correct list of all material "employee benefit plans" within the meaning of Section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), all other material medical, dental, life insurance, equity (including the Company Stock Plans), bonus or other cash or equity-related incentive compensation, disability, salary continuation, severance, change in control, retention, retirement, pension, deferred compensation, fringe benefit, welfare benefit, vacation, sick pay or paid time off plans or policies, and any other material plans, agreements, policies, trust funds or arrangements (i) established, maintained, sponsored or contributed to by the Company or (ii) with respect to which the Company or any Person that, at any relevant time, could be treated as a single employer with the Company under Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA (each, an "**ERISA Affiliate**") has any material liability (each, a "**Company Plan**," and, collectively, the "**Company Plans**").

(b) With respect to each Company Plan, the Company has made available to Purchaser (as applicable): (i) copies of all documents setting forth the terms thereof, including all amendments thereto, (ii) all related trust documents, (iii) the most recent annual report (Form Series 5500) and all applicable schedules and attachments, (iv) the most recent actuarial reports, (v) the most recent summary plan description, (vi) the most recent compliance and nondiscrimination testing reports, (vii) the most recent Internal Revenue Service ("**IRS**") determination or opinion letter issued with respect to each Company Plan intended to be qualified under Section 401(a) of the Code, (viii) all material correspondence with a Governmental Entity and (ix) any other material documents pursuant to which such Company Plan is administered or funded.

(c) None of the Company Plans is, nor has the Company or any ERISA Affiliate ever sponsored, maintained or contributed to: (i) any defined benefit pension plan or any plan, program or arrangement subject to Title IV of ERISA or the funding requirements of Section 412 of the Code or Section 302 of ERISA, (ii) any multiemployer plan (as defined in Section 3(37) of ERISA), (iii) any multiple employer plan (within the meaning of Section 413(c) of Code or Section 210 of ERISA), (iv) any multiple employer welfare arrangement (as defined in Section 3(40) of ERISA) or (v) any employee benefit plan, program, agreement or arrangement that provides for post-employment or post-retirement medical, life insurance or other welfare-type benefits (other than health continuation coverage required by Section 4980B of the Code or similar Law for which the covered individual pays the full cost of coverage).

(d) Each Company Plan intended to qualify under Section 401(a) of the Code has received a determination or opinion letter from the IRS as to its qualified status under the Code and, to the Knowledge of the Company, nothing has occurred, whether by action or by failure to act, that caused or could cause the loss of such qualification or the imposition of any material penalty or Tax liability.

(e) Each Company Plan has been established, funded, maintained and operated in all material respects in accordance with its terms and applicable Law, including ERISA and the Code. The Company has performed all obligations required to be performed by it under the Company Plans and is not in default under, or in violation of, any Company Plan. With respect to each Company Plan, (i) there have been no non-exempt "prohibited transactions" (as defined in Section 406 of ERISA or Section 4975 of the Code or Sections 406 and 407 of ERISA), (ii) no "fiduciary" (as defined in Section 3(21) of ERISA) has any liability for breach of fiduciary duty or any other failure to act or comply in connection with any Company Plan, and (iii) no Action with respect to a Company Plan (other than routine claims for benefits) is pending or, to the Knowledge of the Company, threatened, and the Company has no Knowledge of any circumstances that could give rise to any such Action.

(f) With respect to each Company Plan, (i) all contributions or payments (including all employer contributions, employee salary reduction contributions and premium payments) that are due have been made within the time periods prescribed by the terms of each Company Plan, ERISA and the Code in all material respects; and (ii) all contributions or payments for any period ending on or before the Closing Date that are not yet due have been made, paid or properly accrued. Section 3.12(f) of the Company Disclosure Schedule sets forth an estimate of claims not yet outstanding but known by the Company to exist.

(g) (i) The consummation of the transactions contemplated by this Agreement alone, or in combination with any other event, will not give rise to any liability under any Company Plan or otherwise, including any liability for severance pay, or accelerate the time of payment or vesting or increase the amount of compensation or benefits due to any employee, officer, director, manager, equityholder or other service provider of the Company (whether current, former or retired) or their beneficiaries and (ii) no amount that could be received (whether in cash or property or the vesting of property) as a result of the consummation of the transactions contemplated by this Agreement by any employee, officer, director, manager, equityholder or other service provider of the Company under any Company Plan or otherwise would not be deductible by reason of Section 280G of the Code or would be subject to an excise tax under Section 4999 of the Code.

(h) All Company Plans subject to Section 409A of the Code have been operated in accordance, and documented to conform, with Section 409A of the Code based upon a reasonable good faith interpretation of Section 409A of the Code and the regulations and other guidance promulgated thereunder. To the Knowledge of the Company, nothing has occurred, whether by action, failure to act, or content of any applicable agreement, that caused or could cause the imposition of any Tax as a result of the application of Section 409A.

(i) With respect to each Company Plan, all summary plan descriptions, summaries of material modifications and all required notices and disclosures comply with ERISA, the Code and all other applicable Laws and have been provided to applicable employees and participants in accordance with ERISA, the Code and all other applicable Laws.

3.13 Labor and Employment Matters. The Company is not a party to or bound by any collective bargaining agreement or other relationship with any labor union or similar representative of employees. (a) There is no ongoing, or, to the Knowledge of the Company, threatened, strike, slowdown, work stoppage, or other material labor dispute, and no such disputes have occurred since January 1, 2011; and (b) there are no union organization or decertification activities pending or, to the Knowledge of the Company, threatened, and to the Knowledge of the Company no such activities have occurred since January 1, 2011. Except as would not have a Company Material Adverse Effect, (i) the Company has not engaged in any unfair labor practices within the meaning of the United States National Labor Relations Act, as amended, and (ii) the Company is, and since January 1, 2011 has remained, in compliance with all labor, employment and workplace-related Laws. There are no pending or, to the Knowledge of the Company, threatened Actions against the Company by or on behalf of any current or former director, officer or employee relating to labor, wages, hours, benefits, employment discrimination, sexual or other harassment, wrongful termination, immigration, occupational safety and health, or other employment-related matters at the Company, other than such Actions that, individually or in the aggregate, if adversely determined would not have a Company Material Adverse Effect. There are no pending or, to the Knowledge of the Company, threatened Actions against the Company by or on behalf of any current or former independent contractors relating to the compensation paid to such independent contractors or the individual's or entity's legal status or classification as an independent contractor, other than such Actions that, individually or in the aggregate, if adversely determined would not have a Company Material Adverse Effect. Since January 1, 2011, the Company has not implemented any plant closing or layoff of employees that at the time thereof implicated the Worker Adjustment and Retraining Notification Act of 1988, as amended, or any similar foreign, state or local law, regulation or ordinance.

3.14 Intellectual Property.

(a) Section 3.14(a) of the Company Disclosure Schedule sets forth a list of all registered Company Owned Intellectual Property, including (i) issued patents and pending patent applications, (ii) trademark and service mark registrations and applications for registration thereof, and (iii) internet domain names and registrations therefor.

(b) Except as set forth on Section 3.14(b) of the Company Disclosure Schedule, (i) the Company exclusively owns all Company Owned Intellectual Property free and clear of all Liens (other than Permitted Encumbrances) and has not granted any exclusive licenses to Company Owned Intellectual Property and Company is entitled to use the Company Owned Intellectual Property to conduct the business of the Company as it is currently being conducted; (ii) the Company Owned Intellectual Property and Company Licensed Intellectual Property include all Intellectual Property used by the Company and necessary to conduct the business of the Company as it is currently being conducted; (ii) the Company has not received from any Third Party any written notice of infringement or misappropriation of such Third Party's Intellectual Property rights or any written claim alleging any such infringement or misappropriation (including any claim that the Company must license or refrain from using any Intellectual Property rights of such Third Party) in connection with the Covered Products or the operation of the Company's business and no such claim is pending or threatened, and, to the Knowledge of the Company, the Company has not infringed upon or misappropriated, and neither the Covered Products nor the conduct of the Company's business as currently conducted infringes or misappropriates, any Intellectual Property of any Third Party except for matters that, individually or in the aggregate, would not be material to the Company; (iii) the Company has not received any written notice of any claim challenging the validity, registrability or enforceability of any Company Intellectual Property, and no such claim is pending or, to the Knowledge of the Company, threatened; and (iv) no Third Party is, to the Knowledge of the Company, infringing or suspected by Company of infringing any of Company's Intellectual Property rights in Company Owned Intellectual Property. The transactions contemplated by this Agreement will not impair the right, title or interest of the Company in or to any Company Intellectual Property, and all material Company Licensed Intellectual Property licensed by the Company shall continue to be licensed to the Company on the same terms immediately following the consummation of the transactions contemplated by this Agreement. The Company Owned Intellectual Property is not subject to any outstanding Order restricting any use thereof.

(c) All registered Company Owned Intellectual Property is, to the Knowledge of the Company, valid, subsisting and enforceable and has not been adjudged invalid or unenforceable in whole or in part. No material registered Company Owned Intellectual Property has expired, been canceled or abandoned, and all applicable application, registration and maintenance fees due prior to the date hereof regarding any material registered Company Owned Intellectual Property have been paid in a timely manner. Except as set forth on Section 3.14(c) of the Company Disclosure Schedule, no actions or proceedings including any proceedings before the United States Patent and Trademark Office are outstanding or are in progress that may restrict Company's rights in registered Company Owned Intellectual Property.

(d) The Company has taken actions reasonably necessary to maintain and protect each item of Company Owned Intellectual Property, including the secrecy, confidentiality and value of trade secrets and other confidential information. All present employees and independent contractors of, and consultants to, the Company, and to the Knowledge of the Company, all past employees and independent contractors of, and consultants to, the Company have entered into agreements pursuant to which such employee, independent contractor or consultant agrees to protect the confidential information of the Company and assign to the Company all Intellectual Property and rights in Intellectual Property authored, developed or otherwise created by such employee, independent contractor or consultant in the course of his, her or its employment or other relationship with the Company without further consideration or any restrictions or obligations on the use or ownership of such Intellectual Property.

(e) Section 3.14(e) of the Company Disclosure Schedule sets forth a list of all material Outbound License Agreements. All material Outbound License Agreements were entered into by the Company in the ordinary course of business, are non-exclusive license agreements and except as set forth on Section 3.14(e) of the Company Disclosure Schedule, no Third Party is in breach or alleged by the Company to be in breach of any Outbound License Agreements.

(f) Section 3.14(f) of the Company Disclosure Schedule sets forth a list of all material Inbound License Agreements. The Company is not in breach of any material Inbound License Agreements and has not received any notice alleging any breach by the Company of any material Inbound License Agreements. To the Knowledge of Company, (i) no exercise by the Company of its rights under any material Inbound License Agreement will infringe the Intellectual Property Rights of any Third Party, (ii) no Company Licensed Intellectual Property is invalid or unenforceable in whole or in part and (iii) no allegation has been made that any Company Licensed Intellectual Property is invalid or unenforceable.

(g) The Company owns or has a valid right to access and use all IT Systems. The Company has taken all reasonable steps in accordance with industry standards to secure its IT Systems from unauthorized access or use by any Person and to ensure the continued, uninterrupted and error-free operation of its IT Systems.

3.15 Taxes.

(a) All Tax Returns required to be filed by the Company for all taxable periods ending on or before the date hereof have been timely filed, subject to extensions that have been timely filed. All such Tax Returns are true, correct, and complete in all material respects. No claim has ever been made by a Governmental Entity in a jurisdiction where the Company does not file Tax Returns that the Company is or may be subject to Taxes, or may be required to file any Tax Returns, in such jurisdiction, and there is no basis for any such claim to be made. There are no liens for Taxes upon any asset of the Company, other than Permitted Encumbrances.

(b) All material Taxes of the Company due and payable (whether or not shown or required to be shown on any Tax Return) have been timely paid.

(c) No deficiencies for Taxes have been proposed or assessed in writing against the Company by any Governmental Entity which deficiencies remain unpaid or unresolved. As of the date of this Agreement, there is no pending or, to the Knowledge of the Company, threatened audit, dispute, investigation or proceeding with respect to a Tax Return or Tax liability of the Company. The Company has not waived any statute of limitations in respect of Taxes which waiver remains in effect or agreed to any extension of time with respect to the assessment or collection of any Taxes or the filing of any Tax Return which Taxes or Tax Returns have not been paid or filed, as applicable.

(d) The Company has duly and timely withheld and, to the extent required by applicable Law, paid to the appropriate Governmental Entity all Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, director, manager, independent contractor, creditor, equityholder or other Person, and has complied with all applicable reporting and recordkeeping requirements. The Company has at all times properly classified each provider of services to the Company as an employee or independent contractor for Tax purposes.

(e) There are no Liens upon any property or assets of the Company for Taxes, except for Liens for Taxes not yet due and payable.

(f) The Company (i) is not nor has ever been a member of an affiliated group (other than a group the common parent of which is the Company) filing a consolidated federal income Tax Return, (ii) has no liability for Taxes of any person (other than the Company) arising from the application of Treasury Regulation section 1.1502-6, or any analogous provision of state, local or foreign Law, or as a transferee or successor and (iii) is not, nor ever has been, a party to any agreement for the sharing, indemnification or allocation of any Taxes.

(g) The Company has not made any payments, nor been a party to any agreement, contract, arrangement or plan (including any employee plan) that could result in it making or causing to be made payments, that were not or would not be deductible under Code Sections 162 or 404 or that were or could be required to be included in the gross income of any person under Code Section 409A. All stock options granted by the Company after October 3, 2004 or which vest or vested (in whole or in part) after December 31, 2004, have (or, if already terminated, had) an exercise price that was not less than the fair market value of the underlying stock as of the date such option was granted and any stock option exempt from compliance under the "grandfather" provisions of IRS Notice 2005-1 and applicable regulations has not been "materially modified" (within the meaning of IRS Notice 2005-1 and Treasury Regulations §1.409A-6(a)(4)) subsequent to October 3, 2004.

(h) The Company is not a party to any agreement, plan, contract or arrangement that could result, upon consummation of the transactions contemplated hereby (alone or together with any other event that standing alone, would not by itself trigger such payment), in the payment or series of payments of any "excess parachute payments" within the meaning of Code Section 280G. No person has a right to any gross up or indemnification from the Company for any penalties or Taxes imposed in connection with any employee plan, including as a result of Code Sections 409A, 280G or 4999.

(i) The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any: (i) "closing agreement" as described in Section 7121 of the Code (or any corresponding provision of state, local or foreign income Tax law); (ii) any deferred intercompany gain or excess loss account described in Treasury Regulations under Code section 1502 (or any corresponding or similar provision or administrative rule of federal, state, local or foreign law); (iii) installment sale or open transaction disposition made on or prior to the Closing Date; (iv) prepaid amount received on or prior to the Closing Date; (v) pursuant to Section 481(a) of the Code (or any corresponding or similar provision or administrative rule of federal, state, local or foreign law); or (vi) any election under Section 108(i) of the Code made on or before the Closing Date.

(j) The Company has not engaged in any "listed transaction" within the meaning of Section 6011 of the Code (including the Treasury Regulations promulgated thereunder).

3.16 Environmental Matters. Except for matters that, individually or in the aggregate, would not have a Company Material Adverse Effect, since January 1, 2011: (a) the Company is and has been in compliance with all applicable Environmental Laws; (b) the Company has obtained, maintains, and is and has been in compliance with all Permits required pursuant to Environmental Laws for the conduct of its business and operations and the operations of the Leased Real Property; (c) the Company has not received any written notice, claim, report, or other information from any Governmental Entity alleging that the Company is in violation of any Environmental Laws, or that the Company has any liabilities or potential liabilities arising under Environmental Laws; (d) the Company is not subject to any Action or Order relating to any Environmental Laws or any Hazardous Material; (e) the Company is not subject to any Action or Order relating to any Environmental Laws or any Hazardous Material; (f) none of the Leased Real Property is subject to a Lien or an activity or use limitation issued pursuant to any Environmental Law; (g) the Company is not undertaking nor is the Company responsible for, and has not completed, either individually or together with any other Person, any investigation or assessment or remedial or response action relating to any actual or threatened Release of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to an Order or the requirements of any Environmental Laws; (h) the Company has not treated, stored, disposed of, arranged for or permitted the disposal of, transported, handled, exposed any Person to or Released any Hazardous Material, or owned or operated any property or facility contaminated by any Hazardous Material, so as to have given rise to liabilities under Environmental Laws or, to the Knowledge of the Company, so as would reasonably be expected to give rise to liability under Environmental Law; (i) the Company has not assumed, undertaken or provided an indemnity with respect to, or, to the Knowledge of the Company, otherwise become subject to, any liability of any other Person relating to Environmental Laws or relating to any Hazardous Material; (j) the Company has not designed, manufactured, sold, marketed, commercialized or distributed any product or item containing asbestos, silica, mercury, or other Hazardous Materials in violation of Environmental Law or so as to have given rise to or, to the Knowledge of the Company, as would reasonably be expected to give rise to liability under Environmental Law; and (k) neither the Company nor, to the Knowledge of the Company, any counterparty has received any written notice or claim alleging that the Company or any counterparty is in breach of, default of, violation of, or has failed to perform any of the requirements of any terms, conditions or provisions relating to Environmental Laws or Hazardous Substances in any Contract to which the Company is a party and, to the Knowledge of the Company, each such Contract is a legal, valid and binding obligation of the counterparty thereto, in full force and effect and enforceable against such counterparty in accordance with its terms, subject to the Enforceability Exceptions.

3.17 Real Property. The Company does not own any real property. Section 3.17 of the Company Disclosure Schedule sets forth the address of each Leased Real Property material to the Company (the "**Material Leased Real Property**"), and a complete and correct list of all Leases (including all amendments, extensions, renewals, guaranties and other agreements with respect thereto) for each such Material Leased Real Property (including the date and name of the parties to such Lease) (the "**Material Real Property Leases**"). Except for matters that, individually or in the aggregate, would not have a Company Material Adverse Effect, with respect to each of the Material Real Property Leases: (a) such Material Real Property Lease is valid and binding and enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions, (b) the Company's possession and quiet enjoyment of the Material Leased Real Property under such Material Real Property Lease has not been disturbed and, to the Knowledge of the Company, there are no written disputes with respect to such Material Real Property Lease, (c) neither the Company nor, to the Knowledge of the Company, any other party to the Lease is in breach or default under such Material Real Property Lease, and, to the Knowledge of the Company, no event has occurred or circumstance exists which, with the delivery of notice, the passage of time or both, would constitute such a breach or default, and (d) the Company has not subleased, licensed or otherwise granted any Person the right to use or occupy such Material Leased Real Property or any portion thereof.

3.18 Insurance. Section 3.18 of the Company Disclosure Schedule sets forth a list of all material insurance policies maintained by the Company. Except for matters that, individually or in the aggregate, would not have a Company Material Adverse Effect, (a) all insurance policies maintained by the Company are in full force and effect (and were in full force and effect during the periods of time such insurance policies were purported to be in effect), and (b) the Company is not in breach or default of any of the insurance policies (including any breach or default with respect to the payment of premiums), and the Company has not taken any action or failed to take any action which, with notice or the lapse of time or both, would constitute such a breach or default of the insurance policies. Except for matters that, individually or in the aggregate, would not have a Company Material Adverse Effect, the Company has not received any notice of termination or cancellation or denial of coverage with respect to any insurance policy.

3.19 Certain Business Practices. Neither the Company nor any of its directors, employees or officers, and to the Knowledge of the Company, no Representative of the Company (a) has used or is using any corporate funds for any illegal contributions, gifts, entertainment or other unlawful expenses relating to political activity, (b) has used or is using any corporate funds for any direct or indirect unlawful payments to any official or employee of a foreign or domestic Governmental Body, (c) has violated or is violating any provision of the US Foreign Corrupt Practices Act of 1977, as amended (including the rules and regulations issued thereunder) or any other Law that relates to bribery or corruption (collectively, "Anti-Bribery Laws"), (d) has established or maintained, or is maintaining, any unlawful fund of corporate monies or other properties, (e) has made any bribe, unlawful rebate, unlawful payoff, influence payment, kickback or other unlawful payment of any nature in furtherance of an offer, payment, promise to pay, authorization, or ratification of the payment, directly or indirectly, of any gift, money or anything of value to any official or employee of a foreign or domestic Governmental Entity to secure any improper advantage (within the meaning of such term under any applicable Anti-Bribery Law) or to obtain or retain business, or (f) has otherwise taken any action that has caused, or would reasonably be expected to cause the Company to be in violation of any applicable Anti-Bribery Law. The Company has established and maintains a compliance program, internal controls and procedures appropriate for compliance with the Anti-Bribery Laws.

3.20 Affiliate Transactions. Since January 1, 2011, there have been no transactions, or series of related transactions, agreements, arrangements or understandings that would be required to be disclosed under Item 404 of Regulation S-K promulgated under the Securities Act that have not been disclosed in the Company SEC Filings filed prior to the date hereof.

3.21 Brokers. Other than the Company Financial Advisors, the fees and expenses of which will be paid by the Company, no broker, finder, financial advisor, investment banker or other Person is entitled to any brokerage, finder's, financial advisor's or other similar fee or commission in connection with the Merger or any of the other transactions contemplated hereby based upon arrangements made by or on behalf of the Company.

3.22 No Directed Selling Efforts or General Solicitation. Neither the Company nor any individual or entity acting on its behalf has conducted any general solicitation or general advertising (as those terms are used in Regulation D) in connection with the offer or sale of any of the Shares.

3.23 No Integrated Offering. Neither the Company nor any individual or entity acting on its or their behalf has, directly or indirectly, made any offers or sales of any Company security or solicited any offers to buy any security, under circumstances that would adversely affect reliance by the Company on Section 4(2) of the Securities Act for the exemption from registration for the transactions contemplated hereby or would require registration of the Shares under the Securities Act.

3.24 Private Placement. Assuming the accuracy of the representations of Purchaser hereunder, the offer and sale of the Shares to Purchaser as contemplated hereby is exempt from the registration requirements of the Securities Act.

3.25 Disclaimer of Other Representations and Warranties. The Company acknowledges and agrees that, except for the representations and warranties expressly set forth in Article 4 of this Agreement neither Purchaser nor any Purchaser Representative or Affiliate of Purchaser makes, or has made, any representation or warranty relating to Purchaser or the business of Purchaser or otherwise in connection with the transactions contemplated herein, and the Company is not relying on any representation or warranty except for those expressly set forth in Article 4 of this Agreement.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF PARENT AND PURCHASER

Parent and Purchaser each hereby represents and warrants to the Company:

4.1 Organization and Qualification. Parent is a corporation, duly organized, validly existing and in good standing under the Laws of the State of Delaware. Purchaser is a corporation, duly organized and validly existing under the Laws of the State of Delaware. Each of Parent and Purchaser has the requisite corporate power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted. Each of Parent and Purchaser is duly qualified or licensed to do business, and, where such concept is recognized, is in good standing, in each jurisdiction where the character of the properties owned, leased or operated by it or the nature of its business makes such qualification, licensing or good standing necessary, except for such failures to be so qualified, licensed or in good standing that, individually or in the aggregate, would not reasonably be expected to prevent or materially impair, impede, interfere with or delay the ability of Parent and Purchaser to consummate the transactions contemplated by this Agreement. Parent has made available to the Company correct and complete copies of the certificate of incorporation and bylaws of Purchaser.

4.2 Authorization. Each of Parent and Purchaser has all requisite legal and corporate power and has taken all requisite corporate action to execute and deliver this Agreement and the CVR Agreement, to purchase the Shares to be purchased by it, and to carry out and perform all of its obligations under this Agreement. This Agreement constitutes a legal, valid and binding obligation of Parent and Purchaser, enforceable in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally and (ii) as limited by equitable principles generally. The execution and delivery of this Agreement and the CVR Agreement by Parent and Purchaser do not, and the performance of this Agreement and the CVR Agreement and the compliance with the provisions hereof and thereof, including the purchase of the Shares and the Merger, will not conflict with, or result in a breach or violation of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien pursuant to the terms of, the certificate of incorporation or the bylaws of Parent or Purchaser, or any statute, law, rule or regulation or any state or federal order, judgment or decree or any indenture, mortgage, lease or other material agreement or instrument to which Parent or Purchaser is a party or to which its properties are subject.

4.3 Ownership of Purchaser; No Prior Activities. Parent owns one hundred percent (100%) of the issued and outstanding capital stock of Purchaser. Purchaser was formed solely for the purpose of engaging in the transactions contemplated by this Agreement. Except for obligations or liabilities incurred in connection with its formation and the transactions contemplated by this Agreement, Purchaser has not and will not have incurred prior to the Closing, directly or indirectly, through any Subsidiary or Affiliate or otherwise, any obligations or liabilities or engaged in any business activities of any type or kind whatsoever or entered into any agreements or arrangements with any Person.

4.4 Sufficiency of Funds. As of the date hereof, Parent has sufficient cash or other sources of immediately available funds to consummate the Merger on the terms contemplated by this Agreement, and to pay all amounts payable by Parent, Purchaser or the Surviving Corporation under Section 2.2 of this Agreement.

4.5 Investment Experience. Purchaser is an "accredited investor" as defined in Rule 501(a) under the Securities Act. Purchaser is familiar with the Company's business affairs and financial condition and has had access to and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Shares. Purchaser has such business and financial experience as is required so as to be able to evaluate the risks and merits of its investment in the Company.

4.6 Investment Intent. Purchaser is purchasing the Shares for its own account as principal, for investment purposes only, and not with a present view to, or for, resale, distribution or fractionalization thereof, in whole or in part, within the meaning of the Securities Act. Purchaser understands that its acquisition of the Shares has not been registered under the Securities Act or registered or qualified under any state securities law in reliance on specific exemptions therefrom, which exemptions may depend upon, among other things, the bona fide nature of Purchaser's investment intent as expressed herein. Purchaser will not, directly or indirectly, offer, sell, pledge, transfer or otherwise dispose of (or solicit any offers to buy, purchase or otherwise acquire or take a pledge of) any of the Shares except in compliance with the Securities Act, and the rules and regulations promulgated thereunder.

4.7 Brokers. Other than the Purchaser Financial Advisor, the fees and expenses of which will be paid by Purchaser and/or Parent, no broker, finder, financial advisor, investment banker or other Person is entitled to any brokerage, finder's, financial advisor's or other similar fee or commission in connection with the Merger or any of the other transactions contemplated hereby based upon arrangements made by or on behalf of Purchaser.

4.8 Management Agreements. As of the date hereof, other than the Securities Purchase Agreement, the CVR Agreement, the Exchange Agreement and the Deerfield Registration Rights Agreement, there are no Contracts, undertakings, commitments, or obligations or understandings between Parent or Purchaser or any of their Affiliates, on the one hand, and any member of the Company's management or the board of directors of the Company or any Affiliate of the Company, on the other hand, relating to the transactions contemplated by this Agreement or the operations of the Company after the Effective Time.

4.9 Ownership of Company Common Stock. As of the date hereof, other than the shares of Company Common Stock purchased pursuant to this Agreement or the Securities Purchase Agreement, neither Parent nor any of its Subsidiaries owns (beneficially or otherwise) any shares of Company Common Stock or other equity interests in the Company or any options, warrants or other rights to acquire Company Common Stock or other equity interests in the Company (or any other economic interest through derivative securities or otherwise in the Company).

4.10 Disclaimer of Other Representations and Warranties. Parent and Purchaser acknowledge and agree that, except for the representations and warranties expressly set forth in Article 3 of this Agreement neither the Company, nor any of its representatives **or Affiliates** makes, or has made, any representation or warranty relating to the Company or the business of the Company or otherwise in connection with the transactions contemplated herein, and Parent and Purchaser are not relying on any representation or warranty except for those expressly set forth in Article 3 of this Agreement.

ARTICLE 5
MERGER

5.1 Merger.

(a) Purchaser agrees to, and Parent agrees to cause Purchaser to, effect the Merger within one business day following the Closing in accordance with Section 253 of the DGCL by filing all necessary documentation, including by filing a Certificate of Ownership and Merger with the Secretary of State of the State of Delaware (the "**Secretary of State**") in accordance with Section 253 of the DGCL. The Merger shall become effective at the time that the Certificate of Ownership and Merger is duly filed with the Secretary of State. The time when the Merger becomes effective is hereinafter referred to as the "**Effective Time**".

(b) At the Effective Time, (i) Purchaser shall be merged with and into the Company, whereupon the separate existence of Purchaser shall cease and (ii) the Company shall be the surviving corporation in the Merger (the "**Surviving Corporation**") and shall continue to be governed by the laws of the State of Delaware. The Merger shall have the effects set forth in this Agreement and the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all property, rights, powers, privileges and franchises of the Company and Purchaser shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and Purchaser shall become the debts, liabilities and duties of the Surviving Corporation.

(c) At the Effective Time, by virtue of the Merger and without any action on the part of any holder of any share of Company Common Stock:

(i) each share of common stock of Purchaser issued and outstanding immediately prior to the Effective Time shall be converted into and become one validly issued, fully paid and non-assessable share of common stock of the Surviving Corporation, and from and after the Effective Time, all certificates representing the common stock of Purchaser shall be deemed for all purposes to represent the number of shares of common stock of the Surviving Corporation into which they were converted in accordance with this sentence;

(ii) all shares of Company Common Stock that are held by the Company as treasury shares and any shares of Company Common Stock owned by Purchaser, Parent, and any Subsidiary of Parent or Purchaser immediately prior to the Effective Time shall be canceled and retired and shall cease to exist, and no stock of the Surviving Corporation or other consideration shall be delivered in exchange therefor;

(iii) each issued and outstanding share of Company Common Stock (other than shares to be canceled in accordance with Section 5.1(c)(ii) above and other than shares for which the holder has demanded and perfected such holder's right to an appraisal in accordance with the DGCL and has not effectively withdrawn or lost such right to appraisal ("**Dissenting Shares**")) shall be converted into the right to receive (A) an amount in cash equal to the quotient obtained by dividing (1) $11,300,000 by (2) 201,447,114 (the "**Cash Portion**" and with the aggregate Cash Portion payable to each holder of Company Common Stock to be rounded down to the nearest cent) and (B) one CVR (together with the Cash Portion, the "**Per Share Merger Price**"), without interest; and

(iv) each share of Company Common Stock converted in accordance with Section 5.1(c)(iii) above shall as of the Effective Time no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each Certificate and each Book-Entry Share which immediately prior to the Effective Time represented such shares shall thereafter represent only the right to receive the Per Share Merger Price to which they are entitled therefor. Certificates and Book-Entry Shares previously representing shares of Company Common Stock (other than any shares to be canceled in accordance with Section 5.1(c)(ii) above) shall be exchanged for the Per Share Merger Price payable for the shares previously represented thereby, without interest, upon the surrender of such Certificates or Book-Entry Shares in accordance with the provisions of Section 5.2.

(d) At the Effective Time, by virtue of the Merger and without any action on the part of the holder thereof, each outstanding Dissenting Share shall not be converted into or represent a right to receive the Per Share Merger Price pursuant to Section 5.1(c)(iii) above, but the holder thereof shall be entitled only to such rights as are granted by the applicable provisions of the DGCL; provided, however, that any Dissenting Share held by an individual or entity at the Effective Time who shall, after the Effective Time, withdraw the demand for appraisal or lose the right of appraisal, in either case pursuant to the DGCL, shall be deemed to be converted into, as of the Effective Time, the right to receive the Per Share Merger Price pursuant to Section 5.1(c)(iii) above.

(e) At the Effective Time, (i) the Company Certificate of Incorporation, as in effect immediately prior to the Effective Time, shall be amended as set forth in the form attached to the Certificate of Ownership and Merger and, as so amended, shall be the certificate of incorporation of the Surviving Corporation, until thereafter duly amended as provided therein and by applicable Law, and (ii) the bylaws of Purchaser, as in effect immediately prior to the Effective Time, shall be the bylaws of the Surviving Corporation, until thereafter duly amended as provided therein and by applicable law.

(f) The officers of Purchaser immediately prior to the Effective Time shall, from and after the Effective Time, be officers of the Surviving Corporation until their respective successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the DGCL and the certificate of incorporation and the bylaws of the Surviving Corporation.

(g) The directors set forth on Schedule 5.1(g) shall, from and after the Effective Time, be directors of the Surviving Corporation until their respective successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the DGCL and the certificate of incorporation and the bylaws of the Surviving Corporation.

5.2 Payment Procedures.

(a) *CVR Rights Agent and Paying Agent*. Prior to the Effective Time, Parent and the Company shall, and Parent shall cause the CVR Rights Agent to, authorize, execute and deliver the CVR Agreement. Prior to the Effective Time, Parent shall select a reputable bank or trust company reasonably satisfactory to the Company to act as paying agent in the Merger (the "**Paying Agent**"). At or prior to the Effective Time, Parent shall, or shall cause Purchaser to, deposit with the Paying Agent, for the benefit of the holders of shares of Company Common Stock, for exchange in accordance with this Article 5, cash in U.S. dollars in an amount sufficient to pay the aggregate amount of the Cash Portion of the Per Share Merger Price payable to the holders of all outstanding shares of Company Common Stock (such cash being hereinafter referred to as the "**Exchange Fund**"). The Exchange Fund shall be invested by the Paying Agent as reasonably directed by Parent; provided, however, that: (a) no such investment or any losses thereon shall affect the aggregate Per Share Merger Price payable to the holders of Company Common Stock and following any losses Parent shall, or shall cause Purchaser to, promptly provide additional funds to the Paying Agent for the benefit of the holders of the shares of the Company Common Stock in the amount of any such losses and (b) such investments shall be in obligations of or guaranteed by the United States of America or any agency or instrumentality thereof and backed by the full faith and credit of the United States of America, in commercial paper obligations rated A-1 or P-1 or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation, respectively, or in certificates of deposit, bank repurchase agreements or banker's acceptances of commercial banks with capital exceeding $10,000,000,000 (based on the most recent financial statements of such bank that are then publicly available). Any net profit resulting from, or interest or income produced by, such investments shall be payable to the Surviving Corporation. The Exchange Fund shall not be used for any other purpose. Parent shall not be required to deposit any of the funds related to any CVR with the CVR Rights Agent unless and until such deposit is required pursuant to the terms of the CVR Agreement.

(b) *Exchange Procedures*. Promptly following the Effective Time (but in no event later than ten (10) days following the Effective Time) Parent shall cause the Paying Agent to mail to each registered holder of a certificate or certificates which immediately prior to the Effective Time represented outstanding shares of Company Common Stock (the "**Certificates**") or of non-certificated shares of Company Common Stock represented by book-entry ("**Book-Entry Shares**") (i) a letter of transmittal in customary form (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon proper delivery of the Certificates to the Paying Agent and which shall include customary provisions with respect to delivery of an "agent's message" with respect to Book-Entry Shares) and (ii) instructions for use in effecting the surrender of Certificates (or affidavits of loss in lieu thereof) or Book-Entry Shares in exchange for the Per Share Merger Price to which such holder is entitled. Upon surrender of Certificates (or affidavits of loss in lieu thereof), or in the case of Book-Entry Shares, upon adherence to the applicable procedures set forth in the letter of transmittal, for cancellation to the Paying Agent together with such letter of transmittal, properly completed and duly executed in accordance with the instructions thereto, and such other customary documents as may be reasonably required by the Paying Agent or pursuant to such instructions, the holders of such Certificates or Book-Entry Shares shall (A) be entitled to receive, and the Paying Agent shall (and Parent shall cause the Paying Agent to), in exchange therefor, transfer from the Exchange Fund to each such holder the Cash Portion of the Per Share Merger Price such holder has the right to receive pursuant to Section 5.1(c)(iii) hereof, and (B) be identified by Parent, or caused to be identified by Parent, in the register maintained by the CVR Rights Agent for the purpose of identifying the holders of CVRs pursuant to the terms of the CVR Agreement, as the holder of that number of CVRs such holder has the right to receive pursuant hereto, in accordance with the CVR Agreement, and the Company Common Stock formerly represented by such Certificates or Book-Entry Shares, and the Certificates or Book-Entry Shares so surrendered shall forthwith be canceled.

No interest will be paid or accrued on the Per Share Merger Price payable to holders of Certificates or Book-Entry Shares. In the event of a transfer of ownership of shares of Company Common Stock which is not registered in the transfer records of the Company, the applicable Per Share Merger Price may be issued to a transferee if the Certificate representing such shares of Company Common Stock is presented to the Paying Agent (or in the case of Book-Entry Shares, upon adherence to the applicable procedures set forth in the letter of transmittal), accompanied by all documents required to evidence and effect such transfer and by evidence that any applicable stock transfer Taxes have been paid. Until surrendered as contemplated by this Section 5.2, each Certificate and each Book-Entry Share shall be deemed at any time after the Effective Time to represent only the right to receive for each share of Company Common Stock upon such surrender the Per Share Merger Price to which such share is entitled or the right to demand appraisal of Dissenting Shares pursuant to the DGCL.

(c) *Further Rights in Company Common Stock*. The aggregate Per Share Merger Price paid in accordance with the terms hereof shall be deemed to have been issued in full satisfaction of all rights pertaining to the applicable shares of Company Common Stock and any and all rights to receive dividends or distributions with respect to the Company Common Stock declared from and after the Closing Date shall terminate.

(d) *Termination of Exchange Fund*. Any portion of the Exchange Fund (including any interest received with respect thereto) which remains undistributed to the holders of Company Common Stock on the first anniversary of the Effective Time shall be delivered to the Surviving Corporation upon demand, and any holders of Company Common Stock who have not theretofore complied with this Article 5 shall thereafter look only to Parent or the Surviving Corporation (subject to abandoned property, escheat or other similar Laws) for payment of the Per Share Merger Price to which they are entitled, without any interest thereon. Purchaser shall pay all charges and expenses, including those of the Paying Agent and the CVR Rights Agent, in connection with the exchange of shares of Company Common Stock for the Per Share Merger Price.

(e) *No Liability*. None of Parent, the Company or the Surviving Corporation shall be liable to any holder of shares of Company Common Stock entitled to payment of the Per Share Merger Price under this Article 5 for any cash from the Exchange Fund properly delivered to a public official pursuant to any abandoned property, escheat or other similar Law.

(f) *No Further Dividends*. No dividends or other distributions with respect to capital stock of the Surviving Corporation with a record date on or after the Effective Time shall be paid to the holder of any unsurrendered Certificates.

(g) *Lost Certificates*. If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Certificate to be lost, stolen or destroyed in the form required by the Paying Agent and, if required by the Surviving Corporation, the posting by such Person of a bond, in such reasonable and customary amount as the Surviving Corporation may direct, as indemnity against any claim that may be made with respect to such lost, stolen or destroyed Certificate, the Paying Agent will issue in exchange for each share represented by such lost, stolen or destroyed Certificate the applicable Per Share Merger Price for each such share without any interest thereon.

(h) *Stock Transfer Books*. At the Effective Time, the stock transfer books of the Company shall be closed and thereafter there shall be no further registration of transfers of shares of Company Common Stock outstanding on the records of the Company prior to the Effective Time. From and after the Effective Time, the holders of Certificates and Book-Entry Shares shall cease to have any rights with respect to the shares of Company Common Stock represented thereby except as otherwise provided herein or by Law. From and after the Effective Time, any Certificates presented to the Paying Agent or the Surviving Corporation for transfer or any other reason shall be cancelled and each share represented thereby shall be exchanged for the Per Share Merger Price as provided in, and in accordance with, this Article 5.

5.3 Dissenters' Rights. No later than ten days following the Effective Time, Parent shall cause the Surviving Corporation to deliver notice thereof to holders of Company Common Stock in compliance with Section 262 of the DGCL. Notwithstanding anything in this Agreement to the contrary, if any holder of Dissenting Shares shall demand to be paid the "fair value" of its Dissenting Shares, as provided in Section 262 of the DGCL, such Dissenting Shares shall not be converted into or exchangeable for the right to receive the Per Share Merger Price (except as provided in this Section 5.3) and shall entitle such holder of Dissenting Shares only to be paid the "fair value" of such Dissenting Shares, in accordance with Section 262 of the DGCL, unless and until such holder (a) withdraws (in accordance with Section 262(k) of the DGCL) or (b) effectively loses the right to dissent and receive the "fair value" of such Dissenting Shares under Section 262 of the DGCL. If any holder of Dissenting Shares shall have effectively withdrawn (in accordance with Section 262(k) of the DGCL) or otherwise lost its right to dissent and receive the "fair value" of its Dissenting Shares, then as of the later of the Effective Time or the occurrence of such event, the Dissenting Shares held by such holder shall be cancelled and converted into and represent solely the right to receive the Per Share Merger Price pursuant to Section 5.1(c)(iii). If any appraisal is made of Dissenting Shares, then the Purchase Price for the Shares shall be treated as if it were not paid to or received by the Company and the Shares issued pursuant to Section 2.1 shall be treated as if they were not issued or outstanding in connection with the determination of the "fair value" of the Dissenting Shares in accordance with the applicable provisions of the DGCL.

ARTICLE 6
ADDITIONAL AGREEMENTS AND COVENANTS

6.1 Company Options.

(a) *Treatment of Company Options Granted Under the Company's 2004 Stock Incentive Plan*. At the Effective Time, each outstanding Company Option that was granted under the Company's 2004 Stock Incentive Plan with an exercise per share that is less than the fair market value per share of the Company's common stock, as determined in good faith by the Company's Board (such per share price, the "**Option FMV**" and such Company Option, an "**In-the-Money Option**") shall be cancelled and the holders thereof will, in consideration of the cancellation of their Company Options, (i) be entitled to receive from the Surviving Corporation, and the Surviving Corporation shall cause to be delivered to such holders, a cash payment (the "**Option Cash Payment**") in an amount equal to the product of (x) the number of shares of Company Common Stock provided for in such In-the-Money Option and (y) the excess of (A) the Option FMV over (B) the exercise price per share provided for in such In-the-Money Option, which Option Cash Payment shall be treated as compensation and shall be net of any applicable withholding Tax. Immediately prior to the Effective Time, each Company Option that was granted under the Company's 2004 Stock Incentive Plan that is not an In-the-Money Option shall be canceled without any payment being made in respect thereof. The Surviving Corporation shall cause its payroll processor to pay the Option Cash Payments payable to holders who are current or former employees of the Company ("**Employee Optionholders**") within two (2) Business Days following the Effective Time. The Surviving Corporation shall, or shall cause the Paying Agreement to, pay the Option Cash Payments payable to holders who are not Employee Optionholders.

(b) *Treatment of Company Options Granted Under the Company's 2010 Equity Incentive Plan and the Company's 2003 Stock Option Plan*. The Company shall cause all outstanding Company Options to the extent not exercised that were granted under the Company's 2010 Equity Incentive Plan or the Company's 2003 Stock Option Plan to terminate and be cancelled and extinguished for no consideration, contingent upon and effective as of immediately prior to the Effective Time.

(c) *Treatment of Company Options Not Granted Pursuant to Any Company Stock Plan*. As of the date hereof, the board of directors of the Company shall have adopted resolutions amending each outstanding Company Option that was not granted under any Company Stock Plan (each a "**Non-Plan Option**") to be exercisable for, commencing from the Effective Time, a cash payment in an amount equal to the product of (x) the number of shares of Company Common Stock provided for in such Non-Plan Option and (y) the excess, if any, of (A) the Option FMV determined as of the Effective Time over (B) the exercise price per share provided for in such Non-Plan Option, which cash payment shall be treated as compensation and shall be net of any applicable withholding Tax. Additionally, except for the directors, officers and other employees of the Company set forth on Schedule 6.1(c), as of the date hereof, the Company shall have obtained a termination agreement in a form reasonably satisfactory to Purchaser with respect to each outstanding Non-Plan Option held by the Company's directors, officers and other employees.

(d) The Company shall cause the vesting and exercisability of all Company Options to be accelerated as of the date hereof. Prior to the date hereof, the Company shall deliver a written notice, approved by Purchaser, to each holder of Company Options that were granted under the Company's 2010 Equity Incentive Plan informing such holder that (i) contingent on the Effective Time, the vesting and exercisability of all Company Options held by such holder shall be accelerated in full as of the date hereof and (ii) the treatment of such Company Options under this Agreement.

(e) At or prior to the Effective Time, the Company shall take all action that may be necessary (under the Company Stock Plans and otherwise) to effectuate the provisions of this Section 6.1 and to ensure that, from and after the Effective Time, holders of Company Options have no rights with respect thereto other than those specifically provided in this Section 6.1.

6.2 Employee Stock Purchase Plan. Prior to the Effective Time, the Company shall take all action that may be necessary to: (i) cause any outstanding offering period (or similar period during which Company Common Stock may be purchased) under the Employee Stock Purchase Plan to be terminated as of the Effective Time, and (ii) cause each participant's Company Common Stock purchase rights under the Employee Stock Purchase Plan (the "**Company ESPP Rights**") to be exercised as of the Effective Time. The funds credited as of the Effective Time under the Employee Stock Purchase Plan within the associated accumulated payroll withholding account for each participant under the Employee Stock Purchase Plan shall be used to purchase shares of Company Common Stock in accordance with the terms of the Employee Stock Purchase Plan, and each share of Company Common Stock purchased thereunder shall be canceled at the Effective Time and converted into the right to receive the Per Share Merger Price pursuant to Section 5.1(c), subject to withholding of applicable income and employment Taxes. The Company shall cause the Employee Stock Purchase Plan to terminate as of the Effective Time, and no further Company ESPP Rights shall be granted or exercised under the Employee Stock Purchase Plan after the Effective Time.

6.3 Company Warrants. From and after the Effective Time, Parent shall comply, and shall cause the Surviving Corporation to comply, (A) with Section 2(d) and other applicable provisions of each of the Series A Warrants and Series B Warrants and (B) with Section 3(b) and other applicable provisions of the Roth Warrants.

6.4 Company Change of Control Plan. To the extent that the sum of the amounts set forth in Sections 2.2(b)(ii) and 2.2(b)(iii) plus any Milestone Amounts (as defined in the CVR Agreement) paid pursuant to the CVR Agreement exceed $69,000,000 (the "**Change of Control Trigger Amount**"), Parent and the Surviving Corporation shall pay in cash (by offset of Milestone Amounts in excess of the Change of Control Trigger Amount, but without duplication of any offset under the CVR Agreement for payment under the Company Change of Control Plan) to each Eligible Employee (as defined in the Company Change of Control Plan) through one or more special supplemental payrolls the amount that such Eligible Employee is entitled to receive under the Company Change of Control Plan as a result of the Merger (each, a "**Change of Control Payment**"), subject to withholding of applicable income and employment Taxes.

6.5 Withholding. The Surviving Corporation and, if applicable, the Paying Agent shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement to any holder of Company Common Stock, Company Options or Company ESPP Right or to any Company employee entitled to receive a Change of Control Payment such amounts as the Surviving Corporation or the Paying Agent are required to deduct and withhold under the Code, or any applicable provision of state, local or foreign Tax Law, with respect to the making of such payment. To the extent that amounts are so withheld by the Surviving Corporation or, if applicable, the Paying Agent and paid over to the applicable Governmental Entity, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of Company Common Stock, Company Options or Company ESPP Right or to the Company employee entitled to receive a Change of Control Payment in respect of whom such deduction and withholding was made by the Surviving Corporation or the Paying Agent, as the case may be. Notwithstanding the foregoing, except as required by applicable Tax Law, no withholding under Sections 1445 and 897 of the Code shall be made on any amounts payable pursuant to this Agreement provided that the Company delivers to Purchaser at, or prior to, the Closing, a certification (dated not more than 30 days prior to the Closing) and notice to the IRS in the form prescribed by Treasury Regulation Section 1.897-2(h). Purchaser shall be authorized to, and shall, deliver such notice together with a copy of such certification to the IRS on behalf of the Company after the Closing.

6.6 Actions with Respect to the Investment Agreements and the Registration Rights Agreement. The Company shall take all actions necessary to cause the Investment Agreements and the Registration Rights Agreement to terminate as of the Effective Time and shall provide evidence thereof.

6.7 Employee Matters.

(a) During the one (1)-year period commencing at the Effective Time, Parent shall provide or shall cause the Surviving Corporation to provide to Continuing Employees compensation and benefits that are the same as similarly situated employees of Parent or its Subsidiaries prior to the Effective Time, but in no event in the aggregate less favorable than the compensation and benefits being provided to Continuing Employees immediately prior to the Effective Time under the Company Plans. During the one (1)-year period commencing at the Effective Time, the Surviving Corporation shall, and Parent shall cause the Surviving Corporation to, provide to Continuing Employees who experience a termination of employment severance benefits that are no less than the severance benefits that would have been provided to such employees under a Company Plan as of the Effective Time, and severance benefits to Continuing Employees shall be determined without taking into account any reduction after the Effective Time in the compensation paid to Continuing Employees and used to determine severance benefits.

(b) Each Continuing Employee shall be given credit for all service with the Company and its respective predecessors under any employee benefit plan of any Affiliate of Purchaser in which such Continuing Employee is eligible to participate, including any such plans providing vacation, sick pay, severance and retirement benefits maintained by any Affiliate of Purchaser in which such Continuing Employees participate for purposes of eligibility, vesting and entitlement to benefits, including for severance benefits and vacation entitlement (but not for accrual of pension benefits), to the extent past service was recognized for such Continuing Employees under the comparable Company Plans immediately prior to the Effective Time. Notwithstanding the foregoing, nothing in this Section 6.7(b) shall be construed to require crediting of service that would result in (i) duplication of benefits, (ii) service credit for benefit accruals under a defined benefit pension plan or (iii) service credit under a newly established plan for which prior service is not taken into account.

(c) In the event of any change in the welfare benefits provided to Continuing Employees following the Effective Time, the Surviving Corporation shall cause (i) the waiver of all limitations as to pre-existing conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to the Continuing Employees under any such welfare benefit plans to the extent that such conditions, exclusions or waiting periods would not apply in the absence of such change, and (ii) for the plan year in which the Effective Time occurs, the crediting of each Continuing Employee with any co-payments and deductibles paid prior to any such change in satisfying any applicable deductible or out-of-pocket requirements after such change.

(d) Notwithstanding anything in this Section 6.7 to the contrary but consistent with this Section 6.7, nothing contained herein, whether express or implied, shall be treated as an amendment or other modification of any employee benefit plan of the Surviving Corporation or any of its Affiliates, or shall limit the right of the Surviving Corporation or any of its Affiliates to amend, terminate or otherwise modify any employee benefit plan of the Surviving Corporation or any of its Affiliates following the Effective Time. Except as otherwise required under applicable Laws, Continuing Employees shall be considered to be employed by the Surviving Corporation or its Affiliates "at will" and nothing shall be construed to limit the ability of the Surviving Corporation or its Affiliates to terminate the employment of any such Continuing Employee at any time.

(e) The parties hereto acknowledge and agree that all provisions contained in this Section 6.7 are included for the sole benefit of the parties hereto, and that nothing in this Agreement, whether express or implied, shall create any third-party beneficiary or other rights (i) in any other Person, including any employees or former employees of the Company or any Affiliate of the Company, any Continuing Employee, or any dependent or beneficiary thereof or (ii) to continued employment with the Surviving Corporation or any of its Affiliates.

6.8 Indemnification of Directors and Officers.

(a) Parent and Purchaser agree that all rights of indemnification, exculpation and limitation of liabilities existing in favor of the current or former directors, officers and employees of the Company (the "**Indemnified Parties**") as provided in the Company Certificate of Incorporation and the Company Bylaws or under any indemnification, employment or other similar agreements between any Indemnified Party and the Company, in each case as in effect at the Effective Time with respect to matters occurring prior to the Effective Time, shall survive the Merger and continue in full force and effect in accordance with their respective terms. From and after the Effective Time, Parent and the Surviving Corporation shall be jointly and severally liable to pay and perform in a timely manner such indemnification obligations. For a period of six (6) years after the Effective Time, Parent shall cause the certificate of incorporation and bylaws of the Surviving Corporation shall contain provisions no less favorable with respect to indemnification, exculpation and limitation of liabilities of the Indemnified Parties and advancement of expenses than are set forth as of the date of this Agreement in the Company Certificate of Incorporation and the Company Bylaws.

(b) For a period of six (6) years from and after the Effective Time, Parent shall, and shall cause the Surviving Corporation to, to the fullest extent permitted under applicable Laws, indemnify and hold harmless (and advance funds in respect of each of the foregoing), each present and former director or officer of the Company and each such Person who served at the request of the Company as a director, officer, trustee, partner, fiduciary, employee or agent of another corporation, partnership, joint venture, trust, pension or other employee benefit plan or enterprise, against all costs and expenses (including reasonable attorneys' fees), judgments, fines, losses, claims, damages, liabilities and settlement amounts paid in connection with any claim, action, suit, proceeding or investigation (whether arising before or after the Effective Time), whether civil, administrative or investigative, arising out of or pertaining to any action or omission in their capacities as officers or directors or in serving at the request of the Company, in each case occurring before the Effective Time (including the transactions contemplated by this Agreement).

(c) In the event that Parent or the Surviving Corporation or any of their respective successors or assigns (i) consolidates with or merges into any other Person and is not the continuing or surviving corporation or entity of such consolidation or merger or (ii) transfers or conveys all or substantially all of its properties and assets to any Person, or if Parent or the Surviving Corporation dissolves, then, and in each such case, proper provision shall be made so that the successors and assigns of Parent or the Surviving Corporation assume the obligations set forth in this Section 6.8.

(d) Parent shall cause the Surviving Corporation, as of the Effective Time, to obtain and fully pay (by wire transfer in immediately available funds) the premium (and any other associated costs) for a non-cancellable extension (or "tail") of the directors' and officers' liability insurance coverage of the Company's existing directors' and officers' insurance policies and the Company's existing fiduciary liability insurance policies (collectively, "**D&O Insurance**"), in each case for a claims reporting or discovery period of at least six (6) years from and after the Effective Time (such period, the "**Tail Period**") with respect to any claim related to any period of time at or prior to the Effective Time from an insurance carrier with a same or better credit rating than the Company's current insurance carrier with respect to D&O Insurance with terms, conditions, retentions and limits of liability that are no less favorable than the coverage provided under the Company's existing policies and covering each Person currently covered by the Company's existing policies. Parent shall and shall cause the Surviving Corporation to maintain such "tail" policies in full force and effect through such six (6) year period. If Parent, the Company or the Surviving Corporation for any reason fails to obtain such "tail" insurance policies as of the Effective Time, then from the Effective Time through the end of the Tail Period, the Surviving Corporation shall, and Parent shall cause the Surviving Corporation to, maintain in effect the Company's current D&O Insurance covering each Person covered by the Company's D&O Insurance as of immediately prior to the Effective Time for acts or omissions occurring prior to the Effective Time with respect to any matter claimed against such Person by reason of him or her serving in the applicable capacity on terms with respect to such coverage and amounts no less favorable than those of such D&O Insurance policies in effect on the date of this Agreement; provided that in no event shall the costs of such D&O Insurance policies exceed in any one (1) year during the Tail Period 250% of the current aggregate annual premiums paid by the Company for such purpose, it being understood that Parent and the Surviving Corporation shall nevertheless be obligated to provide such coverage, with respect to each year during the Tail Period, as may be obtained for such 250% annual amount; provided, further, that the Surviving Corporation may substitute therefor D&O Insurance policies of any nationally recognized reputable insurance company with a same or better credit rating than the Company's current insurance carrier with respect to D&O Insurance.

(e) The provisions of this Section 6.8 (i) shall survive the consummation of the Merger, (ii) are intended to be for the benefit of, and shall be enforceable by, each of the Indemnified Parties, their respective heirs and representatives and (iii) are in addition to, and not in substitution for, any other rights to indemnification or contribution that any such Person may have by Contract or otherwise. From and after the Effective Time, the provisions of this Section 6.8 may not be amended in any manner adverse to any Indemnified Party without his or her consent.

6.9 Conduct of Business. From the date hereof until the Effective Time, other than pursuant to Section 5.1, Parent shall not take any action with respect to the management and operations of the Company as a result of its ownership of Company Common Stock, including any action as a stockholder of the Company, any action to designate or replace any members of the board of directors of the Company or any action to change or replace any executive officer or other employee of the Company.

6.10 Termination of Executive Employment. Effective upon the Closing, the Company will terminate the employment of Steven R. Deitcher, M.D. and Craig W. Carlson. Such termination will be without "cause" as such term is defined in the respective employment agreements between the Company and each of Dr. Deitcher and Mr. Carlson. Parent and the Surviving Corporation shall be jointly and severally liable to pay and perform in a timely manner all obligations of the Company under its employment agreements with each of Dr. Deitcher and Mr. Carlson.

6.11 Termination of 401(k) Plan. The Company's board of directors shall adopt resolutions terminating, effective as of one day prior to the Closing, any Company plan qualified under Section 401(a) of the Code and containing a Code Section 401(k) cash or deferred arrangement.

ARTICLE 7
RESTRICTIONS ON TRANSFERABILITY; COMPLIANCE WITH SECURITIES ACT

7.1 Securities Act Restrictions. The Shares shall not be transferable in the absence of a registration under the Securities Act or an exemption therefrom. Each certificate representing Shares shall bear a restrictive legend in substantially the following form (and a stop transfer order may be placed against transfer of the certificates for such shares):

> "THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR IN ANY OTHER JURISDICTION. THE SECURITIES REPRESENTED HEREBY MAY NOT BE OFFERED, SOLD OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER APPLICABLE SECURITIES LAWS UNLESS OFFERED, SOLD OR TRANSFERRED PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THOSE LAWS."

7.2 Transfer of Securities.

(a) Except as otherwise provided in this Agreement, Purchaser hereby covenants with the Company not to make any sale of Shares except:

(i) in accordance with an effective registration statement, in which case Purchaser shall have delivered a current prospectus in connection with such sale; provided, however, that if Rule 172 is then in effect and applicable, Purchaser shall have confirmed that a current prospectus was deemed to be delivered in connection with such sale; or

(ii) in accordance with Rule 144, in which case Purchaser covenants to comply with Rule 144.

(b) Except as otherwise provided in this Agreement, Purchaser further acknowledges and agrees that, if Purchaser is selling any of the Shares using the prospectus forming a part of an effective registration statement, such Shares are not transferable on the books of the Company unless the certificate evidencing such Shares is submitted to the Company's transfer agent and a separate certificate executed by an officer of, or other individual duly authorized by, Purchaser is submitted to the Company's transfer agent.

ARTICLE 8
MISCELLANEOUS

8.1 Non-Survival of Representations, Warranties and Covenants. None of the Company's representations and warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time. None of the covenants or agreements of the Parties in this Agreement shall survive the Effective Time, other than (a) the covenants and agreements contained in this Article 8, the agreements of Parent, Purchaser and the Company in Article 5 and Article 6, and (b) those other covenants and agreements contained herein that by their terms apply, or that are to be performed in whole or in part, after the Effective Time.

8.2 Governing Law. Except to the extent that the corporate laws of the State of Delaware apply to a party, this Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof.

8.3 Entire Agreement, Amendment and Waiver. This Agreement constitutes the full and entire understanding and agreement between the parties with regard to the subject hereof, and may be amended or waived only with the written consent of the parties hereto.

8.4 Specific Performance. The parties hereto hereby declare that it is impossible to measure in money the damages which will accrue to a party hereto or to its successors or assigns by reason of a failure to perform any of the obligations under this Agreement and agree that the terms of this Agreement shall be specifically enforceable. If any party hereto or its successors or assigns institutes any action or proceeding to specifically enforce the provisions of this Agreement, any party against whom such action or proceeding is brought hereby waives the claim or defense therein that such party or such successor or assign has an adequate remedy at law, and such party shall not offer in any such action or proceeding the claim or defense that such remedy at law exists.

8.5 Notices, etc. All notices and other communications required or permitted under this Agreement shall be in writing and may be delivered in person, by telecopy, overnight delivery service or registered or certified United States mail, in each case to the following addresses, facsimile numbers or email addresses and marked to the attention of the individual (by name or title) designated below (or to such other address, facsimile number, email address or individual as a party may designate by notice to the other party in accordance with this section):

if to Purchaser, to:

Spectrum Pharmaceuticals, Inc.
11500 South Eastern Ave., Suite 240
Henderson, NV 89052
Attention: Rajesh C. Shrotriya, M.D.
Facsimile: (702) 260-7405
Email: raj.shrotriya@sppirx.com
legal@sppirx.com

with a copy (which shall not constitute notice) to:

Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660
Attention: Shivbir S. Grewal
Marc G. Alcser
Facsimile: (949) 725-4100
Email: sgrewal@sycr.com
malcser@sycr.com

if to the Company:

Talon Therapeutics, Inc.
400 Oyster Point Blvd, Suite 200
South San Francisco, CA 94080
Attention: Chief Executive Officer
Facsimile: (650) 588-2787
Email: SDeitcher@Talontx.com

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
140 Scott Drive
Menlo Park, California 94025
Attention: Peter F. Kerman
Joshua M. Dubofsky
Facsimile: (650) 463-2600
E-mail: peter.kerman@lw.com
josh.dubofsky@lw.com

All notices and other communications shall be effective upon the earlier of actual receipt thereof by the individual to whom notice is directed or (a) in the case of notices and communications sent by personal delivery or telecopy, on the same day as personally delivered or telecopied or on the next business day after such notice or communication arrives at the applicable address or was successfully sent to the applicable telecopy number, if delivered or telecopied on a day that is not a business day, (b) in the case of notices and communications sent by overnight delivery service, at noon (local time) on the next business day following the day such notice or communication was sent, and (c) in the case of notices and communications sent by United States mail, seven days after such notice or communication shall have been deposited in the United States mail.

8.6 Severability. If any provision of this Agreement shall be judicially determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

8.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

8.8 Consent to Jurisdiction; Venue. In any action, proceeding or counterclaim (whether based on contract, tort, or otherwise) between the parties arising out of or relating to this Agreement or the transactions contemplated hereby, each of the parties hereby: (a) irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of the Court of Chancery of the State of Delaware, or if such court lacks subject matter jurisdiction over the action or proceeding, the Superior Court of the State of Delaware, or if jurisdiction is vested exclusively in the federal courts, the United States District Court for the District of Delaware; (b) agrees that it will not attempt to deny or defeat such jurisdiction or venue by motion or other request for leave from any court and waives the defense of an inconvenient forum to the maintenance of any such action or proceeding; and (c) agrees that all claims in respect of such action, proceeding or counterclaim may be heard and determined exclusively in Court of Chancery of the State of Delaware .The consents to jurisdiction set forth in this paragraph shall not constitute general consents to service of process in the State of Delaware and shall have no effect for any purpose, except as provided in this paragraph and shall not be deemed to confer rights on any individual or entity other than the parties hereto. Each of the parties hereto agrees that a final judgment in any such action, proceeding or counterclaim shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

8.9 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

8.10 Publicity. Except for such disclosure as may be required by SEC rules and regulations, no party hereto shall issue any press release or otherwise make any public statement with respect to the transactions contemplated by this Agreement without the prior consent of the other parties as to the form and substance of such press release or statement (which consent shall not be unreasonably withheld or delayed); provided, that, notwithstanding the foregoing, the Company shall be permitted to issue a press release on the date hereof announcing the execution of this Agreement in the form attached hereto as Exhibit B**.**

8.11 Further Assurances. Each party to this Agreement shall do and perform or cause to be done and performed all such further acts and things and shall execute and deliver all such other agreements, certificates, instruments and documents as the other party hereto may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

8.12 No Third-Party Beneficiaries. Except as provided in Section 6.8(e), and except for (i) the rights of holders of Company Stock under Article 5, (ii) the rights of Eligible Employees to receive payment in accordance with Section 6.4, (iii) the rights of financial and legal advisors of the Company to receive payment in accordance with Section 2.2(b)(iv) and Schedule 2.2(b), and (iv) the rights of Steven R. Deitcher, M.D. and Craig W. Carlson under Section 6.10, each of Parent and the Company hereby agrees that their respective representations, warranties and covenants set forth herein are solely for the benefit of the other parties, in accordance with and subject to the terms of this Agreement, and this Agreement is not intended to, and does not, confer upon any Person other than the parties hereto any rights or remedies hereunder, including the right to rely upon the representations and warranties set forth herein. The parties further agree that the rights of third-party beneficiaries under Section 6.8(e) and this Section 8.12 shall not arise unless and until the Effective Time occurs.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized signatories as of the date first above written.

COMPANY:

TALON THERAPEUTICS, INC.

By: /s/ Steven R. Deitcher, M.D.
Name: Steven R. Deitcher, M.D.
Title: Chief Executive Officer

PURCHASER:

EAGLE ACQUISITION MERGER SUB, INC.

By: /s/ J. Kenneth Keller
Name: J. Kenneth Keller
Title: President

PARENT:

SPECTRUM PHARMACEUTICALS, INC.

By: /s/ Kurt A. Gustafson
Name: Kurt A. Gustafson
Title: Executive Vice President & Chief Financial Officer

Exhibit 2.2

CONTINGENT VALUE RIGHTS AGREEMENT

THIS CONTINGENT VALUE RIGHTS AGREEMENT, dated as of July 16, 2013 (this "Agreement"), is entered into by and among Spectrum Pharmaceuticals, Inc., a Delaware corporation ("Parent"), Talon Therapeutics, Inc., a Delaware corporation (the "Company") and Corporate Stock Transfer, Inc., as Rights Agent (the "Rights Agent").

RECITALS

A. Parent, Eagle Acquisition Merger Sub, Inc., a Delaware corporation and wholly owned subsidiary of Parent ("Merger Sub"), and certain stockholders of the Company (the "Principal Stockholders") have entered into a Securities Purchase Agreement dated as of the same date herewith (as amended from time to time, the "Stockholder Purchase Agreement"), pursuant to which such Principal Stockholders shall sell to Merger Sub, and Merger Sub shall purchase from such Principal Stockholders, certain shares of Company Common Stock and warrants to purchase Company Common Stock owned by such Principal Stockholders.

B. Parent, Merger Sub, and the Company have entered into a Stock Purchase Agreement dated as of the same date herewith (as amended from time to time, the "Purchase Agreement"), pursuant to which Merger Sub will merge with and into Company (the "Merger"), with the Company surviving the Merger as a wholly owned subsidiary of Parent.

C. Pursuant to the Stockholder Purchase Agreement and the Purchase Agreement, Parent has agreed to provide to the Company's stockholders the right to receive contingent cash payments as hereinafter described.

AGREEMENT

The parties to this Agreement, for and in consideration of the premises and the consummation of the transactions referred to above, intending to be legally bound, hereby mutually covenant and agree, for the equal and proportionate benefit of all Holders (as defined below), as follows:

SECTION 1

DEFINITIONS

1.1 Definitions. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Purchase Agreement. The following terms shall have the meanings ascribed to them below:

"Acting Holders" means, at the time of determination, Holders of a majority of the outstanding CVRs.

"Board Resolution" means a copy of a resolution certified by a duly authorized officer of Parent to have been duly adopted by the Parent Board and to be in full force and effect on the date of such certification, and delivered to the Rights Agent.

"Closing Date" shall have the meaning provided in the Purchase Agreement.

"CVRs" means the rights of Holders to receive contingent cash payments pursuant to the Purchase Agreement and this Agreement.

"Diligent Efforts" means, with respect to any Product, commercially reasonable efforts of a Person to carry out its obligations, and to cause its Affiliates and licensees and sublicensees to carry out their respective obligations, using such efforts and employing such resources normally used by Persons of comparable resources in the specialty pharmaceutical business relating to the research, development or commercialization of a product, that is of similar market potential at a similar stage in its development or product life, taking into account issues of market exclusivity, product profile, including efficacy, safety, tolerability and convenience, the competitiveness of alternate products in the marketplace or under development, the availability of existing forms or dosages for other indications, the launch or sales of a similar product by such Person or third parties, the regulatory environment and the profitability of the applicable product (including pricing and reimbursement status achieved), and other relevant factors, including technical, commercial, legal, scientific and/or medical factors. Factors beyond the reasonable control of a Person, including without limitation, regulatory delays, safety findings, unforeseen technical challenges, the failure of a Product to meet necessary scientific or regulatory endpoints, and force majeure events shall be taken into account when evaluating whether a Person's efforts hereunder constitute Diligent Efforts. Notwithstanding anything to the contrary, Parent, and any successors and/or assigns of Parent to whom this Agreement or any rights thereto are assigned, shall have sole discretion and decision making authority over how much to invest in the Products and whether and on what terms, if any, to enter into (i) a license or sale agreement related to the Products, or (ii) any other arrangement, plan, program, or agreement for the development, marketing or sale of the Products.

"DTC" means The Depository Trust Company.

"Holder" means a Person in whose name a CVR is registered in the CVR Register.

"Level 1 Milestone" means Net Sales of the Products for any calendar year of $30 million or more.

"Level 1 Milestone Amount" means $5 million in cash.

"Level 1 Milestone Per Share Amount" means an amount in cash equal to the Level 1 Milestone Amount divided by the number of outstanding CVRs (assuming all then outstanding Company Warrants are exercised and have the right to receive the Per Share Merger Price).

"Level 2 Milestone" means Net Sales of the Products for any calendar year of $60 million or more.

"Level 2 Milestone Amount" means $10 million in cash.

"Level 2 Milestone Per Share Amount" means an amount in cash equal to the Level 2 Milestone Amount divided by the number of outstanding CVRs (assuming all then outstanding Company Warrants are exercised and have the right to receive the Per Share Merger Price).

"Level 3 Milestone" means Net Sales of the Products for any calendar year of $100 million or more.

"Level 3 Milestone Amount" means $25 million in cash.

"Level 3 Milestone Per Share Amount" means an amount in cash equal to the Level 3 Milestone Amount divided by the number of outstanding CVRs (assuming all then outstanding Company Warrants are exercised and have the right to receive the Per Share Merger Price).

"Level 4 Milestone" means Net Sales of the Products for any calendar year of $200 million or more.

"Level 4 Milestone Amount" means $50 million in cash less either (i) a Change of Control Plan amount of $2,584,000 if the Regulatory Milestone has not been attained; or (ii) a Change of Control Plan amount of $2,984,000 if the Regulatory Milestone has been attained. The applicable Change of Control Plan amount shall be payable to Eligible Employees (as defined in the Company Change of Control Plan) under the Company Change of Control Plan (as in effect on the date of this Agreement) as a result of the Merger and the payment of the Level 4 Milestone Amount hereunder, if any.

"Level 4 Milestone Per Share Amount" means an amount in cash equal to the Level 4 Milestone Amount divided by the number of outstanding CVRs (assuming all then outstanding Company Warrants are exercised and have the right to receive the Per Share Merger Price).

"Level 5 Milestone" means Net Sales of the Products for any calendar year of $400 million or more.

"Level 5 Milestone Amount" means $100 million in cash, less $8,000,000 payable to Eligible Employees (as defined in the Company Change of Control Plan) under the Company Change of Control Plan (as in effect on the date of this Agreement) as a result of the Merger and the payment of the Level 5 Milestone Amount hereunder, if any.

"Level 5 Milestone Per Share Amount" means an amount in cash equal to the Level 5 Milestone Amount divided by the number of outstanding CVRs (assuming all then outstanding Company Warrants are exercised and have the right to receive the Per Share Merger Price).

"Marketing Authorization" means with respect to Menadione Topical Lotion in a jurisdiction, the non-Subpart H approval from the Regulatory Authority necessary for the commercial manufacture, marketing and sale of Menadione Topical Lotion in such jurisdiction. For the avoidance of doubt, an "approvable letter" or similar communication published by the United States Food and Drug Administration shall not constitute approval for purposes of the foregoing.

"Menadione Patent Rights" means the patents set forth on Schedule I, including any extensions and renewals thereof.

"Milestone" means any of the Level 1 Milestone, Level 2 Milestone, Level 3 Milestone, Level 4 Milestone, Level 5 Milestone or Regulatory Milestone.

"Milestone Amount" means any of the Level 1 Milestone Amount, Level 2 Milestone Amount, Level 3 Milestone Amount, Level 4 Milestone Amount, Level 5 Milestone Amount or Regulatory Milestone Amount.

"Milestone Per Share Amount" means any of the Level 1 Milestone Per Share Amount, Level 2 Milestone Per Share Amount, Level 3 Milestone Per Share Amount, Level 4 Milestone Per Share Amount, Level 5 Milestone Per Share Amount or Regulatory Milestone Per Share Amount.

"Net Sales" means the aggregate gross revenues invoiced by Parent and its Affiliates, licensees and sublicensees from or on account of the sale of Products to third parties, in any given calendar year, less deductions actually allowed or specifically allocated to Products for the following:

(a) credits or allowances, if any, actually granted on account of recalls, rejection or return of Products or on account of retroactive price reductions affecting such Product;

(b) insurance, freight or other transportation costs incurred in shipping Products;

(c) excise taxes, sales taxes, value added taxes, consumption taxes, customs and other duties or other taxes or other governmental charges imposed upon and paid or allowed with respect to the production, importation, use or sale of Products (excluding income or franchise taxes of any kind);

(d) customary trade, quantity and cash discounts allowed on the Product;

(e) rebates, chargebacks and other amounts paid on sale or dispensing of the Product;

(f) sales commissions, data and distribution fees paid to distributors and/or selling agents;

(g) the booked cost of devices or systems used for delivering a Product into the patient where the Product when sold is a combination of the active pharmaceutical ingredient and the device or system; and

(h) amounts accrued for bad debt;

provided, that the foregoing is subject to the following:

(i) Net Sales shall be calculated only once for the first sale of such Product by Parent and its Affiliates, licensees and sublicensees, as the case may be, to a third party which is neither an Affiliate, licensee or sublicensee;

(j) A sale of Products by Parent and its Affiliates, licensees and sublicensees, to a wholesaler distributor shall be regarded as the first sale of the Product;

(k) Net Sales shall not include transfer between any of Parent and its Affiliates, licensees or sublicensees for resale, but Net Sales shall include the subsequent final sales to third parties by such Affiliates, licensees or sublicensees;

(l) fair market value shall be assigned to any and all non-cash consideration such as but not limited to any credit, barter, benefit, advantage or concession received by Parent and its Affiliates, licensees or sublicensees in payment for sale of Products;

(m) as used in this definition, a "sale" shall have occurred when Products are billed out or invoiced;

(n) notwithstanding anything herein to the contrary, the following shall not be considered a sale of Products under this Agreement:

(i) the transfer of a Product to a third party without consideration to Parent in connection with the development or testing of a Product; or
(ii) the transfer of a Product to a third party without consideration in connection with the marketing or promotion of the Product (e.g., samples).

For purposes of this definition of "Net Sales", if Parent and its Affiliates, licensees and sublicensees sells the Products in the form of a combination product containing one or more active ingredients in addition to the Product, "Net Sales" for such combination product will be calculated by multiplying the Net Sales from the sale of such combination product by the fraction A/B, where "A" is the fair market value of the Product when supplied or priced separately and "B" is the fair market value of the combination product. If no market price is available for the Product when supplied or priced separately, fair market value shall be determined in good faith by the parties.

Notwithstanding anything to the contrary in this definition of "Net Sales", Parent's calculation of Net Sales shall be made in accordance with generally accepted accounting principles in the United States or the IFRS, as applicable to Parent, and in a manner consistent with the historical calculation of net sales by Parent and its subsidiaries.

"Net Sales Milestone" means any of the Level 1 Milestone, Level 2 Milestone, Level 3 Milestone, Level 4 Milestone or Level 5 Milestone.

"Officer's Certificate" means a certificate signed by an authorized officer of Parent, in his or her capacity as such an officer, and delivered to the Rights Agent.

"Permitted Transfer" means: a transfer of CVRs (a) on death by will or intestacy; (b) transfer by instrument to an inter vivos or testamentary trust in which the CVRs are to be passed to beneficiaries upon the death of the trustee, (c) pursuant to a court order; or (d) made by operation of law (including a consolidation or merger) or without consideration in connection with the dissolution, liquidation or termination of any corporation, limited liability company, partnership or other entity.

"Product" shall mean Marqibo®.

"Regulatory Authority" means the United States Food and Drug Administration, and any successor governmental authority that has responsibility for granting approvals for the manufacturing, marketing, sale, reimbursement and/or pricing of a Product in the United States.

"Regulatory Milestone" means the receipt of Marketing Authorization for Menadione Topical Lotion from any Regulatory Authority.

"Regulatory Milestone Amount" means $5 million in cash, and if the Regulatory Milestone is achieved following the satisfaction of the Level 4 Milestone, less $400,000 payable to Eligible Employees (as defined in the Company Change of Control Plan) under the Company Change of Control Plan (as in effect on the date of this Agreement) as a result of the Merger and the payment of the Regulatory Milestone Amount hereunder, if any.

"Regulatory Milestone Per Share Amount" means an amount in cash equal to the Regulatory Milestone Amount divided by the number of outstanding CVRs.

"Rights Agent" means the Rights Agent named in the first paragraph of this Agreement, until a successor Rights Agent shall have become such pursuant to the applicable provisions of this Agreement, and thereafter "Rights Agent" shall mean such successor Rights Agent.

"Warrant Milestone Amount" means an amount in cash equal to the Level 1 Milestone Per Share Amount, Level 2 Milestone Per Share Amount, Level 3 Milestone Per Share Amount, Level 4 Milestone Per Share Amount, Level 5 Milestone Per Share Amount or Regulatory Milestone Per Share Amount, as applicable, attributable to the holders of Company Warrants.

SECTION 2

CONTINGENT VALUE RIGHTS

2.1 CVRs. As provided in the Stockholder Purchase Agreement and the Purchase Agreement, each Holder shall be entitled to one CVR for each share of Company Common Stock that is sold to Merger Sub pursuant to Section 2.1 of the Stockholder Purchase Agreement or that is converted into the right to receive the Per Share Merger Price pursuant to Section 5.1(c) of the Purchase Agreement. In addition, if a Company Warrant is exercised following the Effective Time and the holder thereof becomes entitled to receive the Per Share Merger Price in accordance with the terms of such Company Warrant (as in effect as of the date of this Agreement), Parent may instruct the Rights Agent to register such additional CVRs in the name of the holder of such exercised Company Warrant on the CVR Register (as defined below) as the holder of such exercised Company Warrant is entitled to receive in accordance with the terms thereof. CVRs shall not be registered in the name of any Person except as provided in this Section 2.1 and Section 2.2.

2.2 Nontransferable. The CVRs shall not be sold, assigned, transferred, pledged, encumbered or in any other manner transferred or disposed of, in whole or in part, other than through a Permitted Transfer.

2.3 No Certificate; Registration; Registration of Transfer; Change of Address.

(a) The CVRs shall not be evidenced by a certificate or other instrument.

(b) The Rights Agent shall keep a register (the "CVR Register") for the purpose of identifying the Holders of the CVRs and registering CVRs and transfers of CVRs as herein provided. The CVR Register will show one position for Cede & Co representing all the shares of Company Common Stock held by DTC on behalf of the street holders of the shares of Company Common Stock held by such holders as of immediately prior to the Effective Time. The Rights Agent will have no responsibility whatsoever directly to the street holders with respect to transfers of CVRs unless and until such CVRs are transferred into the name of such street holders in accordance with Section of this Agreement. With respect to any payments to be made under Section 2.5 below, the Rights Agent will accomplish the payment to any street holders of shares of Company Common Stock by sending one lump payment to DTC. The Rights Agent will have no responsibilities whatsoever with regards to distribution of payments by DTC to such street holders.

(c) Subject to the restrictions on transferability set forth in Section 2.2 every request made to transfer a CVR must be in writing and accompanied by a written instrument of transfer in form reasonably satisfactory to the Rights Agent, duly executed by the Holder thereof, his, her or its attorney duly authorized in writing, personal representative or survivor and setting forth in reasonable detail the circumstances relating to the transfer. Upon receipt of such written notice, the Rights Agent shall, subject to its reasonable determination that the transfer instrument is in proper form and the transfer otherwise complies with the other terms and conditions herein (including the provisions of Section 2.2), register the transfer of the CVRs in the CVR Register. All duly transferred CVRs registered in the CVR Register shall be the valid obligations of Parent, evidencing the same right, and shall entitle the transferee to the same benefits and rights under this Agreement, as those held by the transferor. No transfer of a CVR shall be valid until registered in the CVR Register, and any transfer not duly registered in the CVR Register will be void ab initio. Any transfer or assignment of the CVRs shall be without charge (other than the cost of any transfer Tax) to the Holder.

(d) A Holder may make a written request to the Rights Agent to change such Holder's address of record in the CVR Register. The written request must be duly executed by the Holder. Upon receipt of such written notice, the Rights Agent shall promptly record the change of address in the CVR Register.

2.4 Milestone Certificates.

(a) If the Level 1 Milestone is attained during a calendar year, then within ninety (90) days thereafter, Parent shall deliver to the Rights Agent a certificate (the "Level 1 Milestone Certificate") certifying the satisfaction of the Level 1 Milestone and that the Holders are entitled to receive the Level 1 Milestone Amount from Parent, together with Parent's calculation of Net Sales ("Net Sales Calculation") for such calendar year. If the Level 1 Milestone is attained with respect to a calendar year, it shall not be attained in any subsequent calendar year.

(b) If the Level 2 Milestone is attained during a calendar year, then within ninety (90) days thereafter, Parent shall deliver to the Rights Agent a certificate (the "Level 2 Milestone Certificate") certifying the satisfaction of the Level 2 Milestone and that the Holders are entitled to receive the Level 2 Milestone Amount from Parent, together with Parent's Net Sales Calculation for such calendar year. If the Level 2 Milestone is attained with respect to a calendar year, it shall not be attained in any subsequent calendar year.

(c) If the Level 3 Milestone is attained during a calendar year, then within ninety (90) days thereafter, Parent shall deliver to the Rights Agent a certificate (the "Level 3 Milestone Certificate") certifying the satisfaction of the Level 3 Milestone and that the Holders are entitled to receive the Level 3 Milestone Amount from Parent, together with Parent's Net Sales Calculation for such calendar year. If the Level 3 Milestone is attained with respect to a calendar year, it shall not be attained in any subsequent calendar year.

(d) If the Level 4 Milestone is attained during a calendar year, then within ninety (90) days thereafter, Parent shall deliver to the Rights Agent a certificate (the "Level 4 Milestone Certificate") certifying the satisfaction of the Level 4 Milestone and that the Holders are entitled to receive the Level 4 Milestone Amount from Parent, together with Parent's Net Sales Calculation for such calendar year. If the Level 4 Milestone is attained with respect to a calendar year, it shall not be attained in any subsequent calendar year.

(e) If the Level 5 Milestone is attained during a calendar year, then within ninety (90) days thereafter, Parent shall deliver to the Rights Agent a certificate (the "Level 5 Milestone Certificate" and together with the Level 1 Milestone Certificate, Level 2 Milestone Certificate, Level 3 Milestone Certificate and Level 4 Milestone Certificate, each a "Net Sales Milestone Certificate") certifying the satisfaction of the Level 5 Milestone and that the Holders are entitled to receive the Level 5 Milestone Amount from Parent, together with Parent's Net Sales Calculation for such calendar year. If the Level 5 Milestone is attained with respect to a calendar year, it shall not be attained in any subsequent calendar year.

(f) If the Regulatory Milestone is attained, then within ninety (90) days thereafter, Parent shall deliver to the Rights Agent a certificate (the "Regulatory Milestone Certificate" and together with the Level 1 Milestone Certificate, Level 2 Milestone Certificate, Level 3 Milestone Certificate, Level 4 Milestone Certificate and Level 5 Milestone Certificate, each a "Milestone Certificate") certifying the satisfaction of the Regulatory Milestone and that the Holders are entitled to receive the Regulatory Milestone Amount from Parent. In no event shall the Regulatory Milestone be attained more than once.

(g) If no Milestone is attained during a calendar year (the last date of any such calendar year, the "Milestone Measuring Date"), then on or before the date that is ninety (90) days after the Milestone Measuring Date, Parent shall deliver to the Rights Agent a certificate (the "Milestone Payment Non-Compliance Certificate") certifying that no Milestone has occurred during such calendar year and that Parent has complied with its obligations under this Agreement with respect to such calendar year, together with Parent's Net Sales Calculation for such calendar year.

(h) If a single Net Sales Milestone Certificate reflects a Net Sales Calculation that would satisfy more than one Net Sales Milestone (that has not been previously attained) during such calendar year, then all such Net Sales Milestones shall be deemed attained. For example, if a Level 5 Milestone Certificate is delivered by Parent to the Rights Agent during the calendar year ending on December 31, 2014, which reflects a Net Sales Calculation for such calendar year of $400 million, and none of the Net Sales Milestones have been previously attained, then all of the Net Sales Milestones shall be deemed attained.

2.5 Payment Procedures

(a) In connection with delivery of any Milestone Certificate, Parent shall also deliver to the Rights Agent cash in immediately available funds in the aggregate amount of the applicable Milestone Amount concurrently with the delivery of such Milestone Certificate (the date of such payment, the "Milestone Payment Date").

(b) The Rights Agent shall promptly, and in no event later than twenty (20) Business Days after receipt, send each Holder at its registered address a copy of any certificate and Net Sales Calculation delivered by Parent or the Company pursuant to Section 2.4. If in such certificate Parent or the Company certifies that a Milestone Amount is payable to the Holders, then the Rights Agent shall also pay the applicable Milestone Per Share Amount to each of the Holders (the amount which each Holder is entitled to receive will be based on the Milestone Per Share Amount with respect to such Milestone multiplied by the number of CVRs held by such Holder, as reflected on the CVR Register, rounded down to the nearest cent) by check mailed to the address of each Holder as reflected in the CVR Register as of the close of business on the first Business Day following the Milestone Payment Date.

(c) Parent and the Rights Agent shall be entitled to deduct and withhold, or cause to be deducted or withheld, from the payment of any Milestone Amount or Milestone Per Share Amount otherwise payable pursuant to this Agreement, such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code, or any provision of state, local or foreign Tax Law. To the extent that amounts are so withheld and paid over to or deposited with the relevant governmental authority, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Holder in respect of which such deduction and withholding was made. Prior to making any such Tax withholdings or causing any such Tax withholdings to be made with respect to any Holder, the Rights Agent shall, to the extent practicable, provide notice to the Holder of such potential withholding and a reasonable opportunity for the Holder to provide any necessary Tax forms (including an IRS Form W-9 or an applicable IRS Form W-8) in order to avoid or reduce such withholding amounts.

(d) In the event that any holder of a Company Warrant exercises such Warrant after one or more Milestone Payment Dates, such holder shall be entitled to receive payment by the Rights Agent from the applicable Warrant Milestone Amount(s) as if such holder were a Holder at or prior to the applicable Milestone Payment Date as provided in Section 2.5(b) above.

(e) Any portion of any Milestone Amount (other than any Warrant Milestone Amount) that remains undistributed to the Holders for one year after any applicable Milestone Payment Date (or immediately prior to such earlier date on which the Milestone Payment would otherwise escheat to or become the property of any governmental body) shall be delivered by the Rights Agent to Parent and any Holder shall thereafter look only to Parent for payment of any portion of such Milestone Amount.

(f) Any portion of any Warrant Milestone Amount that remains undistributed as of March 31, 2017 shall be promptly distributed to the Holders by the Rights Agent (the amount which each Holder is entitled to receive will be based on the remaining balance of such Warrant Milestone Amount divided by the number of outstanding CVRs, multiplied by the number of CVRs held by such Holder, as reflected on the CVR Register, rounded down to the nearest cent) by check mailed to the address of each Holder as reflected in the CVR Register. To the extent that any portion of any Warrant Milestone Amount remains undistributed to the Holders as of March 31, 2018, such Warrant Milestone Amount shall be delivered by the Rights Agent to Parent and any Holder shall thereafter look only to Parent for payment of any portion of such Warrant Milestone Amount.

(g) Neither Parent nor the Rights Agent shall be liable to any person in respect of any portion of a Milestone Amount delivered to a public official pursuant to any applicable abandoned property, escheat or similar Legal Requirement.

2.6 No Voting, Dividends or Interest; No Equity or Ownership Interest in Parent.

(a) The CVRs shall not have any voting or dividend rights, and interest shall not accrue on any amounts payable on the CVRs to any Holder.

(b) The CVRs shall not represent any equity or ownership interest in Parent, Merger Sub or the Company.

SECTION 3

THE RIGHTS AGENT

3.1 Certain Duties And Responsibilities. The Rights Agent shall not have any liability for any actions taken or not taken in compliance with this Agreement, except to the extent of its willful misconduct, bad faith or gross negligence.

3.2 Certain Rights of Rights Agent. The Rights Agent undertakes to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Rights Agent. In addition:

(a) the Rights Agent may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) whenever the Rights Agent shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Rights Agent may, in the absence of bad faith, gross negligence or willful misconduct on its part, rely upon an Officer's Certificate;

(c) the Rights Agent may engage and consult with counsel of its selection and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(d) the permissive rights of the Rights Agent to do things enumerated in this Agreement shall not be construed as a duty;

(e) the Rights Agent shall not be required to give any note or surety in respect of the execution of such powers or otherwise in respect of the premises;

(f) Parent agrees to indemnify Rights Agent for, and hold Rights Agent harmless against, any loss, liability, claim, demands, suits or expense arising out of or in connection with Rights Agent's duties under this Agreement, including the costs and expenses of defending Rights Agent against any claims, charges, demands, suits or loss, unless such loss shall have been arisen from Rights Agent's gross negligence, bad faith or willful misconduct; and

(g) Parent agrees (i) to pay the fees and reasonable and documented out-of-pocket expenses of the Rights Agent in connection with this Agreement, as agreed upon in writing by Rights Agent and Parent on or prior to the date hereof, and (ii) to reimburse the Rights Agent for all Taxes and governmental charges, reasonable expenses and other charges of any kind and nature incurred by the Rights Agent in the execution of this Agreement (other than Taxes measured by the Rights Agent's net income).

3.3 Appointment of Successor.

(a) The Rights Agent may resign at any time by giving written notice thereof to Parent and the Holders specifying a date when such resignation shall take effect, which notice shall be sent at least 60 (sixty) days prior to the date so specified. Parent shall have the right to remove the Rights Agent at any time by a Board Resolution specifying a date when such removal shall take effect. Notice of such removal shall be given by Parent to Rights Agent, which notice shall be sent at least 60 (sixty) days prior to the date so specified.

(b) If the Rights Agent shall resign, be removed or become incapable of acting, Parent shall promptly appoint a qualified successor Rights Agent. The successor Rights Agent so appointed shall, forthwith upon its acceptance of such appointment in accordance with Section , become the successor Rights Agent.

(c) Parent shall give notice of each appointment of a successor Rights Agent by mailing written notice of such event by first-class mail, postage prepaid, to the Holders as their names and addresses appear in the CVR Register. Each notice shall include the name and address of the successor Rights Agent. If Parent fails to send such notice within ten (10) days after acceptance of appointment by a successor Rights Agent, the successor Rights Agent shall cause the notice to be mailed at the expense of Parent.

(d) Notwithstanding anything to the contrary in this Section 3.3, unless consented to in writing by the Holders of not less than a majority of the outstanding CVRs, Parent shall not appoint as a successor Rights Agent any Person that is not a stock transfer agent of national reputation or the corporate trust department of a commercial bank.

3.4 Acceptance of Appointment By Successor. Every successor Rights Agent appointed hereunder shall, at or prior to such appointment, execute, acknowledge and deliver to Parent and to the retiring Rights Agent an instrument accepting such appointment and a counterpart of this Agreement, and thereupon such successor Rights Agent, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Rights Agent; but, on request of Parent or the successor Rights Agent, such retiring Rights Agent shall execute and deliver an instrument transferring to such successor Rights Agent all the rights, powers and trusts of the retiring Rights Agent.

SECTION 4

COVENANTS

4.1 List of Holders. Parent shall furnish or cause to be furnished to the Rights Agent in such form as Parent receives from the Company's transfer agent (or other agent performing similar services for the Company), or from the Company with respect to Company Options, the names and addresses of the Holders within thirty (30) Business Days following the Effective Time.

4.2 Payment of Milestone Amounts. Parent shall duly and promptly deposit with the Rights Agent for payment to each Holder the Milestone Amounts, if any, in the manner provided for in Section 2.5 and in accordance with the terms of this Agreement.

4.3 Required Efforts. Parent shall use Diligent Efforts to achieve the Milestones.

4.4 Audits.

(a) Upon the written request of the Acting Holders and no more than once during any calendar year, and upon reasonable notice, Parent shall provide an independent certified public accounting firm of nationally recognized standing selected by the Acting Holders and Parent (the "Independent Accountant") with access during normal business hours to such records of Parent as may be reasonably necessary to verify the calculation of Net Sales for any period within the preceding two (2) years that has not previously been audited in accordance with this Section 4.4. Parent shall pay for the fees charged by the Independent Accountant; provided, however, that Parent shall be reimbursed for the fees charged by such Independent Accountant in the event that the Independent Accountant determines that no Milestone Amount was due for the period audited, through the deduction of such fees from the first Milestone Amount payable pursuant to this Agreement subsequent to such determination. The Independent Accountant shall disclose to the Acting Holders only whether the applicable Milestone Amount was due and such additional information directly related to its findings. The Independent Accountant shall provide Parent with a copy of all disclosures made to the Acting Holders. The initiation of a review by the Acting Holders as contemplated by this Section 4.4 shall not relieve Parent of its obligation to pay any Milestone Amount for which notice of achievement has been given.

(b) If the Independent Accountant concludes that any Milestone Amount should have been paid but was not paid when due, Parent shall pay to the Rights Agent for payment to each Holder the Milestone Amount (to the extent not paid on a subsequent date), as applicable, plus interest on such Milestone Amount, as applicable, at the "prime rate" as published in the Wall Street Journal from time to time, from when the Milestone Payment Date should have occurred (if Parent had given notice of achievement of such Milestone pursuant to the terms of this Agreement), as applicable, to the date of actual payment (such amount including interest being the "CVR Shortfall"). Parent shall pay the CVR Shortfall to the Rights Agent for payment to each Holder of record as of a date that is three (3) Business Days prior to a payment date selected by Parent, which date must be within sixty (60) days of the date the Independent Accountant delivers to Parent the Independent Accountant's written report. The decision of such Independent Accountant shall be final, conclusive and binding on Parent and the Holders, shall be nonappealable and shall not be subject to further review.

(c) Each Person seeking to receive information from Parent in connection with a review or audit shall enter into, and shall cause its accounting firm to enter into, a reasonable and mutually satisfactory confidentiality agreement with Parent obligating such party to retain all such information disclosed to such party in confidence pursuant to such confidentiality agreement and not use such information for any purpose other than the completion of such review or audit.

4.5 Product Transfer. Parent and its Affiliates may not, directly or indirectly, by a sale or swap of assets, merger, reorganization, joint venture, lease, license or any other transaction or arrangement, sell, transfer, license, convey or otherwise dispose of all or a portion of their respective rights in and to any Product to a third party (other than Parent or its Affiliates), unless at all times after any such sale, transfer, license, conveyance or other disposition, Net Sales by the applicable transferee will be reflected in Net Sales in accordance with the terms hereunder (with the transferee substituted for Parent for purposes of the definition of "Net Sales") as if such transferee was Parent, and the contract for such sale, transfer, license, conveyance or other disposition (which Parent shall take all reasonable actions necessary to enforce in all material respects) shall provide for such treatment and shall require the transferee to comply with the covenants in this Section 4.5 and Section 4.3 and Section 4.4 and to provide Parent with all information necessary to calculate Net Sales with respect to such Product. For purposes of clarification, this Section 4.5 shall not apply to sales of Products made by Parent or its Affiliates or ordinary course licensing arrangements between Parent and its Affiliates, on the one hand, and third party licensees, distributors and contract manufacturers, on the other hand, entered into in the ordinary course of business for purposes of developing, manufacturing, distributing and selling Products and for which the gross amounts invoiced for sales of Products by the applicable third party licensee, distributor or contract manufacturer will be reflected in Net Sales of such Products in accordance with the terms of this Agreement.

4.6 Series A Warrants and Series B Warrants. In the event any holder of a Series A Warrant or Series B Warrant indicates a desire to exercise, or exercises, such Warrant following the execution of this Agreement, and upon such exercise the holder of such Series A Warrant or Series B Warrant would receive the Per Share Merger Price with respect to any shares of Company Common Stock underlying such Warrant, Parent and the Company shall use their respective reasonable good faith efforts to cause the holder of such Series A Warrant or Series B Warrant to agree to receive, upon exercise of such Warrant or in exchange for the cancellation thereof, an amount of cash equal to the value of such Series A Warrant or Series B Warrant as determined in accordance with the Black Scholes Option Pricing Model specified in such Warrant in lieu of the Per Share Merger Price with respect to any shares of Company Common Stock underlying such Warrant; provided, however, that the parties hereto acknowledge that the holder of such Series A Warrant or Series B Warrant may elect in his, her or its sole discretion to receive the Per Share Merger Price or any other consideration provided by the terms of such Warrant.

SECTION 5

AMENDMENTS

5.1 Amendments Without Consent of Holders.

(a) Without the consent of any Holders or the Rights Agent, Parent, when authorized by a Board Resolution, at any time and from time to time, may enter into one or more amendments hereto, for any of the following purposes:

(i) to evidence the succession of another Person as a successor Rights Agent and the assumption by any successor of the covenants and obligations of the Rights Agent herein;

(ii) to add to the covenants of Parent such further covenants, restrictions, conditions or provisions as the Parent Board and the Rights Agent shall consider to be for the protection of the Holders; provided that, in each case, such provisions shall not adversely affect the interests of the Holders;

(iii) to cure any ambiguity, to correct or supplement any provision herein that may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Agreement; provided that, in each case, such provisions shall not adversely affect the interests of the Holders;

(iv) as may be necessary or appropriate to ensure that the CVRs are not subject to registration under the Securities Act or the Exchange Act; provided that, such provisions shall not adversely affect the interests of the Holders; or

(v) any other amendments hereto for the purpose of adding, eliminating or changing any provisions of this Agreement, unless such addition, elimination or change is adverse to the interests of the Holders.

(b) Promptly after the execution by Parent and the Rights Agent of any amendment pursuant to the provisions of this Section 5.1, Parent shall mail (or cause the Rights Agent to mail) a notice thereof by first class mail to the Holders at their addresses as they shall appear on the CVR Register, setting forth in general terms the substance of such amendment.

5.2 Amendments With Consent of Holders.

(a) Subject to Section 5.1 (which amendments pursuant to Section 5.1 may be made without the consent of the Holders), with the written consent of the Holders of not less than a majority of the outstanding CVRs, whether evidenced in writing or taken at a meeting of the Holders, Parent, when authorized by a Board Resolution, and the Rights Agent may enter into one or more amendments hereto for the purpose of adding, eliminating or changing any provisions of this Agreement, even if such addition, elimination or change is adverse to the interest of the Holders.

(b) Promptly after the execution by Parent and the Rights Agent of any amendment pursuant to the provisions of this Section 5.2, Parent shall mail (or cause the Rights Agent to mail) a notice thereof by first class mail to the Holders at their addresses as they shall appear on the CVR Register, setting forth in general terms the substance of such amendment.

5.3 Execution of Amendments. In executing any amendment permitted by this Section 5, the Rights Agent shall be entitled to receive, and shall be fully protected in relying upon, an opinion of counsel selected by Parent stating that the execution of such amendment is authorized or permitted by this Agreement. The Rights Agent may, but is not obligated to, enter into any such amendment that affects the Rights Agent's own rights, privileges, covenants or duties under this Agreement or otherwise.

5.4 Effect of Amendments. Upon the execution of any amendment under this Section 5, this Agreement shall be modified in accordance therewith, such amendment shall form a part of this Agreement for all purposes and every Holder shall be bound thereby.

SECTION 6

MISCELLANEOUS PROVISIONS

6.1 Entire Agreement; Counterparts. This Agreement and the Purchase Agreement constitute the entire agreement and supersede all prior agreements and understandings, both written and oral, among or between any of the parties with respect to the subject matter hereof and thereof. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

6.2 Notices. Any notices or other communications to be given to the Rights Agent or Parent as required or permitted under, or otherwise in connection with this Agreement, shall be in writing and shall be deemed to have been duly given when delivered in person, or upon confirmation of receipt when transmitted by facsimile transmission or by electronic mail, or on receipt after dispatch by registered or certified mail, postage prepaid, or on the next Business Day if transmitted by national overnight courier, in each case addressed as follows:

If to Parent, at:

Spectrum Pharmaceuticals, Inc.
11500 South Eastern Ave., Suite 240
Henderson, NV 89052
Attention: Rajesh C. Shrotriya, M.D.
Facsimile: (702) 260-7405
Email: raj.shrotriya@sppirx.com
legal@sppirx.com

with a copy (which shall not constitute notice) to:

Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660
Attention: Shivbir S. Grewal
Marc G. Alcser
Facsimile: (949) 725-4100
Email: sgrewal@sycr.com
malcser@sycr.com

If to the Company, at:

Talon Therapeutics, Inc.
400 Oyster Point Blvd, Suite 200
South San Francisco, CA 94080
Attention: Chief Executive Officer
Facsimile: (650) 588-2787
Email: SDeitcher@Talontx.com

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
140 Scott Drive
Menlo Park, California 94025
Attention: Peter F. Kerman
Joshua M. Dubofsky
Facsimile: (650) 463-2600
Email: peter.kerman@lw.com
josh.dubofsky@lw.com

if to the Rights Agent:

Corporate Stock Transfer, Inc.
3200 Cherry Creek South Drive, Suite 430
Denver, Colorado 80209
Attention: Carylyn K. Bell
Facsimile: (303) 282-5800
Email: cbell@corporatestock.com

or, in each case, to such other address as shall be given in writing by any such person in accordance with this Section 6.2.

6.3 Notice To Holders. Where this Agreement provides for notice to Holders, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at his, her or its address as it appears in the CVR Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders.

6.4 Assignability; No Third Party Rights. This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the parties hereto and their respective successors and assigns; *provided, however,* that neither this Agreement nor any party's rights or obligations hereunder may be assigned or delegated by such party without the prior written consent of the other parties and without the prior written consent of the Holders of not less than a majority of the outstanding CVRs, and any attempted assignment or delegation of this Agreement or any of such rights or obligations by any party without the prior written consent of the other parties shall be void and of no effect; and provided further that each of the Holders is an intended third party beneficiaries of this Agreement. Nothing in this Agreement, express or implied, shall give to any Person (other than the parties hereto, the Holders and their permitted successors and assigns hereunder) any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

6.5 Governing Law. This Agreement and all claims or causes of action (whether in contract, tort or otherwise) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be construed, performed and enforced in accordance with the laws of the State of Delaware without giving effect to its principles or rules of conflict of laws to the extent such principles or rules would require or permit the application of the laws of another jurisdiction.

6.6 Legal Holidays. In the event that the day on which any Milestone Amount is due shall not be a Business Day, then, notwithstanding any provision of this Agreement to the contrary, any payment required to be made in respect of the CVRs on or prior to such date need not be made on or prior to such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the last day on which such Milestone Amount is due.

6.7 Severability. In the event that any provision of this Agreement, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

6.8 Termination. Any liability of Parent and its successors and or assigns with respect to, and the obligation to pay, any Milestone Amounts, other than the Regulatory Milestone, or any directly related payments pursuant to this Agreement shall be terminated and of no force or effect upon the date that is 20 years after the date of this Agreement. Any liability of Parent and its successors and or assigns with respect to, and the obligation to pay, the Regulatory Milestone Amount or any directly related payments pursuant to this Agreement, shall be terminated and of no force or effect upon the expiration of the Menadione Patent Rights. This Agreement shall otherwise be terminated and of no force or effect and the parties hereto shall have no liability hereunder upon the later to occur of: (i) the date that is 20 years after the date of this Agreement; or (ii) the expiration of the Menadione Patent Rights.

6.9 Interpretation. In this Agreement, unless otherwise specified, the following rules of interpretation apply:

(a) references to Sections, Clauses and parties are references to sections or sub-sections, clauses of, and parties to, this Agreement;

(b) references to any Person include references to such Person's successors and permitted assigns;

(c) words importing the singular include the plural and vice versa;

(d) words importing one gender include the other gender;

(e) references to the word "including" do not imply any limitation;

(f) references to months are to calendar months;

(g) the words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement;

(h) references to "$" or "dollars" refer to U.S. dollars; and

(i) a defined term has its defined meaning throughout this Agreement, regardless of whether it appears before or after the place where it is defined.

6.10 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

6.11 No Obligation. Notwithstanding anything in this Agreement to the contrary, in no event shall the Company, Parent or any of their Affiliates be required to achieve or undertake any level of efforts, or employ any level of resources, to achieve or cause the Milestones to be achieved.

6.12 Counterparts. This Agreement may be executed by facsimile and in one or more counterparts, and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

6.13 Delivery by Facsimile or Email. This Agreement, and any amendments hereto, waivers hereof or consents or notifications hereunder, to the extent signed and delivered by means of a facsimile machine or by email with facsimile or scan attachment, shall be treated in all manner and respects as an original contract and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. At the request of any Party, each other Party shall re-execute original forms thereof and deliver them to all other Parties. No Party shall raise the use of a facsimile machine or email to deliver a signature or the fact that any signature or Contract was transmitted or communicated through the use of facsimile machine or by email with facsimile or scan attachment as a defense to the formation of a contract, and each such Party forever waives any such defense.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the parties has caused this Contingent Value Rights Agreement to be executed on its behalf by its duly authorized officers as of the day and year first above written.

SPECTRUM PHARMACEUTICALS, INC.

By: /s/ Kurt A. Gustafson
Name: Kurt A. Gustafson
Title: Executive Vice President & Chief Financial Officer

TALON THERAPEUTICS, INC.

By: /s/ Steven R. Deitcher, M.D.
Name: Steven R. Deitcher, M.D.
Title: Chief Executive Officer

CORPORATE STOCK TRANSFER, INC.

By: /s/ Carylyn Bell
Name: Carylyn Bell
Title: President

Exhibit 3.1

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

TALON THERAPEUTICS, INC.

ARTICLE 1

The name of this Corporation is Talon Therapeutics, Inc.

ARTICLE 2

The address of the registered office of the Corporation in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, County of New Castle. The name of the Corporation's registered agent at that address is Corporation Service Company.

ARTICLE 3

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware, as amended from time to time.

ARTICLE 4

The total number of shares of capital stock which this Corporation has authority to issue is 50,000,000 shares of Common Stock, $0.000001 par value per share.

ARTICLE 5

(a) The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors and elections of directors need not be by written ballot unless otherwise provided in the Bylaws. The number of directors of the Corporation shall be fixed from time to time by the Board of Directors either by a resolution or Bylaw adopted by the affirmative vote of a majority of the entire Board of Directors.

(b) Meetings of the stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the Delaware Statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or by the Bylaws of the Corporation.

ARTICLE 6

(a) Right to Indemnification. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (a "Covered Person") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity (an "Other Entity"), including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Notwithstanding the preceding sentence, except as otherwise provided in Article 6(c), the Corporation shall be required to indemnify a Covered Person in connection with a Proceeding (or part thereof) commenced by such Covered Person only if the commencement of such Proceeding (or part thereof) by the Covered Person was authorized by the Board.

(b) Prepayment of Expenses. The Corporation shall pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any Proceeding in advance of its final disposition, provided, however, that, to the extent required by applicable law, such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Covered Person to repay all amounts advanced if it should be ultimately determined that the Covered Person is not entitled to be indemnified under this Article 6 or otherwise.

(c) Claims. If a claim for indemnification or advancement of expenses under this Article 6 is not paid in full within thirty (30) days after a written claim therefor by the Covered Person has been received by the Corporation, the Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the Corporation shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

(d) Nonexclusivity of Rights. The rights conferred on any Covered Person by this Article 6 shall not be exclusive of any other rights that such Covered Person may have or hereafter acquire under any statute, provision of this Certificate of Incorporation, the By-laws, agreement, vote of stockholders or disinterested directors or otherwise.

(e) Other Sources. The Corporation's obligation, if any, to indemnify or to advance expenses to any Covered Person who was or is serving at its request as a director, officer, employee or agent of an Other Entity shall be reduced by any amount such Covered Person may collect as indemnification or advancement of expenses from such Other Entity.

(f) Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article 6 shall not adversely affect any right or protection hereunder of any Covered Person in respect of any act or omission occurring prior to the time of such repeal or modification.

(g) Other Indemnification and Prepayment of Expenses. This Article 6 shall not limit the right of the Corporation, to the extent and in the manner permitted by applicable law, to indemnify and to advance expenses to persons other than Covered Persons when and as authorized by appropriate corporate action.

(h) A director of this Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that this provision shall not eliminate or limit the liability of a director (i) for any breach of his duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, (iii) under Section 174 of the General Corporation Law of the State of Delaware, or (iv) for any transaction from which the director derives an improper personal benefit. If the General Corporation Law of the State of Delaware is hereafter amended to authorize corporate action further limiting or eliminating the personal liability of directors, then the liability of the directors of the Corporation shall be limited or eliminated to the fullest extent permitted by the General Corporation Law of the State of Delaware, as so amended from time to time. Any repeal or modification of this Article 6 by the stockholders of the Corporation shall be prospective only, and shall not adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such repeal or modification.

ARTICLE 7

The Board of Directors of the Corporation shall have the power to make, alter, amend, change, add to or repeal the Bylaws of the Corporation.

EXHIBIT 3.2

AMENDED & RESTATED BYLAWS

OF

TALON THERAPEUTICS, INC.,

a Delaware corporation

As adopted July 17, 2013

AMENDED & RESTATED BYLAWS

OF

TALON THERAPEUTICS, INC.,

a Delaware corporation

ARTICLE I
OFFICES

Section 1. Registered Office. The registered office of the Corporation in the State of Delaware shall be in the City of Wilmington, County of New Castle.

Section 2. Other Offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

Section 3. Books. The books of the Corporation may be kept within or without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE II
MEETINGS OF STOCKHOLDERS

Section 1. Place of Meetings. All meetings of stockholders for the election of directors shall be held at such place either within or without the State of Delaware as may be fixed from time to time by the Board of Directors, or at such other place either within or without the State of Delaware as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting. Meetings of stockholders for any other purpose may be held at such time and place, within or without the State of Delaware, as shall be stated in the notice of the meeting or in a duly executed waiver of notice thereof.

Section 2. Annual Meetings. Annual meetings of stockholders shall be held at a time and date designated by the Board of Directors for the purpose of electing directors and transacting such other business as may properly be brought before the meeting.

Section 3. Special Meetings. Special meetings of stockholders, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called by the President and shall be called by the President or Secretary at the request in writing of a majority of the Board of Directors, or at the request in writing of a stockholder or stockholders owning stock of the Corporation possessing ten percent (10%) of the voting power possessed by all of the then outstanding capital stock of any class of the Corporation entitled to vote. Such request shall state the purpose or purposes of the proposed meeting.

Section 4. Notification of Business to be Transacted at Meeting. To be properly brought before a meeting, business must be (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (b) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (c) otherwise properly brought before the meeting by a stockholder entitled to vote at the meeting.

Section 5. Notice; Waiver of Notice. Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, date and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise required by law, such notice shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the mail, postage prepaid, directed to the stockholder at his address as it appears on the records of the Corporation. A written waiver of any such notice signed by the person entitled thereto, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

Section 6. Quorum; Adjournment. Except as otherwise required by law, or provided by the Certificate of Incorporation or these Bylaws, the holders of a majority of the capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of enough votes to leave less than a quorum, if any action taken is approved by at least a majority of the required quorum to conduct that meeting. If, however, such quorum shall not be present or represented at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting of the time and place of the adjourned meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder entitled to vote at the meeting.

Section 7. Voting. Except as otherwise required by law, or provided by the Certificate of Incorporation or these Bylaws, any question brought before any meeting of stockholders at which a quorum is present shall be decided by the vote of the holders of a majority of the stock represented and entitled to vote thereat. Unless otherwise provided in the Certificate of Incorporation, each stockholder represented at a meeting of stockholders shall be entitled to cast one vote for each share of the capital stock entitled to vote thereat held by such stockholder. Such votes may be cast in person or by proxy, but no proxy shall be voted on or after three (3) years from its date, unless such proxy provides for a longer period. Elections of directors need not be by ballot unless the Chairman of the meeting so directs or unless a stockholder demands election by ballot at the meeting and before the voting begins.

Section 8. Stockholder Action by Written Consent Without a Meeting. Except as otherwise provided in the Certificate of Incorporation, any action which may be taken at any annual or special meeting of stockholders, may be taken without a meeting and without prior notice, if a consent in writing, setting forth the action so taken, is signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. All such consents shall be filed with the Secretary of the Corporation and shall be maintained in the corporate records. Prompt notice of the taking of corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

Section 9. List of Stockholders Entitled to Vote. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder of the Corporation who is present.

Section 10. Stock Ledger. The stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by Section 9 of this Article II or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders.

Section 11. Inspectors of Election. In advance of any meeting of stockholders, the Board of Directors may appoint one or more persons (who shall not be candidates for office) as inspectors of election to act at the meeting or any adjournment thereof. If an inspector or inspectors are not so appointed, or if an appointed inspector fails to appear or fails or refuses to act at a meeting, the Chairman of any meeting of stockholders may, and on the request of any stockholder or his proxy shall, appoint an inspector or inspectors of election at the meeting. The duties of such inspector(s) shall include: determining the number of shares outstanding and the voting power of each; the shares represented at the meeting; the existence of a quorum; the authenticity, validity and effect of proxies; receiving votes, ballots or consents; hearing and determining all challenges and questions in any way arising in connection with the right to vote; counting and tabulating all votes or consents; determining the result; and such acts as may be proper to conduct the election or vote with fairness to all stockholders. In the event of any dispute between or among the inspectors, the determination of the majority of the inspectors shall be binding.

Section 12. Organization. At each meeting of stockholders the Chairman of the Board of Directors, if one shall have been elected, (or in his absence or if one shall not have been elected, the President) shall act as Chairman of the meeting. The Secretary (or in his absence or inability to act, the person whom the Chairman of the meeting shall appoint secretary of the meeting) shall act as secretary of the meeting and keep the minutes thereof.

Section 13. Order of Business. The order and manner of transacting business at all meetings of stockholders shall be determined by the Chairman of the meeting.

ARTICLE III
DIRECTORS

Section 1. Powers. Except as otherwise required by law or provided by the Certificate of Incorporation, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

Section 2. Number and Election of Directors. Subject to any limitations in the Certificate of Incorporation, the authorized number of directors of the Corporation shall be not less than one (1) nor more than two (2) directors, as determined from time to time by the Board of Directors by adopting a resolution to that effect, with the initial number of authorized directors to be set at one (1), until changed by an amendment to this Bylaw adopted by the affirmative vote of a majority of the entire Board of Directors. Directors shall be elected at each annual meeting of stockholders to replace directors whose terms then expire, and each director elected shall hold office until his successor is duly elected and qualified, or until his earlier death, resignation or removal. Any director may resign at any time effective upon giving written notice to the Board of Directors, unless the notice specifies a later time for such resignation to become effective. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. If the resignation of a director is effective at a future time, the Board of Directors may elect a successor prior to such effective time to take office when such resignation becomes effective. Directors need not be stockholders.

Section 3. Vacancies. Subject to the limitations in the Certificate of Incorporation, vacancies in the Board of Directors resulting from death, resignation, removal or otherwise and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director. Each director so selected shall hold office for the remainder of the full term of office of the former director which such director replaces and until his successor is duly elected and qualified, or until his earlier death, resignation or removal. No decrease in the authorized number of directors constituting the Board of Directors shall shorten the term of any incumbent directors.

Section 4. Time and Place of Meetings. The Board of Director shall hold its meetings at such place, either within or without the State of Delaware, and at such time as may be determined from time to time by the Board of Directors.

Section 5. Annual Meeting. The Board of Directors shall meet for the purpose of organization, the election of officers and the transaction of other business, as soon as practicable after each annual meeting of stockholders, on the same day and at the same place where such annual meeting shall be held. Notice of such meeting need not be given. In the event such annual meeting is not so held, the annual meeting of the Board of Directors may be held at such place, either within or without the State of Delaware, on such date and at such time as shall be specified in a notice thereof given as hereinafter provided in Section 7 of this Article III or in a waiver of notice thereof.

Section 6. Regular Meetings. Regular meetings of the Board of Directors may be held at such places within or without the State of Delaware at such date and time as the Board of Directors may from time to time determine and, if so determined by the Board of Directors, notices thereof need not be given.

Section 7. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board, the President, the Secretary or by any director. Notice of the date, time and place of special meetings shall be delivered personally or by telephone to each director or sent by first-class mail or telegram, charges prepaid, addressed to each director at the director's address as it is shown on the records of the Corporation. In case the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. In case the notice is delivered personally or by telephone or telegram, it shall be delivered personally or by telephone or to the telegraph company at least forty-eight (48) hours before the time of the holding of the meeting. The notice need not specify the purpose of the meeting. A written waiver of any such notice signed by the person entitled thereto, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

Section 8. Quorum; Vote Required for Action; Adjournment. Except as otherwise required by law, or provided in the Certificate of Incorporation or these Bylaws, a majority of the directors shall constitute a quorum for the transaction of business at all meetings of the Board of Directors and the affirmative vote of not less than a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting, from time to time, without notice other than announcement at the meeting, until a quorum shall be present. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum to conduct that meeting. When a meeting is adjourned to another time or place (whether or not a quorum is present), notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Board of Directors may transact any business which might have been transacted at the original meeting.

Section 9. Action by Written Consent. Unless otherwise restricted by the Certificate of Incorporation, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all the members of the Board of Directors or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee.

Section 10. Telephone Meetings. Unless otherwise restricted by the Certificate of Incorporation, members of the Board of Directors of the Corporation, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors or such committee, as the case may be, by conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this Section 10 shall constitute presence in person at such meeting.

Section 11. Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any such committee, who may replace any absent or disqualified member at any meeting of the committee. In the event of absence or disqualification of a member of a committee, and in the absence of a designation by the Board of Directors of an alternate member to replace the absent or disqualified member, the committee member or members present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may appoint another member of the Board of Directors to act at the meeting in the place of the absent or disqualified member. Any committee, to the extent allowed by law and as provided in the resolution establishing such committee, shall have and may exercise all the power and authority of the Board of Directors in the management of the business and affairs of the Corporation, but no such committee shall have the power or authority in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation’s property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, or amending the Bylaws of the Corporation; and, unless the resolution or the Certificate of Incorporation expressly so provides, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock. Each committee shall keep regular minutes of its meetings and report to the Board of Directors when required.

Section 12. Compensation. The directors may be paid such compensation for their services as the Board of Directors shall from time to time determine.

Section 13. Interested Directors. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or the committee thereof which authorizes the contract or transaction, or solely because his of their votes are counted for such purpose if: (i) the material facts as to his or their relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or (ii) the material facts as to his or their relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof, or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

ARTICLE IV
OFFICERS

Section 1. Officers. The officers of the Corporation shall be a President, a Secretary and a Chief Financial Officer. The Corporation may also have, at the discretion of the Board of Directors, a Chairman of the Board, a Vice Chairman of the Board, a Chief Executive Officer, one or more Vice Presidents, one or more Assistant Financial Officers and Treasurers, one or more Assistant Secretaries and such other officers as may be appointed in accordance with the provisions of Section 3 of this Article IV.

Section 2. Appointment of Officers. The officers of the Corporation, except such officers as may be appointed in accordance with the provisions of Section 3 or Section 5 of this Article IV, shall be appointed by the Board of Directors, and each shall serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

Section 3. Subordinate Officers. The Board of Directors may appoint, and may empower the Chief Executive Officer or President to appoint, such other officers as the business of the Corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in the Bylaws or as the Board of Directors may from time to time determine.

Section 4. Removal and Resignation of Officers. Subject to the rights of an officer under any contract, any officer may be removed at any time, with or without cause, by the Board of Directors or, except in case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights of the Corporation under any contract to which the officer is a party.

Section 5. Vacancies in Offices. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office.

Section 6. Chairman of the Board. The Chairman of the Board, if such an officer is elected, shall, if present, preside at meetings of the stockholders and of the Board of Directors. He shall, in addition, perform such other functions (if any) as may be prescribed by the Bylaws or the Board of Directors.

Section 7. Vice Chairman of the Board. The Vice Chairman of the Board, if such an officer is elected, shall, in the absence or disability of the Chairman of the Board, perform all duties of the Chairman of the Board and when so acting shall have all the powers of and be subject to all of the restrictions upon the Chairman of the Board. The Vice Chairman of the Board shall have such other powers and duties as may be prescribed by the Board of Directors or the Bylaws.

Section 8. Chief Executive Officer. The Chief Executive Officer of the Corporation shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and the officers of the Corporation. He shall exercise the duties usually vested in the chief executive officer of a corporation and perform such other powers and duties as may be assigned to him from time to time by the Board of Directors or prescribed by the Bylaws. In the absence of the Chairman of the Board and any Vice Chairman of the Board, the Chief Executive Officer shall preside at all meetings of the stockholders and of the Board of Directors.

Section 9. President. The President of the Corporation shall, subject to the control of the Board of Directors and the Chief Executive Officer of the Corporation, if there be such an officer, have general powers and duties of management usually vested in the office of president of a corporation and shall have such other powers and duties as may be prescribed by the Board of Directors or the Bylaws or the Chief Executive Officer of the Corporation. In the absence of the Chairman of the Board, Vice Chairman of the Board and Chief Executive Officer, the President shall preside at all meetings of the Board of Directors and stockholders.

Section 10. Vice President. In the absence or disability of the President, the Vice Presidents, if any, in order of their rank as fixed by the Board of Directors or, if not ranked, a Vice President designated by the Board of Directors, shall perform all the duties of the President, and when so acting shall have all the powers of, and subject to all the restrictions upon, the President. The Vice Presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors or the Bylaws, and the President, or the Chairman of the Board.

Section 11. Secretary. The Secretary shall keep or cause to be kept, at the principal executive office or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of Directors, committees of Directors, and stockholders, with the time and place of holding, whether regular or special, and, if special, how authorized, the notice given, the names of those present at Directors' meetings or committee meetings, the number of shares present or represented at stockholders' meetings, and a summary of the proceedings.

The Secretary shall keep, or cause to be kept, at the principal executive office or at the office of the Corporation's transfer agent or registrar, as determined by resolution of the Board of Directors, a share register, or a duplicate share register, showing the names of all stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates issued for the same, and the number and date of cancellation of every certificate surrendered for cancellation.

The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and of the Board of Directors required by the Bylaws or by law to be given, and he shall keep or cause to be kept the seal of the Corporation if one be adopted, in safe custody, and shall have such powers and perform such other duties as may be prescribed by the Board of Directors or by the Bylaws.

Section 12. Chief Financial Officer. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the Corporation. The Chief Financial Officer shall deposit all moneys and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board of Directors. He shall make such disbursements of the funds of the Corporation as are authorized and shall render from time to time an account of all of his transactions as Chief Financial Officer and of the financial condition of the Corporation. The Chief Financial Officer shall also have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

ARTICLE V
STOCK

Section 1. Form of Certificates. Every holder of stock in the Corporation shall be entitled to have a certificate signed by, or in the name of the Corporation (i) by the Chairman or Vice Chairman of the Board of Directors, or the President or a Vice President and (ii) by the Chief Financial Officer or the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares owned by such stockholder in the Corporation.

Section 2. Signatures. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

Section 3. Lost Certificates. The Corporation may issue a new certificate to be issued in place of any certificate theretofore issued by the Corporation, alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate to be lost, stolen or destroyed. The Corporation may, in the discretion of the Board of Directors and as a condition precedent to the issuance of such new certificate, require the owner of such lost, stolen, or destroyed certificate, or his legal representative, to give the Corporation a bond (or other security) sufficient to indemnify it against any claim that may be made against the Corporation (including any expense or liability) on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 4. Transfers. Stock of the Corporation shall be transferable in the manner prescribed by law and in these Bylaws or in any agreement with the stockholder making the transfer. Transfers of stock shall be made on the books of the Corporation only by the person named in the certificate or by his attorney lawfully constituted in writing and upon the surrender of the certificate therefor, which shall be canceled before a new certificate shall be issued.

Section 5. Record Holders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the record holder of shares to receive dividends, and to vote as such record holder, and to hold liable for calls and assessments a person registered on its books as the record holder of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise required by law.

ARTICLE VI
INDEMNIFICATION

Section 1. Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director or officer of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans (hereinafter an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director or officer or in any other capacity while serving as a director or officer, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a director or officer and shall inure to the benefit of the indemnitee's heirs, executors and administrators; provided, however, that, except as provided in Section 2 of this Article VI with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. The right to indemnification conferred in this Section shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that, if the Delaware General Corporation Law requires, an advancement of expenses incurred by an indemnitee in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this Article VI or otherwise (hereinafter an "undertaking").

Section 2. Right of Indemnitee to Bring Suit. If a claim under Section 1 of this Article VI is not paid in full by the Corporation within forty-five (45) days after a written claim has been received by the Corporation, the indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or part in any such suit or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (ii) any suit by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking the Corporation shall be entitled to recover such expenses upon a final adjudication that, the indemnitee has not met the applicable standard of conduct set forth in the Delaware General Corporation Law. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right hereunder, or by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified or to such advancement of expenses under this Article VI or otherwise shall be on the Corporation.

Section 3. Non-Exclusivity of Rights. The rights of indemnification and to the advancement of expenses conferred in this Article VI shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

Section 4. Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

Section 5. Indemnification of Employees or Agents of the Corporation. The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the advancement of expenses, to any employee or agent of the Corporation to the fullest extent of the provisions of this Article VI with respect to the indemnification and advancement of expenses of directors or officers of the Corporation.

Section 6. I**ndemnification Contracts**. The Board of Directors is authorized to enter into a contract with any director, officer, employee or agent of the Corporation, or any person serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, providing for indemnification rights equivalent to or, if the Board of Directors so determines, greater than, those provided for in this Article VI.

Section 7. Effect of Amendment. Any amendment, repeal or modification of any provision of this Article VI by the stockholders or the directors of the Corporation shall not adversely affect any right or protection of a director or officer of the Corporation existing at the time of such amendment, repeal or modification.

ARTICLE VII
GENERAL PROVISIONS

Section 1. Dividends. Subject to limitations contained in the General Corporation Law of the State of Delaware and the Certificate of Incorporation, the Board of Directors may declare and pay dividends upon the shares of capital stock of the Corporation, which dividends may be paid either in cash, securities of the Corporation or other property.

Section 2. Disbursements. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 3. Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

Section 4. Corporate Seal. The Corporation shall have a corporate seal in such form as shall be prescribed by the Board of Directors.

Section 5. Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting. Stockholders on the record date are entitled to notice and to vote or to receive the dividend, distribution or allotment of rights or to exercise the rights, as the case may be, notwithstanding any transfer of any shares on the books of the Corporation after the record date, except as otherwise provided by agreement or by applicable law.

Section 6. Voting of Stock Owned by the Corporation. The Chairman of the Board, the Chief Executive Officer, the President and any other officer of the Corporation authorized by the Board of Directors shall have power, on behalf of the Corporation, to attend, vote and grant proxies to be used at any meeting of stockholders of any corporation (except this Corporation) in which the Corporation may hold stock.

Section 7. Construction and Definitions. Unless the context requires otherwise, the general provisions, rules of construction and definitions in the General Corporation Law of the State of Delaware shall govern the construction of these Bylaws.

Section 8. Amendments. Subject to the General Corporation Law of the State of Delaware, the Certificate of Incorporation and these Bylaws, the Board of Directors may by the affirmative vote of a majority of the entire Board of Directors amend or repeal these Bylaws, or adopt other Bylaws as in their judgment may be advisable for the regulation of the conduct of the affairs of the Corporation. Unless otherwise restricted by the Certificate of Incorporation, these Bylaws may be altered, amended or repealed, and new Bylaws may be adopted, at any annual meeting of the stockholders (or at any special meeting thereof duly called for that purpose) by a majority of the combined voting power of the then outstanding shares of capital stock of all classes and series of the Corporation entitled to vote generally in the election of directors, voting as a single class, provided that, in the notice of any such special meeting, notice of such purpose shall be given.

Exhibit 4.1

WAIVER AGREEMENT

THIS WAIVER AGREEMENT (this "**Agreement**") is entered into as of July 16, 2013 by and among Talon Therapeutics, Inc., a Delaware corporation (the "**Company**"), and the undersigned stockholders of the Company (the "**Stockholders**" and together with the Company, the "**Parties**").

RECITALS

WHEREAS, the Company has outstanding 412,562 shares of Series A-1 Convertible Preferred Stock, par value $0.001 per share ("**Series A-1 Preferred**"), the designations, preferences, limitations and relative rights of which are set forth in that certain Certificate of Designation of Series A-1 Convertible Preferred Stock dated as of June 7, 2010, as amended by that certain Certificate of Amendment of Corrected Certificate of Designation of Series A-1 Convertible Preferred Stock dated as of January 9, 2012 (the "**Series A-1 Certificate of Designation**").

WHEREAS, the Company has outstanding 137,156 shares of Series A-2 Convertible Preferred Stock, par value $0.001 per share ("**Series A-2 Preferred**"), the designations, preferences, limitations and relative rights of which are set forth in that certain Certificate of Amendment of Corrected Certificate of Designation of Series A-2 Convertible Preferred Stock dated as of January 9, 2012 (the "**Series A-2 Certificate of Designation**").

WHEREAS, the Company has outstanding 180,000 shares of Series A-3 Convertible Preferred Stock, par value $0.001 per share ("**Series A-3 Preferred**" and, together with the Series A-1 Preferred and the Series A-2 Preferred, the "**Preferred Stock**"), the designations, preferences, limitations and relative rights of which are set forth in that certain Certificate of Designation of Series A-3 Convertible Preferred Stock dated as of January 9, 2012 (the "**Series A-3 Certificate of Designation**" and, together with the Series A-1 Certificate of Designation and the Series A-2 Certificate of Designation, the "**Series A Certificates of Designation**").

WHEREAS, in the event of a Change of Control (as defined in the Series A-1 Certificate of Designation), the Holders (as defined in the Series A-1 Certificate of Designation) of the Series A-1 Preferred shall have the right to convert each share of Series A-1 Preferred into shares of Common Stock, par value $0.001 per share ("**Common Stock**"), of the Company or within sixty (60) days of such Change of Control, or later if the Holders did not receive notice of such Change of Control, require the Company to redeem (subject to the availability of lawful funds), in whole or in part, each share of Series A-1 Preferred Stock held by such Holder for an amount in cash equal to the Liquidation Preference (as defined in the Series A-1 Certificate of Designation) and, unless waived in writing by the Required Holders (as defined in the Series A-1 Certificate of Designation), (i) in the event of a Change of Control that occurs prior to the fifth anniversary of the Applicable Issuance Date (as defined in the Series A-1 Certificate of Designation), for purposes of determining the amount to which the Holders are entitled to receive upon conversion of the Series A-1 Preferred into Common Stock or the Liquidation Preference, the Accreted Value (as defined in the Series A-1 Certificate of Designation) (including for purposes of Section 7(a)(i) of the Series A-1 Certificate of Designation) upon such Change of Control shall be deemed to be increased to the Accreted Value that would be in effect if the Change of Control had occurred on the fifth anniversary of the Applicable Issuance Date (the "**Series A-1 Five-Year Accretion Rights**") and (ii) the Company shall not have the power to effect a Change of Control unless the agreement for such transaction provides that the consideration payable to the stockholders of the Company in such transaction shall be allocated among the holders of capital stock of the Company in accordance with Section 4(b) of the Series A-1 Certificate of Designation (the "**Series A-1 Allocation Rights**").

WHEREAS, in the event of a Change of Control (as defined in the Series A-2 Certificate of Designation), the Holders (as defined in the Series A-2 Certificate of Designation) of the Series A-2 Preferred shall have the right to convert each share of Series A-2 Preferred into shares of Common Stock, or within sixty (60) days of such Change of Control, or later if the Holders did not receive notice of such Change of Control, require the Company to redeem (subject to the availability of lawful funds), in whole or in part, each share of Series A-2 Preferred Stock held by such Holder for an amount in cash equal to the Liquidation Preference (as defined in the Series A-2 Certificate of Designation) and, unless waived in writing by the Required Holders (as defined in the Series A-2 Certificate of Designation), (i) in the event of a Change of Control that occurs prior to the fifth anniversary of the Applicable Issuance Date (as defined in the Series A-2 Certificate of Designation), for purposes of determining the amount to which the Holders are entitled to receive upon conversion of the Series A-2 Preferred into Common Stock or the Liquidation Preference, the Accreted Value (as defined in the Series A-2 Certificate of Designation) (including for purposes of Section 7(a)(i) of the Series A-2 Certificate of Designation) upon such Change of Control shall be deemed to be increased to the Accreted Value that would be in effect if the Change of Control had occurred on the fifth anniversary of the Applicable Issuance Date (the "**Series A-2 Five-Year Accretion Rights**") and (ii) the Company shall not have the power to effect a Change of Control unless the agreement for such transaction provides that the consideration payable to the stockholders of the Company in such transaction shall be allocated among the holders of capital stock of the Company in accordance with Section 4(b) of the Series A-2 Certificate of Designation (the "**Series A-2 Allocation Rights**").

WHEREAS, in the event of a Change of Control (as defined in the Series A-3 Certificate of Designation), the Holders (as defined in the Series A-3 Certificate of Designation) of the Series A-3 Preferred shall have the right to convert each share of Series A-3 Preferred into shares of Common Stock or within sixty (60) days of such Change of Control, or later if the Holders did not receive notice of such Change of Control, require the Company to redeem (subject to the availability of lawful funds), in whole or in part, each share of Series A-3 Preferred Stock held by such Holder for an amount in cash equal to the Liquidation Preference (as defined in the Series A-3 Certificate of Designation) and, unless waived in writing by the Required Holders (as defined in the Series A-3 Certificate of Designation), (i) in the event of a Change of Control that occurs prior to the fifth anniversary of the Applicable Issuance Date (as defined in the Series A-3 Certificate of Designation), for purposes of determining the amount to which the Holders are entitled to receive upon conversion of the Series A-3 Preferred into Common Stock or the Liquidation Preference, the Accreted Value (as defined in the Series A-3 Certificate of Designation) (including for purposes of Section 7(a)(i) of the Series A-3 Certificate of Designation) upon such Change of Control shall be deemed to be increased to the Accreted Value that would be in effect if the Change of Control had occurred on the fifth anniversary of the Applicable Issuance Date (the "**Series A-3 Five-Year Accretion Rights**") and (ii) the Company shall not have the power to effect a Change of Control unless the agreement for such transaction provides that the consideration payable to the stockholders of the Company in such transaction shall be allocated among the holders of capital stock of the Company in accordance with Section 4(b) of the Series A-3 Certificate of Designation (the "**Series A-3 Allocation Rights**").

WHEREAS, the Series A-1 Five-Year Accretion Rights, the Series A-2 Five-Year Accretion Rights, the Series A-3 Five-Year Accretion Rights, the Series A-1 Allocation Rights, the Series A-2 Allocation Rights and the Series A-3 Allocation Rights are collectively referred to as the "**Accretion and Allocation Rights**."

WHEREAS, the Parties are party to that certain Investment Agreement dated as of January 9, 2012 (the "**Investment Agreement**"), Section 2.4(c) of which provides, among other things, that in the event that a Change of Control (as defined in the Investment Agreement) (other than an Exempt Change of Control (as defined in the Investment Agreement)) occurs after the date thereof and prior to issuance of the maximum numbers of shares of Series A-3 Preferred issuable pursuant to the Investment Agreement, the WP Purchasers (as defined in the Investment Agreement) shall have the right to elect to receive upon such Change of Control, which right shall be exercisable by the WP Purchasers in their sole discretion, the fair market value of up to the Maximum Series A-3 Additional Investment Shares (as defined in the Investment Agreement) less any shares of Series A-3 Preferred that have already been purchased in any Series A-3 Additional Investment Tranche (or such shares of stock or other securities or property (including cash) into which such Series A-3 Additional Investment Shares may have become exchangeable as a result of such Change of Control), as if the WP Purchasers had purchased such Series A-3 Additional Investment Shares immediately prior to such Change of Control (which shall include for clarity acceleration of the full five (5) years of accretion on such Series A-3 Preferred as contemplated pursuant to the terms therein)) (the "**Investment Agreement Rights**").

WHEREAS, as of the date hereof, the Maximum Series A-3 Additional Investment Shares (as defined in the Investment Agreement) less any shares of Series A-3 Preferred that have already been purchased in any Series A-3 Additional Investment Tranche (as defined in the Investment Agreement) is 420,000 shares of Series A-3 Preferred (the "**Unexercised Series A-3 Preferred**").

WHEREAS, the Parties are party to that certain Investment Agreement dated as of June 7, 2010, as amended by Amendment No. 1 to Investment Agreement dated as of January 9, 2012 (together with the Investment Agreement, the "**Investment Agreements**") and that certain Registration Rights Agreement dated as of June 7, 2010, as amended by Amendment No. 1 to Registration Rights Agreement dated as of January 9, 2012 (the "**Registration Rights Agreement**").

WHEREAS, pursuant to that certain Securities Purchase Agreement by and among Spectrum Pharmaceuticals, Inc. ("**Parent**"), Eagle Acquisition Merger Sub, Inc. ("**Purchaser**") dated as of the date hereof and the Sellers (as defined therein) (the "**Selling Stockholder Purchase Agreement**"), (i) the Sellers (as defined therein) shall convert all shares of Preferred Stock owned by Sellers into an aggregate of a specified number of shares of Common Stock (the "**Shares**") and (ii) the Purchaser shall purchase and the Sellers shall sell such Shares and certain warrants, all on the terms and subject to the conditions set forth therein.

WHEREAS, pursuant to that certain Stock Purchase Agreement by and between Parent, Purchaser and the Company (the "**Company Purchase Agreement**") dated as of the date hereof, the Company has agreed to issue and sell to Purchaser a certain number of shares of Common Stock to enable, within one business day following the closing of such issuance and sale, Purchaser to consummate a merger of itself with and into the Company in accordance with Section 253 of the Delaware General Corporation Law, all of the terms and subject to the conditions set forth therein.

WHEREAS, the transactions contemplated by the Selling Stockholder Purchase Agreement and the Company Purchase Agreement and any related transactions, including, without limitation, the transactions contemplated by that certain Exchange Agreement by and among Parent, the Company, Deerfield Private Design Fund, L.P., Deerfield Special Situations Fund, L.P., Deerfield Special Situations Fund International Limited and Deerfield Private Design International, L.P. (the "**Exchange Agreement**") are collectively referred to as the "**Proposed Transactions**."

WHEREAS, the Proposed Transactions constitute a "**Change of Control**" (as defined in each of the Series A-1 Certificate of Designation, the Series A-2 Certificate of Designation, the Series A-3 Certificate of Designation and the Investment Agreement) and not an "**Exempt Change of Control**" (as defined in the Investment Agreement) of the Company.

WHEREAS, pursuant to Section 5.6 of the Selling Stockholder Purchase Agreement, each Stockholder agrees to terminate and to take all actions to cause the Investment Agreements and the Registration Rights Agreement to terminate as of the Closing Date (as defined in the Selling Stockholder Purchase Agreement) and provide evidence thereof.

WHEREAS, the Stockholders, constituting the Required Holders (as defined in each of the Series A-1 Certificate of Designation, the Series A-2 Certificate of Designation and the Series A-3 Certificate of Designation) and the holders of a majority in number of outstanding Registrable Shares (as defined in the Registration Rights Agreement), the WP Purchasers and the Deerfield Purchasers (as defined in the Investment Agreements), desire to take each of the following actions: (i) to irrevocably waive the Accretion and Allocation Rights and the Investment Agreement Rights as they may apply to the Proposed Transactions; (ii) to irrevocably waive, except with respect to the right of the Stockholders to receive the Shares upon conversion of the outstanding shares of Preferred Stock, any interest and any and all other rights the Stockholders may have or which may accrue to the Stockholders pursuant to the Series A Certificates of Designation, the Investment Agreements and the Registration Rights Agreement by reason of the Company's entry into and the consummation of the Proposed Transactions, including, without limitation, any rights to notice, rights to written assurances, redemption rights arising out of a Change of Control, consent rights, anti-dilution rights, preemptive rights, rights of first offer, voting rights, dividend rights and rights to any other payments, securities, property or consideration of whatever kind or nature; and (iii) to terminate in all respects the Investment Agreements and the Registration Rights Agreements effective and conditioned upon the Closing (as defined in the Selling Stockholder Purchase Agreement), all as set forth below.

WHEREAS, the Special Committee of the Board of Directors of the Company instituted in connection with the Proposed Transactions (the "**Special Committee**"), consisting solely of Independent Directors (as defined in the Investment Agreements) and by a vote equal to or greater than the majority of all Independent Directors serving on the Board of Directors, has approved and recommended this Agreement to the Company's Board of Directors for approval.

NOW, THEREFORE, in consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto covenant and agree as follows:

AGREEMENT

1. Definitions. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Company Purchase Agreement.

2. Waiver and Consent. Each of the Stockholders, with respect to itself and all other holders of Preferred Stock and with respect to all outstanding shares of Preferred Stock, including all shares of Preferred Stock beneficially owned by it, effective and conditioned upon the Closing (as defined in the Selling Stockholder Purchase Agreement), hereby (i) irrevocably waives all Accretion and Allocation Rights with respect to the Proposed Transactions, (ii) irrevocably waives, and elects not to receive any payments that might otherwise be payable upon exercise of, the Investment Agreement Rights with respect to the Unexercised Series A-3 Preferred in connection with the Proposed Transactions, (iii) irrevocably consents to for all purposes under the Series A-1 Certificate of Designation, the Series A-2 Certificate of Designation, the Series A-3 Certificate of Designation and the Investment Agreements, and irrevocably authorizes and empowers the Company to proceed with, the Proposed Transactions upon the terms set forth in the Selling Stockholder Purchase Agreement, the Company Purchase Agreement and the Exchange Agreement; and (iv) irrevocably waives, except with respect to the right of the Stockholders to receive the Shares upon conversion of the outstanding shares of Preferred Stock, any interest and any and all other rights the Stockholders may have or which may accrue to the Stockholders pursuant to the Series A Certificates of Designation, the Investment Agreements and the Registration Rights Agreement by reason of the Company's entry into and the consummation of the Proposed Transactions, including, without limitation, any rights to notice, rights to written assurances, redemption rights arising out of a Change of Control, consent rights, anti-dilution rights, participation rights, preemptive rights, rights of first offer, voting rights, dividend rights and rights to any other payments, securities, property or consideration of whatever kind or nature.

3. Termination of the Agreements. The Parties hereby agree that, effective and conditioned upon the Closing (as defined in the Selling Stockholder Purchase Agreement), each of the Investment Agreements and the Registration Rights Agreement shall be terminated in their entirety and shall be of no further force or effect, with no further action required by any party thereunder and the Parties will have no further rights, interests or obligations under any of the Investment Agreements or the Registration Rights Agreement. For the avoidance of doubt, notwithstanding any provision to the contrary set forth in the Investment Agreements or the Registration Rights Agreement, all (i) representations made by the Company in such agreements; (ii) all obligations of the Company to indemnify any Person pursuant to any such agreements; and (iii) any other obligations of the Company pursuant to any of the Investment Agreements or the Registration Rights Agreement shall be terminated and of no further effect upon the Closing (as defined in the Selling Stockholder Purchase Agreement).

4. Stock Ownership. Each Stockholder, severally and not jointly and as to itself only and not as to any other Party, represents and warrants to the other Parties, that such Stockholder owns, beneficially and/or of record, the number of shares of Preferred Stock set forth opposite such Party's name on Schedule A, and has good and marketable title to such shares of Preferred Stock, free and clear of any and all liabilities, liens, claims, security interests, proxies, voting trusts or agreements, options, rights, understandings or arrangements or any other encumbrances whatsoever on title, transfer, or exercise of any rights of a stockholder in respect of such shares of Preferred Stock (collectively, "Encumbrances") except for restrictions on transfer under the Securities Act or the Investment Agreements; (ii) does not own, of record or beneficially, any shares of capital stock of the Company (or rights to acquire any such shares) other than the shares of Preferred Stock and warrants set forth on Schedule A hereto except as otherwise expressly noted on Schedule A; and (iii) has the sole right to vote and dispose of and agree to all of the matters set forth in this Agreement with respect to all of such Party's shares of Preferred Stock, with no limitations, qualifications or restrictions on such rights.

5. Authorization. Each Party, severally and not jointly and as to itself only and not as to any other Party, represents and warrants to the other Parties, as follows:

a. In the case of any Party that is a corporation, limited partnership or limited liability company, such Party is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated or constituted.

b. The Party has all requisite power and authority to execute and deliver this Agreement and to carry out and perform its obligations under the terms of this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by such Party, and the performance of its obligations under the terms of this Agreement and the consummation of the transactions contemplated hereby, have been duly and validly authorized by all necessary corporate, limited liability company, partnership or analogous action, and no other action or proceeding on the part of such Party is necessary to authorize the execution and delivery of this Agreement or to perform its obligations under this Agreement or to consummate the transactions contemplated hereby.

c. This Agreement, has been duly and validly executed and delivered by such Party and, assuming the due authorization, execution and delivery of this Agreement by the other Parties hereto, constitutes a legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms except: (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, and (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies or by general principles of equity.

d. Neither the execution and delivery of this Agreement by such Party nor the performance by such Party of such Party's obligations hereunder nor the consummation by such Party of the transactions contemplated hereby will (i) result in a violation or breach of, or constitute (with or without notice or lapse of time or both) a default under, or conflict with to the extent applicable, any provisions of the organizational documents of such Party, (ii) result in a violation or breach of, or constitute (with or without notice or lapse of time or both) a default under, or conflict with any note, bond, mortgage, indenture, contract, agreement, lease, license, permit or other instrument or obligation of any kind to which such Party is a party or by which such Party's Shares are bound, or (iii) violate, or require any consent, approval, or notice under, any provision of any judgment, order or decree or any federal, state, local or foreign statute, law, ordinance, rule, regulation, order, judgment, decree or legal requirement applicable to such Party or any of such Party's Shares (other than filings required pursuant to the Exchange Act); except in the cases of clauses (ii) and (iii), for such matters as would not materially adversely impact the ability of such Party to perform its obligations under this Agreement or to consummate the Proposed Transactions.

6. Requisite Signatories. The Stockholders represent and warrant and acknowledge that, as of the date hereof, the Stockholders collectively hold One Hundred Percent (100%) of the outstanding shares of each of the Series A-1 Preferred Stock, the Series A-2 Preferred Stock and the Series A-3 Preferred Stock.

7. Amendment and Waiver. Neither this Agreement nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument referencing this Agreement and signed by each of the Parties; provided that any amendment, waiver, discharge or termination of this Agreement by the Company shall be effective only if approved in writing by the Special Committee as composed as of the date hereof, and any amendment, waiver, discharge or termination of this Agreement by the Company not approved in writing by the Special Committee shall be null and void.

8. Counterparts. This Agreement may be executed and delivered by facsimile signature or by .PDF in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of Delaware, without giving effect to the conflict of law principles thereof.

10. Jurisdiction; Venue. With respect to any disputes arising out of or related to this Agreement, the Parties consent to the exclusive jurisdiction of, and venue in, the Court of Chancery of the State of Delaware, or if such court lacks subject matter jurisdiction over the action or proceeding, the Superior Court of the State of Delaware, or if jurisdiction is vested exclusively in the federal courts, the United States District Court for the District of Delaware.

11. Further Assurances. Each Party agrees to execute and deliver, by the proper exercise of its corporate, limited liability company, partnership or other powers, all such other and additional instruments and documents and do all such other acts and things as may be necessary to more fully effectuate this Agreement.

12. Specific Performance. The Parties hereto agree that irreparable damage could occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that, without limiting any other rights or remedies available at law or equity, and notwithstanding any other provision of this Agreement to the contrary, each Party hereto shall be entitled to seek, in any court of competent jurisdiction, temporary, preliminary and permanent injunctive relief to obtain a halt to any actual or imminent breach of this Agreement by, and an order of specific performance of any of the obligation of, any other Party hereto without any requirement to post a bond or other security as a condition to the granting or continued effectiveness of such equitable relief or remedies.

13. Inurement. This Agreement shall inure to the benefit of each of the Parties hereto and shall be binding on and shall inure to the benefit of any successors or permitted assigns of any of the Parties.

14. Third Party Beneficiaries. The Parties acknowledge and agree that Parent and Purchaser, who are relying upon the execution of this Agreement in connection with the Proposed Transactions, are intended third party beneficiaries of the rights and benefits accorded them under this Agreement.

15. Counsel. Prior to executing this Agreement, each of the Parties hereto has had the benefit of the advice and counsel of their own independent attorneys in understanding and negotiating the terms of this Agreement.

16. Severability. If any provision of this Agreement is declared by a court of competent jurisdiction to be void or unenforceable, such provision shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

(*Signature page follows*)

This WAIVER AGREEMENT is executed by the undersigned as of the date first written above.

COMPANY:

Talon Therapeutics, Inc.

By: /s/ Steven R. Deitcher, M.D.
Name: Steven R. Deitcher, M.D.
Title: Chief Executive Officer

(*Signature Page to Waiver Agreement*)

This WAIVER AGREEMENT is executed by the undersigned as of the date first written above.

STOCKHOLDERS:

Warburg Pincus Private Equity X, L.P.

By: Warburg Pincus X L.P., its General Partner
By: Warburg Pincus X LLC, its General Partner
By: Warburg Pincus Partners LLC, its Sole Member
By: Warburg Pincus & Co., its Managing Member

By: /s/ Elizabeth H. Weatherman
Name: Elizabeth H. Weatherman
Title: Partner

Warburg Pincus X Partners, L.P.

By: Warburg Pincus X L.P., its General Partner
By: Warburg Pincus X LLC, its General Partner
By: Warburg Pincus Partners LLC, its Sole Member
By: Warburg Pincus & Co., its Managing Member

By: /s/ Elizabeth H. Weatherman
Name: Elizabeth H. Weatherman
Title: Partner

(*Signature Page to Waiver Agreement*)

This WAIVER AGREEMENT is executed by the undersigned as of the date first written above.

STOCKHOLDERS:

DEERFIELD PRIVATE DESIGN FUND, L.P.

By: Deerfield Mgmt, L.P., its General Partner
By: J.E. Flynn Capital, LLC, its General Partner

By: /s/ James E. Flynn
Name: James E. Flynn
Title: President

DEERFIELD SPECIAL SITUATIONS FUND, L.P.

By: Deerfield Mgmt, L.P., its General Partner
By: J.E. Flynn Capital, LLC, its General Partner

By: /s/ James E. Flynn
Name: James E. Flynn
Title: President

DEERFIELD SPECIAL SITUATIONS FUND INTERNATIONAL LIMITED

By: /s/ James E. Flynn
Name: James E. Flynn
Title: Director

DEERFIELD PRIVATE DESIGN INTERNATIONAL, L.P.

By: Deerfield Mgmt, L.P., its General Partner
By: J.E. Flynn Capital, LLC, its General Partner

By: /s/ James E. Flynn
Name: James E. Flynn
Title: President

(*Signature Page to Waiver Agreement*)

SCHEDULE A

TALON THERAPEUTICS, INC. SHARE OWNERSHIP

SHAREHOLDER	SERIES A-1 PREFERRED STOCK	SERIES A-2 PREFERRED STOCK	SERIES A-3 PREFERRED STOCK	COMMON STOCK
Warburg Pincus Private Equity X, L.P.	359,797	95,931	156,978	0
Warburg Pincus X Partners, L.P.	11,510	3,069	5,022	0
Deerfield Private Design Fund, L.P.	13,168	12,179	5,748	84,934
Deerfield Special Situation Fund, L.P.	2,426	2,243	1,056	34,252
Deerfield Special Situations Fund International Limited	4,448	4,114	1,938	67,524
Deerfield Private Design International, L.P.	21,213	19,620	9,258	136,849
TOTAL	412,562	137,156	180,000	323,559

WARRANT OWNERSHIP

WARRANTHOLDER	SHARES(#)
Deerfield Private Design Fund, L.P.	116,172
Deerfield Special Situations Fund, L.P.	21,414
Deerfield Special Situations Fund International Limited	39,249
Deerfield Private Design International, L.P.	187,149
TOTAL	**363,984**

Exhibit 10.1

TALON THERAPEUTICS, INC.
400 Oyster Point Boulevard, Suite 200
South San Francisco, CA 94080

July 16, 2013

Hand Delivered

Personal and Confidential

Craig W. Carlson
44 20th Avenue
San Francisco, CA 94121

Re: Separation Agreement and Release

Dear Craig:

As we have discussed with you, your employment with Talon Therapeutics, Inc. (the "Company") will end effective upon the closing of the transactions contemplated by the Stock Purchase Agreement dated July 16, 2013 (the "Purchase Agreement"), among the Company, Spectrum Pharmaceuticals, Inc. and Eagle Acquisition Merger Sub, Inc.

The purpose of this Separation Agreement and Release letter ("Agreement") is to set forth the severance pay and benefits to which you are entitled under your Employment Agreement with the Company dated February 5, 2010, as amended from time to time (your "Employment Agreement"), in exchange for your agreement to the terms and conditions of this Agreement as required by your Employment Agreement.

By your signature below, you agree to the following terms and conditions:

1. End of Employment. Your employment with the Company will end effective at the close of business on July 17, 2013. Upon your receipt of your final paycheck, which includes payment for services through July 17, 2013, you will have received all wages and compensation owed to you by virtue of your employment with the Company or termination thereof. Upon your receipt of payment from the Company for your ending balance of accrued but unused PTO (219.74 hours) at your regular rate, you will have received all benefits owed to you by virtue of your employment with the Company or termination thereof. If applicable, information regarding your right to elect COBRA coverage will be sent to you via separate letter.

You are not eligible for any other payments or benefits by virtue of your employment with the Company or termination thereof except for those expressly described in this Agreement. You will not receive the severance pay and benefits described in Section 2 of this Agreement if you (i) do not sign this Agreement and return it to the Company by the stated due date, (ii) rescind this Agreement after signing it, or (iii) violate any of the terms and conditions set forth in this Agreement.

2. Severance Pay and Benefits. Specifically in consideration of your signing this Agreement and subject to the limitations, obligations, and other provisions contained in this Agreement, in accordance with your Employment Agreement, the Company agrees as follows:

a. To pay you severance pay in the gross amount of Three Hundred Forty-Six Thousand Nine Hundred Eight and 12/100 Dollars ($346,908.12), less applicable deductions and withholding, representing twelve (12) months of your ending annualized base salary, to be paid in accordance with the Company's regular payroll practices beginning with the first regularly scheduled payday immediately following the 60th day after your termination date, with the first payment to equal the aggregate amount of payments that the Company would have paid through such date had such payments commenced on the date of your termination of employment, with the balance of the payments paid thereafter on the monthly installment scheduled described above;

b. To provide you with health insurance (on the identical terms provided to all other employees of the Company at the time of your termination) for twelve (12) months immediately following your last day of employment with the Company, which shall include reimbursements for 12 months of COBRA (as defined below) payments; and

c. To pay you the gross amount of Six Thousand Five Hundred Fifty Dollars ($6,550.00), less applicable withholding, to be used for you to contribute to your health savings account, with such payment being made to you in a lump sum on the 60th day following your termination date.

Upon receipt of the pay and benefits described in this Section 2, you acknowledge and agree that you will have received all severance pay and benefits owing to you under your Employment Agreement, as amended.

3. Release of Claims. Specifically in consideration of the severance pay and benefits described in Section 2, to which you would not otherwise be entitled, by signing this Agreement you, for yourself and anyone who has or obtains legal rights or claims through you, agree to the following:

a. Notwithstanding the provisions of Section 1542 of the Civil Code of the State of California (see Section 3.f. below), you hereby do release and forever discharge the "Released Parties" (as defined in Section 3.e. below) of and from any and all manner of claims, demands, actions, causes of action, administrative claims, liability, damages, claims for punitive or liquidated damages, claims for attorney's fees, costs and disbursements, individual or class action claims, or demands of any kind whatsoever, you have or might have against them or any of them, whether known or unknown, in law or equity, contract or tort, arising out of or in connection with your employment with the Company, or the termination of that employment, or otherwise, and however originating or existing, from the beginning of time through the date of your signing this Agreement.

b. This release includes, without limiting the generality of the foregoing, any claims you may have for wages, bonuses, commissions, penalties, compensation, deferred compensation, vacation pay, equity rights (including all rights to stock options granted to you under the Company's 2010 Equity Incentive Plan, as amended, the Company's 2004 Stock Incentive Plan, as amended and the Company's 2003 Stock Option Plan, as amended and all rights to any other stock options to acquire the Company's common (whether granted pursuant to any stock or equity incentive plan or otherwise), other paid time off, separation pay or benefits, defamation, invasion of privacy, negligence, emotional distress, breach of contract, estoppel, improper discharge (based on contract, common law, or statute, including any federal, state or local statute or ordinance prohibiting discrimination or retaliation in employment), violation of the United States Constitution, the California Constitution, the California Fair Employment and Housing Act, Cal. Gov't Code § 12900 et seq., California Family Rights Act, Cal. Gov't Code § 12945.1, et seq., the California Unruh Civil Rights Act, Cal. Civ. Code §§ 51-54.3, California Discrimination in Payment on Basis of Sex, Cal. Lab. Code §§ 1197.5, 1199 and 1199.5, the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., Title VII of the Civil Rights Act, 42 U.S.C. § 2000e et seq., the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., the Employee Retirement Income Security Act of 1976, 29 U.S.C. § 1001 et seq., the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 210l, et seq., the Sarbanes-Oxley Act of 2002, any waivable claim arising under California codes, and any claim for retaliation, harassment or discrimination based on sex, pregnancy, race, color, religion, creed, age, national origin, ancestry, disability (physical or mental), marital status, sexual orientation or affectional preference, genetic information, military status or discharge, or other protected class, or sexual or other harassment. You hereby waive any and all relief not provided for in this Agreement. You understand and agree that, by signing this Agreement, you waive and release any past, present, or future claim to employment with the Company.

c. If you file, or have filed on your behalf, a charge, complaint, or action, you agree that the payments and benefits described above in Section 2 is in complete satisfaction of any and all claims in connection with such charge, complaint, or action and you waive, and agree not to take, any award of money or other damages from such charge, complaint, or action.

d. You are not, by signing this Agreement, releasing or waiving (1) any vested interest you may have in the Company's Amended and Restated 2012 Change of Control Payment Plan, as amended, or in any 401(k) or profit sharing plan by virtue of your employment with the Company, (2) any rights or claims that may arise after the Agreement is signed, (3) the post-employment payments and benefits specifically promised to you under Sections 1 and 2 of this Agreement, (4) the right to institute legal action for the purpose of enforcing the provisions of this Agreement, (5) any rights you have under workers compensation laws, (6) any rights you have under state unemployment compensation benefits laws, (7) the right to file a charge with a governmental agency such as the Equal Employment Opportunity Commission ("EEOC"), although, as noted above, you waive, and agree not to take, any award of money or other damages if you file such a charge or have a charge filed on your behalf, (8) the right to testify, assist, or participate in an investigation, hearing, or proceeding conducted by a governmental agency, including the EEOC, or (9) any rights you have under the Consolidated Omnibus Budget Reconciliation Act ("COBRA").

e. The "Released Parties," as used in this Agreement, shall mean Talon Therapeutics, Inc. and its parent, subsidiaries, divisions, insurers, if any, and its and their present and former officers, directors, shareholders, trustees, employees, agents, attorneys, representatives and consultants, and the successors and assigns of each, whether in their individual or official capacities, and the current and former trustees or administrators of any pension or other benefit plan applicable to the employees or former employees of the Company, in their official and individual capacities.

f. Waiver of Section 1542 Rights. Except as set forth in this Agreement, you understand and agree that this Release SHALL APPLY TO ALL UNKNOWN OR UNANTICIPATED CLAIMS, ACTIONS OR DEMANDS OF ANY KIND WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH YOUR EMPLOYMENT BY THE COMPANY OR THE TERMINATION OF THAT EMPLOYMENT, AS WELL AS THOSE KNOWN AND ANTICIPATED. You hereby waive any and all rights under Section 1542 of the Civil Code of the State of California and irrevocably and unconditionally release and forever discharge the Company from and with respect to all claims described in Section 3 of this Agreement. Section 1542 has been duly explained to you and reads as follows:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

You further acknowledge that you are aware that you may hereafter discover facts in addition to or different from those you know or believe to be true with respect to the disputes that are resolved by this separation agreement and release, but that it is your intention to fully, finally, and forever release all claims related to those disputes, whether or not you know about them.

4. Notice of Right to Consult Attorney and Forty-Five (45) Calendar Day Consideration Period. By signing this Agreement, you acknowledge and agree that the Company has informed you by this Agreement that (1) you have the right to consult with an attorney of your choice prior to signing this Agreement, and (2) you are entitled to forty-five (45) calendar days from your receipt of this Agreement to consider whether the terms are acceptable to you. You have the right, if you choose, to sign this Agreement prior to the expiration of the forty-five (45) day period.

5. Notification of Rights under the Federal Age Discrimination in Employment Act (29 U.S.C. § 621 et seq.). You are hereby notified of your right to rescind the release of claims contained in Section 3 with regard to claims arising under the federal Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., within seven (7) calendar days of your signing this Agreement. In order to be effective, the rescission must (a) be in writing; (b) delivered to Chief Financial Officer, Talon Therapeutics, Inc. c/o Spectrum Pharmaceuticals, Inc., 11500 South Eastern Ave., Suite 240, Henderson, NV 89052 by hand or mail within the required period; and (c) if delivered by mail, the rescission must be postmarked within the required period, properly addressed to the Company's Chief Financial Officer, as set forth above, and sent by certified mail, return receipt requested. You understand and agree that if you rescind any part of this Agreement in accordance with this Section 5, the Company will have no obligation to provide you the payments and other consideration described in Section 2 of this Agreement and you will be obligated to return promptly to the Company any payment(s) and other consideration already received in connection with Section 2 of this Agreement.

6. Return of Property. You acknowledge and agree that all documents and materials relating to the business of, or the services provided by, the Company are the sole property of the Company. You agree and represent that you have returned to the Company all of its property, including but not limited to, all documents and materials, whether on computer disc, hard drive or other form, and all copies thereof, within your possession or control, which in any manner relate to the business of, or the duties and services you performed on behalf of the Company.

7. Cooperation. During the 60-day period following the date of your signature to this Agreement, you promise and agree to respond in a timely and helpful manner via telephone or email to the Company's inquiries regarding your services to the Company (e.g., status of projects, location of documents/files, passwords).

8. Non-Disparagement and Confidentiality. The Company and you each agree that following the date of this Agreement, neither will intentionally, directly or indirectly, disparage, whether or not true, the name or reputation of the other party. You also promise and agree not to disclose or discuss, directly or indirectly, in any manner whatsoever, any information regarding either (1) the contents and terms of this Agreement, or (2) the substance and/or nature of any dispute between the Company and any employee or former employee, including yourself. You agree that the only people with whom you may discuss this confidential information are your legal, financial and tax advisors and your spouse, if applicable, provided they agree to keep the information confidential, or as otherwise required by law.

9. Remedies. If you breach any term of this Agreement, the Company shall be entitled to its available legal and equitable remedies, including but not limited to terminating and recovering any and all payments and benefits made or to be made under Section 2 of this Agreement and payment by you of its attorneys' fees and costs. If the Company seeks and/or obtains relief from an alleged breach of this Agreement, all of the provisions of this Agreement shall remain in full force and effect. In the event the Company breaches any term of this Agreement, including its obligation to make the payments described in Section 2 of this Agreement, you shall be entitled to available legal and equitable remedies, including but not limited to payment by the Company of your attorneys' fees and costs.

10. Non-Admission. It is expressly understood that this Agreement does not constitute, nor shall it be construed as, an admission by the Company or you of any liability or unlawful conduct whatsoever. The Company and you specifically deny any liability or unlawful conduct.

11. Successors and Assigns. This Agreement is personal to you and may not be assigned by you without the written agreement of the Company. The rights and obligations of this Agreement shall inure to the successors and assigns of the Company.

12. Enforceability. If a court finds any term of this Agreement to be invalid, unenforceable, or void, the parties agree that the court shall modify such term to make it enforceable to the maximum extent possible. If the term cannot be modified, the parties agree that the term shall be severed and all other terms of this Agreement shall remain in effect.

13. Law Governing. This Agreement shall be governed and construed in accordance with the laws of the State of California.

14. Full Agreement. This Agreement contains the full agreement between you and the Released Parties and may not be modified, altered, or changed in any way except by written agreement signed by both parties. The parties agree that this Agreement supersedes and terminates any and all other written and oral agreements and understandings between the parties. Notwithstanding the foregoing, if you have previously signed an agreement or agreements with the Company containing confidentiality, trade secret, noncompetition, nondisparagement, nonsolicitation, inventions, and/or similar provisions, your obligations under such agreement(s) shall continue in full force and effect according to their terms and will survive the termination of your employment. In addition, all of your rights under the Company's Amended and Restated 2012 Change of Control Payment Plan and Section 6.10 of the Purchase Agreement shall continue in full force and effect according to its terms and survive the termination of your employment.

15. Counterparts. This Agreement may be executed by facsimile or PDF transmission and in counterparts, each of which shall be deemed an original and all of which shall constitute one instrument.

16. Acknowledgment of Reading and Understanding. By signing this Agreement, you acknowledge that you have read this Agreement, including the release of claims contained in Section 3 and the Memorandum attached hereto, and understand that the release of claims is a full and final release of all claims you may have against the Company and the other entities and individuals covered by the release. By signing, you also acknowledge and agree that you have entered into this Agreement knowingly and voluntarily.

The deadline for accepting this Agreement is 5:00 p.m. on the 46th calendar day following your receipt of this Agreement. If not accepted by such time, the offer contained herein will expire. After you have reviewed this Agreement and obtained whatever advice and counsel you consider appropriate regarding it, please evidence your agreement to the provisions set forth in this Agreement by dating and signing the Agreement. Please then return a signed Agreement to me no later than 5:00 p.m. on the 46th calendar day following your receipt of this Agreement. Please keep a copy for your records.

We thank you for your service to Talon and wish you all the best.

Sincerely,

Talon Therapeutics, Inc.

/s/ Kurt A. Gustafson
Kurt A. Gustafson
Chief Financial Officer

Enclosure (OWBPA Memorandum)

ACKNOWLEDGMENT AND SIGNATURE

By signing below, I, Craig W. Carlson, acknowledge and agree to the following:

- I have had adequate time to consider whether to sign this Separation Agreement and Release.
- I have read this Separation Agreement and Release carefully.
- I understand and agree to all of the terms of the Separation Agreement and Release.
- I am knowingly and voluntarily releasing my claims against the Company and the other persons and entities defined as the Released Parties.
- I have not, in signing this Agreement, relied upon any statements or explanations made by the Company except as for those specifically set forth in this Separation Agreement and Release.
- I intend this Separation Agreement and Release to be legally binding.
- I am signing this Separation Agreement and Release on or after my last day of employment with the Company.

Accepted this 16th day of July , 2013.

/s/Craig W. Carlson
Craig W. Carlson

MEMORANDUM

The Older Workers Benefit Protection Act is a federal law that requires certain information be provided to employees who are age 40 or older and are part of an exit incentive or other employment termination program. For that reason, you are being given this memo.

1. Persons Covered. The decisional unit that the Company considered in deciding who to terminate as a result of the closing of the transactions contemplated by the Stock Purchase Agreement dated July 16, 2013, among the Company, Spectrum Pharmaceuticals, Inc. and Eagle Acquisition Merger Sub, Inc. and offer severance pay and benefits in accordance with their applicable agreements was the President & Chief Executive Officer and Senior Vice President, Chief Financial Officer of the Company.

2. Eligibility Factors. To be eligible for consideration for severance pay and benefits, an individual must have been selected for termination by the Company from the decisional unit described above. The Company considered the following factors when making termination decisions: position held.

3. Time Limits. Severance pay and benefits are being made available upon termination of employment to those employees as indicated on the attached Exhibit A. You will have 45 days from the day you receive the Separation Agreement and Release ("Agreement") accompanying this Memorandum to consider whether the Agreement is acceptable to you and to accept or reject it. If you accept the Agreement you will, from the date you sign it, have seven days to rescind your release of federal Age Discrimination in Employment Act claims.

4. Job Titles and Ages. The job titles and ages of all individuals who have been selected for termination and offered severance pay and benefits are listed in the attached Exhibit A. The job titles and ages of all individuals in the decisional unit who were not selected for termination are listed in the attached Exhibit B. Note: Ages were determined as of July 15, 2013.

Exhibit A

The following is a listing of the ages and job titles of employees in the decisional unit who were selected for termination and offered severance pay and benefits per their applicable agreement, for signing a release.

TITLE	AGE
President & Chief Executive Officer	49
Senior Vice President, Chief Financial Officer	65

Exhibit B

The following is a listing of the ages and job titles of employees in the decisional unit who were not selected for termination.

TITLE	AGE

None.

Exhibit 10.2

TALON THERAPEUTICS, INC.
400 Oyster Point Boulevard, Suite 200
South San Francisco, CA 94080

July 16, 2013

Hand Delivered

Personal and Confidential

Steven R. Deitcher, MD
904 Bromfield Road
San Mateo, CA 94402

Re: Separation Agreement and Release

Dear Steven:

As we have discussed with you, your employment with Talon Therapeutics, Inc. (the "Company") will end effective upon the closing of the transactions contemplated by the Stock Purchase Agreement dated July 16, 2013 (the "Purchase Agreement"), among the Company, Spectrum Pharmaceuticals, Inc. and Eagle Acquisition Merger Sub, Inc., pursuant to Section 8(c) of your Employment Agreement with the Company dated June 6, 2008, as amended from time to time (your "Employment Agreement").

The purpose of this Separation Agreement and Release letter ("Agreement") is to set forth the severance pay and benefits to which you are entitled under your Employment Agreement, in exchange for your agreement to the terms and conditions of this Agreement as required by your Employment Agreement.

By your signature below, you agree to the following terms and conditions:

1. End of Employment. Your employment with the Company will end effective at the close of business on July 17, 2013. Upon your receipt of your final paycheck, which includes payment for services through July 17, 2013, you will have received all wages and compensation owed to you by virtue of your employment with the Company or termination thereof. Upon your receipt of payment from the Company for your ending balance of accrued but unused PTO (240.0 hours) at your regular rate, you will have received all benefits owed to you by virtue of your employment with the Company or termination thereof. If applicable, information regarding your right to elect COBRA coverage will be sent to you via separate letter.

You are not eligible for any other payments or benefits by virtue of your employment with the Company or termination thereof except for those expressly described in this Agreement. You will not receive the severance pay and benefits described in Section 2 of this Agreement if you (i) do not sign this Agreement and return it to the Company by the stated due date, (ii) rescind this Agreement after signing it, or (iii) violate any of the terms and conditions set forth in this Agreement.

2. Severance Pay and Benefits. Specifically in consideration of your signing this Agreement and subject to the limitations, obligations, and other provisions contained in this Agreement, in accordance with your Employment Agreement, the Company agrees as follows:

a. To pay you severance pay in the gross amount of Seven Hundred Twenty-Nine Thousand Eight Hundred Fifty-Six and 80/100 Dollars ($729,856.80), less applicable deductions and withholding, representing eighteen (18) months of your ending annualized base salary, to be paid in accordance with the Company's regular payroll practices beginning with the first regularly scheduled payday immediately following the 60th day after your termination date, with the first payment to equal the aggregate amount of payments that the Company would have paid through such date had such payments commenced on the date of your termination of employment, with the balance of the payments paid thereafter on the monthly installment scheduled described above;

b. To provide you with health insurance (on the identical terms provided to all other employees of the Company at the time of your termination) for eighteen (18) months immediately following your last day of employment with the Company, which shall include reimbursements for 18 months of COBRA (as defined below) payments;

c. To pay you the gross amount of Six Thousand Five Hundred Fifty Dollars ($6,550.00), less applicable withholding, to be used for you to contribute to your health savings account, with such payment being made to you in a lump sum on the 60th day following your termination date;

d. To pay you the gross amount of Five Hundred Ten Thousand Eight Hundred Ninety-Nine and 84/100 ($510,899.84), less applicable deductions and withholding, representing 150% of your maximum Discretionary Bonus for which you would have been eligible for the year in which your employment with the Company terminated, assuming full performance (including the amount of additional Discretionary Bonus payment pursuant to the proviso in Section 4(b) of your Employment Agreement), with such payment being made to you in a lump sum on the 60th day following your termination date; and

e. To accelerate the vesting of your unvested Options (as defined in Section 4(c) of your Employment Agreement) to provide for vesting of all remaining unvested Options, effective upon expiration of the rescission period described in Section 5 below without rescission.

Upon receipt of the pay and benefits described in this Section 2, you acknowledge and agree that you will have received all severance pay and benefits owing to you under your Employment Agreement.

3. Release of Claims. Specifically in consideration of the severance pay and benefits described in Section 2, to which you would not otherwise be entitled, by signing this Agreement you, for yourself and anyone who has or obtains legal rights or claims through you, agree to the following:

a. Notwithstanding the provisions of Section 1542 of the Civil Code of the State of California (see Section 3.f. below), you hereby do release and forever discharge the "Released Parties" (as defined in Section 3.e. below) of and from any and all manner of claims, demands, actions, causes of action, administrative claims, liability, damages, claims for punitive or liquidated damages, claims for attorney's fees, costs and disbursements, individual or class action claims, or demands of any kind whatsoever, you have or might have against them or any of them, whether known or unknown, in law or equity, contract or tort, arising out of or in connection with your employment with the Company, or the termination of that employment, or otherwise, and however originating or existing, from the beginning of time through the date of your signing this Agreement.

b. This release includes, without limiting the generality of the foregoing, any claims you may have for wages, bonuses, commissions, penalties, compensation, deferred compensation, vacation pay, equity rights (including all rights to stock options granted to you under the Company's 2010 Equity Incentive Plan, as amended, the Company's 2004 Stock Incentive Plan, as amended and the Company's 2003 Stock Option Plan, as amended and all rights to any other stock options to acquire the Company's common (whether granted pursuant to any stock or equity incentive plan or otherwise)), other paid time off, separation pay or benefits, defamation, invasion of privacy, negligence, emotional distress, breach of contract, estoppel, improper discharge (based on contract, common law, or statute, including any federal, state or local statute or ordinance prohibiting discrimination or retaliation in employment), violation of the United States Constitution, the California Constitution, the California Fair Employment and Housing Act, Cal. Gov't Code § 12900 et seq., California Family Rights Act, Cal. Gov't Code § 12945.1, et seq., the California Unruh Civil Rights Act, Cal. Civ. Code §§ 51-54.3, California Discrimination in Payment on Basis of Sex, Cal. Lab. Code §§ 1197.5, 1199 and 1199.5, the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., Title VII of the Civil Rights Act, 42 U.S.C. § 2000e et seq., the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., the Employee Retirement Income Security Act of 1976, 29 U.S.C. § 1001 et seq., the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 210l, et seq., the Sarbanes-Oxley Act of 2002, any waivable claim arising under California codes, and any claim for retaliation, harassment or discrimination based on sex, pregnancy, race, color, religion, creed, age, national origin, ancestry, disability (physical or mental), marital status, sexual orientation or affectional preference, genetic information, military status or discharge, or other protected class, or sexual or other harassment. You hereby waive any and all relief not provided for in this Agreement. You understand and agree that, by signing this Agreement, you waive and release any past, present, or future claim to employment with the Company.

c. If you file, or have filed on your behalf, a charge, complaint, or action, you agree that the payments and benefits described above in Section 2 is in complete satisfaction of any and all claims in connection with such charge, complaint, or action and you waive, and agree not to take, any award of money or other damages from such charge, complaint, or action.

d. You are not, by signing this Agreement, releasing or waiving (1) any vested interest you may have in the Company's Amended and Restated 2012 Change of Control Payment Plan, as amended, or in any 401(k) or profit sharing plan by virtue of your employment with the Company, (2) any rights or claims that may arise after the Agreement is signed, (3) the post-employment payments and benefits specifically promised to you under Sections 1 and 2 of this Agreement, (4) the right to institute legal action for the purpose of enforcing the provisions of this Agreement, (5) any rights you have under workers compensation laws, (6) any rights you have under state unemployment compensation benefits laws, (7) the right to file a charge with a governmental agency such as the Equal Employment Opportunity Commission ("EEOC"), although, as noted above, you waive, and agree not to take, any award of money or other damages if you file such a charge or have a charge filed on your behalf, (8) the right to testify, assist, or participate in an investigation, hearing, or proceeding conducted by a governmental agency, including the EEOC, or (9) any rights you have under the Consolidated Omnibus Budget Reconciliation Act ("COBRA").

e. The "Released Parties," as used in this Agreement, shall mean Talon Therapeutics, Inc. and its parent, subsidiaries, divisions, insurers, if any, and its and their present and former officers, directors, shareholders, trustees, employees, agents, attorneys, representatives and consultants, and the successors and assigns of each, whether in their individual or official capacities, and the current and former trustees or administrators of any pension or other benefit plan applicable to the employees or former employees of the Company, in their official and individual capacities.

f. Waiver of Section 1542 Rights. Except as set forth in this Agreement, you understand and agree that this Release SHALL APPLY TO ALL UNKNOWN OR UNANTICIPATED CLAIMS, ACTIONS OR DEMANDS OF ANY KIND WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH YOUR EMPLOYMENT BY THE COMPANY OR THE TERMINATION OF THAT EMPLOYMENT, AS WELL AS THOSE KNOWN AND ANTICIPATED. You hereby waive any and all rights under Section 1542 of the Civil Code of the State of California and irrevocably and unconditionally release and forever discharge the Company from and with respect to all claims described in Section 3 of this Agreement. Section 1542 has been duly explained to you and reads as follows:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

You further acknowledge that you are aware that you may hereafter discover facts in addition to or different from those you know or believe to be true with respect to the disputes that are resolved by this separation agreement and release, but that it is your intention to fully, finally, and forever release all claims related to those disputes, whether or not you know about them.

4. Notice of Right to Consult Attorney and Forty-Five (45) Calendar Day Consideration Period. By signing this Agreement, you acknowledge and agree that the Company has informed you by this Agreement that (1) you have the right to consult with an attorney of your choice prior to signing this Agreement, and (2) you are entitled to forty-five (45) calendar days from your receipt of this Agreement to consider whether the terms are acceptable to you. You have the right, if you choose, to sign this Agreement prior to the expiration of the forty-five (45) day period.

5. Notification of Rights under the Federal Age Discrimination in Employment Act (29 U.S.C. § 621 et seq.). You are hereby notified of your right to rescind the release of claims contained in Section 3 with regard to claims arising under the federal Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., within seven (7) calendar days of your signing this Agreement. In order to be effective, the rescission must (a) be in writing; (b) delivered to Chief Financial Officer, Talon Therapeutics, Inc. c/o Spectrum Pharmaceuticals, Inc., 11500 South Eastern Ave., Suite 240, Henderson, NV 89052 by hand or mail within the required period; and (c) if delivered by mail, the rescission must be postmarked within the required period, properly addressed to the attention of the Chief Financial Officer, as set forth above, and sent by certified mail, return receipt requested. You understand and agree that if you rescind any part of this Agreement in accordance with this Section 5, the Company will have no obligation to provide you the payments and other consideration described in Section 2 of this Agreement and you will be obligated to return promptly to the Company any payment(s) and other consideration already received in connection with Section 2 of this Agreement.

6. Return of Property. You acknowledge and agree that all documents and materials relating to the business of, or the services provided by, the Company are the sole property of the Company. You agree and represent that you have returned to the Company all of its property, including but not limited to, all documents and materials, whether on computer disc, hard drive or other form, and all copies thereof, within your possession or control, which in any manner relate to the business of, or the duties and services you performed on behalf of the Company.

7. Cooperation. During the 60-day period following the date of your signature to this Agreement, you promise and agree to respond in a timely and helpful manner via telephone or email to the Company's inquiries regarding your services to the Company (e.g., status of projects, location of documents/files, passwords).

8. Non-Disparagement and Confidentiality. The Company and you each agree that following the date of this Agreement, neither will intentionally, directly or indirectly, disparage, whether or not true, the name or reputation of the other party. You also promise and agree not to disclose or discuss, directly or indirectly, in any manner whatsoever, any information regarding either (1) the contents and terms of this Agreement, or (2) the substance and/or nature of any dispute between the Company and any employee or former employee, including yourself. You agree that the only people with whom you may discuss this confidential information are your legal, financial and tax advisors and your spouse, if applicable, provided they agree to keep the information confidential, or as otherwise required by law.

9. Remedies. If you breach any term of this Agreement, the Company shall be entitled to its available legal and equitable remedies, including but not limited to terminating and recovering any and all payments and benefits made or to be made under Section 2 of this Agreement and payment by you of its attorneys' fees and costs. If the Company seeks and/or obtains relief from an alleged breach of this Agreement, all of the provisions of this Agreement shall remain in full force and effect. In the event the Company breaches any term of this Agreement, including its obligation to make the payments described in Section 2 of this Agreement, you shall be entitled to available legal and equitable remedies, including but not limited to payment by the Company of your attorneys' fees and costs.

10. Non-Admission. It is expressly understood that this Agreement does not constitute, nor shall it be construed as, an admission by the Company or you of any liability or unlawful conduct whatsoever. The Company and you specifically deny any liability or unlawful conduct.

11. Successors and Assigns. This Agreement is personal to you and may not be assigned by you without the written agreement of the Company. The rights and obligations of this Agreement shall inure to the successors and assigns of the Company.

12. Enforceability. If a court finds any term of this Agreement to be invalid, unenforceable, or void, the parties agree that the court shall modify such term to make it enforceable to the maximum extent possible. If the term cannot be modified, the parties agree that the term shall be severed and all other terms of this Agreement shall remain in effect.

13. Law Governing. This Agreement shall be governed and construed in accordance with the laws of the State of California.

14. Full Agreement. This Agreement contains the full agreement between you and the Released Parties and may not be modified, altered, or changed in any way except by written agreement signed by both parties. The parties agree that this Agreement supersedes and terminates any and all other written and oral agreements and understandings between the parties. Notwithstanding the foregoing, if you have previously signed an agreement or agreements with the Company containing confidentiality, trade secret, noncompetition, nondisparagement, nonsolicitation, inventions, and/or similar provisions (including, without limitation, Sections 5, 6, 7 and 10 of your Employment Agreement), your obligations under such agreement(s) shall continue in full force and effect according to their terms and will survive the termination of your employment. In addition, all of your rights under the Company's Amended and Restated 2012 Change of Control Payment Plan and Section 6.10 of the Purchase Agreement shall continue in full force and effect according to its terms and survive the termination of your employment.

15. Counterparts. This Agreement may be executed by facsimile or PDF transmission and in counterparts, each of which shall be deemed an original and all of which shall constitute one instrument.

16. Acknowledgment of Reading and Understanding. By signing this Agreement, you acknowledge that you have read this Agreement, including the release of claims contained in Section 3 and the Memorandum attached hereto, and understand that the release of claims is a full and final release of all claims you may have against the Company and the other entities and individuals covered by the release. By signing, you also acknowledge and agree that you have entered into this Agreement knowingly and voluntarily.

The deadline for accepting this Agreement is 5:00 p.m. on the 46th calendar day following your receipt of this Agreement. If not accepted by such time, the offer contained herein will expire. After you have reviewed this Agreement and obtained whatever advice and counsel you consider appropriate regarding it, please evidence your agreement to the provisions set forth in this Agreement by dating and signing the Agreement. Please then return a signed Agreement to me no later than 5:00 p.m. on the 46th calendar day following your receipt of this Agreement. Please keep a copy for your records.

We thank you for your service to Talon and wish you all the best.

Sincerely,

Talon Therapeutics, Inc.

/s/ Kurt A. Gustafson
Kurt A. Gustafson
Chief Financial Officer

Enclosure (OWBPA Memorandum)

ACKNOWLEDGMENT AND SIGNATURE

By signing below, I, Steven R. Deitcher, MD, acknowledge and agree to the following:

- I have had adequate time to consider whether to sign this Separation Agreement and Release.
- I have read this Separation Agreement and Release carefully.
- I understand and agree to all of the terms of the Separation Agreement and Release.
- I am knowingly and voluntarily releasing my claims against the Company and the other persons and entities defined as the Released Parties.
- I have not, in signing this Agreement, relied upon any statements or explanations made by the Company except as for those specifically set forth in this Separation Agreement and Release.
- I intend this Separation Agreement and Release to be legally binding.
- I am signing this Separation Agreement and Release on or after my last day of employment with the Company.

Accepted this 16th day of July , 2013.

/s/ Steven R. Deitcher, M.D.
Steven R. Deitcher, MD

MEMORANDUM

The Older Workers Benefit Protection Act is a federal law that requires certain information be provided to employees who are age 40 or older and are part of an exit incentive or other employment termination program. For that reason, you are being given this memo.

1. Persons Covered. The decisional unit that the Company considered in deciding who to terminate as a result of the closing of the transactions contemplated by the Stock Purchase Agreement dated July 16, 2013, among the Company, Spectrum Pharmaceuticals, Inc. and Eagle Acquisition Merger Sub, Inc. and offer severance pay and benefits in accordance with their applicable agreements was the President & Chief Executive Officer and Senior Vice President, Chief Financial Officer of the Company.

2. Eligibility Factors. To be eligible for consideration for severance pay and benefits, an individual must have been selected for termination by the Company from the decisional unit described above. The Company considered the following factors when making termination decisions: position held.

3. Time Limits. Severance pay and benefits are being made available upon termination of employment to those employees as indicated on the attached Exhibit A. You will have 45 days from the day you receive the Separation Agreement and Release ("Agreement") accompanying this Memorandum to consider whether the Agreement is acceptable to you and to accept or reject it. If you accept the Agreement you will, from the date you sign it, have seven days to rescind your release of federal Age Discrimination in Employment Act claims.

4. Job Titles and Ages. The job titles and ages of all individuals who have been selected for termination and offered severance pay and benefits are listed in the attached Exhibit A. The job titles and ages of all individuals in the decisional unit who were not selected for termination are listed in the attached Exhibit B. Note: Ages were determined as of July 15, 2013.

Exhibit A

The following is a listing of the ages and job titles of employees in the decisional unit who were selected for termination and offered severance pay and benefits per their applicable agreement, for signing a release.

TITLE	**AGE**
President & Chief Executive Officer	49
Senior Vice President, Chief Financial Officer	65

Exhibit B

The following is a listing of the ages and job titles of employees in the decisional unit who were not selected for termination.

TITLE	AGE
None.	